



UNITED STATES  
 CONSUMER PRODUCT SAFETY COMMISSION  
 4330 EAST WEST HIGHWAY  
 BETHESDA, MD 20814

**BP - Final Rule for CPSIA of 2008**  
**Consumer Registration of Durable**  
**Nursery Products**  
 This document to be discussed at  
 Open Commission Meeting  
 Wednesday, December 9, 2009  
 (Item 2 on Agenda)

**VOTE SHEET**

Date: **DEC - 2 2009**

TO : The Commission  
 Todd Stevenson, Secretary

THROUGH: Maruta Z. Budetti, Executive Director *MZB*

FROM : Cheryl Falvey, General Counsel *CAF*  
 Philip L. Chao, Assistant General Counsel, RAD *PLC*  
 Patricia M. Pollitzer, Attorney *MP*

SUBJECT : Requirements for Consumer Registration of Durable Infant or Toddler  
 Products; Final Rule

In accordance with section 104(d) of the Consumer Product Safety Improvement Act (“CPSIA”), the staff is forwarding to the Commission a briefing package along with a draft final rule requiring manufacturers of durable infant or toddler products to establish and maintain a registration program for their products.

Please indicate your vote on the following options.

I. Approve the draft *Federal Register* notice as drafted.

\_\_\_\_\_  
 Signature Date

II. Approve the draft *Federal Register* notice with changes (please specify changes):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Signature Date

Note: This document has not been reviewed or accepted by the Commission.  
 Initials *RF* Date *12/2/09*

**CPSA-6(b)(1) CLEARED for PUBLIC**  
 NO MFRS/PRVTLERS OR PRODUCTS IDENTIFIED  
 EXCEPTED BY: PETITION RULEMAKING ADMIN. PRCDG  
 WITH PORTIONS REMOVED: \_\_\_\_\_

III. Do not approve the draft *Federal Register* notice.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

IV. Take other action (please specify):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



UNITED STATES  
 CONSUMER PRODUCT SAFETY COMMISSION  
 WASHINGTON, DC 20207

Memorandum

Date: **DEC - 2 2009**

TO : The Commission  
 Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel *CAF*  
 Maruta Z. Budetti, Executive Director *mzb*

FROM : Robert J. Howell, Assistant Executive Director, Office of Hazard Identification  
 and Reduction *RJH*  
 Celestine T. Kiss, M.A., Engineering Psychologist, Division of Human Factors,  
 Directorate for Engineering Sciences *CTK*

SUBJECT : Final Rule for Consumer Product Safety Improvement Act of 2008 (CPSIA)  
 Consumer Registration of Durable Nursery Products.

Introduction

The Consumer Product Safety Improvement Act of 2008 (CPSIA) states in Sec. 104(d)(1)(A) that no later than August 14, 2009, the U.S. Consumer Product Safety Commission (CPSC) shall issue a final consumer product safety rule requiring that each manufacturer of a durable infant or toddler product provide consumers with a postage-paid consumer registration form with each such product. In addition, manufacturers are to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and to permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. [Sec. 104(d)(1)(B) and (C)]

The Commission issued a Notice of Proposed Rulemaking (NPR) in 74 *Federal Register* 30983 (June 29, 2009) (Tab A). Comments were received from 19 commenters, and staff's responses to the comments are in Tab B. Based on the comments received, staff recommends making clarifications and changes to the proposed rule as discussed below.

Note: This document has not been  
 reviewed or accepted by the Commission.  
 Initials RH Date 12/2/09

~~CPSA 6(b)(1) CLEARED for PUBLIC~~  
 NO MEMOS PRIVATELY OR  
 PRODUCTS IDENTIFIED *[Signature]*

## Recommendations

### *Durable Infant or Toddler Products*

Commission staff believes that the rule needs to specifically identify the items covered in order for manufacturers to know whether the registration requirements apply to their particular product. Because the statute has a broad definition of durable infant or toddler product but also includes 12 specific items, it is staff's belief that additional items can and should be included in the definition, but should also be specifically listed in the rule. Staff recommends that in addition to the 12 items mentioned in section 104(f)(2)(A) through (L), children's folding chairs, changing tables, bouncers, infant bathtubs, bed rails, and infant slings should also be included in the rule. These additional six items meet the definition of a durable infant or toddler product and currently are covered under, or are in the process of being covered under, a voluntary standard. In addition, these items have been identified as having incidents in which registration cards would have benefitted the manufacturer for notifying consumers of a safety alert or recall.

### *Responsible Party for Registration Cards and Database*

As suggested by most of the comments received regarding this issue, staff recommends defining "Manufacturer" in the case of a product produced within the United States to mean the domestic manufacturer of the product, and in the case of an imported product to mean the importer of the product. The preamble to the draft rule explains that, through contractual agreement with the manufacturer, a private labeler or retailer may take responsibility for the registration cards and database.

### *Product Identification*

Commission staff recognizes that some manufacturers may not use a model name and model number; therefore, if they only use one or the other, then staff agrees that they should be allowed to provide what they use. That is, if they use both, then both should be provided. Manufacturers who use unique product numbers, product descriptions or other customarily used identifiers, such as a Product Identification Number (PIN) instead of a model number, should provide those identifiers in place of the model number.

### *Coding Date of Manufacture*

CPSC staff recommends allowing the date of manufacture to be expressed in code, or by using the month and year of manufacture.

### *Section 103 Tracking Label Redundancy*

Commission staff believes that it is not necessary to have two markings with redundant information on a product. Therefore, staff suggests that the final rule clarify that manufacturers may combine information required by section 103 with the section 104 registration information into one marking so long as all the information required by both sections is included.

Staff also believes that labels may qualify as “permanent markings” as long as they can reasonably be expected to remain on the product during the useful life of the product.

#### *Format of Registration Card*

Commission staff believes that more flexibility can be incorporated into the design and format of the registration card. Staff recommends the following changes to the NPR:

1. *Size of form:* The form shall be two standard post cards connected with perforation for later separation. As defined by the United States Postal Service, the cards shall be at a minimum: 3-1/2 inches high by 5 inches long by 0.007 inch thick.
2. *Font size and typeface:* All the information on the card shall be printed in bold typeface, capital and lower cases, and no less than 10-point with one exception being the purpose statement. The title of the purpose statement shall be all capitals, bold and at a minimum 12-point typeface. The purpose statement shall be at a minimum 12-point, bold typeface with capital and lower case type.
3. *Purpose Statement:* Manufacturers that do not have a website may provide an email address and state at the end of the purpose statement: “To register your product, please complete and mail this card or email your contact information, the model name and number and date of manufacture of the product as provided on this card to: name@firmname.com”.
4. *Consumer Information:* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, mailing address, telephone number, and email address. The blocks shall be 5 mm wide and 7 mm high. Manufacturers should use as many blocks as possible to fill the width of the card, allowing for normal printing practices. Staff believes the use of blocks encourages consumers to print their information in a more legible format than free-style writing.

#### *Effective Date of Final Rule*

CPSC staff believes that six months from publication of the final rule is reasonable and adequate for implementation of the rule for the original 12 items listed in the NPR. Manufacturers who produce the additional six items specified in the proposed final rule should have one year from publication of the final rule to implement the registration cards and database. Staff believes it is possible that manufacturers who product one or more of the original 12 items and one or more of the additional six items would be able to implement the process sooner than one year for the additional six items.

#### *Retaining Registration Card Information*

Commission staff interprets section 103(d)(3) to mean that manufacturers may retain contact information in whatever form they wish, including but not limited to the actual cards or a computer database. In addition, section 103(d)(3) states that each manufacturer shall maintain such a record for a period of not less than six years after the date of manufacture of the product. Commission staff believes six years of data retention is adequate. If manufacturers want to keep the data for a longer period they have that option, but staff does not believe it is necessary to specify a longer time.

### *Electronic/E-Mail Registration*

CPSC staff believes that allowing consumers to register their product via a company website or by providing an email for the consumer to send the required registration information may facilitate a larger response from consumers than just using the registration cards. Staff recommends that manufacturers should have flexibility in terms of how they set up their webpage but should clearly separate the registration page from any advertisement. By preventing additional information or advertising from appearing on the registration page, the benefits of a standardized registration form are maintained, helping to improve the rate of registration.

Companies that do not have a website must provide an email address to allow consumers to email their registration information. The staff recommends that the rule require these companies to set up an automatic reply so consumers can confirm that their registration information was received.

### Conclusions

Section 104(d) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) was enacted to improve the safety alert and recall process for durable infant and toddler products. CPSC staff recommends the clarifications and changes discussed above, which have been incorporated into the draft final rule at Tab C. In addition, a sample registration card is included at Tab C.

Tab A - Notice of Proposed Rulemaking (NPR) in 74 *Federal Register* 30983 (June 29, 2009)  
Tab B – Staff Response Memo to Comments  
Tab C - Draft Final Rule

Tab A - Notice of Proposed Rulemaking (NPR) in 74 *Federal Register* 30983 (June 29, 2009)

**Alternative Methods of Compliance**

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

**Related Information**

(k) IAE Alert Service Bulletin No. V2500-ENG-72-A0554, Revision 1, dated June 27, 2008, also pertains to the subject of this AD. Contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06108; telephone: (860) 565-5515; fax: (860) 565-5510, for a copy of this service information.

(l) Contact Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [mark.riley@faa.gov](mailto:mark.riley@faa.gov); telephone (781) 238-7758; fax (781) 238-7199, for more information about this AD.

Issued in Burlington, Massachusetts, on June 22, 2009.

**Peter A. White,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E9-15250 Filed 6-26-09; 8:45 am]

**BILLING CODE 4910-13-P**

**CONSUMER PRODUCT SAFETY COMMISSION****16 CFR Part 1130****Requirements for Consumer Registration of Durable Infant or Toddler Products**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Section 104(d) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") requires the United States Consumer Product Safety Commission ("Commission") to promulgate a final consumer product safety rule requiring each manufacturer of a durable infant or toddler product to: Provide with each product a postage-paid consumer registration form; keep records of consumers who register such products with the manufacturer; and permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each such product. The Commission is proposing requirements that would fulfill this statutory direction.

**DATES:** Written comments must be received by September 14, 2009.

**ADDRESSES:** Submit your comments at <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. All comments will be posted as received without change, including

any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Patricia M. Pollitzer, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7634.

**SUPPLEMENTARY INFORMATION:****A. Background****1. The CPSIA**

The Consumer Product Safety Improvement Act of 2008 ("CPSIA", Pub. L. 110-314) was enacted on August 14, 2008. Section 104(d) of the CPSIA requires the U.S. Consumer Product Safety Commission ("Commission") to promulgate a final consumer product safety rule no later than August 14, 2009 that requires manufacturers of durable infant or toddler products to: (1) Provide with each product a postage-paid consumer registration form; (2) keep records of consumers who register such products with the manufacturer; and (3) permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each such product. The authority for this registration program is section 16(b) of the Consumer Product Safety Act ("CPSA"), which authorizes the Commission to issue a rule requiring manufacturers obtain and maintain records as necessary to implement the CPSA. 15 U.S.C. 2065(b).

Section 104(d)(2) of the CPSIA sets out certain requirements for registration forms and allows the Commission to prescribe the exact text and format for the registration form. Section 104(d)(3) of the CPSIA specifies recordkeeping and notification requirements. The Commission is issuing this notice of proposed rulemaking ("NPR") that would set out the requirements stated in the CPSIA and specify the text and format for the required registration forms.

The CPSIA directs the Commission to assess the registration requirements in the future. Section 104(d)(4) of the CPSIA requires the Commission to conduct a study no later than four years from enactment of the CPSIA on the effectiveness of the consumer registration forms required by the CPSIA and whether to expand registration to other children's products. The Commission is to report its findings to appropriate Congressional committees. Section 104(e) of the CPSIA further requires that the Commission, beginning two years after the Commission has issued a rule implementing the registration requirement, regularly review recall notification technology

and assess the effectiveness of such technology. In addition, within three years of the CPSIA's enactment, and periodically thereafter, the Commission must transmit a report to appropriate Congressional committees on its assessment of such technology. If, based on that assessment, the Commission determines by rule that a recall notification technology is likely to be as effective or more effective facilitating recalls of durable infant and toddler products, the Commission, pursuant to section 104(e)(2) of the CPSIA, shall submit a report on that determination to appropriate Congressional committees and shall permit its use in lieu of registration forms.

