



Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1229

[Docket No. CPSC-2015-0028]

Safety Standard for Infant Bouncer Seats

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 United States Consumer Product Safety Commission (“Commission” or “CPSC”) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is proposing a safety standard for infant bouncer seats (“bouncer seats”) in response to the direction of section 104(b) of the CPSIA. In addition, the Commission is proposing an amendment to 16 CFR part 1112 to include 16 CFR part 1229 in the list of notice of requirements (“NORs”) issued by the Commission.

DATES: Submit comments by January 4, 2016.

ADDRESSES: Comments related to the Paperwork Reduction Act aspects of the marking, labeling, and instructional literature requirements of the proposed mandatory standard for bouncer seats should be directed to the Office of Information and Regulatory Affairs, the Office

of Management and Budget, Attn: CPSC Desk Officer, FAX: 202-395-6974, or e-mailed to oir_submission@omb.eop.gov.

Other comments, identified by Docket No. CPSC-2015-0028, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number, CPSC-2015-0028, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Suad Wanna-Nakamura, Ph.D., Project Manager, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301-987-2550; e-mail: snakamura@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The CPSIA was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, 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. Standards issued under section 104 are to be “substantially the same as” the applicable voluntary standards or more stringent than the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product.

The term “durable infant or toddler product” is defined in section 104(f)(1) of the CPSIA as “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,” and the statute specifies twelve categories of products that are included in the definition, including walkers, carriers and various types of children’s chairs. In issuing regulations governing product registration under section 104, the Commission determined that an “infant bouncer” falls within the definition of a “durable infant or toddler product.” 74 FR 68668 (Dec. 29, 2009); 16 CFR 1130.2(a)(15).

Pursuant to section 104(b)(1)(A) of the CPSIA, the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups,

consultants, and members of the public in the development of this notice of proposed rulemaking (“NPR”), largely through the ASTM process. The NPR is based on the most recent voluntary standard developed by ASTM International (formerly the American Society for Testing and Materials), ASTM F2167-15, *Standard Consumer Safety Specification for Infant Bouncer Seats* (“ASTM F2167-15”), with specific modifications to improve and strengthen the requirements for on-product warnings and instructional materials provided with bouncer seats.

The testing and certification requirements of section 14(a) of the Consumer Product Safety Act (“CPSA”) apply to the standards promulgated under section 104 of the CPSIA. Section 14(a)(3) of the CPSA requires the Commission to publish an NOR for the accreditation of third party conformity assessment bodies (“test laboratories”) to assess conformity with a children’s product safety rule to which a children’s product is subject. The proposed rule for bouncer seats, if issued as a final rule, would be a children’s product safety rule that requires the issuance of an NOR. To meet the requirement that the Commission issue an NOR for the bouncer seat standard, this NPR also proposes to amend 16 CFR part 1112 to include 16 CFR part 1229, the CFR section where the bouncer seat standard will be codified, if the standard becomes final.

II. Product Description

A. Definition of “Bouncer Seats”

The scope section of ASTM F2167-15 defines an “infant bouncer seat” as: “a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.” ASTM F2167-15 states that infant bouncer seats are intended for “infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age).”

Bouncer seats vary widely in style and complexity, but typically, bouncer seats consist of a cloth cover stretched over a wire or tubular frame. Wire frame bouncers have two designs. The forward bend design is constructed with the seating area supported from the front side of the product. The second wire frame design is a rear bend design. In the rear bend design, the seat is supported from the rear side of the product. Other bouncer designs are also currently available, including, but not limited to, products with individual wire legs, solid bases, and spring designs. These infant bouncer designs use different methods to support the seat and are intended for “bouncing,” as defined in ASTM F2167.

All bouncer seats support the child in an inclined position, and some brands have adjustable seat backs. Various bouncer seat models include a “soothing unit” that vibrates or bounces the chair, and may play music or other sounds. Most bouncer seats also feature an accessory bar with attached toys that are, or at some point will be, within the child’s reach. Most of the bouncer seat models examined by Commission staff provide a 3-point restraint system consisting of wide cloth crotch restraints, and short adjustable waist straps with plastic buckles. Only two models of bouncer seats reviewed by CPSC employed upper body restraints. Many bouncer seat brands also include an “infant insert,” intended for use to support smaller babies. See Tabs C and D, Staff Briefing Package: Infant Bouncer Seats Notice of Proposed Rulemaking, dated September 30, 2015 (“Staff NPR Briefing Package”), available at: <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2015/ProposedRuleSafetyStandardforInfantBouncerSeatSeptember302.pdf>.

B. Market Description

Although additional suppliers may exist, CPSC staff identified 22 firms supplying infant bouncer seats to the U.S. market. The 22 identified firms primarily specialize in the manufacture

and/or distribution of children's products, including durable nursery products. The majority of the 22 known firms are domestic (including 8 manufacturers and 10 importers). The remaining four firms are foreign manufacturers.¹ In 2013, the CPSC conducted a Durable Nursery Product Exposure Survey ("DNPES") of U.S. households with children under age 6. Data from the DNPES indicate that an estimated 6.75 million infant bouncers are in U.S. households (with 95% probability that the actual value is between 5.78 million and 7.72 million). Data collected also indicate that about 31 percent of the infant bouncers in U.S. households are currently in use (an estimated 2.09 million infant bouncers, with 95 percent probability that the actual value is between about 1.5 million and 2.68 million). Tab F, Staff NPR Briefing Package.

III. Incident Data

CPSC's Directorate for Epidemiology, Division of Hazard Analysis is aware of 277 reported incidents involving bouncer seats, including 11 fatalities and 51 injuries, occurring between January 1, 2006 and February 2, 2015. The incidents are based on reports involving victims 12 months and younger in the Injury or Potential Injury Incident ("IPII"), In-Depth Investigation ("INDP"), and Death Certificates ("DTHS") databases (collectively referred to as Consumer Product Safety Risk Management System data, or "CPSRMS" data). Additionally, CPSC staff found 672 bouncer-related incidents, including two fatalities, reported in the National Electronic Injury Surveillance System ("NEISS") records retrieved for bouncer incidents from January 1, 2006 to December 31, 2013, involving children 12 months old and younger. A detailed review of the incident data and analysis associated with bouncer seats can be found in Tabs A, B, and D of the Staff NPR Briefing Package.

¹ Determinations were made using information from Dun & Bradstreet and ReferenceUSAGov, as well as firm websites.

A. Fatalities

For the reporting periods described in the preceding paragraph, CPSC staff found 11 reported fatalities in the CPSRMS data, and two reported fatalities in the NEISS data. A brief description of each incident follows:

- 120427HCC1640: A 6-month-old died of blunt force trauma to the head when the infant's father lifted him in the bouncer seat. The bouncer collapsed and the child fell out of the back onto carpeted floor. He suffered a linear skull fracture and died the following day.
- 121001HCC2002: A 3-month-old was fed and left to sleep in her bouncer seat. The child's father reported that he found her face down, unrestrained, in the seat. The seat was on the floor, and the child's mother and 2-year-old sister had been asleep on a couch nearby.² Cause of death was positional asphyxia.
- 070214CCC1300: A 2-month-old who suffered from reflux and a respiratory infection was placed, unrestrained, to sleep in a bouncer that was lined with a blanket; the bouncer was on the floor next to the couch where his mother slept for the night. The child turned over in the seat, and was found unresponsive, face down against seat back. Cause of death was positional asphyxia.
- 110726CAA3941: A 3-month-old was placed on an adult bed in an infant bouncer seat, unrestrained, for a nap. The mother reported that the child had fallen out of the seat and she found her face down on the bed. The child was diagnosed with an irreversible anoxic brain injury and died 19 days later.
- 726037034: A 3-month-old was left in a "bouncy (*sic*) seat on an adult bed." Cause of death was probable asphyxia due to suffocation. No further information is available.
- 1051041332: A 4-month-old "suffocated when face down in soft bedding on bouncy (*sic*) seat at home." No further information is available.
- 101012HCC3049: A 6-month-old (born several weeks premature) was placed in a bouncer on the floor (in front of a television) as he was falling asleep while his mother showered. She placed a pillow under the rear legs of the bouncer to raise it. She found the child unresponsive, turned with his face against the side of the bouncer, one leg out of the restraints. Cause of death was positional asphyxia.

² Both a car seat and an infant bouncer were present at the scene. CPSC Health Sciences staff found the information in the report insufficient to determine the hazard that contributed to the fatality in this incident.

- 080917HBB3900: A 2-month-old in a bouncer was placed in a crib to sleep. She was found suspended, partially upside down, over the side of the bouncer with one leg entwined in the restraints. A depression in the mattress suggests that the child's face was against it. Cause of death was mechanical asphyxia.
- X1490229A: A 4-month-old was swaddled and placed for a nap, unrestrained, in a bouncer, which was then placed on the floor; the child reportedly just started to roll over, but had not done so completely on her own. Her parents found her unresponsive "with her face against the back of the infant seat and half way off the chair from the waist level down ..."; she could not be resuscitated. Cause of death was positional asphyxia.
- 140102HWE0001: A 6-month-old was sleeping, strapped into a bouncer and when she awoke, was moved in the bouncer to a bedroom and left briefly with two toddlers, and possibly a pet dog. When the caregiver returned, she found the chair overturned on the floor with the victim's neck lying over the chair's [toy bar]. The report is inconsistent regarding whether the bouncer was placed initially on the bed or on the floor. HS staff considers the injuries described in the ME's report to be consistent with a fall rather than a tip-over at floor level. The child died five days later. Cause of death was positional asphyxia.
- 140422CAA1573: A 3-month-old was placed to sleep for the evening, unrestrained, in a bouncer on the floor in a room with several other children. Her mother found her five hours later face down in front of the bouncer on the floor and not breathing.
- NEISS: 120328281: The parents of a 5-month-old found him unresponsive, flipped over in the bouncer seat with his leg still through one leg hole. The cause listed was cardiac arrest.³
- NEISS: 130645295: A 2-month-old child had been asleep in a "bouncy"; his father awoke to find the child unresponsive on the floor. The cause of death was cardiac arrest.⁴

Most of the infants' deaths involved the presence of excess bedding in or under the bouncer; placement of the bouncer on a soft surface such as an adult bed; placement of the bouncer in a crib; and carrying or placing the bouncer at an elevated height. Most of the bouncer seat deaths also involved the infant being placed in the bouncer to sleep unrestrained, which allowed the infant unsupervised time and movement within the hazardous environment which

³ CPSC staff found the information in this incident insufficient to determine the hazard that contributed to the fatality because the term "leg hole" was deemed inconsistent with the features of an infant bouncer and because of the lack of detail provided.

