NAS. The proposed route changes are described below.

Q–104: Q–104 currently extends between the ACORI, AL, Waypoint (WP), and the St Petersburg, FL (PIE), Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC). Air Traffic Control (ATC) no longer uses the route. The FAA proposes to remove the route in its entirety.

Q–108: Q–108 is a new RNAV route proposed to extend between the Louisville, KY (IIU), VORTAC and the Sea Isle, NJ (SIE), VORTAC. The route would overlay jet route J–526 between the Louisville VORTAC and the Beckley, WV (BKW), VOR/Distance Measuring Equipment (VOR/DME); RNAV route Q–34 between the SITTR, WV, WP and the MAULS, VA, WP; RNAV route Q–97 between the SAWED, VA, WP and the BYSEL, MD, Fix; and RNAV route Q–439 between the BYSEL Fix and the HOWYU, DE, WP. The new proposed RNAV route would provide connectivity between the Louisville, KY area and the Atlantic City, NJ area.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–104 [Removed]

* * * * *

Q–108 Louisville, KY (IIU) to Sea Isle, NJ (SIE) [New]

Louisville, KY (IIU)	VORTAC	(Lat. 38°06′12.47″ N, long. 085°34′38.77″ W)
ZIEBR, KY	FIX	(Lat. 37°37′58.24″ N, long. 082°45′10.76″ W)
SITTR, WV	WP	(Lat. 37°46′49.13″ N, long. 081°07′23.70″ W)
DENNY, VA	FIX	(Lat. 37°52′00.15″ N, long. 079°44′13.75″ W)
MAULS, VA	WP	(Lat. 37°52′49.36″ N, long. 079°19′49.19″ W)
QUART, VA	WP	(Lat. 37°31′25.15″ N, long. 077°42′53.29″ W)
HURTS, VA	WP	(Lat. 37°27′41.87″ N, long. 076°57′17.75″ W)
SAWED, VA	WP	(Lat. 37°32′00.73″ N, long. 075°51′29.10″ W)
KALDA, VA	WP	(Lat. 37°50′31.06″ N, long. 075°37′35.34″ W)
ZJAAY, MD	WP	(Lat. 38°03′09.95″ N, long. 075°26′34.27″ W)
BYSEL, MD	FIX	(Lat. 38°15′02.70″ N, long. 075°16′52.87″ W)
ACTUP, DE	FIX	(Lat. 38°42′12.11″ N, long. 075°11′10.30″ W)
Sea Isle, NJ (SIE)	VORTAC	(Lat. 39°05′43.83″ N, long. 074°48′01.24″ W)

* * * * *

Issued in Washington, DC, on January 8, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–00560 Filed 1–12–24; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 465

RIN 3084–AB76

Rule on the Use of Consumer Reviews and Testimonials

AGENCY: Federal Trade Commission.

ACTION: Initial notice of informal hearing; final notice of informal hearing; list of Hearing Participants; requests for submissions from Hearing Participants.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') recently published a notice of proposed rulemaking (''NPRM'') in the **Federal Register**, titled ''Rule on the Use of Consumer Reviews and Testimonials'' (''Reviews and Testimonials Rule'' or ''Rule''), which would prohibit certain specified unfair or deceptive acts or practices involving consumer reviews or testimonials. The NPRM announced the opportunity for interested parties to present their positions orally at an informal hearing. Three commenters requested to present their positions orally at the informal hearing.

DATES:

Hearing date: The informal hearing will be conducted virtually on February 13, 2024, at 10 a.m. Eastern, and the Commission's Chief Presiding Officer, the Chair, has appointed Administrative Law Judge for the Securities and Exchange Commission, the Honorable Carol Fox Foelak, to serve as the presiding officer of the informal hearing.

Participation deadline: If you are a hearing participant and would like to submit your oral presentation in writing or file a supplementary documentary submission, you can do so by submitting a comment on this rulemaking docket. You must do so on or before January 30, 2024. Write ''Reviews and Testimonials Rule; Project No. P214504'' on your submission.