**2. Previous Activities Regarding Product Registration**

Before the CPSIA's enactment, the Commission staff studied the possibility of requiring registration for some consumer products. In 2001, the Commission considered issuing an advance notice of proposed rulemaking ("ANPR") concerning the possibility of requiring manufacturers to create and maintain a system for identifying purchasers of certain consumer products in order to notify consumers in the event of a recall. See <http://www.cpsc.gov/library/foia/foia01/brief/purchase.pdf>. The draft ANPR prepared by the staff discussed the possibility that direct consumer notification could increase the effectiveness of recalls. The draft ANPR also discussed characteristics of product registration cards that might increase the likelihood that consumers would return them. Among the characteristics noted were: a standardized format, minimal information on the form, no marketing or personal information, a clear statement that the purpose of the form is for safety recalls, pre-addressed and postage paid forms, a design that draws attention to the form, pre-printed product and model identification information, ample space for the consumer to provide name and address, and attachment of the form to the product. Many of these characteristics are required explicitly in section 104(d) of the CPSIA.

In developing the proposed rule, the staff drew from its experience with the 2001 draft ANPR and subsequent activities considering how to improve recall effectiveness. The Commission also has held numerous public meetings discussing various aspects of recall effectiveness, including product registration. See [http://www.cpsc.gov/businfo/rem\\_sum1.pdf](http://www.cpsc.gov/businfo/rem_sum1.pdf), [http://www.cpsc.gov/businfo/rem\\_sum2.pdf](http://www.cpsc.gov/businfo/rem_sum2.pdf),

[http://www.cpsc.gov/businfo/rem\\_sum3.pdf](http://www.cpsc.gov/businfo/rem_sum3.pdf).

The Commission and staff are aware of, and this proposal has been informed by, the car seat registration program administered by the National Highway Traffic Safety Administration ("NHTSA"). Federal Motor Vehicle Safety Standard No. 213 requires manufacturers of child restraint systems for automobile use to provide a specified registration form with each seat and keep records of these registrants for use in the event of a safety recall of the product. 49 CFR 571.213 S5.8. The Commission's proposed registration form has several similarities to the NHTSA registration form for child restraint systems. When issuing its registration requirement, NHTSA noted that standardizing the text and layout of the registration form increases the likelihood that a purchaser will register the product. 57 FR 41428 (Sep. 10, 1992). A contractor conducted focus groups to evaluate registration forms for child restraint systems. NHTSA noted that participants in the focus groups indicated "they would be most likely to return a pre-addressed, postage-prepaid card with an uncluttered graphic design that clearly and succinctly communicates the benefits of recall registration, differentiates itself from a warranty registration card, and requires minimal time and effort on the participant's part." *Id.* The Commission believes that these characteristics are also appropriate for registration forms for durable infant and toddler products.

### B. Description of the Proposed Rule

The proposed rule would create a new 16 CFR part 1130 to establish requirements that manufacturers (including importers) of durable infant or toddler products must follow to enable consumers to register these products so that the consumer can be notified directly if the product is the subject of a recall or safety alert.

#### 1. Scope and Definitions—Proposed §§ 1130.1 & 1130.2

Proposed § 1130.1 would explain that part 1130 prescribes requirements for consumer registration of durable infant or toddler products. The proposed requirements would apply to manufacturers (including importers) of durable infant or toddler products. Although section 104(d) of the CPSIA refers only to manufacturers of durable infant and toddler products, the definition of "manufacturer" in the Consumer Product Safety Act includes an importer. 15 U.S.C. 2052(a)(11). Consequently, proposed § 1130.1(b)

would explain that the requirements apply to manufacturers, "including importers," of durable infant or toddler products. Given that "importer" is included in the definition of "manufacturer," the Commission is interested in comments concerning which party, the importer or a manufacturer (which might also include a foreign manufacturer), should have the primary responsibility for the registration obligations mandated by section 104 of the CPSIA and why. The Commission would also like comments on the practical and economic consequences of any decision as to whether the manufacturer or importer should assume the registration obligations, such as the logistics of an importer inserting a registration card when a product is manufactured overseas or, similarly, the logistics of a foreign manufacturer maintaining a database of registration card information received from consumers in the United States.

However, neither the CPSIA nor the proposed regulation requires the retailer of a durable infant or toddler product to establish or maintain a registration program. The Commission recognizes that, in some instances, a retailer may be the direct importer of a product and/or may be the only contact in the United States. In such circumstances, it may be most effective for the retailer to collect registration information and notify the consumer in the event of a recall or safety alert. While the Commission is not proposing to require retailers of durable infant and toddler products to conduct a registration program, it is considering whether any final rule based on this proposal should expressly allow other parties, such as retailers, distributors or private labelers, to establish and maintain a registration program. The Commission is interested in comments on whether and how it might allow a private labeler or retailer to assume the responsibility to establish and maintain a registration program, particularly when a product is produced by a foreign manufacturer and imported into the United States.

Proposed § 1130.2 would state that the definitions in section 3 of the CPSIA apply.

Proposed § 1130.2(a) would define "durable infant or toddler product" in a manner similar to section 104(f) of the CPSIA. The proposed definition would include products that combine multiple functions. The CPSIA provides a broad definition of the term durable infant or toddler product—"a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years"—and

then lists twelve specific examples each of which is defined more specifically with reference to the applicable voluntary standard for such products. Products that are not explicitly listed may still be durable infant or toddler products under the definition and may fall within the registration requirement.

The CPSIA does not define "durable," but Webster's dictionary defines "durable goods" as "goods usable for a relatively long time." In the economic or financial context, durable goods are generally considered to be ones that have a useful life of three or more years. The Bureau of Economic Analysis, in the Department of Commerce, defines "durable goods" as "Tangible products that can be stored or inventoried and that have an average life of at least three years" (see Bureau of Economic Analysis, Department of Commerce, Glossary definition of "durable goods," accessed on the Internet at <http://www.bea.gov/glossary/glossary.cfm?letter=D> on May 20, 2009). The economic opposite term of durable goods is nondurable goods, a category that includes such items as food, clothing, drugs and services. These definitions give some guidance on what would be a durable infant or toddler product. Thus, clothing, blankets, and such textile products would not be considered durable infant or toddler products.

Additional guidance comes from considering the product examples in the statute and the ASTM voluntary standard subcommittees that cover such items. The product list in the statute, though not exclusive, illustrates the types of products covered. Likewise, other products involved in the ASTM voluntary standards committee activity reflect the type of products considered by Commission staff to be durable infant products which include: Children's folding chairs, changing tables, bouncers, infant bath tubs, bed rails and infant slings. Thus, while a changing table is not listed, it is similar to other nursery products, such as cribs and cradles, which are listed, and it is under the same ASTM subcommittee (F15.18) as cribs, toddler beds, play yards, bassinets and cradles. Bed rails are not listed, but they are similar to "gates and other enclosures for confining a child," an enumerated category. Some other types of products, such as sports equipment, playground equipment, or toys would not appropriately be considered durable infant or toddler products. These are broad categories of products that are not like the nursery-type of products specified in the examples.

The statutory definition leaves uncertainty about which products would be considered durable infant or toddler products. Many products may last three or more years, but that does not necessarily mean that Congress intended them to be considered durable infant or toddler products under this section. An infant sling is not specifically listed and might be considered a textile product. However, it could be considered a type of infant carrier, a category that is listed as a durable infant or toddler product. The Commission is interested in comments on whether the final rule should contain a definitive listing of products requiring registration cards or any other comments that could help to clarify which products are covered by the registration card requirement when the final rule is published.

As discussed above, infant carriers that are used as car seats are already subject to registration requirements issued by NHTSA that are similar to the proposed CPSC registration requirements. The Commission proposes to exempt from this rulemaking car seats that are subject to NHTSA registration requirements.

Proposed § 1130.2(b) and (c) would define "product recall" and "safety alert" respectively.

#### 2. General Requirements—Proposed § 1130.3

Proposed § 1130.3 would establish general requirements for consumer registration. In brief, proposed § 1130.2(a) would require each manufacturer of a durable infant or toddler product to provide consumers with a postage paid consumer registration form with each product; maintain a record of the contact information of consumers who register their products with the manufacturer; and permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. Proposed § 1130.2(a) thus would correspond with the statutory requirements at section 104(d)(1) of the CPSIA.

Proposed § 1130.2(b) would prohibit the manufacturer from using or disseminating the consumer information collected pursuant to these requirements to any other party for any purpose other than notification of the consumer in the event of a product recall or safety alert. This would be consistent with section 104(d)(3) of the CPSIA.

#### 3. Manufacturer and Product Identification on the Product—Proposed § 1130.4

Section 104(d)(1)(c) of the CPSIA requires the manufacturer to permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. Proposed § 1130.4 would repeat this statutory requirement and would further specify that the required information must be in English, legible, and in a location on the product that is conspicuous to the consumer.

Another section of the CPSIA, section 103, requires that, beginning August 14, 2009, all children's products must have tracking labels providing certain identifying information (the manufacturer or private labeler, location and date of production and cohort information) permanently placed on the product. The requirements for tracking labels in section 103 differ from the product identification that section 104 requires for durable infant or toddler products. This raises the question of how a durable infant or toddler product could satisfy these requirements, *i.e.* does the more specific section 104 identification of the manufacturer on the product obviate the need for the same identification of the manufacturer as part of the section 103 tracking label. The Commission seeks comments on the interplay between the labeling requirements of these two sections given that their requirements differ. Several commenters on the tracking label provision raised the concern that requiring identification of the manufacturer on a tracking label could result in the disclosure of what they considered confidential business information. The Commission requests comments on whether the issue of confidentiality is a concern for the product identification requirement in section 104 of the CPSIA.

#### 4. Requirements for Registration Forms—Proposed § 1130.5

Proposed § 1130.5 would establish the requirements for the registration forms themselves. In brief, proposed § 1130.5 would require registration forms to:

- Comply with specified text and format requirements;
- State all information in English;
- Be attached to the surface of each durable infant or toddler product so that the consumer must notice and handle the form after purchasing the product;
- Include the manufacturer's name, model name and number for the product and the date of manufacture;

- Include an option to register using the Internet; and
- Include a statement that information the consumer provides will only be used to facilitate a recall or safety alert.

With the exception of requiring compliance with particular text and format specifications and requiring that information be in English, the proposed requirements for registration forms are explicitly directed by section 104(d)(2) of the CPSIA. Section 104(d)(2) of the CPSIA also gives the Commission the option of prescribing the text and format for the registration form. The Commission believes that specifying uniform text and format will increase the likelihood that consumers will notice the forms and complete them.

The Commission also believes that it is appropriate to specify that the form be in the English language. This would clarify the language to be used for registration forms when a product is foreign-made. It also would add to the uniformity of the registration forms, increasing the effectiveness of the forms by increasing the likelihood that consumers would notice the forms and associate them with registrations for the purpose of recalls.

#### 5. Format Requirements—Proposed § 1130.6

Proposed § 1130.6 would prescribe the registration form's size and layout. The top portion of the form would be retained by the consumer. It would provide the purpose statement and the manufacturer's contact information.

The lower part of the form, which would be returned to the manufacturer, would be the size of a standard post card, 6 inches wide by 4¼ inches high. It would have blocks for the consumer to provide his/her contact information and have pre-printed product information on one side of the card and the manufacturer's name and mailing address pre-printed on the other side.

Proposed § 1130.6 also would require that the registration form use Arial Black typeface and that the size of the type be at least 12-point for the purpose statement and no less than 10-point for all other information on the form. Typically, 12-point font size is preferred for instructions and long passages. Arial typeface is a commonly used sans serif typeface that presents a bold and sharp letter.

The Commission is proposing to prescribe the formatting for the registration forms. However, another approach would be to allow manufacturers to determine their own formatting. The Commission requests comments on these two approaches.

*6. Text Requirements—Proposed § 1130.7*

Proposed § 1130.7 would prescribe the registration form's text. It would require the following statement about the purpose of the registration:

PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL. We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail back this card or visit our online registration at *www.WEBSITE NAME.com*.

This statement is consistent with sections 104(d)(2)(E) and 104(d)(2)(G) of the CPSIA requiring that the form "include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration" and also that it "include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product." The staff believes that having a uniform message will increase the likelihood that consumers will recognize the form and respond to it. Additionally, based on its experience examining recall effectiveness, the staff believes that a personal appeal to the consumer will increase the likelihood that a consumer will register the product.

Proposed § 1130.7(b) would require that the top of the registration form state the manufacturer's name and contact information, Web site address, product model name and number and manufacture date of the product. This part of the form would be retained by the consumer. The consumer would have the manufacturer's contact information and information identifying the product if needed to contact the manufacturer about any safety-related issues concerning the product. This aspect of the proposed rule goes beyond the explicit requirements of the CPSIA which only requires that the form include the manufacturer's name, model name and number for the product and its date of manufacture. However, the proposed information would complement the requirement in section 104(d)(1)(C) of the CPSIA which requires manufacturers of a durable infant or toddler product to "permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product." This will enable consumers to easily locate the information they need to contact the manufacturer. The Commission is

interested in comments on whether a consumer would save and refer to the registration card stub rather than look for the contact information on the product itself, particularly for larger and more expensive products such as cribs. The Commission also asks for comments on the practicality of pre-printing a two part registration form—one section for consumers to send back to the manufacturer and the added requirement for another section for consumers to tear off and keep. The Commission is interested in comments on the practical and economic effect of this requirement.