⁴ CPSC staff found the information in this incident insufficient to determine the hazard that contributed to the fatality.

contributed to the death. Tab B, Staff NPR Briefing Package. In nine cases, the child was reported as napping or sleeping and without restraints in five of the nine incidents. In two cases, the child was partially out of the restraints when found; in the case when the bouncer was inside the crib, the child was partially suspended upside down over the side of the bouncer with one leg in the restraints. Moreover, in at least four cases, the child's emerging ability to turn over, resulted in the child's face resting against the conforming surface of the seat back, and this appears to have been a significant factor in causing the child's death. Tab D, Staff NPR Briefing Package.

B. Non-Fatalities

Of the 277 CPSRMS bouncer-related incidents involving children 12 months old and younger, 266 incidents were nonfatal. Fifty-one (51) of these nonfatal incidents reported injuries. Four of the 51 reported injuries involved serious head injuries related to falls from a bouncer placed on an elevated surface. Other reported injuries included skull fractures, leg fractures, head contusions, eye bruises, facial bruises and scratches, a split lip and torn upper frenulum, a finger bruise, leg cuts, leg bruises, heel lacerations, and a blood blister. Because reporting is ongoing, the number of injuries and fatalities associated with bouncer seats are subject to change. See Tab A, Staff NPR Briefing Package.

Incidents involving the infant occupant falling from the bouncer are of most concern to CPSC because falls have the greatest potential for a serious injury. According to Health Sciences staff's analysis, 77 of the 266 nonfatal incidents involved the infant occupant falling from the bouncer. In five of these incidents, the infant occupant fell from a bouncer placed at an elevated height, such as on a kitchen countertop or dining table, or the bouncer was being carried by the caregiver; in four (80%) of these elevated-height incidents, the infant fell from the

bouncer and sustained a severe head injury. Severe head injuries, such as concussions and fractured skulls, could cause extensive brain damage and affect the infant's motor development, emotional development, speech, ability to think and learn, and overall quality of life, long after the incident has occurred. The majority of the remaining 189 nonfatal incidents that did not involve a fall resulted in no injuries or minor injuries. Only one incident resulted in a moderate injury; in that incident a 3-month-old infant shifted in the bouncer and sustained a fractured leg. See Tab B, Staff NPR Briefing Package.

C. Hazard Pattern Identification for CPSRMS Incidents

To identify hazard patterns associated with infant bouncer seats, CPSC staff considered all 277 reported incidents in CPSRMS involving product-related issues. Tab A, Staff NPR Briefing Package. Product-related issues associated with these incidents include:

Product Design - Seventy-five (75) incident reports describe issues related to bouncer product design. Design issues described in these incident reports consist of sharp plastic rods, uncushioned side metal bars, overhead attachments not clipping properly, sharp pieces of fabric, lack of padding in the footing area, bouncer frames that easily entrap arms/legs/fingers, easily movable feet cushion flaps, sharp plastic grooves from a musical component, sagging seat belts, and lopsided or low-riding bouncer frames. Sixteen of the 75 incidents resulted in injuries, all of which were minor.

Structural Integrity - Seventy (70) incident reports describe issues related to the structural integrity of bouncer components, such as bouncer seats collapsing when picked up, collapsing during use, and releasing fabric from the plastic frame, plus various other structural issues involving broken sides, recline adjustment pieces, wire bases, front tube retainers, and rubber feet. Twelve of the 70 incidents resulted in minor injuries.

Toy Bar-Related - Thirty-six (36) incident reports involve problems with the toy bar or toys attached to the toy bar. These reports describe the following types of issues: toy bars that fail to snap into place, toy bars breaking after being used as a handle, toys breaking off the bar, toys on the bar swinging back to hit the victim, toys scratching and pinching fingers or toes, and children getting hands or feet caught on the toy attachments. Ten of the 36 incidents resulted in minor injuries.

Stability - Stability issues comprise thirty-three (33) tip-over incidents involving a bouncer seat placed on the floor. While 26 bouncer tip-over incidents resulted in no reported injuries, seven incident reports include injuries such as a split lip, head contusions, and facial bruises.

Chemical/Electric Hazards - Thirty (30) incident reports describe issues related to chemical or electrical hazards, including two reported injuries (a thigh welt and a rash). One incident involved a bouncer seat emanating a toxic smell; another incident involved a victim who developed a rash after directly touching the bouncer; and 28 incidents involved batteries or the vibration motors. Twenty-four of the battery/motor incidents included reports of leaking, cracking, or exploding batteries. Four of the battery/motor incident reports specifically described motor-related issues, which include overheating motors, motors making strange noises, and motors catching on fire, resulting in burning plastic and structural burn marks.

Restraints - Twenty (20) incidents, including two reported minor injuries, involve issues with bouncer restraints, including falling out of bouncer seats despite being strapped in, tearing/fraying straps, non-latching seat belts, and breaking seat buckles.

Hazardous Placement - Eleven (11) incidents involved a hazardous placement of the bouncer where victims in bouncer seats fell from elevated surfaces, fell face down onto soft

bedding, or suffocated while attempting to slip out of a bouncer seat placed on an unstable surface. One incident included a reported skull fracture injury; another incident involved a fatality resulting from blunt force head trauma; and nine incidents involved fatalities due to asphyxia.

Unknown - Two (2) incidents involved an unknown hazard, including one that involved a reported injury, and one that resulted in a death from positional asphyxia.

D. NEISS Data Analysis

CPSC staff retrieved 672 NEISS records (estimated total of 17,200 injuries) describing infant bouncer seat incidents between January 1, 2006 and December 31, 2013. See Tab A, Staff NPR Briefing Package. Injury estimates are derived from NEISS data, where sampling weights are used to project the number of cases reported by NEISS hospitals to national estimates. A statistically significant upward trend exists in the estimated emergency department-treated injuries involving bouncer seats for victims under 1-year-old from 2006 to 2013.

An estimated 15,500 patients were treated and released for bouncer injuries, and an estimated 1,300 patients were treated and admitted, treated and transferred to another hospital, or held for observation. An estimated 15,100 (92%) bouncer injuries involved the head and face, while 1,300 estimated injuries involved an unknown area, or the rest of the body (appendages, torso, internal). Two cases involved a victim who died from cardiac arrest. One victim died after flipping over in an infant bouncer seat with his leg still through one leg opening, and the other victim was found on the floor unresponsive after being asleep in the bouncer. These two fatalities are in addition to the 11 fatalities reported in CPSRMS.

Of the 672 NEISS records describing bouncer injuries, 287 incidents took place on the floor or an unknown location. The remaining 385 incidents, or an estimated 9,200 injuries,

involved hazardous placements: 342 of these incidents, or an estimated 8,100 injuries, resulted from falls. Hazardous placements included counters, tables, and other elevated surfaces (e.g., beds, carried or lifted positions, chairs, couches, dressers, stairs, and appliances). An estimated 6,800 injuries, or 74 percent of all estimated bouncer injuries associated with a hazardous placement, involved the bouncer being placed on a counter or table. Health Sciences staff analysis determined that 50 of these hazardous placement incidents resulted in a severe head injury, such as a concussion or fractured skull. Twelve severe head injuries were the result of the caregiver carrying the infant in the bouncer. See Tab B, Staff's NPR Briefing Package. CPSC staff noted two other factors in the fall-related NEISS data. In 54 of the reports, the incident occurred when someone was carrying or picking up the child in the infant bouncer. In 33 of the cases, the child was reported to be unrestrained at the time of the incident; the number of cases of children falling while unrestrained is likely to be underreported.

Eighty-one percent of the incidents resulted in injuries (n=532; estimate=13,900). CPSC staff reviewed the NEISS cases and determined the severity of the reported injuries. Based on that analysis, 11 percent of the injuries were severe, such as skull fractures and intracranial hemorrhages; and 41 percent were moderate, such as less serious head injuries and fractures involving other body parts. CPSC staff concluded that infants were more likely to sustain a severe head injury when they fell from elevated heights, and that the potential for severe head injury increases if the child is being carried in the bouncer, and/or if they are unrestrained in the bouncer.

E. Product Recalls

Since January 1, 2006, Compliance staff conducted two bouncer seat recalls involving two different firms. The first recall, in April 2007, involved 1,400 units of Oeuf, LLC, infant

bouncer seats.⁵ The bouncer seat was recalled after six reports of tubular steel frame breakage. The second recall of bouncer seats, in July of 2009, involved 6,500 units of BabySwede LLC BabyBjörn® Babysitter Balance and Babysitter Balance Air bouncer seats.⁶ Bouncer seats were recalled because small, sharp metal objects found in the padded area of the bouncer chair could protrude through the fabric, posing a laceration hazard to children. No injuries were associated with either product at the time of the recall. See Tab E, Staff NPR Briefing Package.

IV. International Standards for Bouncer Seats

CPSC staff found no other standard for infant bouncer seats. See Tab C, Staff NPR Briefing Package. However, CPSC staff identified two closely related international standards, BS EN 14036:2003, *Child Use and Care Articles — Baby Bouncers — Safety requirements* (“BS EN 14036”) and BS EN 12790:2002, *Test Methods and Child Care Articles -Reclined cradles* (“BS EN 12790”), which pertain to products with some characteristics similar to infant bouncer seats. The scope of BS EN 14036 does not include bouncers intended for inclined seating; rather, the standard involves products designed to suspend a child, from above, in an essentially vertical, semi-seated position. These products, sold as baby jumpers in the United States, enable the child's toes/balls of the feet to have contact with the floor to activate and maintain the bouncing action. General requirements in BS EN 14036 are similar to ASTM F2167, but are less stringent. Remaining requirements in BS EN 14036 are not applicable to infant bouncer seats.

BS EN 12790 specifies safety requirements and the corresponding test methods for fixed or folding reclined cradles intended for children up to 6 months and/or up to a weight of 9 kg.

⁵ CPSC link to recalled product: <http://www.cpsc.gov/en/Recalls/2007/Infant-Bouncer-Seats-Recalled-Due-to-Frame-Failure/>.

⁶ CPSC link to recalled product: <http://www.cpsc.gov/en/Recalls/2009/BabySwede-LLC-Recalls-Bouncer-Chairs-Due-to-Laceration-Hazard/>.