ADDRESSES: Hearing Participants may submit their oral presentations in writing or file supplementary documentary submissions, online or on paper, by following the instructions in Part IV of the **SUPPLEMENTARY INFORMATION** section below. Write

''Reviews and Testimonials Rule; Project No. P214504'' on your submission, and file it online through *https://www.regulations.gov.* If you prefer to file your submission on paper, mail it via overnight service to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex R), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, Attorney, (202) 326–2699, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 2022, the Commission published an advance notice of proposed rulemaking (''ANPRM'') in the **Federal Register** announcing that the Commission was considering the promulgation of regulations to prohibit certain specified unfair or deceptive acts or practices involving consumer reviews or testimonials. *See* 87 FR 67424 (Nov. 8, 2022). On July 31, 2023, following the consideration of comments received in response to the ANPRM, the Commission published a NPRM in the **Federal Register**, proposing to add part 465 to 16 CFR, Chapter I, to prohibit certain specified unfair or deceptive acts or practices involving consumer reviews or testimonials. *See* 88 FR 49364 (July 31, 2023).

In accordance with section 18(b)(1) of the FTC Act, 15 U.S.C. 57a(b)(1), which requires the Commission to provide the opportunity for an informal hearing in section 18 rulemaking proceedings, the NPRM also announced the opportunity for interested persons to present their positions orally at an informal hearing.[1] During the NPRM's comment period, the Commission received 100 responsive comments.[2] Three of the commenters requested the opportunity to present their position orally at an informal hearing.

II. The Requests for an Informal Hearing; Presentation of Oral Submissions

Section 18 of the FTC Act, 15 U.S.C. 57a, as implemented by the Commission's Rules of Practice, 16 CFR 1.11(e),[3] provides interested persons with the opportunity to present their positions orally at an informal hearing upon request.[4] To make such a request, a commenter must submit, no later than the close of the comment period for the NPRM, (1) a request to make an oral submission; (2) a statement identifying the interested person's interests in the proceeding; and (3) any proposal to add disputed issues of material fact to be addressed at the hearing.[5]

The following three commenters requested to present their positions orally at the informal hearing in accordance with requirements of 16 CFR 1.11(e):

1. Fake Review Watch;[6]
2. Interactive Advertising Bureau (''IAB'');[7] and
3. A group of three researchers at Brigham Young University, The Pennsylvania State University, and Emory University (''Researchers'').[8]

The Commission finds these requests were adequate and therefore will hold an informal hearing. These commenters will have the opportunity to make oral presentations during the informal hearing. No other interested persons requested under 16 CFR 1.11(e) to participate in an informal hearing, and therefore no other interested persons will be permitted to make oral presentations at the informal hearing. The Commission declines to identify any group of interested persons with the same or similar interest in the proceeding.[9]

III. Disputed Issues of Material Fact; Final Notice

In the NPRM, the Commission did not identify any disputed issues of material fact that needed to be resolved at an informal hearing. However, the Commission may still do so in the initial notice of informal hearing, either on its own initiative or in response to a persuasive showing from a commenter.[10] IAB proposed several potential disputed issues of material fact for the Commission's consideration.[11] IAB [12] indicated that it ''intended to raise'':

1. ''Whether color, size, count, and flavor are the only attributes that would not confuse consumers when combined on a product page.''
2. ''Whether the compliance costs for businesses will be minimal, particularly if the 'knew or should have known' standard is finalized.''
3. ''Whether the Commission's finding that unintended consequences from the NPRM are unlikely [is correct] (*e.g.,* for fear of violating the review suppression section, businesses will allow more fake reviews to stay up on their websites).''

To be appropriate for cross-examination or rebuttal, a disputed issue of material fact must raise ''specific facts'' that are ''necessary to be resolved'' [13] and not ''legislative facts.'' [14] Unlike specific facts,

[1] *See* 88 FR 49364 (July 31, 2023).

[2] *See* FTC, Reviews and Testimonials Rule, *https://www.regulations.gov/document/FTC-2023-0047-0001/comment.* The Commission also received sixteen comments that are non-responsive and two that are duplicates.

[3] The FTC Act provides that ''an interested person is entitled to present his position orally or by documentary submission (or both).'' 15 U.S.C. 57a(c)(2)(A).

[4] 16 CFR 1.11(e).

[5] 16 CFR 1.11(e)(1) through (3).

[6] Fake Review Watch identified itself as an entity that ''has been investigating online review fraud for over five years and has produced over 80 videos documenting the scope of the problem across multiple third-party review platforms,'' and it recommended that the Commission impose specific disclosure requirements on third-party review platforms. Fake Review Watch, Cmt. on NPRM at 1 (Aug. 8, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0015.*

[7] IAB represents ''over 700 leading media companies, brand marketers, agencies, and technology companies'' responsible for ''selling, delivering, and optimizing digital advertising and marketing campaigns,'' and whose members ''account for 86 percent of online advertising expenditures'' in the U.S. IAB, Cmt. on NPRM at 1, (Sept. 29, 2023) *https://www.regulations.gov/comment/FTC-2023-0047-0101.*

[8] The Researchers ''have studied how online review platforms can earn consumer trust by taking specific actions against firms and reviewers who write and propagate fake reviews.'' The Researchers, Cmt. on NPRM, (Sept. 22, 2023) *https://www.regulations.gov/comment/FTC-2023-0047-0060.*

[9] 16 CFR 1.12(a)(5) requires the initial notice of informal hearing to include a ''list of the groups of interested persons determined by the Commission to have the same or similar interests in the proceeding.''