Proposed § 1130.7 also would require blocks for the consumer to provide his/her name, mailing address, telephone number, and e-mail address. Section 104(d)(2)(B) of the CPSIA requires that the form "include space sufficiently large to permit easy, legible recording of all desired information." The staff reviewed research regarding legible print for reading, and considered uses such as warnings and passport applications. Based on this review, the proposed rule would require that blocks for consumer information be 5 mm wide and 7 mm high. The number of blocks that would be required for the consumer's information is based on the size of the blocks and the size of the postcard.

The proposed rule would require pre-printed product information. As noted above, section 104(d)(2)(D) of the CPSIA requires that the form provide the manufacturer's name, model name and number of the product, and the date of manufacture. This information will enable the manufacturer to match the consumer with the product purchased in the event that the product is the subject of a recall or safety alert. The proposed rule would require a rectangular box around the model name, model number, and manufacture date to draw the consumer's attention to the information. The manufacturer could print this information directly on the form or apply a pre-printed label that provides the required information.

*7. Requirements for Internet Registration—Proposed § 1130.8*

Consistent with section 104(d)(2)(F) of the CPSIA, the proposed rule would require that the consumer have the option of registering the product through the Internet. This could be accomplished by registration through the manufacturer's Web site. However, some companies, particularly smaller ones, may not have a Web site. Rather than the Commission mandating that all companies that sell durable infant and toddler products create and maintain a

Web site, such companies could satisfy the statutory requirement by allowing consumers to send their registration information by e-mail. In such case a sentence would need to be added to the registration card indicating that registration could be made by sending an e-mail to the manufacturer. The Commission seeks comments on this approach.

Proposed § 1130.8 would require the same purpose statement (described earlier in part B.6 of this preamble (see the discussion of proposed § 1130.7)) on the Web site registration page as on the registration form. It would restrict the registration page to only requesting the consumer's name, address, telephone number, e-mail address, product name and number and the date of manufacture. The Commission seeks comments on whether there is a need to restrict navigation to other pages or Web sites.

The Commission notes that on-line registration could be designed in a manner that could further increase the effectiveness of product registrations. The on-line registration could be set up to allow consumers to notify the manufacturer of a change of address for products the consumer has previously registered. Such a system could allow sorting by customer name, address, product and model so that a consumer could change his/her address without re-entering other information. The proposed rule would not require such a system, but neither would it prevent manufacturers from designing their on-line registration systems in such a manner.

The Commission intends to encourage innovation in the use of the Internet for product registration and solicits comments on how to make the registration Web site easier for consumers to use and navigate. For example, Web sites could minimize the number of times consumers must enter information, could provide for registration at the time an item is purchased online, or take other approaches that would streamline registration.

*8. Recordkeeping and Notification—Proposed § 1130.9*

Consistent with section 104(d)(1)(B) of the CPSIA, proposed § 1130.9 would require that each manufacturer of a durable infant or toddler product maintain a record of registrants for each product manufactured that includes all of the information provided by the consumer. The manufacturer would be required to use the information provided to notify the registrant if the product is the subject of a recall or

safety alert. The proposed rule would require that the manufacturer maintain a record of the registration information for no less than 6 years after the date of manufacture of the product.

### C. Request for Comments

The Commission requests comments on all aspects of this proposal, and specifically seeks comments concerning: What products are included in the definition of durable infant or toddler product; whether the Commission should prescribe the format of the registration cards or allow flexibility; the interplay between the permanent identification marking required to be placed on the product and the tracking label requirement; the party best situated to conduct the registrations (as among the manufacturer, importer, private labeler and retailer); the practical and economic impact of requiring an additional section on the registration form—one section for consumers to mail to the manufacturers and the other section for consumers to keep; allowing the consumer to e-mail registration information as an option; whether requirements on the ease of use and navigation of Web sites are necessary; and appropriateness of the proposed effective date.

### D. 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. *Id.* 553(d). This is unlikely to be sufficient time for manufacturers to put a registration program in place. Thus, the Commission proposes that a final rule would become effective 180 days after its date of publication in the **Federal Register**.

### E. Regulatory Flexibility Certification

The Regulatory Flexibility Act (“RFA”) generally requires that agencies review proposed rules for their potential economic impact on small entities, including small businesses. However, section 104(d)(1) of the CPSIA removes this requirement for promulgating the rule implementing the CPSIA’s consumer registration provision. Consequently no certification is necessary.

### F. Paperwork Reduction Act

Section 104(d)(1) of the CPSIA also excludes this rulemaking from requirements of the Paperwork Reduction Act, 44 U.S.C. sections 3501 through 3520. Consequently, no Paperwork Reduction Act analysis is necessary.

### G. Environmental Considerations

The Commission’s regulations provide a categorical exemption for the Commission’s rules from any requirement to prepare an environmental assessment or an environmental impact statement as they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This proposed rule falls within the categorical exemption.

#### List of Subjects in 16 CFR 1130

Administrative practice and procedure, Business and industry, Consumer protection, Reporting and recordkeeping requirements.

Therefore, the Commission proposes to amend Title 16 of the Code of Federal Regulations by adding part 1130 to read as follows:

#### PART 1130—REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

Sec.

- 1130.1 Purpose, scope, and effective date.
- 1130.2 Definitions.
- 1130.3 General requirements.
- 1130.4 Identification on the product.
- 1130.5 Requirements for registration form.
- 1130.6 Requirements for format of registration form.
- 1130.7 Requirements for text of registration form.
- 1130.8 Requirements for Internet registration.
- 1130.9 Recordkeeping and notification requirements.

**Authority:** 15 U.S.C. 2056a, 2065(b).

#### § 1130.1 Purpose, scope, and effective date.

(a) *Purpose.* This part prescribes a consumer product safety rule establishing requirements for consumer registration of durable infant or toddler products. These requirements are intended to improve the effectiveness of recalls of, and safety alerts regarding, such products.

(b) *Scope.* Part 1130 applies to manufacturers, including importers, of durable infant or toddler products, as defined in § 1130.2(a). It does not apply to infant or child carriers intended for use in automobiles that are covered by the registration program of the National Highway Traffic and Safety Administration at 49 CFR 571.213.

(c) *Effective date.* The requirements of this part 1130 shall become effective on [180 days after publication of a final rule] and shall apply to durable infant or toddler products manufactured on or after that date.

#### § 1130.2 Definitions.

In addition to the definitions given in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply:

(a) *Durable infant or toddler product* means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and includes, but is not limited to, individual and combinations of:

- (1) Full-size cribs and non-full-size cribs;
- (2) Toddler beds;
- (3) High chairs, booster seats, and hook-on chairs;
- (4) Bath seats;
- (5) Gates and other enclosures for confining a child;
- (6) Play yards;
- (7) Stationary activity centers;
- (8) Infant carriers;
- (9) Strollers;
- (10) Walkers;
- (11) Swings; and
- (12) Bassinets and cradles.

(b) *Product recall* means action taken pursuant to sections 12, 15(c) or 15(d) of the CPSA (15 U.S.C. 2061, 2054(c), or 2064(d)), and action taken pursuant to a corrective action plan implemented by a company in cooperation with the Commission, where the firm is conducting one or more of the following: repair of the product; replacement of the product; or refund of the purchase price of the product.

(c) *Safety alert* means notice or warning of a potential problem with an individual or class of products so that consumers and other users of the affected products respond accordingly to reduce or eliminate the potential for injury.

#### § 1130.3 General requirements.

(a) Each manufacturer of a durable infant or toddler product shall:

(1) Provide consumers with a postage-paid consumer registration form that meets the requirements of this part 1130 with each such product;

(2) Maintain a record in accordance with the requirements set forth in § 1130.9 of the contact information (names, addresses, e-mail addresses, and telephone numbers) of consumers who register their products with the manufacturer under this part 1130;

(3) Permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product in accordance with the requirements set forth in § 1130.4.

(b) Consumer information collected by a manufacturer pursuant to the requirements of this part 1130 shall not

be used by the manufacturer, nor disseminated by the manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

**§ 1130.4 Identification on the product.**

(a) Each durable infant or toddler product shall be permanently marked with the manufacturer name, and contact information (U.S. address and telephone number, toll free if available) model name and number, and date of manufacture.

(b) The information required by this section shall be in English, legible, and in a location that is conspicuous to the consumer.

**§ 1130.5 Requirements for registration forms.**

The registration form required under § 1130.3(a)(1) shall:

(a) Comply with the format and text requirements set forth in §§ 1130.6 and 1130.7 as shown in figures 1 and 2 of this part;

(b) State all information required by this part 1130 in the English language;

(c) Be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(d) Include the manufacturer's name, model name and number for the product, and the date of manufacture;

(e) Include an option for consumers to register through the Internet;

(f) Include the statement required in § 1130.7(a) that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

**§ 1130.6 Requirements for format of registration forms.**

(a) *Size of form.* The form shall be the size of a standard post card, 6 inches wide by 4¼ inches high.

(b) *Layout of form.* (1) *General.* The form shall consist of four parts: top and bottom, divided by perforations for easy separation, and front and back.

(2) *Top of form.* The top portion of the form is to be retained by the consumer. The front top portion shall provide the purpose statement set forth in § 1130.7(a). The back of the top portion shall provide the manufacturer's contact information as required in § 1130.7(b).

(3) *Bottom of form.* The bottom portion of the form is to be returned to the manufacturer. The bottom front

panel shall have blocks for the consumer to provide his/her contact information as required in § 1130.7(c). Below the consumer contact information shall be product information as required in § 1130.7(d) which may be printed on the form or provided on a pre-printed label placed on the form by the manufacturer. The back of the bottom portion of the form shall be pre-addressed with the manufacturer's name and mailing address where registration information is to be collected.

(c) *Font size and typeface.* The registration form shall use Arial Black typeface. The size of the type shall be at least 12-point for the purpose statement required in § 1130.7(a) and no less than 10-point for the other information in the registration form.

**§ 1130.7 Requirements for text of registration form.**

(a) *Purpose statement.* The front top portion of each form shall state: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL. We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail back this card or visit our online registration at [www.WEBSITE\\_NAME.com](http://www.WEBSITE_NAME.com)."

(b) *Manufacturer and product information.* The back of the top portion of the form shall state the manufacturer's name and contact information (a U.S. mailing address, a telephone number, toll free if available), Web site address, product model name and number, and manufacture date of the product.

(c) *Consumer information.* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, address, telephone number, and e-mail address. These blocks shall be 5 mm wide and 7 mm high. There shall be at least 23 blocks on each of two lines for name and mailing address. At least 15 blocks shall be provided for the city, 2 blocks for the State and 5 blocks for the zip code or postal code. There shall be 10 blocks for the telephone number with a dash provided after the place for the area code and between the third and fourth blocks for the rest of the number, and at least 29 blocks for the e-mail address.

(d) *Product information.* The following product information shall be provided on the back of the bottom

portion of the form below the blocks for customer information printed directly on the form or on a pre-printed label that is applied to the form: the manufacturer's name, the model name and number, and the date of manufacture of the product. A rectangular box shall be placed around the model name, model number and manufacture date.

**§ 1130.8 Requirements for Web site registration.**

(a) *Link to registration page.* The manufacturer's Web site, or other Web site established for the purpose of registration under this part 1130, shall be designed with a link clearly identified on the main Web page that goes directly to "Product Registration."

(b) *Purpose statement.* The registration page shall have the following statement at the top of the page: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL ONLY. We will use the information provided on this page only to contact you if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. If you register on this Web site you do not need to fill out the card that came with your product."

(c) *Content of registration page.* The Web site registration page shall request only the consumer's name, address, telephone number, e-mail address, product model name and number, and the date of manufacture. The consumer's telephone number and e-mail address shall not be required for the consumer to submit the registration form.

**§ 1130.9 Recordkeeping and notification requirements.**

(a) Each manufacturer of a durable infant or toddler product shall maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered.

(b) Each manufacturer of a durable infant or toddler product shall use the information provided by the registrant to notify the registrant in the event of a voluntary or involuntary recall of, or safety alert regarding, such product.

(c) Each manufacturer of a durable infant or toddler product shall maintain a record of the information provided by the registrant for a period of not less than 6 years after the date of manufacture of the product.