Unlike infant bouncer seats, BS EN 12790 is intended to cover non-bouncing products designed to be a safe sleeping environment. BS EN 12790 contains the same general requirements as BS EN 14036. Additional testing in BS EN 12790 includes stability, static strength, dynamic strength, slip resistance, unintentional folding, and restraints. ASTM F2167 contains more stringent stability, static strength, and dynamic testing than BS EN 12790. Slip-resistance tests are substantially similar in both standards. BS EN 12790 contains an unintentional folding test that is not applicable to infant bouncer seats. Finally, although ASTM F2167 does not have a restraint slip test, the restraint strength test requires an additional pull test at 45lb (200 N) to the normal use direction. Accordingly, overall, ASTM F2167-15 is more stringent in most areas than BS EN 12790 and addresses the hazard patterns identified in CPSC's incident data.

V. Voluntary Standard—ASTM F2167

A. History of ASTM F2167

A voluntary standard for infant bouncer seats was first approved in December 2001 and published in January 2002, as ASTM F2167-01, *Standard Consumer Safety Specification for Infant Bouncer Seats*. Since then, ASTM has revised the standard nine times. Tab C of the Staff NPR Briefing Package includes a description of each revision. The current version, ASTM F2167-15, was approved on May 1, 2015, and published in June 2015. ASTM F2167-15 includes modified and new performance and labeling requirements developed by CPSC staff, in conjunction with stakeholders on the ASTM subcommittee task group, to address the hazards associated with bouncer seats. A description of the current voluntary standard for bouncer seats follows.

B. Description of the Current Voluntary Standard—ASTM F2167-15

ASTM F2167-15 includes the following key provisions: scope, terminology, general requirements, performance requirements, test methods, marking and labeling, and instructional literature.

Scope. Section 1 of ASTM F2167-15 states the scope of the standard, detailing what constitutes an “infant bouncer seat.” As stated in section II.A of this preamble, the Scope section defines an “infant bouncer seat” as “a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.” ASTM F2167-15 states that infant bouncer seats are intended for “infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age).”

Terminology. Section 3 of ASTM F2167-15 provides definitions of terms specific to this standard. For example, section 3.1.1 of the ASTM standard defines “conspicuous” to mean a “label that is visible, when the infant bouncer seat is in a manufacturer’s recommended use position, to a person sitting near the infant bouncer seat at any one position around the infant bouncer seat but is not necessarily visible from all positions.”

General Requirements. Section 5 of ASTM F2167-15 addresses numerous hazards with several general requirements, most of which are also found in the other ASTM juvenile product standards. Several requirements reference an existing CPSC standard. The following general requirements apply to bouncer seats. Where the ASTM standard relies on a CPSC mandatory standard, the mandatory standard is cited in parentheses next to the requirement:

- Hazardous sharp points and edges (16 CFR 1500.48 and 1500.49);
- Small parts (16 CFR 1501);
- Lead in paint (16 CFR 1303);

- Banned articles (16 CFR 1500.18(a)(6) and 1500.86(a)(4));
- Wood parts;
- Latching and locking mechanisms;
- Scissoring, shearing, and pinching;
- Openings;
- Exposed coil springs;
- Protective components;
- Permanency of labels and warnings; and
- Toys (ASTM F963).

Performance Requirements and Test Methods. Sections 6 and 7 of ASTM F2167-15 contain performance requirements specific to bouncer seats, as well as test methods that must be used to assess conformity with such requirements. Below is a discussion of each performance requirement and the related test method.

- **Restraints.** ASTM F2167-15 requires that restraints be provided with a bouncer seat that are capable of securing a child when the bouncer is placed in any use position recommended by the manufacturer. ASTM F 2167-15 requires both a waist and a crotch restraint, and the restraint must be designed in such a way that the crotch restraint must be used when the waist restraint is in use. The standard specifies that the restraint's anchorages shall not separate from the attachment points to the bouncer when tested. Testing to this requirement is performed by securing the bouncer seat and applying a 45lb (200N) force for a period of 10 seconds to a single attachment point of the restraint in the normal use direction. Although no provisions in the performance requirements address the actual use of the restraint, ASTM F2167-15 contains a warning label requirement regarding proper use of the restraint.

- **Stability.** ASTM F2167-15 includes a test for bouncer stability in each direction, forward, sideward, and rearward. In the forward stability test, an infant CAMI dummy is placed in the infant bouncer and the restraints are adjusted to fit in accordance with the manufacturer's instructions. The dummy is then removed and the stability test fixture is placed in the seat. A vertical static force of 21lb (93N) or three times the manufacturer's recommended weight, whichever is greater, is applied for 60 seconds to the fixture at a distance of 6in (152.4mm) in front of the crotch post. To pass the test, the bouncer must not tip over or the front edge must not touch the test surface.

Repeatable stability testing in the sideward and rearward directions is more difficult to accomplish based on a bouncer's potential shifts in the center of gravity. Because of these potential shifts, sideward and rearward testing for bouncers is done differently than in the forward direction. The current sideward and rearward stability tests are performed with the infant CAMI dummy placed in the seat and the bouncer placed on a 20-degree incline in the most unstable orientation other than forward. To pass the test, the bouncer must not tip over in this position.

- **Slip Resistance.** The slip resistance test is designed to keep bouncers from traveling across a surface while being used by a child. Bouncers placed on smooth, hard surfaces, such as a kitchen counter, are less likely to creep along the surface while a child is in the seat, if the product is designed to meet the slip resistance requirement. The slip resistance requirement in ASTM F2167-15 includes both static and dynamic components. The static slip resistance test is performed on a smooth laminate surface with a matte finish and a 10-degree incline. A 7.5lb (3.4kg) CAMI dummy is placed in the bouncer with the front of the bouncer facing down the incline. The bouncer must not move down the incline more than 1/8 in. (3mm)

in 1 minute. The test is repeated with the bouncer seat oriented with the left, right, and rear sides pointed down the incline.

In the dynamic slip resistance test, a test fixture is placed in the bouncer seat with a 7.5lb (93.4kg) weight, and the bouncer is placed on the 10-degree inclined surface. Additionally, if the bouncer has a feature, such as a vibration unit, the unit is to be turned on during the test. An additional 2.5lb (1.13kg) weight is dropped onto the test fixture from a height of 6 in. (152.4mm) a total of 10 times. To pass, the bouncer seat is not allowed to move more than 1/2in (13mm) during the test. This test is repeated with the bouncer in the remaining sideways and rear orientations.

- **Structural Integrity and Disassembly/Collapse.** ASTM F2167-15 requires that bouncer seats pass a series of three tests to evaluate structural integrity: (1) a static load test; (2) a dynamic load test; and (3) a disassembly/collapse test.

To pass the first two tests, at the conclusion of the tests, the bouncer seat shall have no failure of seams, breakage of materials, or changes of adjustments that could cause the product not to fully support the child or that creates a hazardous condition outlined in the general requirements of the standard. The static load test requires that a 6"x6"x3/4" (152.4x152.4x1.91 mm) wood block be placed in the bouncer seat and loaded with the greater of 60lb (27.3kg), or 3 times the manufacturer's recommended maximum weight, whichever is greater. The test is intended to ensure that the bouncer design is sufficient to hold the weight of any child that is likely to use the product.

The dynamic load test requires that a 6" (152.4mm) weld cap be dropped from a distance of 1" (25mm) with the convex surface face down onto the bouncer seat. Extra weight is added to the weld cap to provide a total weight of 33lb (15kg). The drop for the dynamic load test is

repeated a total of 100 times. This test simulates the child being placed in the seat and removed, as well as the forces applied to the bouncer while the child is in the seat. This test provides a reasonable factor of safety to ensure that the bouncer seat does not fail when used in accordance with the manufacturer's recommendations.

The disassembly/collapse test simulates lifting the bouncer by the ends with a child seated in the product to see whether the bouncer collapses or folds up into a position that might result in injury. To conduct the test, a newborn CAMI dummy is placed in the bouncer seat and a 15lb (67N) force is applied to the bouncer at the location most likely to cause disassembly. In situations where multiple locations are present that could result in disassembly, the test is repeated for each location. If a hazardous condition results from the test, the bouncer fails the requirement. A hazardous condition is anything that would result in the bouncer not meeting the general requirements, or any visual indications of disassembly or collapse of the bouncer.

- **Drop Test.** The drop test is intended to evaluate the durability of bouncer seats in instances of misuse, and to assess compliance with the general safety requirements, such as small parts, sharp points, and sharp edges. The drop test applies dynamic forces to the bouncer in directions not associated with normal use by a child. The bouncer must be dropped from a height of 36" (914.4mm), once in each of six different planes (top, bottom, front, rear, left side, and right side). If the bouncer is of a folding design, the six drops must be done in both the folded and unfolded configurations (for a total of 12 drops). At the end of the test, the bouncer must meet the general requirements outlined in Section 5.0 of the standard.

- **Toy Bar Attachment Integrity.** ASTM F2167-15 includes general performance requirements to test toy bars on bouncer seats. A static test is performed with a 6"x6"x3/4" (152.4x152.4x1.91 mm) wood block placed in the bouncer seat and loaded with the greater of

40lb (18.2kg) or two times the manufacturer's recommended maximum weight. The bouncer is then gradually lifted. In the dynamic test, an infant CAMI is placed in the seat and a cable is attached to the center grasping point of the handle. The bouncer is raised and allowed to drop 2" (5.1cm). The toy bar must completely release from the bouncer or move less than 2" (5.1cm) from the resting position if the bar has a single attachment point. Additionally, individual toys included with the bouncer are required to meet the general requirements in the standard.

- **Battery Compartments.** ASTM recently added battery and containment requirements to F2167. The new requirements include permanently marking the correct battery polarity adjacent to the battery compartment, providing a means to contain the electrolytic material in the event of battery leakage, protection against the possibility of charging non-rechargeable batteries, and defining a maximum surface temperature for any accessible component. The battery polarity requirement requires a visual inspection of the battery compartment. Surface temperature and charging protection are accomplished through the performance of an operational test. The bouncer is operated using new batteries of the type recommended by the manufacturer. Testing is performed by operating the bouncer at the highest setting for 60 minutes. Upon conclusion, no battery leakage, explosion, or fire can occur, and no accessible component shall exceed 160°F degrees (71°C). The performance requirement includes a provision for testing using a/c power; but staff is unaware of bouncers currently on the market that are a/c powered.

Marking and Labeling. Section 8 of ASTM F2167-15 requires products to be marked or labeled with manufacturing information and relevant product warnings.