[10] *See* 16 CFR 1.12(a)(3); 15 U.S.C. 57a(c)(2)(B); *see also* 88 FR 49364, 49381 (July 31, 2023).

[11] Fake Review Watch requested that ''the FTC hold an informal public hearing to give consumer advocates an opportunity to present evidence showing how third-party review platform policies and failures have contributed to the need for this rule in the first place.'' Fake Review Watch, Cmt. on NPRM at 3–44. Fake Review Watch, however, failed to identify any specific, disputed issues of material fact. The Researchers requested the opportunity to speak at a hearing to provide further explanation of their findings but did not identify any specific disputed issues of material fact. The Researchers, Cmt. on NPRM at 3.

[12] IAB, Cmt. on NPRM at 15.

[13] *See, e.g.,* 16 CFR 1.13(b)(1)(i) (issues that ''must'' be considered for cross-examination or rebuttal are only those disputed issues of fact the Commission determines to be ''material'' and ''necessary to resolve'').

[14] 16 CFR 1.12(b)(1) (''An issue for cross-examination or the presentation of rebuttal submissions, is an issue of specific fact in contrast to legislative fact.''). ''The only disputed issues of material fact to be determined for resolution by the Commission are those issues characterized as issues of specific fact in contrast to legislative fact. It was the judgment of the conferees that more effective, workable and meaningful rules will be promulgated if persons affected by such rules have the opportunity afforded by the bill, by cross-examination and rebuttal evidence or other submissions, to challenge the factual assumptions on which the Commission is proceeding and to show in what respect such assumptions are

Continued

legislative facts ''help . . . determine the content of law and of policy'' and do not need to ''be developed through evidentiary hearings'' because they ''combine empirical observation with application of administrative expertise to reach generalized conclusions.'' [15] Moreover, the relevant legislative history explains ''disputed issues of material fact necessary to be resolved'' should be interpreted narrowly.[16] In this context, ''disputed'' and ''material'' are given the same meaning as in the standard for summary judgment.[17] As in summary judgment, the challenging party must do more than simply assert there is a dispute regarding the Commission's findings. If those findings are otherwise adequately supported by record evidence, the challenging party must come forward with sufficient evidence to show there is a genuine, *bona fide* dispute over material facts that will affect the outcome of the proceeding.[18] IAB proposed disputed issues of material fact challenging (1) the Commission's proposed definition of ''substantially different product'' as a ''product that differs from another product in one or more material attributes other than color, size, count, or flavor''; (2) the Commission's statements on the proposed Rule's economic impact; and (3) the Commission's NPRM's finding that unintended consequences from finalizing the proposed rule are unlikely.

IAB's first proposed disputed issue of material fact questions the proposed definition of ''substantially different product,'' a term that, beyond the definition itself, appears only in proposed § 465.3. IAB asserted that the record did not contain evidence as to whether there are product attributes other than color, size, count, or flavor that can be combined on a product page without misleading consumers. In response to the NPRM, IAB and other commenters asserted that the reviews of products with certain differences other than color, size, count, or flavor could be linked without deceiving consumers and gave examples of what they argue are or could be such non-deceptive product differences.[19] Other commenters supported the proposed definition as written but did not address whether there were other non-deceptive product differences.[20] The Commission has decided to not proceed at this time with proposed § 465.3. It is therefore not necessary to address IAB's proposed disputed issue of material fact relating to the proposed definition of ''substantially different product.''

IAB also proposed two other disputed issues of material fact, which involve the Commission's findings: (1) on the proposed Rule's economic impact; and (2) that unintended consequences from finalizing the proposed rule are unlikely.

First, such findings are sufficiently supported by substantial evidence in the record, and the commenter identified no evidence challenging the FTC's conclusions. For example, the cost estimates in the NPRM are specific and based on empirical data. Staff's careful analysis of this data resulted in the well-reasoned conclusion that, even under a ''heightened compliance review scenario'' for firms that decide to be extra-cautious, and even with a conservative estimation of benefits, such benefits would still dwarf the minimal costs.