**PRODUCT REGISTRATION FOR  
SAFETY ALERT OR RECALL ONLY**

**We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent or share your personal information. To register your product, please complete and mail this card or visit our on-line registration at www.website.com.**



NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 1234 ALEXANDRIA, VA  
POSTAGE WILL BE PAID BY ADDRESSEE

MANUFACTURER'S NAME  
POST OFFICE BOX 0000  
ANYTOWN, ST 12345-6789



FIGURE 1 TO PART 1130 - FRONT OF REGISTRATION CARD



Tab B – Staff Response Memo to Comments



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MD 20814

## Memorandum

DEC - 2 2009

Date:

TO : Robert J. Howell, Assistant Executive Director, Office of Hazard Identification and Reduction *RJH*

THROUGH: Hugh M. McLaurin, Associative Executive Director, Directorate for Engineering Sciences *H.M. McLaurin*

FROM : Celestine T. Kiss, Engineering Psychologist, Division of Human Factors, Directorate for Engineering Sciences *CTK*

SUBJECT : Staff Response to Notice of Proposed Rulemaking (NPR) Comments on Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA).

### Introduction

This memorandum provides the U.S. Consumer Product Safety Commission (CPSC) staff response to comments received in reply to the Notice of Proposed Rulemaking (NPR), 74 *Federal Register* 30983 (June 29, 2009). The NPR proposed requirements for consumer registration of durable infant or toddler products under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA).

CPSC received 19 comments (see Attachment A for names/organizations of commenters) on a number of specific topics. The responses in this memo are organized by comment topic. The numbers in parenthesis after the comments correspond to the commenters.

### Discussion and Response to Comments

#### A. Define "Durable Infant and Toddler Products"

### Comments

CPSC received 11 comments pertaining to the products that should be covered under the registration provision in section 104 of the CPSIA. Most of the comments requested the Commission to specifically identify the products that will be covered by the rule. Commenters indicated that the open-ended nature of the proposed regulation leaves room for possible application to products that were never intended to be covered. Others were concerned that if the scope were left undefined, manufacturers who do not believe their products are "durable infant or toddler products" will be subject to the possibility of severe civil penalties for not including a registration card with a product that CPSC considers to be covered. (#18) (#20)

Several commenters stated that Congress intended the product registration cards to apply to a narrow subset of juvenile products as a means to test and study the effectiveness of registrant databases in facilitating better response to product recalls. Therefore, these commenters believe that the Commission should limit registration to the specified 12 products listed in section 104(f)(2) as the only products covered. (#8)

On the other hand, a few commenters stated that the CPSC should not limit the rule to just the 12 items specified in the statute, but needs to leave room for new products coming into the market that may meet the definition of a “durable infant or toddler product.” (#9)

Others suggested that a more practical suggestion for providing guidance as to the products that would be considered “durable infant and toddler products” subject to section 104 would be to use the Juvenile Products Manufacturers Association (JPMA) certification program. The JPMA certification program includes a list of products similar to the 12 items enumerated in section 104(f) of the CPSIA and additional items:

- Children’s folding chairs,
- Changing tables,
- Infant bouncers,
- Bed rails.

These same commenters requested that sports equipment, playground equipment, toys and textile items, including clothing, blankets and bedding, not be considered durable infant or toddler products for the purpose of this rule. (#8) (#13) (#17)

Another commenter expressed agreement with the NPR that infant slings, changing tables, bouncers, children’s folding chairs, infant bath tubs, and bed rails are products that warrant recall registration. The commenter also suggested that crib mattresses, toy chests, backpack carriers, doorway jumpers, and bike seats/trailers could warrant inclusion in the registration card program. (#16)

One commenter requested that the CPSC specifically exclude footwear. The commenter stated that it falls into the same category of nondurable goods as clothing and blankets, that generally, does not have a useful life of three years, and that infants and toddlers grow rapidly and during a three-year period are likely to have four to five different shoe sizes. (#10)

Another commenter requested that the Commission specifically state that infant or toddler mattresses not be included in the rule. The commenter indicated that mattresses do not meet the criteria specified in the NPR. The criteria include whether a product is durable, used by a toddler or infant, and is a product “that combine[s] multiple functions.” The commenter believes that mattresses satisfy none of the criteria. Mattresses for infants or toddlers have a single passive function: for resting or sleeping upon. They have no moving or complex parts. (#15)

Another commenter requested that the CPSC clarify that the exclusion for car seat products that already carry the National Highway Traffic Safety Administration (NHTSA) registration card includes travel systems that have infant carriers sold with stroller bases. Strollers sold separately

would have the CPSC registration card. This commenter also urged the Commission to clarify that replacement parts, spare parts, or service parts for durable infant and toddler products are not independently subject to the registration card and product identification requirements of section 104. (#18)

## **Response**

Commission staff agrees that the rule needs to specifically identify the items covered in order for manufacturers to know whether the registration requirements apply to their particular product. Because the statute has a broad definition of a durable infant or toddler product but also includes 12 specific items, it is staff's belief that additional items can and should be included in the definition, but should also be specifically listed in the rule. As noted in the NPR, staff believes that in addition to the 12 items mentioned in section 104(f)(2)(A) through (L), children's folding chairs, changing tables, bouncers, infant bath tubs, bed rails, and infant slings should also be included in the rule. Staff believes these additional six items meet the definition of a durable infant or toddler product. In addition, currently they are covered under, or are in the process of being covered under a voluntary standard. The Commission could add other products in the future through notice and comment rulemaking. Based on the definition of durable infant or toddler products and the original 12 items identified in the CPSIA, staff does not believe that some other types of products, such as footwear, mattresses, sports equipment, playground equipment, or toys, should be included in the final rule. Staff does agree that registration should be required for finished products only, not for replacement parts.

### *B. Define "Durability"*

## **Comments**

Six comments were received regarding the definition of "durability." The comments were similar to the comments above, indicating concern that the program will be interpreted and applied in an inconsistent manner unless the Commission provides a precise scope of the "durability" requirement. One commenter indicated it would result in unnecessary confusion as to whether a product meant to be used by children under one year of age, which may be used for only twelve months after purchase, would be considered to have an "average life" of three years or more. (#8)

Another commenter suggested that registration requirements should be applicable to a specific subset of children's products based on "durability" and that the Commission should limit the interpretation of durable infant and toddler products to those durable goods that are composed primarily, if not nearly entirely, of rigid components (e.g., a molded plastic base, frame, or supporting mechanism). Products composed exclusively or nearly exclusively of textiles, such as infant slings, should not be deemed to be "durable" for purposes of the registration requirements. (#12)

One commenter suggested that the price paid by the consumer should be considered when determining what is a durable nursery product. Rather than attempting to create requirements based strictly on the function or longevity of the product, low cost items could be eliminated

without making any judgment regarding the applicability of section 104. The commenter recommended that items with less than a \$20 suggested retail price should not be considered durable nursery items. (#13)

One commenter did not object to a benchmark for identifying durable goods as those having an average life of three years; but thought that this benchmark cannot itself be a regulatory standard because it is not objective. (#18)

Another commenter requested that if the definition of “durable infant or toddler product” includes an “expected life” of the product, then the expected life should be longer than three years. (#20)

## **Response**

CPSC staff believes that these comments illustrate some of the problems that may be encountered with an open-ended definition of durable infant or toddler products rather than a specific list. Thus, staff has written the draft final rule to provide a specific list of products covered.

### *C. Responsible Party for Registration Cards and Database*

## **Comments**

Most of the nine comments received regarding the responsible party for the registration cards and databases agree that domestic manufacturers should be responsible for their products. In the case of a foreign manufacturer, most commenters stated it should be the importer of record who is responsible. Commenters stated that the rule should also permit an importer to put its name and contact information on the registration cards rather than the name of the manufacturer, and to put its name on the product rather than the name of the foreign manufacturer. This process would avoid consumer confusion and prevent the potential disclosure of confidential business information. Commenters recommended that in the case of private label items, the private labeler or sole retailer should be able to make a contractual agreement with the manufacturer to assume responsibility. (#6) (#8) (#9) (#12) (#17) (#18) (#19) (#20)

One commenter suggested that the final rule should allow for retailers to be given the option to accept product registration cards, that retailers should be able to at least try to help consumers complete the product registration cards, and that large retail outlets may want to establish retail kiosks where consumers could electronically submit their information directly to the manufacturer to register their durable infant or toddler product. The commenter suggested that store clerks could also prompt consumers to fill out the cards while waiting to check out; store personnel could then collect the cards at the end of the transaction and ensure that they were mailed. (#16)

## **Response**

Commission staff agrees that the domestic manufacturer and the importer of foreign manufactured products should be responsible for the registration cards and for maintaining the registration database. In the case of foreign manufactured products, staff agrees that the importer should be allowed to put its name and United States contact information on the card and product. Staff has written the draft final rule to reflect this change. The preamble to the draft rule explains that, through contractual agreement with the manufacturer, a private labeler or retailer may take responsibility for the registration cards and database. However, ultimately, the manufacturer is responsible for registration. Similarly, nothing prevents retailers from accepting the registration cards and otherwise encouraging registration; however, under the statute, the manufacturer ultimately bears responsibility for registration and is the party the Commission will bring any enforcement action against.

### *D. Exempt Businesses That Demonstrate They Already Collect Contact Information*

## **Comments**

CPSC received three comments requesting that companies that can demonstrate that they already collect and maintain contact information for all sales should not have to include registration cards with each product. Commenters opined that this would avoid redundant information and fulfill the intent of the law, which is to ensure that manufacturers have the ability to contact their customers in the event that such contact is needed. One commenter proposed that registration via websites is more effective since card data becomes outdated very quickly and a web-based solution allows updating of addresses over time. (#2) (#8) (#20)

## **Response**

The law states in section 104(d)(1)(A) that each manufacturer of a durable infant or toddler product must provide consumers with a postage-paid consumer registration form with each such product. No exemptions were listed. Therefore, while consumers have the option of using electronic registration, it is not a substitute for the product registration card being included with the durable infant or toddler product.

### *E. Allow Flexibility for Product Identification*

## **Comments**

Three comments were received pertaining to how a product is identified and requested flexibility for this identification. One commenter stated that the form should be changed to say “Product Identification Number” (PIN) instead of “Model Number” because PIN would allow tracking of specific products to the retailer, or consider asking model number and PIN. (#5)

Another commenter requested that the rule provide flexibility in identifying products where companies use unique product numbers to identify their products rather than a “model name and number” to identify their products. The commenter stated that some small manufacturers do not

possess the capability to print and match cards to ever-changing models and fashions and, in addition, some companies do not distinguish individual infant and toddler products by “model name and number” but, instead, assign unique product numbers, consisting of a unique combination of numbers or unique combination of letters and numbers to identify all of their products. In some cases the “model name” is the “model number.” (#8)

The commenter also requested that the CPSC provide clarification and confirmation that a company may provide cards that allow consumers to insert model information and that manufacturers who use unique product numbers, product descriptions, or other customarily used identifiers rather than a “model name and number” be able to use them to identify their products. (#8)

The third commenter stated that while the CPSIA requires preprinting BOTH the model name AND the model number on the card, NHTSA’s rule requires one OR the other but not both. Different manufacturers have different approaches to naming conventions; however, the commenter stated it is common in this industry to rely on either a model name or model number, but not both to identify and differentiate a product. The commenter recommended allowing the manufacturer to preprint the model name OR the model number, but not require both. (#18)

## **Response**

Commission staff recognizes that some manufacturers may not use a model name and model number. Therefore, if they only use one or the other, the staff believes that they should provide what they use; they do not have to create something they do not currently have. If they use both, then both should be provided. Staff also believes that manufacturers who use unique product numbers, product descriptions, or other customarily used identifiers, such as a Product Identification Number (PIN) instead of a model number, should be allowed to provide those identifiers in place of the model number. The intent of the law is to make it easier for consumers to register their products and, therefore, manufacturers shall include on the registration card the manufacturer’s name, model name and number, and date of manufacture, so consumers do not have to fill it in on the card themselves.

### *F. Coding Date of Manufacture*

## **Comments**

Two commenters requested that the rule allow the date of manufacture to be expressed in code. Both commenters pointed out that many manufacturers currently use date codes and they are considered acceptable under the ASTM International (ASTM) standards that apply to the infant and toddler products which are part of the Juvenile Products Manufacturers Association (JPMA) certification program. They also indicated that by allowing the use of a date code, or the month and year of manufacture, the CPSC would be consistent with its guidance on date coding for section 102 Conformity Certificates and section 103 Tracking Labels. (#8) (#13)

## **Response**

CPSC staff agrees that the date of manufacture should be allowed to be expressed in code, or by using the month and year of manufacture. These are recognized standard operating practices of manufacturers.

### *G. Section 103 Tracking Label Redundancy*

## **Comments**

Eight comments were received regarding the overlapping information required for labels in sections 103 and 104.