- **Manufacturing Information.** Section 8.1 requires that each product and its retail packaging be marked or labeled, clearly, legibly, and permanently, to include the name and

address of the manufacturer, distributor, or seller, and a code or other means to identify the date of manufacture. Section 8.2 states that a manufacturer should change the model number when the product undergoes a significant structural or design change that affects conformance to the standard.

- **Product Warnings.** CPSC staff and the ASTM task group and subcommittee worked to improve the warning label requirements for bouncer seats in section 8.3 of ASTM F2167 to address the hazard of falls from elevated surfaces. ASTM F2167-15 includes several changes to the warnings requirements intended to address this hazard, as well as suffocation. Bouncer seats must be labeled with two groups of warning statements, a fall hazard warning and a suffocation warning. ASTM F2167-15 includes new content on color in the warning labels, placement of the fall hazard warning on the front of the product, and changes to the suggested warning language for both falls and suffocation. As set forth in more detail in section VI of the preamble, CPSC is proposing to include additional changes to the warning label requirements to address the deaths and injuries associated with infants falling from bouncer seats, and associated with infants falling while remaining in the seat, that occur when caregivers place bouncer seats on an elevated surface.

Instructional Literature. Section 9 of ASTM F2167-15 requires that instructions be provided with bouncer seats and be easy to read and understand. Additionally, the section contains requirements relating to instructional literature contents, including warnings.

VI. Assessment of the Voluntary Standard ASTM F2167-15

CPSC staff examined the relationship between the performance requirements in ASTM F2167-15 and each of the hazard patterns identified in section III.C of this preamble. Tab C, Staff NPR Briefing Package. Based on staff's assessment, CPSC finds that the current voluntary

standard, ASTM F2167-15, adequately addresses the mechanical hazard patterns identified in the incident data associated with bouncer seats. However, CPSC finds that the warning label requirements in ASTM F2167-15 can be improved to address infant falls from bouncers placed on an elevated surface. At this time, such falls cannot be addressed by a performance requirement for bouncer seats. Addressing incidents when infants fall from bouncer seats, as well as incidents when infants fall while remaining in the seat, will require a change in caregiver behavior. Accordingly, CPSC is proposing to strengthen the requirements for the warning label to increase compliance by caregivers and reduce the risk of injury to infants. Tab D, Staff NPR Briefing Package.

The following section discusses how each of the product-related hazard patterns identified in section III.C of this preamble is addressed by the current voluntary standard, ASTM F2167-15. Where CPSC is proposing additional requirements, the rationale for these changes is also explained.

A. *Product Design* – CPSC staff evaluated the current requirements in ASTM F2167 and tested bouncer samples to the tests for product design. The performance requirements to test for hazards related to product design are the same as those used to test for structural integrity. Additionally, the drop test and the general requirements in Section 5.0 are used to address this hazard pattern. CPSC staff found that each type of failure identified in the incidents is addressed in the standard with performance requirements and associated tests. CPSC staff opined that many of the incidents may be the result of manufacturing, shipping, or consumer assembly-related issues. Accordingly, at this time, the Commission does not believe that adding or strengthening requirements is likely to reduce the occurrence of these incidents, and the current performance requirements are adequate to address this hazard pattern.

B. *Structural Integrity* – As reviewed in section V.B of this preamble, ASTM F2167-15 subjects infant bouncers to a series of three tests to evaluate structural integrity including: (1) a static load test; (2) a dynamic load test; and (3) a disassembly/collapse test. After reviewing the available incident information, CPSC staff concluded that it is likely that many of the incidents included in the structural integrity category are the result of product misassembly, and may not be the result of product design. CPSC staff opined that the three structural tests subject infant bouncers to the reasonable forces that could be applied during the normal life of the product and adequately test the structural strength of a bouncer. Based on staff’s assessment, the Commission is not proposing to add more stringent performance requirements at this time.

C. *Toy Bar-Related* – Based on staff’s assessment of the standard, the toy bar requirements in ASTM F 2167-15 are adequate to address the identified hazards. Staff evaluated many bouncers that included a bar designed with small toys attached that hang over the body of a child seated in the bouncer. Individual toys included with the bouncer are required to meet the general requirements in the standard, including ASTM F 963. Additionally, the toy bar is required to meet the toy bar integrity test requirement. The toy bar integrity requirement uses two different tests, a static integrity test and a dynamic integrity test, to address incidents in which the toy bars are used as handles. CPSC is unaware of any injuries involving toy bars releasing when being used as a handle that have occurred since 2012, when the toy bar integrity tests were added to ASTM F2167. Although many of the recent toy bar incident reports describe consumer complaints about the toy bar releasing or bending, CPSC does not consider these reports to be safety related, because the toy bars are specifically designed to perform in a manner that does not allow a consumer to use the toy bar as a handle, and no reported injuries resulted from these incidents.

D. *Stability* – ASTM F2167-15 adequately addresses stability-related incidents. CPSC staff worked with the ASTM subcommittee on bouncers to modify and enhance all the stability performance requirements. Beginning with ASTM F2167-14, the rear and side stability tests were strengthened by ASTM when the angle of incline was from 12 to 20 degrees. Additional changes in ASTM F2167-15 include a longer distance between the crotch post of the test fixture and the application of force for the forward stability test. Changes to the stability requirements will require the design of increasingly stable bouncer designs similar to ones currently available. CPSC believes that these additional requirements will reduce the likelihood of bouncer tip overs and associated injuries.

E. *Chemical/Electrical Hazards* – To address reported chemical and electrical incidents, ASTM recently added battery and containment requirements to the 2015 version of ASTM F2167. These additional requirements were developed with support from CPSC staff and based on the incidents reported to CPSC. New requirements include permanently marking the correct battery polarity adjacent to the battery compartment, providing a means to contain the electrolytic material in the event of battery leakage, protection against the possibility of charging non-rechargeable batteries, and defining a maximum surface temperature for any accessible component. Based on CPSC staff's assessment, CPSC believes that the new battery requirements adequately address reported electrical incidents by reducing the likelihood of overheating and battery leakage incidents.

F. *Restraints* – ASTM F2167-15 adequately addresses mechanical incidents involving restraints. ASTM F2167-15 requires that restraints be provided with a bouncer seat. Restraints must be capable of securing a child when the bouncer is placed in any use position recommended by the manufacturer. ASTM F 2167 requires both a waist and a crotch restraint,

and the restraint must be designed in such a way that the crotch restraint must be used when the waist restraint is in use. Additionally, on-product warning information regarding use of restraints is required. See Tab D, Staff NPR Briefing Package. As described below in section VI.G.1, CPSC is proposing additional language for the product warning label to address incidents involving children who fell from bouncers when placed, unrestrained, to sleep.

G. *Hazardous Placement* – Hazardous placement of bouncer seats occurs when caregivers place bouncers in a hazardous environment, resulting in suffocation or head injuries. Factors that contribute most to these hazards include the presence of excess bedding in or under the bouncer; placement of the bouncer on a soft surface, such as an adult bed; placement of the bouncer in a crib; the infant being placed in the bouncer to sleep unrestrained, which allows the infant unsupervised time and movement within the hazardous environment; and carrying or placing the bouncer at an elevated height. ASTM F2167 addresses hazardous placement of bouncer seats with tests for stability and slip resistance, designed to keep bouncers from traveling across a surface while being used by a child. These performance requirements may help reduce the risk of injury in hazardous placement.

Although the standard includes performance testing for better stability and slip resistance, addressing hazardous placement incidents with performance requirements is difficult because the hazard scenario involves consumer behavior, a foreseeable misuse of the bouncer seat, which should be used only on the floor. Accordingly, CPSC is proposing modifications to the text, placement, and formatting of warnings requirements and instructional literature requirements of ASTM F2167-15 to help further reduce injuries related to this hazard pattern. A detailed description of staff's assessment, rationale, and citations to the relevant literature for the recommended changes appear in Tab D of the Staff's NPR Briefing Package.

1. Modifications to the Warning Label Content

The Commission proposes to add two components to the warning statements for bouncer seats that are absent in ASTM F2167-15: (1) the phrase “even if baby is sleeping” to the warning to use restraints; and (2) developmental guidance on when to stop using the product to help avoid suffocation and fall risks. In general, guidelines for warning statements agree that warnings should identify the hazards, the consequences, and the means to avoid them (*e.g.*, Madden, 2006; Singer, Balliro, & Lerner, 2003, October). The content of the proposed modified warnings meets these requirements by calling attention to each of the behaviors that are related to the specific hazards identified, and advising caregivers how to avoid those hazards.

(a) Use of Restraints

“Always use restraints” is a part of the warnings and instructions in the current version of ASTM F2167, and has been so over many editions of the standard. Based on the incident data relating deaths to suffocation among unrestrained infants while they slept, and serious head injuries to unrestrained infants in falls from bouncer seats that are placed on elevated surfaces and falls from bouncer seats that are being carried, CPSC believes that the current requirement is inadequate to address the risk of injury to infants from falls out of bouncer seats, or the risk of suffocation among unrestrained infants who are sleeping.

The Commission’s proposed warning language includes the statement, “Adjust to fit snugly, *even if baby is sleeping.*” ASTM F2167-15 lacks the phrase that addresses sleeping. CPSC staff reports that while working with ASTM, some ASTM members expressed the opinion that “Always use restraints” is adequate because it allows for no exceptions to the use of restraints, and contended that the staff’s recommended language communicates that the product is intended for use as a place for the child to sleep, and may encourage such use. One member

was concerned that including language regarding sleep may suggest that manufacturers should bring bouncers into compliance with requirements for products that are designed for sleep.

Although the Commission understands the marketing concerns of some manufacturers, the proposed rule addresses how caregivers use bouncer seats, the sleeping activity of infants that are intended to use the product, and the deaths and injuries reflected in the data when caregivers fail to use restraints. Accordingly, to address caregiver behavior, it is essential to include language that conveys the hazard associated with allowing a child to sleep in a bouncer seat while unrestrained. The Commission's concern is that young infants, such as those intended to use bouncer seats, spend more time asleep than awake.⁷ Infants that spend more than brief periods in a bouncer seat will fall asleep on occasion (and caregivers will place infants to sleep for the night in bouncer seats under some circumstances), just as infants fall asleep in strollers, swings, and car-seat carriers. It may be counterintuitive, and therefore unlikely to occur to consumers, that products made for infants' use, especially those that have features intended to sooth and comfort them, would be unsafe places for infants to sleep. In fact, despite claims that bouncer seats are not intended for children to sleep in, CPSC staff found that some manufacturers' marketing suggests that bouncers are intended for sleep as well as play.