Second, these two proposed issues challenge the Commission's findings only as to ''legislative facts,'' which, unlike specific facts, ''help . . . determine the content of law and of policy'' and do not need to ''be developed through evidentiary hearings'' because they ''combine empirical observation with application of administrative expertise to reach generalized conclusions.'' [21] General concerns about a rule's overall effect on the marketplace, whether framed in terms of economic impact or unintended consequences, are precisely the sort of questions of policy or broad fact intended to fall under the category of ''legislative facts.'' As these two issues do not raise questions of ''specific fact,'' they do not warrant cross-examination and rebuttal submissions.[22]

Thus, the Commission finds that there are no ''disputed issues of material fact''

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erroneous.'' H.R. Rep. No. 93–1606, at 34 (Dec. 16, 1974) (Conf. Rep.). Further, as explained in *Association of National Advertisers, Inc.* v. *FTC,* 627 F.2d 1151, 1164 (D.C. Cir. 1979), the distinction between ''specific fact'' and ''legislative fact'' grew out of a recommendation from the Administrative Conference of the United States (ACUS):

> Conference Recommendation 72–5 is addressed exclusively to agency rulemaking of general applicability. In such a proceeding, almost by definition, adjudicative facts are not at issue, and the agency should ordinarily be free to, and ordinarily would, proceed by the route of written comments, supplemented, perhaps, by a legislative-type hearing. Yet there may arise occasionally in such rulemaking proceedings factual issues which, though not adjudicative, nevertheless justify exploration in a trial-type format because they are sufficiently narrow in focus and sufficiently material to the outcome of the proceeding to make it reasonable and useful for the agency to resort to trial-type procedure to resolve them. These are what the Recommendation refers to as issues of specific fact.

Id. at 1164.

[15] *Ass'n of Nat'l Advertisers,* 627 F.2d at 1161–62.

[16] *See, e.g.,* H.R. Rep. No. 93–1107, 93d Cong., 2d Sess., reprinted in 1974 U.S.C.C.A.N. 7702, 7728; *Ass'n of Nat'l Advertisers,* 627 F.2d at 1163 (quoting H.R. Rep. No. 93–1606, at 33 (1974) (Conf. Report)).

[17] As explained in the legislative history:

> The words 'disputed issues of material fact' are intended to describe and limit the scope of cross-examination in a rulemaking proceeding. Thus, the right of participants in the proceeding to cross-examine Commission witnesses does not include cross-examination on issues as to which there is not a bona fide dispute. In this connection, the Committee considers the rules of summary judgment applied by the courts analogous. Where the weight of the evidence is such that there can be no bona fide dispute over the facts, summary judgment is proper. Similarly, in such a situation cross-examination would not be permitted; neither is a participant entitled to cross-examination where the disputed issues do not involve material facts. This language in the bill is used to distinguish facts which might be relevant to the proceeding but not of significant enough import to rise to the level of materiality. The word material is used here with the same meaning it is given under the common law rules of evidence. Also of importance is the word 'fact.' Cross-examination is not required regarding issues in rulemaking proceedings which are not issues of fact. Examples of such issues are matters of law or policy or matters whose determination has been primarily vested by Congress in the Federal Trade Commission. Thus, unless the subject matter with regard as to which cross-examination is sought relates to disputed issues, which are material to the proposed rule and which are fact issues, there is no right to cross-examination on the part of any party to the proceeding.

H.R. Rep. No. 93–1107, 93d Cong., 2d Sess., *reprinted in* 1974 U.S.C. C.A.N. 7702, 7728.

[18] *Id.; see also Anderson* v. *Liberty Lobby, Inc.,* 477 U.S. 242, 248 (1986) (explaining the standard as ''[o]nly disputes over facts that might affect the outcome''); *Matsushita Elec. Indus. Co.* v. *Zenith Radio Corp.,* 475 U.S. 574, 586 (1986).