Five of the eight commenters urged the Commission to allow manufacturers to combine the labeling information required for section 103 and section 104 into one label. They suggested that the rule must include both standards and the CPSC should interpret section 104(d)(1) to include the provisions from section 103(a)(5)(B). They indicated that a reasonably constructed, coded schema should be acceptable for the tracking label and should not violate business confidentiality. (#9) (#12) (#15) (#17) (#18)

One commenter stated that a durable infant and toddler product manufacturer must include both sets of identifying tracking information from section 103 and section 104. Each section requires overlapping identifying information and requires additional distinct information and therefore requires both labels. (#16)

On the other hand, two commenters stated that they felt the tracking label required in section 103 should satisfy the labeling requirements of section 104 and products do not need to have both labels. They believe that the required tracking label will already have the required information that will allow the consumer to properly identify if a product is included in a recall. (#19) (#20)

Another commenter requested the CPSC to clarify that CPSIA section 104(f) is not intended to require that manufacturers attach to their products additional or duplicative labels if existing labels required by CPSC product safety standards or other laws contain the same information. They requested that the CPSC allow section 104 labeling information to be placed on the label required by 16 CFR Section 1633.12. The commenter stated that allowing manufacturers to use a single product label that addresses all applicable product identification and labeling requirements will save money, reduce redundancies, and minimize product quality errors associated with labeling. (#15)

One commenter urged the Commission to clarify in the final rule that labels are permitted as the “permanent marking” as long as they meet appropriate standards for permanence of attachment. (#18)

## **Response**

Commission staff agrees that it should not be necessary to have two marks with redundant information on a product. Therefore, staff has written the draft final rule to clarify that manufacturers/importers may combine information required by section 103 with the section 104 registration information into one marking so long as all the information required by both sections is included.

Staff also changed the draft final rule to clarify the meaning of “permanent.” The draft preamble indicates that labels are permitted as the “permanent marking” as long as they can reasonably be expected to remain on the product during the useful life of the product. This is consistent with the Commission’s guidance on the tracking label provision in section 103 of the CPSIA.

### *H. Harmonize with NHTSA’s Car Seat Registration Form*

## **Comments**

The Commission received two comments requesting that section 104 be harmonized with the NHTSA registration format. The commenters specifically identified the online registration page and uniform message and formatting as areas where harmonization is needed. They also requested the CPSC conform the minimum height requirements of the registration card to the NHTSA rule, in order to permit the child restraint manufacturers to use a common card stock for their NHTSA car seat registration cards and the registration cards for their other durable infant and toddler goods. The commenters also indicated that NHTSA’s rule does not require small, pen-top blocks but, rather, allows the consumer to enter his/her name/address in free style which most manufacturers prefer. (#7) (#18)

## **Response**

CPSC staff recognizes that manufacturers who already provide the NHTSA car seat registration card have a system in place and that allowing more similarity to the NHTSA registration cards will streamline their process for implementing the section 104 registration cards. Therefore, staff recommends the final rule provide more flexibility into the design of the registration card. The specifics are discussed below in section I. *Format Flexibility of Registration Card*.

### *I. Format Flexibility of Registration Card*

## **Comments**

Twelve comments were received regarding the format and placement of the registration card. The majority of the commenters requested more flexibility, with some asking that staff consider making the form and format for the registration cards “recommended” or “safe harbor,” so that minor and possibly inadvertent variations in the type size, card size or font style of the registration cards, or of the labels added to the cards, would not result in a potential regulatory violation. (#8) (#11) (#12) (#13) (#16) (#19) (#20)

Some commenters specifically requested that the card be smaller to match the minimum size requirements for the NHTSA registration cards. Another commenter requested that fewer boxes be required per line to allow for printing variations. (#7)

One commenter supported CPSC prescribing the text of the registration form to ensure that foreign manufacturers don't have any problems with translation issues. (#9)

One commenter proposed adding "Required by Law" to the purpose statement on the card, stating that this would add the imprimatur of the federal government and thus convey the importance of product registration to a possibly suspicious consumer. (#16)

## **Response**

Commission staff agrees that more flexibility can be incorporated into the design, format, and placement of the registration card. Staff has written the draft final rule to reflect the following changes:

1. *Size of form:* The form shall be two standard post cards connected with perforation for later separation. As defined by the United States Postal Service, the cards shall be at a minimum: 3-1/2 inches high by 5 inches long by 0.007 inch thick.
2. *Font size and typeface:* All the information on the card shall be printed in bold typeface, capital and lower cases, and no less than 10-point with one exception being the purpose statement. The title of the purpose statement shall be all capitals, bold, and at a minimum 12-point typeface. The purpose statement shall be at a minimum 12-point, bold typeface with capital and lower case type.
3. *Purpose Statement:* Manufacturers that do not have a website may provide an email address and state at the end of the purpose statement: "To register your product, please complete and mail this card or email your contact information, the model name and number, and date of manufacture of the product as provided on this card to: name@firmname.com".
4. *Consumer Information:* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, mailing address, telephone number, and email address. The blocks shall be 5 mm wide and 7 mm high. Manufacturers should use as many blocks as possible to fill the width of the card, allowing for normal printing practices. Staff believes the use of blocks encourages consumers to print their information in a more legible format than free-style writing.

### *J. Effective Date for Final Rule*

## **Comments**

Three comments were received regarding the time for implementation. All three indicated that one year is needed to reasonably implement section 104 requirements. The commenters stated that with more and more of the manufacturing occurring overseas they need more time to determine a method for collecting the registration card information and creating a database to store the information, and to identify how the registration cards will be inserted into the

packaging for the covered products. They also need to coordinate with websites and internet access especially for companies that do not have a pre-existing infrastructure for consumer registration. (#18) (#19) (#20)

## **Response**

CPSC staff believes that six months from publication of the final rule is reasonable and adequate for implementation of the rule for the original 12 items listed in the NPR. Manufacturers who produce the additional six items specified in the proposed final rule should have one year from publication of the final rule to implement the registration cards and database. Staff believes it is possible that manufacturers who product one or more of the original 12 items and one or more of the additional six items would be able to implement the process sooner than one year for the additional six items.

## *K. Retaining Registration Card Information*

### **Comments**

The Commission received three comments regarding the retention of registration card information. The first commenter requested the CPSC clarify that the registration cards themselves do not have to be retained for six years, but rather the information on the card must be retained. (#8)

The second comment suggested that the “legacy” or generational value of high quality cribs might be better suited if consumer information is required to be retained for no less than 10 years. (#11)

The third commenter suggested that the CPSC should have the authority to require manufacturers to keep the information longer than six years if they have reason to believe a recall may be pending because of numerous consumer complaints about the product. (#17)

### **Response**

Section 104(d)(3) states that under this section each manufacturer of a durable infant or toddler product shall maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered. Commission staff interprets that to mean that the manufacturer may retain the contact information in whatever form they wish, including but not limited to the actual cards or a computer database.

Section 104(d)(3) also states that each manufacturer shall maintain such a record for a period of not less than six years after the date of manufacture of the product. Commission staff believes six years of data retention is adequate. This is the same record retention period as NHTSA has in its child restraint registration rule. If manufacturers want to keep the data for a longer period they have that option, but staff does not believe it is necessary to specify a longer time for certain products.

## L. *Electronic/E-Mail Registration*

### **Comments**

Ten comments were received regarding electronic/email registration. All comments were in favor of allowing manufacturers to set up a registration page on their website for consumers to use instead of the registration card. Commenters also stated that, for firms that do not have a website, allowing them to provide an email address for consumers to send their information is a good alternative. Some commenters suggested that for email registrations, clear and conspicuous instructions must be provided for the consumer to know what should be provided in the email to register and that an automatic reply should be sent to the consumer to confirm that the information was received. (#4) (#5) (#9) (#15) (#16) (#17) (#19) (#20)

A number of the commenters requested flexibility in how they set up the page and requested that the CPSC not restrict navigation to other pages on the website. Several requested that an email address be required if a consumer registers on-line. (#4) (#5) (#18) (#19)

One commenter suggested that there be a clear separation between the registration pages and any product marketing sections of a company's website. To reassure consumers, the company's website privacy policy should include a reference to its product registration process. They suggested that the best practice recommendations should include (1) a firewalled registration process; (2) a "force closing" of the browser window after completing registration; and (3) no product marketing, selling or promotion on the registration website. (#9)

One commenter indicated that his/her company has been collecting consumer registration for years and could have a much wider coverage of consumers in this case if the company could integrate the registration information into its current database. The commenter stated the company would be able to set up the database to segregate the CPSC data. (#5)

A commenter stated that the CPSC should not insist that each product come with a postage paid consumer registration form if both the retail outlet and the consumer will accept an alternative, non-intrusive and protected, method of electronic, web based registration instead. (#11)

One commenter supported internet registration because it will allow consumers to change or update their information as needed or allow a second owner to re-register the product after purchase, even without a registration card. (#17) However, another commenter expressed concern with permitting an on-line "change of address" option for consumers as it could lead to the unintended deletion of properly registered consumers from the database. Unless the consumer accurately and thoroughly replicated all of the information from the initial registration, the commenter stated there is a risk that the attempt to change the address may result in overriding the information for a registered consumer with a similar name, or could result in not locating the initial record in the first place. The commenter does not believe that it is appropriate to mandate access to an on-line "change of address" option. (#18)

## **Response**

CPSC staff agrees that allowing consumers to register their product via a company website or by providing an email for the consumer to send the required registration information may facilitate a larger response from consumers than just using the registration cards. Staff recommends that manufacturers should have flexibility in terms of how they set up their webpage but should clearly separate the registration page from any advertisement. By preventing additional information or advertising from appearing on the registration page, the benefits of a standardized registration form are maintained, helping to improve the rate of registration.

Companies that do not have a website must provide an email address to allow consumers to email their registration information. The draft final rule requires these companies to set up an automatic reply so consumers can confirm that their registration information was received.

CPSC staff stresses that electronic/email registration provides consumers the option to register on-line or by email. However, electronic/email registration does not replace the mandatory requirement stated in section 104 (d)(1)(A) that each manufacturer of a durable infant or toddler product must provide consumers with a postage-paid consumer registration form with each such product.

## *M. Other issues*

### **Comment**

One commenter suggested that the CPSC should consider carefully the penalties for violation of using the consumer information collected with the registration cards for some purpose other than the safety alert or recall. (#17)

### **Response**

Staff agrees with this comment, and the draft final rule includes a requirement that manufacturers not use the consumer registration information for any purpose other than notifying the consumer in the event of a recall or safety alert. Thus, if a manufacturer actually misuses the information, they would be violating a consumer product safety rule which is a prohibited act under section 19 of the CPSA and would subject the manufacturer to penalties under section 20 of the CPSA.

### Conclusions

The majority of the comments received in response to the NPR requested clarifications and changes to allow for more flexibility to implement the program. Staff has taken the comments under consideration and made changes that are reflected in the draft final rule, as appropriate.

Attachment A

List of Comments by Number



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814

**Memorandum**

Date: **SEP 15 2009**

TO : The Commission

FROM :   
Todd A. Stevenson, Director,  
Office of the Secretary

SUBJECT : CPSC-2009-0039 – Requirements for Consumer Registration of Durable Infant or Toddler Products – Published in the *Federal Register* June 29, 2009 –  
Comments due by September 14, 2009

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
0002	6/30/09	Sarah Reid Small business owner	Wallypop 4200 Kingman Blvd. Des Moines, IA 50311
0003	7/6/09	Chris Echelmeier	1401 Quince Ave. Boulder, CO 80304
0004	7/29/09	Laura Cusson	89 Degrees LLC 67 South Bedford Street Suite 100E Burlington, MA 01803
0005	8/10/09	Bahman Kia	Mclaren USA Inc. 4 Testa Place South Norwalk, CT 06854
0006	8/11/09	Jess Russell	
0007	9/10/09	Courtney Yin	Orbit Baby, Inc. 8445 Central Avenue Newark, CA 94560

<b><u>COMMENT</u></b>	<b><u>DATE</u></b>	<b><u>SIGNED BY</u></b>	<b><u>AFFILIATION</u></b>
0008	9/3/09	Robert Waller President	Juvenile Products Manufacturers Association 15000 Commerce Parkway Suite C Mt. Laurel, NJ 08054
0009	9/8/09	Mindy A. Bockstein Chairperson and Executive Director	New York State Consumer Protection Board 5 Empire State Plaza Suite 2101 Albany, NY 12223
0010	9/11/09	Matt Priest President	Footwear Distributors and Retailers of America (FDRA)
0011	9/11/09	Roger R. Urbanski Executive Director Global Customs Compliance & Product Assurance	Cognitive Solutions 4525 140 <sup>th</sup> Ave North Suite 912 Clearwater, FL 33762
0012	9/11/09	Linda Wilson Contractor Compliance Manager	American Recreation Products 111 Industrial Drive New Haven, MO 63068
0013	9/14/09	Gary Jones Sr. VP, Product Integrity	Learning Curve Brands, Inc. 1111 W 22 <sup>nd</sup> Street Suite 320 Oak Brook, IL 60523
0014	9/14/09	Robert Sadowski APR Communications Manager	Industramark 600 Albany Street DAY/1 Dayton, OH 45417-3405
0015	9/14/09	Christopher Hudgins VP, Government Relations & Policy	International Sleep Products Association 501 Wythe Street Alexandria, VA 22314-1917
0016	9/14/09	Alan Korn Executive Director & General Counsel	Safe Kids 1301 Pennsylvania Ave NW Suite 1000 Washington, DC 20004