Caregivers may remove or loosen restraints while a child is sleeping in a bouncer seat. Removing or loosening product restraints while a child naps or sleeps is a known hazard pattern across infant products that use restraints. It is foreseeable that some caregivers will perceive the restraints as uncomfortable and unnecessary (Lerner, Huey, & Kotwal; 2001), particularly for younger users, who may be seen as not yet mobile enough to be at risk of falling out of the bouncer, and even less at risk of falling if the infant is asleep. CPSC's proposed warning

⁷ For example, see the American Academy of Pediatrics website, <http://www.healthychildren.org/English/ages-stages/baby/sleep/Pages/default.aspx>.

statement addresses the fact that a child *will* sleep in the bouncer, and addresses caregivers' known inclination to loosen or remove the restraints by specifying that they should do the opposite to avoid the risk of injury or death from the child falling from the bouncer seat or turning in the seat.

(b) Developmental Guidance

The second modification to ASTM F2167-15 in CPSC's proposed warning content is in the developmental guidance given in the suffocation warning and in the product instructions. The warning in the current ASTM standard includes the developmental statement: "never use for a child able to sit up unassisted," a milestone which, on average, a child will accomplish at about 6 months of age. Some packaging and instructions that CPSC staff reviewed also stated that the product is for use from birth *until* the child is able to sit up unassisted, and use a weight limit (25 lb) that reflects a 50th percentile 18-month-old. The Commission is concerned that this combination of guidance leads caregivers to use the product beyond the point that it is safe. Before infants can sit steadily by themselves, they lack upper body and torso control, but actively try to sit, turn, and reach for objects. Infants in bouncer seats are supported in an inclined position with their upper body unconstrained. The infant's actions may cause them to hang over the side or front, fall out or tip over the bouncer, or turn into the surface of the seat where the flexible, conforming design of the seat can compromise the external airways.

CPSC proposes that the bouncer seat warning label and product instructions advise caregivers to stop using the product when children start trying to sit up. On average, children reach this milestone at 4.8 months.⁸ CPSC staff recommended this milestone based on the data indicating that most witnessed instances in which the child's activities reportedly preceded tip-

⁸ Range, 3–8 months. Bayley, N. (1969). *Manual for the Bayley Scales of Infant Development*. New York, NY: The Psychological Corporation.

overs or resulted in the child hanging out of the bouncer involved children 5 months of age or younger.

2. Modifications to Warning Label Placement

Language in ASTM F2167-15 requires the fall hazard warning to appear anywhere on the front surface of the product's seat back. To address hazards, warning labels must be conspicuous, formatted to help attract and maintain attention, and include appropriate instructional content. Accordingly, CPSC proposes that the fall hazard warning label be required to be on the front of the product near the infant's head to increase the likelihood that caregivers will notice it, and comply with its recommendations, at decision points affecting the child's safety. This location near the infant's head was adopted for warnings on hand-held infant carriers in 16 CFR part 1225, *Safety Standard for Hand-Held Infant Carriers* ("HHIC"; FR 78, No. 235; 73415, December 6, 2013) and the National Highway Transportation Administration's ("NHTSA") car seat standard, 49 CFR 571.213 Federal Motor Vehicle Safety Standard ("FMVSS") No. 213.

CPSC's research indicates that placement of the warning label near the child's face on the bouncer seat is essential in the effort to influence caregivers' behavior. Research indicates that the location of a warning label plays a vital role in its salience, a crucial factor in effectiveness (*cf.* topic reviews by Lesch, 2006; Silver & Braun, 1999). ASTM F2167-15 requires only that the label be *visible* on the front surface of the seat back with the Newborn CAMI manikin placed in the seat. The Commission is concerned that, because of its artificial and static nature, the test procedure in ASTM F2167-15 for visibility of the fall hazard warning label is unlikely to replicate visibility of the label under normal conditions of product use. In addition to allowing considerable variability in the conspicuity of the label location, a basic flaw in this method is the

assumption that what is visible under static test conditions will be visible during routine use. A label below the shoulder level or along the torso down to the seat bight may be covered by parts of the child's body or clothing, and the area may be covered by a blanket, including an accessory cover that comes with at least one product.

Because a label must be seen to have an effect, visibility is a prerequisite to effectiveness. Visibility, in itself, however, is an insufficient requirement. Given the number, type, and severity of the incidents that prompted the revisions to the warnings, the appropriate criterion is that the label be likely to draw the caregiver's attention at any decision point that may affect safe use. As with the required labeling for hand-held infant carriers, the warning label should be near the child's face because that is where the caregiver's attention is most likely to be focused. This is the most conspicuous location on the product and offers the best opportunity to influence the caregiver's behavior.

During the ASTM process, when CPSC staff suggested locating the fall hazard warning next to the infants' head, ASTM subcommittee members expressed concerns that (1) common label materials present potential abrasion and cut hazards if adjacent to an infant's face; (2) the location is design-restrictive for smaller models because of the size of the label; and (3) due to space restrictions, the location is challenging for those firms that use labels in multiple languages.

Based on staff's review of bouncer seats and the identified issues, the Commission believes these issues can be resolved. As noted above, CPSC's proposed location for the fall hazard warning is the same as that recently adopted for warnings on infant car seats that are also hand-held carriers. NHTSA adopted this location for its air bag warning in these products in the late 1990's, based on its own research. CPSC staff examined car seats and found that both heat

transfer and sewn-on labels, the latter of which was identified by industry as a concern, are used on car seats. CPSC's project manager for the hand-held carrier standard reported that neither injuries nor space requirements due to the need to produce labels in multiple languages were raised as concerns for hand-held carriers. Firms that produce infant car seat carriers have managed these issues successfully. CPSC staff contacted NHTSA staff responsible for routine data review, who confirmed that there have been no complaints of injury of any type resulting from car seat labels near a child's face. Finally, CPSC's proposed label is approximately 2.25 inches long and 2.0 inches wide. Review of hand-held infant carriers that are also infant car seats, which require a larger⁹ label for both the CPSC mandated strangulation warning and the NHTSA-mandated air bag warning, suggests that there is at least as much space, and perhaps more, on many infant bouncer models, as on car seat carriers.

Although no voluntary or mandatory requirement exists for multiple languages on products sold in the U.S., given the relatively small size of the proposed warning label, multiple options appear available to firms for placement of the fall hazard warning in multiples languages. For example, the warning label could appear in a different language on either side of the child's head, as suggested by the Canadian representative to the task group; different labels could be made for different markets; or the label length could be extended to accommodate additional languages, as some firms have done with infant car seat labels.

3. Modifications to Warning Label Format

ASTM F2167-15 (1) allows the text and the background of the warning label, except for the area behind the word "WARNING," to be any color as long as it is contrasting, and (2) provides no format guidance. Although example labels with CPSC's recommended format are

⁹ The message panel of the air bag warning alone must be no smaller than 30 cm² (11 in.²); the pictogram must be at least 30 mm in diameter (1.18 in.).

presented in the voluntary standard, the standard includes the permissive statements that the figures “. . . are presented as EXAMPLES ONLY . . . [emphasis in original]” and that the format and “wording content,” as well as the use of highlighting, “are at the discretion of the manufacturer.”

The Commission proposes that the formatting requirements for bouncer seats reflect the format shown in the label in Figure 1. Good formatting helps attract and maintain attention, and aids reading and comprehension. Information is processed more quickly and easily when it is organized by content into brief chunks. CPSC is concerned that the quoted statements make it likely that some firms will continue to use poor quality labels that present warning information in a cluttered paragraph style that is difficult to read, rather than a label that is conspicuous, easy to read, and easy to comprehend, as is the recommended warning label.



Figure 1

VII. Proposed CPSC Standard for Bouncer Seats

The Commission concludes that ASTM F2167-15 adequately addresses most of the hazards associated with bouncer seats, but proposes to modify the warning label requirements to increase effectiveness aimed at changing caregiver behavior to further reduce the risk of injury to infants from falls. Thus, the Commission proposes to incorporate by reference ASTM F2167-15 with the following modifications to the warning label requirements:

- Revise the content of the warnings, markings, and instructions to:
 - add text to the warnings that states to use the restraints “... even if baby is sleeping ...”;
 - change the text in the warnings to read, “stop using when baby starts trying to sit up”; and
 - change the developmental guidance in the instructions, if stated, to read, “from birth (or “0”) until baby starts trying to sit up.”
- Require that the fall hazard label be located on the front surface of the bouncer adjacent to the area where the child’s head would rest, and modify the current visibility test to reflect this requirement.
- Specify a standard format (including black text on a white background, table design, bullet points, and black border) for the warnings on the product and in the instructions.

VIII. Amendment to 16 CFR part 1112 to Include NOR for Bouncer Seat Standard

The CPSA establishes certain requirements for product certification and testing. Products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Certification of children’s

products subject to a children’s product safety rule must be based on testing conducted by a CPSC-accepted third party conformity assessment body. *Id.* 2063(a)(2). The Commission must publish an NOR for the accreditation of third party conformity assessment bodies to assess conformity with a children’s product safety rule to which a children’s product is subject. *Id.* 2063(a)(3). Thus, the proposed rule for 16 CFR part 1229, *Safety Standard for Infant Bouncer Seats*, if issued as a final rule, would be a children’s product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies*, 78 FR 15836 (March 12, 2013), codified at 16 CFR part 1112 (“part 1112”) and effective on June 10, 2013, which establishes requirements for accreditation of third party conformity assessment bodies to test for conformity with a children’s product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies all of the NORs issued previously by the Commission.

All new NORs for new children’s product safety rules, such as the infant bouncer seat standard, require an amendment to part 1112. To meet the requirement that the Commission issue an NOR for the proposed bouncer seat standard, as part of this NPR, the Commission proposes to amend the existing rule that codifies the list of all NORs issued by the Commission to add bouncer seats to the list of children’s product safety rules for which the CPSC has issued an NOR.

Test laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for bouncer seats would be required to meet the third party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the

laboratory can apply to the CPSC to have 16 CFR part 1229, *Safety Standard for Infant Bouncer Seats*, included in the laboratory's scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: www.cpsc.gov/labsearch.

IX. Incorporation by Reference

Section 1229.2(a) of the proposed rule would incorporate by reference ASTM F2167-15. The Office of the Federal Register (“OFR”) has regulations concerning incorporation by reference. 1 CFR part 51. The regulations require that, for a proposed rule, agencies discuss in the preamble of the NPR ways that the materials the agency proposes to incorporate by reference are reasonably available to interested persons or how the agency worked to make the materials reasonably available. In addition, the preamble of the proposed rule must summarize the material. 1 CFR 51.5(a).