[19] *See* IAB, Cmt. on NPRM at 8 (asserting that it is non-deceptive for reviews of a book offered as a paperback, e-book, audiobook, and hard cover to be presented on the same page); *Amazon.com,* Inc., Cmt. on NPRM at 10 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0085* (asserting non-deceptive linking of crew neck and v-neck undershirts); U.S. Chamber of Commerce, Cmt. on NPRM at 7 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0087* (referring to linked reviews for cotton and sateen sheets from the same company, for a ceramic bowl with or without handles from a small seller, or for annual iterations of dog toys with new characters); National Retail Federation, Cmt. on NPRM at 7–8 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0090* (asserting non-deceptive linking of the same products with different patterns, materials, or artwork; t-shirts with v-necks and crewnecks; scents of soap; and individual golf clubs of the same set); Retail Industry Leaders Association, Cmt. on NPRM at 3 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0094* (arguing that other attributes that do not change the overall design and formulation of a product should not be considered ''substantial differences''); Association of National Advertisers, Cmt. on NPRM at 15–16 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0105* (asserting that the bundling of air fresheners with different scents or sunscreens with different SPFs can be non-deceptive and making similar assertions about products that come in squeeze tube versions or that are sold in bundles).

[20] *See* Trustpilot, Cmt. on NPRM at 10 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0084;* Consumer Reports, Cmt. on NPRM at 7 (Sept. 29, 2023), *https://www.regulations.gov/comment/FTC-2023-0047-0099.*

[21] *Ass'n of Nat'l Advertisers,* 627 F.2d at 1161–62.

[22] *See supra* nn.13–17.

to resolve at the hearing [23] and no need for cross-examination or rebuttal submissions.[24]

This initial notice of informal hearing also serves as the ''final notice of informal hearing.'' [25] A final notice of informal hearing is limited in its substance to matters that arise only when the Commission designates disputed issues of material fact: who will conduct cross-examination; whether any interested persons with similar interests will be grouped together for such purposes; and who will make rebuttal submissions.[26] Because cross-examination and submission of rebuttal evidence are not anticipated to occur in this informal hearing, no separate final notice of informal hearing is necessary.

IV. List of Hearing Participants; Making an Oral Statement; Requests for Documentary Submissions

Pursuant to Commission Rule 1.12(a)(4), 16 CFR 1.12(a)(4), the following is the list of interested persons (''Hearing Participants'') who will have the opportunity to make oral presentations at the informal hearing:

1. Fake Review Watch;
2. IAB; and
3. The Researchers.

Oral statements will be limited to 30 minutes, although they may be supplemented by documentary submissions as described below, and the presiding officer may grant an extension of time for good cause shown. Transcripts of the oral statements will be placed in the rulemaking record. Hearing Participants will be provided with instructions as to how to participate in the virtual hearing.

If you are a Hearing Participant and would like to submit your oral presentation in writing or file a supplementary documentary submission, you can do so by submitting a comment on this rulemaking docket. You must do so on or before January 30, 2024. Write ''Reviews and Testimonials Rule; Project No. P214504'' on your submission. If you file a documentary submission under this section, your documentary submission—including your name and your state—will be placed on the public record of this proceeding, including on the website *https://www.regulations.gov.* To ensure the Commission considers your online documentary submission, please follow the instructions on the web-based form.

Because your documentary submission will be placed on the public record, you are solely responsible for making sure that it does not include any sensitive or confidential information. Your documentary submission should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your documentary submission does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your documentary submission should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Documentary submissions containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the submission must include the factual and legal basis for the confidentiality request and must identify the specific portions to be withheld from the public record. *See* Commission Rule 4.9(c). Your documentary submission will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your documentary submission has been posted publicly at *https://www.regulations.gov*—as legally required by Commission Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove it, unless you submit a confidentiality request that meets the requirements for such treatment under Commission Rule 4.9(c), 16 CFR 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of submissions to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive documentary submissions it receives from the Hearing Participants on or before January 30, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Hearing Participants who need assistance should indicate as much in their comment, and the Commission will endeavor to provide accommodations. Hearing Participants without the computer technology necessary to participate in video conferencing will be able to participate in the informal hearing by telephone; they should indicate as much in their comments.

V. Conduct of the Informal Hearing; Role of Presiding Officer

The Commission's Chief Presiding Officer, the Chair, has appointed and designates the Honorable Carol Fox Foelak, Administrative Law Judge for the Securities and Exchange Commission, to serve as the presiding officer of the informal hearing. Judge Foelak will conduct the informal hearing virtually using video conferencing starting at 10:00 a.m. Eastern on February 13, 2024. The informal hearing will be available for the public to watch live from the Commission's website, *https://www.ftc.gov,* and a recording or transcript of the informal hearing will be placed in the rulemaking record.