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
0017	9/14/09	Nancy A. Cowles Executive Director	Kids In Danger
		Donald L. Mays Senior Director, Product Safety & Technical Policy	Consumers Union
		Rachel Weintraub Director of Product Safety and Senior Counsel	Consumer Federation of America
		Elizabeth Hitchcock Public Health Advocate	U.S. Public Interest Research Group
0018	9/14/09	Erika Jones Counsel for "the Manufacturers"	Mayer Brown LLP 1999 K Street, NW Wash., DC 20006
0019	9/14/09	Steve Pfister Senior VP, Government Relations	National Retail Federation 325 7 <sup>th</sup> Street NW Wash., DC 20004
0020	9/14/09	Stephanie Lester VP, International Trade	Retail Industry Leaders Association 1700 North Moore St. Suite 2250 Arlington, VA 22209

**Tab C - Draft Final Rule**

## DRAFT 12/2/09

[Billing Code 6355-01-P]  
CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1130

### Requirements for Consumer Registration of Durable Infant or Toddler Products; Final Rule

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission ("Commission") is issuing a final rule under section 104(d) of the Consumer Product Safety Improvement Act of 2008 ("CPSIA"). In accordance with that section, the final rule requires each manufacturer of a durable infant or toddler product to: (1) provide a postage-paid consumer registration form with each product; (2) keep records of consumers who register their products with the manufacturer; and (3) permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each such product. The final rule specifies the text and format for the registration form and establishes requirements for registration through the internet.

**DATES:** The rule will become effective on [insert date 180 days after publication in *Federal Register*] for the following products: full-size cribs and nonfull-size cribs;

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toddler beds; high chairs, booster chairs, and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles. The rule will become effective on **[insert date 1 year after publication in *Federal Register*]** for the following products: children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant slings.

**FOR FURTHER INFORMATION CONTACT:** Marc Schoem, Deputy Director, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7520; [mschoem@cpsc.gov](mailto:mschoem@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Consumer Product Safety Improvement Act of 2008 ("CPSIA", Pub. Law 110-314) was enacted on August 14, 2008. Section 104(d) of the CPSIA requires the U.S. Consumer Product Safety Commission ("Commission") to promulgate a final consumer product safety rule that requires manufacturers of durable infant or toddler products to: (1) provide with each product a postage-paid consumer

## **DRAFT 12/2/09**

registration form; (2) keep records of consumers who register such products with the manufacturer; and (3) permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each such product.

Section 104(d) of the CPSIA specifies many of the requirements for the registration rule. It establishes certain requirements for the registration forms and specifies recordkeeping and notification requirements. The statute permits the Commission to prescribe the exact text and format for the registration forms, and the final rule does so.

The CPSIA also requires the Commission to assess consumer registration requirements in the future. Within four years of enactment of the CPSIA, the Commission must conduct a study on the effectiveness of the consumer registration forms and whether to expand registration to other children's products. The Commission also must regularly review recall notification technology and assess the effectiveness of such technology. The Commission must inform Congress of these assessments.

On June 29, 2009, the Commission issued a notice of proposed rulemaking ("NPR") proposing consumer registration

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requirements under section 104(d) of the CPSIA. 74 FR 30903. The Commission received 19 comments on the NPR raising a variety of issues discussed in section B of this preamble.

The NPR discussed the Commission's previous activities regarding product registration cards. This experience and activities considering how to improve recall effectiveness have informed the development this rule. The Commission has also taken into consideration the car seat registration program administered by the National Highway Traffic Safety Administration ("NHTSA"). 49 CFR 571.213S5.8.

### **B. Response to Comments on the NPR**

Comments that the Commission received on the NPR and the Commission's responses to them are discussed in this section of the preamble.

#### *1. Definition of "Durable Infant or Toddler Products"*

##### *Comments*

The Commission received 11 comments pertaining to the products that should be covered under the registration provision in section 104 of the CPSIA. Most of the comments requested the Commission to identify with specificity exactly which products will be covered by the rule. Commenters indicated that the open-ended nature of

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the proposed regulation leaves room for possible application to products that were never intended to be covered and they could be subject to the possibility of severe civil penalties for not including a registration card with a product that CPSC considers to be covered.

Several commenters stated that Congress intended the product registration cards to apply to a narrow subset of juvenile products and that the Commission should limit registration to the specified 12 products listed in section 104(f)(2).

On the other hand, a few commenters stated that the CPSC should not limit the rule to just the 12 items specified in the statute, but needs to leave room for new products coming into the market that may meet the definition of a "durable infant or toddler product."

Others suggested ways to provide guidance on products that would be considered "durable infant or toddler products" such as using the Juvenile Products Manufacturers Association (JPMA) certification program and based on that program adding children's folding chairs, changing tables, infant bouncers and bed rails to the statutory list of products.

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Commenters requested that footwear, mattresses, sports equipment, playground equipment, toys and textile items, including clothing, blankets and bedding, not be considered durable infant or toddler products for the purpose of this rule.

Another commenter expressed agreement with the NPR that infant slings, changing tables, bouncers, children's folding chairs, infant bath tubs, and bed rails are products that warrant registration. The commenter also suggested that crib mattresses, toy chests, backpack carriers, doorway jumpers, and bike seats/trailers could warrant inclusion in the registration card program.

Another commenter requested that the CPSC clarify that the exclusion for car seat products that already carry the NHTSA registration card includes travel systems that have infant carriers sold with stroller bases. This commenter also urged the Commission to clarify that replacement parts, spare parts, or service parts for durable infant and toddler products are not independently subject to the registration card and product identification requirements of section 104.

*Response*

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The Commission agrees that the rule needs to identify the items covered with specificity in order for manufacturers to know whether the registration requirements apply to their particular product. Because the statute has a broad definition of a durable infant or toddler product but also includes 12 specific items, additional items can and should be included in the definition, but should also be specifically listed in the rule. As noted in the NPR, in addition to the 12 items mentioned in section 104(f)(2)(A) through (L), children's folding chairs, changing tables, bouncers, infant bath tubs, bed rails, and infant slings should also be included in the rule. The Commission believes these additional six items meet the definition of a durable infant or toddler product. In addition, currently they are covered under, or are in the process of being covered under, a voluntary standard. The Commission could add other products in the future through notice and comment rulemaking.

Based on the definition of durable infant or toddler products and the original 12 items identified in the CPSIA, the Commission does not believe that some other types of products, such as footwear, mattresses, sports equipment, playground equipment, or toys, should be included in the

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final rule. The Commission agrees that registration is required for finished products only, not for replacement parts.

### 2. *Definition of "Durability"*

#### *Comments*

Six comments were received regarding the definition of "durability." The comments were similar to those discussed above, indicating concern that the program will be interpreted and applied in an inconsistent manner unless the Commission provides a precise scope of the "durability" requirement. One commenter indicated that relying on the NPR preamble's discussion would result in unnecessary confusion about products meant to be used by children under one year of age, which may be used for only twelve months after purchase, and whether they would be considered to have an "average life" of three years or more.

Another commenter suggested that registration requirements should be applicable to a specific subset of children's products based on "durability" and that the Commission should limit the interpretation of durable infant or toddler products to those durable goods that are composed primarily, if not nearly entirely, of rigid components (e.g., a molded plastic base, frame, or

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supporting mechanism) and should not include products composed exclusively or nearly exclusively of textiles, such as infant slings.

One commenter suggested that the price paid by the consumer should be considered when determining what is a durable nursery product. Others objected that 3 years was too short a period and that using the average product life as an indicator of durable goods was not sufficiently objective.

### *Response*

The Commission believes that these comments illustrate some of the problems that may be encountered with an open-ended definition of durable infant or toddler product rather than a specific list.

### *3. Responsible Party for Registration Cards and Database Comments*

Most of the nine comments received regarding the responsible party for the registration cards and databases agree that domestic manufacturers should be responsible for their products. In the case of a foreign manufacturer, most commenters stated it should be the importer of record who is responsible. Commenters stated that the rule should also permit an importer to put its name and contact

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information on the registration cards rather than the name of the manufacturer, and to put its name on the product rather than the name of the foreign manufacturer. This process would avoid consumer confusion and prevent the potential disclosure of confidential business information. Commenters recommended that in the case of private label items, the private labeler or sole retailer should be able to make a contractual agreement with the manufacturer to assume responsibility.

One commenter suggested that the final rule should allow for retailers to be given the option to accept product registration cards, that retailers should be able to at least try to help consumers complete the product registration cards, and that large retail outlets may want to establish retail kiosks where consumers could electronically submit their information directly to the manufacturer to register their durable infant or toddler product.

### *Response*

The Commission agrees that the domestic manufacturer and the importer of foreign manufactured products should be responsible for the registration cards and for maintaining the registration database. In the case of foreign

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manufactured products, the Commission agrees that the importer should be allowed to put its name and United States contact information on the card and product. The Commission has written the final rule to reflect this change.

The preamble to the rule explains that, through contractual agreement with the manufacturer, a private labeler or retailer may take responsibility for the registration cards and database. However, ultimately, the manufacturer is responsible for registration. Similarly, nothing prevents retailers from accepting the registration cards and otherwise encouraging registration; however, under the statute, the manufacturer ultimately bears responsibility for registration and is the party the Commission will proceed against should it pursue any enforcement action.

### *5. Request to Exempt Businesses That Demonstrate They Already Collect Contact Information*

#### *Comments*

The Commission received three comments requesting that companies that can demonstrate that they already collect and maintain contact information should not have to include registration cards with each product. Commenters opined that this would avoid redundant information and

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fulfill the intent of the law. One commenter suggested that registration via websites is more effective since card data becomes outdated very quickly and a web-based solution allows updating of addresses over time.

### *Response*

Section 104(d)(1)(A) of the CPSIA states that each manufacturer of a durable infant or toddler product must provide consumers with a postage-paid consumer registration form with each such product. No exemptions were listed. Therefore, while consumers have the option of using electronic registration, it is not a substitute for the product registration card being included with the durable infant or toddler product.

### *6. Allow Flexibility for Product Identification*

#### *Comments*

Three comments requested flexibility for product identification. One commenter stated that the form should be changed to say "Product Identification Number" (PIN) instead of "Model Number" because PIN would allow tracking of specific products to the retailer, or consider asking model number and PIN. Another commenter requested flexibility where companies use unique product numbers to identify their products rather than a "model name and

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number." The commenter also requested that a company be able to provide cards that allow consumers to insert the model information. Another commenter stated that NHTSA's registration rule requires either the model name or model number but not both. The commenter recommended allowing the manufacturer to preprint the model name OR the model number, but not require both.

### *Response*

The Commission recognizes that some manufacturers may not use a model name and model number. The final rule clarifies that if a manufacturer uses only one or the other, the manufacturer does not have to provide both on the product or registration form. Manufacturers do not have to create something they do not currently have. If they use both, then both should be provided. The Commission also believes that manufacturers who use unique product numbers, product descriptions, or other customarily used identifiers, such as a Product Identification Number (PIN) instead of a model number, should be allowed to provide those identifiers in place of the model number. The intent of the law is to make it easier for consumers to register their products and, therefore, manufacturers shall include on the registration card the manufacturer's name,

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model name and number, and date of manufacture, so consumers do not have to fill it in on the card themselves.

### *7. Coding Date of Manufacture*

#### *Comments*

Two commenters requested that the rule allow the date of manufacture to be expressed in code. Both commenters pointed out that many manufacturers currently use date codes and they are considered acceptable under the ASTM International (ASTM) standards that apply to the infant and toddler products which are part of the Juvenile Products Manufacturers Association (JPMA) certification program. They also indicated that by allowing the use of a date code, or the month and year of manufacture, the CPSC would be consistent with its guidance on date coding for section 102 Conformity Certificates and section 103 Tracking Labels.

#### *Response*

The Commission agrees and has revised the final rule accordingly. These are recognized standard operating practices of manufacturers.