In accordance with the OFR's requirements, section V.B. of this preamble summarizes the provisions of ASTM F2167-15 that the Commission proposes to incorporate by reference. ASTM F2167-15 is copyrighted. By permission of ASTM, the standard can be viewed as a read-only document during the comment period on this NPR, at: <http://www.astm.org/cpsc.htm>. Interested persons may also purchase a copy of ASTM F2167-15 from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; <http://www.astm.org/cpsc.htm>. One may also inspect a copy at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923.

X. Effective Date

The Administrative Procedure Act (“APA”) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The Commission is

proposing an effective date of 6 months after publication of the final rule in the *Federal Register*. Without evidence to the contrary, CPSC generally considers 6 months to be sufficient time for suppliers to come into compliance with a new standard, and a 6-month effective date is typical for other CPSIA section 104 rules. Six months is also the period that the Juvenile Products Manufacturers Association (“JPMA”) typically allows for products in the JPMA certification program to transition to a new standard once that standard is published. We also propose a 6-month effective date for the amendment to part 1112. We ask for comments on the proposed 6-month effective date.

XI. Regulatory Flexibility Act

A. Introduction

The Commission is issuing a proposed rule under the requirements of section 104 of the Consumer Product Safety Improvement Act (“CPSIA”) that would incorporate by reference the most recent ASTM standard for infant bouncer seats, ASTM F2167-15, with several modifications to the requirements for product warnings and instructional literature. In this section, we summarize staff’s evaluation of the potential economic impact of the proposed rule on infant bouncer seats on small entities, including small businesses, as required by the Regulatory Flexibility Act (“RFA”). Section 603 of the RFA requires that agencies prepare an initial regulatory flexibility analysis (“IRFA”) and make it available to the public for comment when the general notice of proposed rulemaking (“NPR”) is published, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The IRFA must describe the impact of the proposed rule on small entities and identify any alternatives that may reduce the impact. See Tab F, Staff NPR Briefing Package.

B. *The Product*

An infant bouncer seat is defined in ASTM F2167-15, *Standard Consumer Safety Specification for Infant Bouncer Seats*, as “a freestanding product intended to support an occupant in a reclined position to facilitate bouncing by the occupant, with the aid of a caregiver or by other means.” It is intended for “infants who have not developed the ability to sit up unassisted (approximately 0 to 6 months of age).” These products vary widely in price; they can be purchased for as little as \$20, but can also easily cost more than \$200.

C. *The Market for Infant Bouncer Seats*

Staff identified 22 firms (including large and small) supplying infant bouncer seats to the U.S. market, although there may be additional firms as well. These firms specialize primarily in the manufacture and/or distribution of children’s products, including durable nursery products. The majority of the 22 known firms are domestic (including 8 manufacturers and 10 importers). The remaining four firms are foreign manufacturers.¹⁰ Staff expects that the infant bouncer seats of 17 of these firms are already compliant with ASTM F2167 because the firms either: (1) have their bouncers certified by the Juvenile Products Manufacturers Association (“JPMA”) (six firms); (2) claim compliance with the voluntary standard (ten firms); or (3) have been tested to the ASTM standard by CPSC staff (one firm).¹¹

¹⁰ Determinations were made using information from Dun & Bradstreet and ReferenceUSAGov, as well as firm websites.

¹¹ JPMA typically allows 6 months for products in their certification program to shift to a new standard once it is published. The version of the standard that firms are likely testing to currently is ASTM F2167-14. Two newer versions of the standard have been published since then, but neither will become effective for JPMA certification purposes before September 2015. Additionally, many infant bouncer seats are expected to be compliant with ASTM F2167-14a without modification, and firms compliant with earlier versions of the standard are likely to remain compliant as the standard evolves.

D. Reason for Agency Action and Legal Basis for the Proposed Rule

Section 104 of the CPSIA requires the CPSC to promulgate a mandatory standard for infant bouncer seats that is substantially the same as, or more stringent than, the voluntary standard if the Commission determines that a more stringent standard would further reduce the risk of injury associated with such products.

CPSC staff worked closely with ASTM to develop the revised requirements, test procedures, and warning labels that have been incorporated into ASTM F2167 since the rulemaking process started in January 2013 in an effort to reduce this risk. However, not all of staff's warning label recommendations were adopted into the most recent version of the voluntary standard, ASTM F2167-15. Therefore, the Commission proposes to incorporate by reference ASTM F2167-15, with the remaining modifications staff recommended to ASTM.

E. Requirements of the Proposed Rule

The Commission proposes adopting the voluntary ASTM standard for infant bouncer seats (ASTM F2167-15) with additional changes to the warning labels (in particular, the location of the fall hazard warning label) and a test to ensure the visibility of those labels on the product. A description of the current voluntary standard appears in section V of this preamble, and a description of the proposed modifications to the warning requirements appears in section VII of this preamble.

All firms would need to modify the text of their warnings for both the product and the instruction manual. The fall hazard warning would need to be re-located next to the child's head¹² and be visible when accessories are in use (such as a toy bar or an infant insert used for supporting a smaller child's upper body).

¹² The warning was only recently moved to the front of the bouncer (ASTM F2167-15).

Staff discussed these changes with several ASTM members and supplier representatives. The possible economic impact of these changes on small business is discussed in Tab F of Staff's NPR Briefing Package and in section XI.G of this preamble.

F. Other Federal or State Rules

No federal rules duplicate, overlap, or conflict with the proposed rule.

G. Impact on Small Businesses

CPSC is aware of approximately 22 firms (large and small) currently marketing infant bouncer seats in the United States, 18 of which are domestic. Under U.S. Small Business Administration ("SBA") guidelines, a manufacturer of infant bouncer seats is categorized as small if it has 500 or fewer employees, and importers and wholesalers are considered small if they have 100 or fewer employees. Our analysis is limited to domestic firms because SBA guidelines and definitions pertain to U.S.-based entities. Based on these guidelines, about 12 of the 22 firms are small—five domestic manufacturers and seven domestic importers. Additional unknown small domestic infant bouncer seats suppliers may be operating in the U.S. market.

1. *Small Manufacturers*

The economic impact of the proposed bouncer standard should be small for the five small domestic manufacturers, apart from third party testing costs. The bouncers of all of these firms already comply with the ASTM voluntary standard currently in effect for testing purposes (F2167-14). These firms are expected to remain compliant with the voluntary standard as it evolves, because they follow and, in at least three cases, actively participate in the standard development process. Therefore, compliance with the voluntary standard is part of an established business practice. ASTM F2167-15, the version the Commission proposes to

incorporate, will be in effect by the time the mandatory standard becomes final and these firms are likely to be in compliance based on their history.

None of the small manufacturers typically includes more than four languages in their warnings (two firms use two languages; two firms use three languages; and one firm uses four languages). Based upon inspection of their products and the space available for the warnings, redesign should not be required for any of the bouncers supplied by the known small manufacturers. The firm using four languages might opt to redesign to give their product(s) a less cluttered appearance. However, discussions with a firm representative contacted by staff indicated that the firm was not concerned about the location of the warning labels.

Under section 14 of the CPSA, once the new infant bouncer seat requirements become effective, all manufacturers will be subject to the third party testing and certification requirements of the CPSA and the Commission's rule *Testing and Labeling Pertaining to Product Certification* at 16 CFR part 1107 ("the 1107 rule"). Third party testing will include any physical and mechanical test requirements specified in the final infant bouncer seats rule. Manufacturers and importers should already be conducting required lead testing for bouncers. Third party testing costs are in addition to the direct costs of meeting the infant bouncer seats standard.

All infant bouncer seats sold by U.S. manufacturers are currently tested to verify compliance with the ASTM standard, though not necessarily via third party. Thus, the impact to testing costs will be limited to the difference between the cost of third party tests and the cost of current testing regimes. As a frame of reference, suppliers have estimated that testing to the ASTM voluntary standard typically costs about \$560-\$800 per model sample. Based on an examination of firm revenues from recent Dun & Bradstreet or ReferenceUSAGov reports, the

impact of third party testing to ASTM F2167-15 is unlikely to be economically significant for most small manufacturers (*i.e.*, testing costs will be less than 1 percent of gross revenue). Although the Commission does not know how many samples will be needed to meet the “high degree of assurance” criterion required in the 1107 rule, over 24 units per model would be required to make testing costs to exceed one percent of gross revenue for the small manufacturer with the lowest gross revenue. One firm has a much larger number of infant bouncer models than the other small manufacturers, however, and its testing costs could exceed 1 percent of gross revenue if as few as seven units per model were required for testing. Note that this calculation assumes the rule would generate *additional* testing costs in the \$560-\$800 per model sample range. Given that all firms are conducting some testing already, this likely overestimates the impact of the rule with respect to testing costs. However, we do not know specifically how much the third party requirement adds to testing costs or precisely how many models are needed to meet the “high degree of assurance” criterion and cannot rule out a significant economic impact. We welcome comments regarding incremental costs due to third party testing (*i.e.*, how much does moving from a voluntary to a mandatory third party testing regime add to testing costs, in total and on a per test basis). In addition, we seek comments regarding the accuracy of assuming that a “high degree of assurance” can be achieved with fewer than seven samples.

2. Small Importers

a. Small Importers with Compliant Infant Bouncer Seats

Five small importers of infant bouncer seats are currently in compliance with the voluntary standard and, based on prior compliance with the voluntary standard, would likely continue compliance as new versions of the voluntary standard are published. The bouncers

supplied by these firms would, for the most part, only require modifications to meet the warning label changes.

The placement of the new warnings could potentially require significant changes to existing models of imported bouncers. Imported bouncers tend to be produced to broadly meet the current requirements for several trading partners simultaneously, including the labeling requirements for multiple countries. Producers for international markets typically address labeling requirements for their various trading partners by simply providing a warning that covers all required safety issues in multiple languages. However, the proposed rule's specificity regarding warning label location could make simple replication of the warning label in multiple languages impractical due to space constraints on the front surface of the back of the bouncer. While only the English-language warning would be required for products sold in the United States, this could mean that foreign producers will need to design a product for the U.S. market. One solution could be as straightforward as reducing the number of languages used for warnings on U.S.-bound bouncer seats. Regardless, having a differing product for the U.S. market could create logistical problems or costs, which could be passed on to importers.