Because there are no ''disputed issues of material fact'' to resolve at the informal hearing, the presiding officer is not anticipated to make a recommended decision. The role of the presiding officer therefore will be to preside over and ensure the orderly conduct of the informal hearing, including selecting the sequence in which oral statements will be heard, and to place the transcript and any additional written submissions received into the rulemaking record. The presiding officer may prescribe additional procedures or issue rulings in accordance with 16 CFR 1.13. In execution of the presiding officer's obligations and responsibilities under the Commission Rules, the presiding officer may issue additional public notices.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Pursuant to Commission Rule 1.18(c)(1), 16 CFR 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or

[23] If any interested person seeks to have additional disputed issues of material fact designated, the person may make such request to the presiding officer pursuant to 16 CFR 1.13(b)(1)(ii).

[24] 16 CFR 1.12(b).

[25] 16 CFR 1.12(c).

[26] *Id.*

Commissioner advisor shall be subject to the following treatment. Written communications and summaries or transcripts of oral communications shall be placed on the rulemaking record if the communication is received before the end of the comment period. They shall be placed on the public record if the communication is received later. Unless the outside party making an oral communication is a member of Congress, such communications are permitted only if advance notice is published in the Weekly Calendar and Notice of ''Sunshine'' Meetings.[27]

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2024–00678 Filed 1–12–24; 8:45 am]

BILLING CODE 6750–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112, 1130, and 1243

[CPSC Docket No. 2023–0047]

Safety Standard for Infant Support Cushions

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the U.S. Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. Under this statutory direction, the Commission is proposing a safety standard for infant support cushions. The Commission is also proposing to amend CPSC's consumer registration requirements to identify infant support cushions as durable infant or toddler products and proposing to amend CPSC's list of notices of requirements (NORs) to include infant support cushions.

DATES: Submit comments by March 18, 2024.

ADDRESSES: Comments related to the Paperwork Reduction Act aspects of the marking, labeling, and instructional literature requirements of the proposed rule should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.*

Other comments, identified by Docket No. CPSC–2023–0047, may be submitted electronically or in writing, as follows:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* insert the docket number, CPSC–2023–0047, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Stefanie Marques, Ph.D., Project Manager, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; email: *smarques@cpsc.gov;* telephone: (301) 987–2581.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Section 104(b) of the CPSIA requires the Commission to (1) examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts and (2) promulgate consumer product safety standards for durable infant and toddler products. 15 U.S.C. 2056a(b)(1). The Commission must continue to promulgate standards for all categories of durable infant or toddler products ''until the Commission has promulgated standards for all such product categories.'' 15 U.S.C. 2056a(b)(2).

The Commission is issuing this notice of proposed rulemaking (NPR) to establish a consumer product safety rule for infant support cushions to further implement section 104 of the CPSIA.[1] The proposed rule defines an ''infant support cushion'' as ''an infant product that is filled with or comprised of resilient material such as foam, fibrous batting, or granular material or with a gel, liquid, or gas, and which is marketed, designed, or intended to support an infant's weight or any portion of an infant while reclining or in a supine, prone, or recumbent position.'' This includes infant pillows, infant loungers, nursing pillows with a lounging function, infant props or cushions used to support an infant for activities such as ''tummy time,'' and other similar products.

CPSC staff identified at least 79 reported fatalities involving infant support cushions from January 1, 2010, through December 31, 2022, as well as 125 nonfatal incidents or reports involving these products within the same time period. There were 17 deaths in 2020, and at least 17 more in the potentially incomplete data from 2021. More than 80 percent of the fatalities associated with these products involved infants three months old and younger. In more than 60 percent of the fatalities, the official cause of death was either asphyxia or probable asphyxia, and these incidents typically involved use of an infant support cushion placed in or on a sleep-related consumer product such as an adult bed, futon, crib, bassinet, play yard, or a on a couch. For the nonfatal incidents, the most common circumstances involved an infant falling from an infant support cushion placed on a raised surface such as a bed or a sofa or the threat of asphyxia or entrapment.

This proposed rule addresses the risk of death and injury associated with

[27] *See* 15 U.S.C. 57a(i)(2)(A); 16 CFR 1.18(c).

[1] On November 29, 2023, the Commission voted (4–0) to publish this notice of proposed rulemaking, with an amendment proposed by Commissioner Trumka. Commissioners Trumka and Boyle issued statements in connection with their votes, available at: *https://www.cpsc.gov/s3fs-public/2023-11-29-Commission-Meeting-Minutes-Infant-Support-Cushions-NPR-Decisional.pdf?VersionId=9Y0qjnS2A74SHa932SzV9txWDIaMddXU.*