### *8. Section 103 Tracking Label Redundancy*

#### *Comments*

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Eight comments were received regarding the overlapping information required for labels in sections 103 and 104. Five of the eight commenters urged the Commission to allow manufacturers to combine the labeling information required for section 103 and section 104 into one label. One commenter stated that a durable infant and toddler product manufacturer must include both sets of identifying tracking information from section 103 and section 104.

On the other hand, two commenters stated that they felt the tracking label required in section 103 should satisfy the labeling requirements of section 104 and products do not need to have both labels. Another commenter requested the CPSC to clarify that CPSIA section 104(f) is not intended to require that manufacturers attach to their products additional or duplicative labels if existing labels required by CPSC product safety standards or other laws contain the same information. One commenter urged the Commission to clarify in the final rule that labels are permitted as the "permanent marking" as long as they meet appropriate standards for permanence of attachment.

### *Response*

The Commission agrees that it should not be necessary to have two marks with redundant information on a product.

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The final rule clarifies that manufacturers/importers may combine information required by section 103 with the section 104 registration information into one marking so long as all the information required by both sections is included. The final rule also clarifies the meaning of "permanent." The preamble indicates that labels are permitted as the "permanent marking" as long as they can reasonably be expected to remain on the product during the useful life of the product. This is consistent with the Commission's guidance on the tracking label provision in section 103 of the CPSIA.

### *9. Harmonize with NHTSA's Car Seat Registration Form*

#### *Comment*

The Commission received two comments requesting that section 104 be harmonized with the NHTSA registration format. The commenters specifically identified the online registration page and uniform message and formatting as areas where harmonization is needed and requested the CPSC conform the minimum height requirements of the registration card to the NHTSA rule. The commenters also indicated that NHTSA's rule does not require small, pen-top blocks but, rather, allows the consumer to enter his/her name/address in free style which most manufacturers prefer.

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### *Response*

The Commission recognizes that manufacturers who already provide the NHTSA car seat registration card have a system in place and that allowing more similarity to the NHTSA registration cards will streamline their process for implementing the section 104 registration cards. The final rule provides more flexibility for the design of the registration card. The specifics are discussed below in section 10, *Format Flexibility of Registration Card*.

### *10. Format Flexibility of Registration Card*

#### *Comment*

Twelve comments were received regarding the format and placement of the registration card. The majority of the commenters requested more flexibility, with some asking that the Commission consider making the form and format for the registration cards "recommended" or "safe harbor," so that minor and possibly inadvertent variations in the type size, card size or font style of the registration cards, or of the labels added to the cards, would not result in a potential regulatory violation.

One commenter requested that fewer boxes be required per line to allow for printing variations. One commenter supported CPSC prescribing the text of the registration

## DRAFT 12/2/09

form to ensure that foreign manufacturers don't have any problems with translation issues. One commenter suggested adding "Required by Law" to the purpose statement on the card.

### *Response*

The Commission agrees that more flexibility can be incorporated into the design, format, and placement of the registration card. The final rule includes the following changes:

1. *Size of form:* The form shall be two standard post cards connected with perforation for later separation. As defined by the United States Postal Service, the cards shall be at a minimum: 3-1/2 inches high by 5 inches long by 0.007 inch thick.
2. *Font size and typeface:* All the information on the card shall be printed in bold typeface, capital and lower cases, and no less than 10-point with one exception being the purpose statement. The title of the purpose statement shall be all capitals, bold, and at a minimum 12-point typeface. The purpose statement shall be at a minimum 12-point, bold typeface with capital and lower case type.

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3. *Purpose Statement:* Manufacturers that do not have a website may provide an email address and state at the end of the purpose statement: "To register your product, please complete and mail this card or email your contact information, the model name and number, and date of manufacture of the product as provided on this card to: name@firmname.com".
4. *Consumer Information:* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, mailing address, telephone number, and email address. The blocks shall be 5 mm wide and 7 mm high. Manufacturers should use as many blocks as possible to fill the width of the card, allowing for normal printing practices. Staff believes the use of blocks encourages consumers to print their information in a more legible format than free-style writing.

### 11. *Effective Date for Final Rule*

#### *Comments*

Three comments were received regarding the time for implementation. All three indicated that one year is needed to reasonably implement section 104 requirements. The commenters stated that with the increase in manufacturing overseas they companies needed more time to

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determine a method for collecting the registration card information and creating a database to store the information, as well as to identify how the registration cards will be inserted into the packaging for the covered products. They also expressed the need to coordinate the registration information with websites and internet access especially for companies that do not have a pre-existing infrastructure for consumer registration.

### *Response*

The Commission believes that six months from publication of the final rule is reasonable and adequate for implementation of the rule for the original 12 items listed in the NPR. The CPSIA was enacted more than 15 months ago and manufacturers have been on notice of the requirement for registration for these twelve items since enactment. Moreover, the Commission must provide a report to Congress on the effectiveness of the program not later than four years after the date of enactment. Manufacturers who produce the additional six items specified in the proposed final rule should have one year from publication of the final rule to implement the registration cards and database. It is possible that manufacturers who produce one or more of the original 12 items and one or more of the

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additional six items would be able to implement the process sooner than one year for the additional six items.

### *12. Retaining Registration Card Information*

#### *Comments*

The Commission received three comments regarding the retention of registration card information. The first commenter requested the CPSC clarify that the registration cards themselves do not have to be retained for six years, but rather the information on the card must be retained. The second comment suggested that consumer information for high quality cribs should be retained for no less than 10 years. The third commenter suggested that the CPSC should have the authority to require manufacturers to keep the information longer than six years if they have reason to believe a recall may be pending because of numerous consumer complaints about the product.

#### *Response*

Section 104(d)(3) of the CPSIA states that each manufacturer of a durable infant or toddler product shall maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered. Thus, the information, but not necessarily the registration form itself, must be

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retained. The same section states that each manufacturer shall maintain such a record for a period of not less than six years after the date of manufacture of the product. The Commission believes six years of data retention is adequate. This is the same record retention period as NHTSA has in its child restraint registration rule. If manufacturers want to keep the data for a longer period they have that option, but the Commission does not believe it is necessary to specify a longer time for certain products.

### 13. *Electronic/E-Mail Registration*

#### *Comment*

Ten comments were received regarding electronic/email registration. All comments favored allowing manufacturers to set up a registration page on their website for consumers to use instead of the registration card. Comments also favored allowing firms that do not have a website to provide for consumers to register through email. Some commenters suggested that for email registrations, clear and conspicuous instructions must be provided for the consumer to know what should be provided in the email to register and that an automatic reply should be sent to the consumer to confirm that the information was received.

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A number of the commenters requested flexibility in how they set up the page and requested that the CPSC not restrict navigation to other pages on the website. Several requested that an email address be required if a consumer registers on-line. One commenter suggested that registration pages be clearly separated from any product marketing sections of a company's website.

A commenter stated that the CPSC should not insist that each product come with a postage paid consumer registration form if both the retail outlet and the consumer will accept an alternative, non-intrusive and protected, method of electronic, web based registration instead.

One commenter supported allowing consumers to change or update their information on the internet. However, another commenter expressed concern that permitting an on-line "change of address" option for consumers could lead to the unintended deletion of properly registered consumers from the database.

### *Response*

The Commission agrees that allowing consumers to register their product via a company website or by providing an email for the consumer to send the required

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registration information may facilitate a larger response from consumers than just using the registration cards. The Commission believes that manufacturers should have flexibility in setting up their webpage but should clearly separate the registration page from any advertisement. By preventing additional information or advertising from appearing on the registration page, the benefits of a standardized registration form are maintained, helping to improve the rate of registration. Companies that do not have a website must provide an email address to allow consumers to email their registration information. These companies must set up an automatic reply so consumers can confirm that their registration information was received. Electronic/email registration does not replace the mandatory requirement stated in section 104(d)(1)(A) of the CPSIA that each manufacturer of a durable infant or toddler product must provide consumers with a postage-paid consumer registration form with each such product.

### *14. Other Issues*

#### *Comment*

One commenter suggested that the CPSC should consider carefully the penalties for violation of using the consumer

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information collected with the registration cards for some purpose other than the safety alert or recall.

### *Response*

The final rule includes a requirement that manufacturers not use the consumer registration information for any purpose other than notifying the consumer in the event of a recall or safety alert. Thus, if a manufacturer actually misuses the information, they would be violating a consumer product safety rule which is a prohibited act under section 19 of the CPSA and would subject the manufacturer to penalties under section 20 of the CPSA. Other federal and state laws governing consumer privacy may also be implicated by the inappropriate use of the information collected with the registration form which should also serve as a deterrent to such inappropriate use.

### **C. Description of the Final Rule**

The final rule is substantially the same as what the Commission proposed in June. The Commission has made some changes, mostly in response to comments on the proposed rule.

#### **1. Scope and Definitions - §§ 1130.1 & 1130.2**

The purpose section in 1130.1(a) remains the same as the proposal. In the scope section 1130.1(b), the NPR

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stated that child restraint systems covered by NHTSA registration program would not be subject to the Commission's registration rule. The final rule clarifies that the consumer product registration requirements would not apply to products that are part of a travel system which is covered by NHTSA's registration requirements for child restraint systems. Thus, for example, a stroller base that is sold with an infant carrier that is covered by NHTSA's registration program would not need a separate Commission registration form.

As discussed in section B of the preamble, the Commission is maintaining the 180-day effective date it had proposed for the 12 products listed in the CPSIA. Although the Commission received three comments requesting a longer effective date, the Commission believes that 180 days from publication of the final rule should be adequate for these products. The Commission also notes that the final rule provides more flexibility in the formatting of the registration forms and is more consistent with the NHTSA registration requirements. One of the comments requesting a longer effective date was submitted by a group of manufacturers who make child restraint systems for automobiles. These changes to the final rule should ease

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implementation. As discussed later in this preamble, the scope of the final rule will cover eighteen products specifically identified in the rule rather than all products that could fit within the narrative definition of "durable infant or toddler product." The effective date for the six additional products enumerated in the final rule will be one year from publication of the final rule.

The Commission is revising two definitions in section 1130.2. As mentioned, the final rule provides a list of the durable infant or toddler products covered by the rule. The CPSIA defines the term "durable infant or toddler product with a broad narrative definition - "a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years" - and then lists twelve specific examples. The proposal would have required registration for all durable infant or toddler products that fell within the narrative part of the statutory definition as well as the specific products listed. The preamble to the proposal attempted to give some guidance on what the Commission believed would fit within the narrative part of the definition. Numerous comments on the NPR observed that, even with this preamble discussion, it remained unclear what products would be

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covered by the registration requirement. After considering the comments, the Commission agrees that without a specific list of products it could be difficult for manufacturers to determine if their products are subject to registration.

The final rule defines "durable infant or toddler product" as the twelve specific products listed in the CPSIA definition and the six additional products that the NPR preamble specifically noted would be considered by the Commission staff to be durable infant or toddler products: children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant slings. Four of these products (children's folding chairs, changing tables, infant bouncers, and bed rails) are part of the Juvenile Products Manufacturers Association ("JPMA's") certification program, which certifies products to the applicable ASTM standards, as are the products specifically listed in the statutory definition. As noted in the NPR preamble, the Commission staff believes that these products are similar to other products specifically listed in the statutory definition. A changing table is similar to other nursery products, such as cribs and cradles, which are listed, and it is under the same ASTM subcommittee (F15.18) as cribs, toddler beds, play yards, bassinets and cradles.

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Bed rails are similar to "gates and other enclosures for confining a child," an enumerated category. Infant bath tubs are similar to bath seats, and some were at one time covered by the same ASTM standard as bath seats. Infant slings are similar to infant or child carriers which are explicitly covered. A voluntary standard for slings is currently under development. The Commission may add other products to the list in the future through notice and comment rulemaking.

As to definitions of each listed product, if there is a relevant mandatory Commission standard for the product, the definition in the Commission standard would govern. If there is no mandatory standard for the product, manufacturers should refer to the definition of the product in the appropriate voluntary standard.

The definition of "manufacturer" in the final rule differs from that in the proposal. The preamble to the NPR discussed that section 104(d) applies to "manufacturers" of durable infant or toddler products and that the definition of "manufacturer" in the Consumer Product Safety Act includes an importer. 15 U.S.C. 2052(a)(11). The NPR preamble requested comments concerning which party, the importer or a manufacturer should have the primary

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responsibility for the registration obligations mandated by section 104 of the CPSIA. As discussed further in section B of this preamble, the Commission received several comments concerning this issue. The Commission has decided to clarify in the definition of "manufacturer" that, for purposes of this rule, for a product produced within the United States, the "manufacturer" (and the party that is responsible for product registration) is the domestic manufacturer of the product. For a foreign-made product, for purposes of this rule, the "manufacturer" is the importer of the product.