We have no information regarding the degree to which foreign producers tend to pass on increases in regulatory costs to importers and are seeking comment on this topic. Because we lack information on the costs to importers associated with complying with the proposed rule, we are unable to rule out a significant impact for three of the five importers of compliant bouncers. We begin our discussion of potential impacts by assuming, when possible, firms would prefer to develop a U.S.-specific product with fewer warning labels rather than exit the bouncer market or develop a bouncer with sufficient room to accommodate warnings in languages for both their U.S. and foreign markets. Developing such a bouncer would address the requirements in the

proposed rule, while ensuring that the appearance of their bouncers remains comparable to their competition's products (for which one to three languages is typical). The Commission requests feedback from the public, particularly from small importers, on the portion of regulatory compliance costs typically borne by importers, as well as information on the costs of developing a compliant bouncer for the U.S. market.

CPSC staff believes that one importer would not likely experience a significant economic impact based on comparing redesign cost estimates provided by suppliers (around \$200,000 to \$300,000) to its annual revenue, even if its supplier passed on 100 percent of the costs of redesign.

The Commission requests feedback on the cost estimate for product redesign, as well as how that cost level might differ if the redesign focused exclusively on warning label changes and the logistical problems it might create. Based upon examination of this firm's revenues and the revenues associated with the sale of bouncers, this firm also could likely exit the market without experiencing a significant economic impact.

If product redesign costs \$200,000 and the supplying firm only passed on roughly 50 percent of the expected redesign costs, then two of the remaining four importers would not likely experience significant economic impact. The Commission requests input on whether it is reasonable to assume, in the absence of alternative information, foreign suppliers will share up to 50 percent of the costs of redesign, as well as information supporting any alternative estimates of the relative portions of cost sharing that is typical for an importer and its supplying firm. If the supplying firm were unwilling or unable to limit cost passed through, then one of these firms could probably exit the market without significant economic impact as sales of bouncers are likely to contribute less than one percent to its overall revenue.

The fourth importer would likely only avoid significant economic impact if their supplier absorbed 100 percent of the cost of a redesign. Dropping bouncers from their product line could be an option. However, it is likely that the sales revenue generated by bouncer sales exceeds one percent of their overall revenue. This importer is an exclusive distributor for their supplier's products in the U.S., so an alternative supplier is not an option.

We request information on the relationship between exclusive distributors and their suppliers, particularly as it pertains to willingness to shoulder redevelopment costs to maintain a U.S. market presence.

Neither annual revenue nor bouncer sales revenue was available for the final small importer of compliant bouncers; therefore, no assessment of impact could be made.

b. Small Importers with Noncompliant Infant Bouncer Seats

Two firms import bouncers that do not comply with the voluntary standard. The bouncers for these firms will require changes to come into compliance with the voluntary standard as well as modifications to meet the proposed warning label requirements. Similar to the case of importers of compliant bouncers, the proposed location of the warning labels on the front of the bouncer adjacent to the head could present a problem, because one firm typically uses nine languages while the other uses six. These importers may need to tailor a product for the U.S, which could be logistically difficult or costly, especially for a small firm with low sales volume.

The size of the economic impact on the two firms with noncompliant infant bouncer seats will depend upon the cost of the changes required and the degree to which their supplying firms pass on any increases in production costs associated with changes in the product needed to meet the mandatory standard. Again, we do not have any information on the proportion of compliance

costs passed on and are seeking public comment on this topic. It is possible that these two importers could discontinue the sale of infant bouncer seats altogether, as the product does not appear to represent a substantial portion of either firms' product lines. However, one of the two firms would likely only avoid a significant economic impact if its supplier absorbed 100 percent of the cost of a redesign and it seems likely that its bouncer sales might exceed 1 percent of its annual sales revenue as well. Again, we do not have specific information on bouncer sales revenues, and cannot rule out a significant economic impact for either firm.

Both of the small importers with noncompliant bouncers are directly tied to their foreign suppliers and finding an alternate supply source would not be a viable alternative for these firms. However, given this close relationship, the foreign suppliers likely would have an incentive to work with their U.S. subsidiaries to maintain an American market presence.

The Commission is interested in information regarding the relationship between foreign producers and their U.S. subsidiaries and whether such relationships decrease the likelihood that the subsidiary experiences a significant economic impact due to a rule.

3. Third Party Testing Costs for Small Importers

As with manufacturers, all importers will be subject to third-party testing and certification requirements, and consequently, will be subject to costs similar to those for manufacturers if their supplying foreign firm(s) does not perform third party testing. The majority of bouncer importers are already testing their products to verify compliance with the ASTM standard, and any costs would be limited to the incremental costs associated with third party testing over the current testing regime.

We were able to obtain revenue data for one of the small importers with noncompliant bouncers. For that importer, third party testing costs, considered alone and apart from any

additional performance requirements due to the proposed rule, would not exceed one percent of gross revenue unless around 12 units per model required testing to provide a “high degree of assurance.” Although staff believes that it is unlikely that any importer would need to test more than 12 samples, we are seeking information regarding the validity of that assumption. We had no basis for examining the size of the impact for the remaining importer of noncompliant bouncers.

It is important to note that our analysis of the impact of the draft proposed rule have evaluated the impacts of complying with performance requirements and third party testing requirements independently. Firms will, in fact, experience the costs jointly. It is possible for testing costs, when evaluated independently, to not create significant economic impact (and vice versa).

The Commission seeks information on the extent to which performance requirements and testing costs evaluated jointly generate significant economic impact even when each component evaluated independently is not expected to lead to significant impact.

H. Alternatives

Three alternatives are available to the Commission that may minimize the economic impact on small entities: (1) adopt ASTM F2167-15 with no modifications;¹³ (2) adopt ASTM F2167-15 with the proposed modifications, except for the warning label location specificity; and (3) allow a later effective date.

Section 104 of the CPSIA requires that the Commission promulgate a standard that is either substantially the same as the voluntary standard or more stringent. Therefore, adopting

¹³ As discussed in the briefing memo, adopting the voluntary standard with no modifications is an option if the Commission determines that a more stringent standard would not further reduce the risk of injury associated with infant bouncers.

ASTM F2167-15 with no modifications is the least stringent rule allowed by law. This alternative would reduce the impact on all of the known small businesses supplying infant bouncers to the U.S. market because this alternative would eliminate any economic impact related directly to complying with the proposed rule for all five of the known small domestic manufacturers and the five small importers with compliant infant bouncers, all of whom are expected to comply with ASTM F2167-15 by the time the final rule becomes effective. Firms with compliant products, however, would continue to be affected by third party testing requirements.

Alternatively, the Commission could adopt a more stringent alternative that is still less stringent than the proposed rule by adopting ASTM F2167-15 with the proposed modifications, except for the requirement that the warning labels on the product be located next to the occupant's head. With the exception of impacts due to third party testing, this would eliminate most of the impact on small manufacturers (all of which sell compliant bouncer seats), leaving them with only minor costs associated with changing the wording and format of their warning labels. The impact on the five small importers of compliant bouncers would be similarly reduced.

Finally, the Commission could reduce the proposed rule's impact on small businesses by setting a later effective date. A later effective date would reduce the economic impact on firms in two ways. One, firms would be less likely to experience a lapse in production/importation, which could result if they are unable to comply and third party test within the required timeframe. Two, firms could spread costs over a longer time period, thereby reducing their annual costs, as well as the present value of their total costs. We request comment on the 6-

month effective date, as well as feedback on how firms (particularly small importers) would likely address the proposed rule.

I. Small Business Impacts of the Accreditation Requirements for Testing Laboratories

In accordance with section 14 of the CPSA, all children's products that are subject to a children's product safety rule must be tested by a CPSC-accepted third party conformity assessment body (*i.e.*, testing laboratory) for compliance with applicable children's product safety rules. Testing laboratories that want to conduct this testing must meet the NOR pertaining to third party conformity testing. NORs have been codified for existing rules at 16 CFR part 1112. Consequently, the Commission proposes an amendment to 16 CFR part 1112 that would establish the NOR for those testing laboratories that want to test for compliance with the bouncers final rule. This section assesses the impact of the amendment on small laboratories.

A Final Regulatory Flexibility Analysis ("FRFA") was conducted as part of the promulgation of the original 1112 rule (78 FR 15836, 15855-58) as required by the RFA. Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small laboratories because no requirements were imposed on laboratories that did not intend to provide third party testing services. The only laboratories that were expected to provide such services were those that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision.

Based on similar reasoning, amending the rule to include the NOR for the bouncer seat standard will not have a significant adverse impact on small laboratories. Moreover, based upon the number of laboratories in the U.S. that have applied for CPSC acceptance of the accreditation to test for conformance to other juvenile product standards, we expect that only a few

laboratories will seek CPSC acceptance of their accreditation to test for conformance with the infant bouncer seat standard. Most of these laboratories will have already been accredited to test for conformance to other juvenile product standards, and the only costs to them would be the cost of adding the bouncer seat standard to their scope of accreditation, a cost that test laboratories have indicated is extremely low when they are already accredited for other section 104 rules. As a consequence, the Commission certifies that the NOR for the infant bouncer seat standard will not have a significant impact on a substantial number of small entities.

XII. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, a rule that has "little or no potential for affecting the human environment," is categorically exempt from this requirement. 16 CFR 1021.5(c)(1). The proposed rule falls within the categorical exemption.

XIII. Paperwork Reduction Act

This proposed rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;

- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Safety Standard for Infant Bouncer Seats

Description: The proposed rule would require each infant bouncer seat to comply with ASTM F2167-15, *Standard Consumer Safety Specification for Infant Bouncer Seats*. Sections 8 and 9 of ASTM F2167-15 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of “collection of information,” as defined in 44 U.S.C. 3502(3).

Description of Respondents: Persons who manufacture or import bouncer seats.

Estimated Burden: We estimate the burden of this collection of information as follows:

Table 1 – Estimated Annual Reporting Burden

16 CFR Section	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Burden Hours
1229.2(a)	22	4	88	1	88

Our estimate is based on the following:

Section 8.1.1 of ASTM F2167-15 requires that the name and the place of business (city, state, and mailing address, including zip code) or telephone number of the manufacturer, distributor, or seller be marked clearly and legibly on each product and its retail package.

Section 8.1.2 of ASTM F2167-15 requires a code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

Twenty-two known entities supply bouncer seats to the U.S. market may need to make some modifications to their existing labels. We estimate that the time required to make these modifications is about 1 hour per model. Based on an evaluation of supplier product lines, each entity supplies an average of four models of bouncer seats;¹⁴ therefore, the estimated burden associated with labels is 1 hour per model x 22 entities x 4 models per entity = 88 hours. We estimate the hourly compensation for the time required to create and update labels is \$30.19 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2015, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>). Therefore, the estimated annual cost to industry associated with the labeling requirements is \$2,656.72 (\$30.19 per hour x 88 hours = \$2,656.72). No operating, maintenance, or capital costs are associated with the collection.

Section 9.1 of ASTM F2167-15 requires instructions to be supplied with the infant bouncer. Bouncer seats are complicated products that generally require use and assembly instructions. Under the OMB’s regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the “normal course of their activities” are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are “usual and customary.” We are unaware of bouncer seats that generally require use instructions but lack such instructions. Therefore, we tentatively estimate that no burden hours are associated with section 9.1 of ASTM F2167-15, because any burden associated with supplying instructions with bouncer seats would

¹⁴ This number was derived during the market research phase of the initial regulatory flexibility analysis by dividing the total number of bouncer seats supplied by all bouncer seat suppliers by the total number of bouncer seat suppliers.

be “usual and customary” and not within the definition of “burden” under the OMB’s regulations.

Based on this analysis, the proposed standard for bouncer seats would impose a burden to industry of 88 hours at a cost of \$2,656.72 annually.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this rule to the OMB for review. Interested persons are requested to submit comments regarding information collection by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to the Office of Information and Regulatory Affairs, OMB (see the ADDRESSES section at the beginning of this notice).

Pursuant to 44 U.S.C. 3506(c)(2)(A), we invite comments on:

- whether the collection of information is necessary for the proper performance of the CPSC’s functions, including whether the information will have practical utility;
- the accuracy of the CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- the estimated burden hours associated with label modification, including any alternative estimates.

XIV. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as “consumer product safety rules.” Therefore, the preemption provision of section 26(a) of the CPSA would apply to a rule issued under section 104.

XV. Request for Comments

This NPR begins a rulemaking proceeding under section 104(b) of the CPSIA to issue a consumer product safety standard for bouncer seats, and to amend part 1112 to add bouncer seats to the list of children’s product safety rules for which the CPSC has issued an NOR. We invite all interested persons to submit comments on any aspect of the proposed mandatory safety standard for bouncer seats and on the proposed amendment to part 1112. Specifically, the Commission requests comments on the costs of compliance with, and testing to, the proposed bouncer seats safety standard; the impact of the proposed rule on small businesses; the proposed 6-month effective date for the new mandatory bouncer seats safety standard; and the proposed amendment to part 1112. During the comment period, the ASTM F2167-15, Standard Consumer Safety Specification for Infant Bouncer Seats, is available as a read-only document at:

<http://www.astm.org/cpsc.htm>.

Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Incorporation by Reference, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1229

Bouncer seats, Chairs, Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Seats, and Toys.

For the reasons discussed in the preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

1. The authority citation for part 1112 continues to read as follows:

Authority: Pub. L. 110-314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

2. Amend § 1112.15 by adding paragraph (b)(42) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * *

(b) * * *

(42) 16 CFR part 1229, Safety Standard for Infant Bouncer Seats.

* * * * *

3. Add part 1229 to read as follows:

PART 1229-SAFETY STANDARD FOR INFANT BOUNCER SEATS

Sec.

1229.1 Scope.

1229.2 Requirements for infant bouncer seats.

Authority: Sec. 104, Public Law 110-314, 122 Stat. 3016.

§ 1229.1 Scope.

This part establishes a consumer product safety standard for infant bouncer seats.

§ 1229.2 Requirements for infant bouncer seats.

(a) Except as provided in paragraph (b) of this section, each infant bouncer seat must comply with all applicable provisions of ASTM F2167-15, Standard Consumer Safety Specification for Infant Bouncer Seats, approved on May 1, 2015. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; <http://www.astm.org/cpsc.htm>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) Comply with ASTM F2167-15 with the following additions or exclusions:

(1) Instead of complying with sections 7.11.1 through 7.11.3.3 of ASTM F2167-15, comply with the following:

(i) 7.11.1 *Visibility with Accessories Excluding Toy Bar.* Identify and install each accessory unrelated to the toy bar that could obscure the warning label during a caregiver’s interaction with the occupant. Place the bouncer on the floor.

(ii) 7.11.1.1 Face the front of the bouncer from a distance of 1.0 ft (0.3 m and verify that all warning text is visible and not obscured by the accessory(ies).

(iii) 7.11.1.2 A label on the bouncer seat back surface that is obscured by an accessory such as an infant insert would meet the visibility requirement if the label is plainly visible and easily readable on the accessory.

(A) 7.11.2 *Visibility with Toy Bar and Related Accessories.* Identify and install the toy bar and related accessory(ies) that could obscure the warning label during a caregiver’s interaction with the occupant. Place the bouncer on the floor.

(B) 7.11.2.1 Face the front of the bouncer from a distance of 1.0 ft (0.3 m and verify that all warning text is visible and not obscured by the toy bar and related accessory(ies).

(C) 7.11.2.2 A fall hazard label that is partly obscured by a toy bar or its related accessories, but is visible with a shift of the observer’s head position would meet the visibility requirement.

(2) Instead of complying with sections 8.3.1 through 8.3.3.1 of ASTM F2167-15, comply with the following:

(i) 8.3.1 Warning Groups and Header—Each infant bouncer seat shall be labeled with two groups of warning statements: a fall hazard warning and a suffocation warning. Each warning statement group shall be preceded by a header consisting of the safety alert symbol “▲” and the signal word “WARNING.”

(ii) 8.3.2 Warning Format—The background color for the safety alert symbol and the signal word shall be orange, red or yellow, whichever provides best contrast against the product material. The safety alert symbol and the signal word shall be in bold capital letters not less than 0.2 in. (5 mm) high. The remainder of the text shall be characters whose upper case shall be at least 0.1 in. (2.5 mm) high. All elements of these warnings shall be permanent, and in sans serif, non-condensed style font. Precautionary statements shall be indented from hazard statements and preceded with bullet points. The warning label and the panel containing the signal word “WARNING” shall be surrounded by a heavy black line. Message panels within the labels shall be delineated with solid lines between sections of differing content. The background color in the message panel shall be white and the text shall be black. If an outside border is used to surround the heavy black lines of the label, the border shall be white and the corners may be radiused.

(iii) 8.3.3 *Warning Locations:*

(A) 8.3.3.1 The fall hazard warnings label in 8.3.4.1 shall be on the front surface of the infant bouncer seat back adjacent to the area where a child’s head would rest, so that the label is plainly visible and easily readable. If one or more accessories are provided with the bouncer that could obscure the warning label during use, the visibility of the label shall be verified in accordance with 7.11.

(B) [Reserved].

(3) Instead of complying with sections 8.3.4.1 through 8.3.5 of ASTM F2167-15, comply with the following:

(i) 8.3.4.1 *Fall Hazard:*

Fall Hazard: Babies have suffered skull fractures falling while in and from bouncers.

- Use bouncer **ONLY** on floor.
- **Always** use restraints. Adjust to fit snugly, even if baby is sleeping.
- **Never** lift or carry baby in bouncer. [NOTE: Bouncer seats with a handle(s) intended for use to lift and carry a child are exempt from including this warning statement.]

(ii) 8.3.4.2 *Suffocation Hazard:*

Suffocation Hazard: Babies have suffocated when bouncers tipped over on soft surfaces.

- **Never** use on a bed, sofa, cushion, or other soft surface.
- **Never** leave baby unattended. To prevent falls and suffocation:
- **Always** use restraints. Adjust to fit snugly, even if baby is sleeping.
- **Stop** using bouncer when baby starts trying to sit up.

(iii) 8.3.5 Figs. 10-12 The safety alert symbol “▲” and the signal word “**WARNING**”

shall be as specified above, but with the option of background colors as described above. The warning statements’ wording content, as well as the use of any underlining, capital lettering, or bold typeface, or a combination thereof, are at the discretion of the manufacturer.

(4) In section 9 of ASTM F2167-15, replace Figure 10 with the following:



Figure 10

(5) Instead of complying with section 9.1.1.5 of ASTM F2167-15, comply with the following:

(i) 9.1.1.5 Instructions must indicate the manufacturer’s recommended maximum weight, height, age, developmental level, consistent with the warning statement in 8.3.4.2, or combination thereof of the occupant for which the infant bouncer seat is intended. If the infant bouncer seat is not intended for use by a child for a specific reason (insert reason), the instructions shall so state this limitation.

(ii) [Reserved]

(6) In section 10 of ASTM F2167-15, replace Figures 11 and 12 with the following:

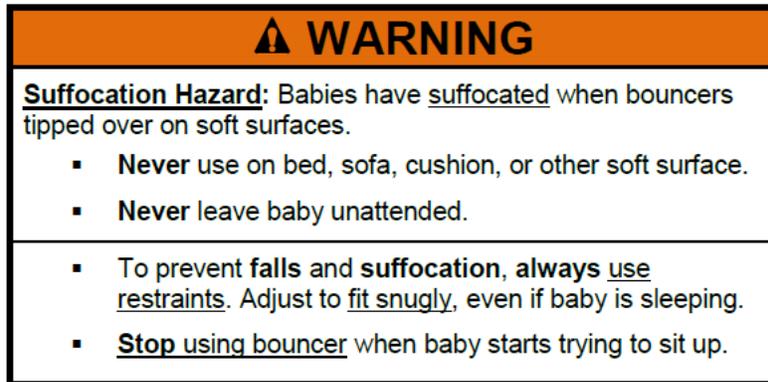


Figure 11

⚠ WARNING
<p>Fall Hazard: Babies have suffered <u>skull fractures</u> falling while in and from bouncers.</p> <ul style="list-style-type: none"> ▪ Use bouncer ONLY on floor. Baby's movements can shift or tip bouncers off counters, tables, and other surfaces. ▪ Never lift or carry baby in bouncer.
<p>Suffocation Hazard: Babies have <u>suffocated</u> when bouncers tipped over on soft surfaces.</p> <ul style="list-style-type: none"> ▪ Never use on a bed, sofa, cushion, or other soft surface. ▪ Never leave baby unattended.
<ul style="list-style-type: none"> ▪ To prevent falls and suffocation, always use restraints. Adjust to <u>fit snugly</u>, even if baby is sleeping. ▪ Stop using bouncer when baby starts trying to sit up.

Figure 12

Dated: October 13, 2015

Todd A. Stevenson,
 Secretary, Consumer Product Safety Commission
 [FR Doc. 2015-26386 Filed: 10/16/2015 08:45 am;

Publication Date: 10/19/2015]