As the preamble to the NPR discussed, the statutory provision does not require the retailer of a durable infant or toddler product to establish or maintain a registration program. The NPR preamble discussed the possibility of allowing other parties -- such as retailers, distributors or private labelers -- to establish and maintain a registration program or allowing a manufacturer and importer to arrange among themselves who would run the registration program. The Commission requested comments on this issue. One comment suggested allowing parties other than the manufacturer to contract with the manufacturer agreeing to undertake the responsibility for registration.

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The commenter suggested that the Commission could then release the manufacturer from liability, similar to the provision of guaranties that is permitted under the Flammable Fabric Act ("FFA"). The Commission has considered this suggestion. However, while the FFA explicitly provides for guaranties, no such statutory permission is given for such an arrangement under the CPSIA with regard to registration cards. Thus, the Commission believes that it must remain the obligation of the manufacturer of a durable infant or toddler product to ensure that the product complies with the registration requirements. While nothing prohibits a manufacturer from arranging for another party to undertake the registration program, the Commission will look to the manufacturer as the party that is ultimately responsible for compliance with the registration requirements under section 104 of the CPSIA and the requirements of this part.

The other definitions in this section remain the same as proposed.

### **2. General Requirements - § 1130.3**

The general requirements in section 1130.3 are primarily a restatement of the statutory requirements in section 104(d)(1) and (3) of the CPSIA and remain unchanged

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from the proposal. The section requires each manufacturer of a durable infant or toddler product to provide consumers with a postage-paid consumer registration form with each product; maintain a record of the contact information of consumers who register their products with the manufacturer; and permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. This section also prohibits the manufacturer from using or disseminating the consumer information collected under these requirements to any other party for any purpose other than notification of the consumer in the event of a product recall or safety alert.

### **3. Manufacturer and Product Identification on the Product - § 1130.4**

Section 104(d)(1)(C) of the CPSIA requires the manufacturer to permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product. As in the proposal, section 1130.4 repeats this statutory requirement and specifies that the required information must be in English, legible, and in a location on the product that is conspicuous to the consumer. In

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response to comments, the final rule adds several clarifications to this section. If a manufacturer regularly uses only a model name or only a model number, it is not necessary to create a model name or number solely in order to comply with the registration requirement. Similarly, if a manufacturer uses a product identification number ("PIN") or other identification number rather than a model number, he/she may use that number to identify the product on the registration card. This section of the final rule makes these clarifications. This section further clarifies that the date to be marked on the product shall include the month and year of manufacture, and that it is permissible to state the date in code.

Some comments asked about the requirement that the marking be permanent. To clarify this requirement, the Commission is adding a provision explaining that a permanent mark is one that can reasonably be expected to remain on the product during the useful life of the product. Thus, an adhesive label could be used, so long as it meets this requirement. This is consistent with the Commission's guidance on the tracking label provision in section 103 of the CPSIA.

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The NPR preamble discussed that section 103 of the CPSIA requires that all children's products must have permanently marked on the product certain identifying information (the manufacturer or private labeler, location and date of production and cohort information), sometimes called tracking labels. The marking requirements in section 104 and in section 103 are similar, but not identical. The NPR preamble asked for comments on the interplay between these two marking provisions.

Although some commenters requested that one marking suffice for the other, the Commission believes that the statute requires that manufacturers of durable infant or toddler products comply with the marking requirements of both section 103 and section 104. The Commission does believe, however, that all of the information could be combined and marked on the same location on the product. Such a marking would need: the name of the manufacturer, contact information, location and date of manufacture, model name and number, and batch or run number (or other identifying characteristic). A new subsection (c) in section 1130.4 explains that the product identification required under this section may be combined with other information on the product.

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### **4. Requirements for Registration Forms - § 1130.5**

Section 1130.5 remains unchanged from the proposal. With the exception of requiring compliance with particular text and format specifications and requiring that information be in English, the requirements for registration forms stated in this section are explicitly directed by section 104(d)(2) of the CPSIA. This section requires registration forms to:

- comply with specified text and format requirements;
- state all information in English;
- be attached to the surface of each durable infant or toddler product so that the consumer must notice and handle the form after purchasing the product;
- include the manufacturer's name, model name and number for the product and the date of manufacture;
- include an option to register using the internet;
- and
- include a statement that information the consumer provides will only be used to facilitate a recall or safety alert.

### **5. Format Requirements - § 1130.6**

Section 1130.6 prescribes the registration form's size and layout. It is substantially the same as proposed. The

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changes reflect some clarifications and also some greater flexibility. Section 1130.6(a) establishes the size of the form. This section of the final rule now sets a minimum size for the registration forms rather than requiring that they must be a specified size. The form must be at least the size of two standard post cards connected together with a perforated line so that the portions can be separated. Each of the two portions must be at least 3 ½ inches high by 5 inches wide by 0.007 inches thick. This is the measurement the Postal Service specifies for a standard post card. It is also same measurement that NHTSA's child restraint registration requirements establish as a minimum for its registration forms. The proposal did not specify a thickness for the forms. However, since both the Postal Service and the NHTSA child restraint registration requirements specify the thickness of a standard post card, the final rule clarifies this and specifies a thickness. The Commission believes that requiring a minimum size will allow some flexibility and allow for minimal variations in production but will still provide for uniformity.

Requirements for the layout of the top of the form, which provides the purpose statement and the manufacturer's contact information, remain unchanged from the proposal.

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Section 1130.6(b)(3) prescribes the format for the bottom of the form. This section now explicitly states that the registration form must be postage paid. This is a requirement stated in the CPSIA and also stated elsewhere in the rule. For the sake of clarity, that requirement is also stated in this section (it was not stated in this section in the NPR).

Proposed section 1130.6(c) required that the registration form use Arial Black typeface. In order to allow more flexibility, the final rule does not specify a particular typeface. It does, however, require that the type be in bold, black type. The type size requirement remains unchanged from the proposal (at least 12-point for the purpose statement and no less than 10-point for all other information on the form). The final rule also specifies that the title of the purpose statement must be in all capitals, and the other information must be in capital and lower case type. This is a clarification because the illustration of the registration form in both the proposed and final rule shows capital and lower case letters in this way.

### **6. Text Requirements - § 1130.7**

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The final rule makes a few changes to the text requirements in the proposal, primarily to provide more flexibility. As in the proposal, the final rule requires a purpose statement explaining the purpose of the registration form. The final rule adds a sentence to the purpose statement for manufacturers to use if they do not have a website and instead provide an email address.

Requirements for the manufacturer and product information remain unchanged from the proposal. As for the consumer information, the proposed rule specified a certain number of blocks for the form to provide for consumers to supply their contact information. Some comments requested that the form not require any blocks. The Commission believes that providing blocks for consumers to write their contact information will likely make the information more legible. Therefore, the final rule continues to require blocks, but does not require any particular number of blocks. As in the proposal, the final rule requires that blocks for consumer information be 5 mm wide and 7 mm high. However, rather than requiring a particular number of blocks, the final rule requires only that the forms have as many blocks as possible to fill the width of the card while allowing for normal printing practices.

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Requirements for the product information portion of the registration form remain unchanged.

### **7. Requirements for Internet Registration or Alternative E-Mail Registration - § 1130.8**

Section 104(d)(2)(F) of the CPSIA requires that the registration form include the option of registering the product through the internet. Section 1130.8 of the final rule prescribes requirements for website registration: requiring a link to the registration page, a purpose statement, and certain requirements for the content of the registration page.

The final rule, like the proposal, restricts the website's registration page to only requesting the consumer's name, address, telephone number, email address, product name and number and the date of manufacture. The Commission specifically asked for comments on whether there is a need to restrict navigation to other pages or websites.

The final rule requires a few additional restrictions for websites than the proposal. The final rule prohibits on the electronic registration form any other information than identification of the manufacturer or a link to the manufacturer's home page, a field to confirm submission of

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the registration form, and a prompt to indicate any incomplete or invalid fields before the form is submitted. The final rule also states that accessing the registration form shall not cause additional screens or electronic banners to appear.

The Commission believes that these are minimal restrictions necessary to separate product registration from any other purposes of the website. These restrictions are very similar to those that NHSTSA states in its registration rule for child restraint systems.

As discussed in the NPR preamble, the Commission recognizes that some companies may not have a website, and such companies could allow customers to register their product by email. The final rule adds a subsection (d) to section 1130.8 to clearly state that providing registration through email is an alternative for manufacturers who do not have a website. The subsection also requires that the email address be set up so that the consumer will receive an automatic reply confirming receipt of the registration information. This should decrease the possibility of a consumer entering the same registration multiple times if he/she is uncertain whether the information was received.

### **8. Recordkeeping and Notification - § 1130.9**

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This section of the final rule remains unchanged from the proposal. In accordance with the CPSIA, section 1130.9 requires that each manufacturer of a durable infant or toddler product maintain a record of registrants for each product manufactured that includes all of the information provided by the consumer. The rule requires the manufacturer to use the information the consumer provides to notify the registrant if the product is the subject of a recall or safety alert. As the statute mandates, and as proposed, the final rule requires that the manufacturer maintain a record of the registration information for no less than 6 years after the date of manufacture of the product. Both the statute and the rule require that the information be maintained, but neither requires the manufacturer to retain the actual registration card itself.

### **D. Effective Date**

The Commission proposed that the rule would become effective 180 days after publication of the final rule in the *Federal Register*. As discussed in the previous sections of the preamble, the Commission received three comments expressing concern that this 6-month period would be too short and requesting one year instead. The final rule retains the 180-day effective date for the products

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specifically listed by example in the statutory definition of durable infant or toddler product: full-size cribs and nonfull-size cribs; toddler beds; high chairs, booster chairs, and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles. The Commission is providing a one-year effective date for the six products the final rule adds to the listed products: children's folding chairs, changing tables, bouncers, infant bath tubs, bed rails and infant slings. These six products were previously identified in the NPR preamble, but were not specifically listed in the text of the NPR. Therefore, the Commission is providing additional time for these products to comply with the registration requirements.

The rule will apply to products manufactured after the applicable effective date.

### **E. Regulatory Flexibility Analysis or Certification**

The Regulatory Flexibility Act ("RFA") generally requires that agencies review proposed rules for their potential economic impact on small entities, including small businesses. However, section 104(d)(1) of the CPSIA removes this requirement for promulgating the rule

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implementing the CPSIA's consumer registration provision. Consequently, no regulatory flexibility analysis or certification is necessary.

### **F. Paperwork Reduction Act**

Section 104(d)(1) of the CPSIA also excludes this rulemaking from requirements of the Paperwork Reduction Act, 44 U.S.C. sections 3501 through 3520. Consequently, no Paperwork Reduction Act analysis is necessary.

### **G. Environmental Considerations**

The Commission's regulations provide a categorical exemption for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement as they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This final rule falls within the categorical exemption.

### **List of Subjects in 16 CFR 1130**

Administrative practice and procedure, Business and industry, Consumer protection, Reporting and recordkeeping requirements.

Therefore, the Commission amends Title 16 of the Code of Federal Regulations by adding part 1130 to read as follows:

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### PART 1130 - REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

Sec.

1130.1 Purpose, scope and effective date.

1130.2 Definitions.

1130.3 General requirements.

1130.4 Identification on the product.

1130.5 Requirements for registration form.

1130.6 Requirements for format of registration form.

1130.7 Requirements for text of registration form.

1130.8 Requirements for internet registration.

1130.9 Recordkeeping and notification requirements.

**Authority:** 15 U.S.C. 2056a, 2065(b).

#### **§ 1130.1 Purpose, scope, and effective date.**

(a) *Purpose.* This part prescribes a consumer product safety rule establishing requirements for consumer registration of durable infant or toddler products. These requirements are intended to improve the effectiveness of recalls of, and safety alerts regarding, such products.

(b) *Scope.* Part 1130 applies to manufacturers, including importers, of durable infant or toddler products, as defined in § 1130.2(a). It does not apply to infant or child restraint systems intended for use in automobiles

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that are covered by the registration program of the National Highway Traffic and Safety Administration (NHTSA) at 49 CFR § 571.213, or to products that comprise a travel system, and are sold with a child restraint system that is covered by the NHTSA registration program at 49 CFR 571.213.

(c) *Effective date.* The requirements of this part 1130 shall become effective on **[insert date 180 days after publication in the *Federal Register*]** for the following products: full-size cribs and nonfull-size cribs; toddler beds; high chairs, booster chairs, and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles. The rule will become effective on **[insert date 1 year after publication in the *Federal Register*]** for the following products: children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant slings. The rule shall apply to durable infant or toddler products, as defined in § 1130.2(a), that are manufactured on or after that date.

**§ 1130.2 Definitions.**

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In addition to the definitions given in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply:

(a) *Durable infant or toddler product* means the following products, including combinations thereof:

- (1) full-size cribs and non-full-size cribs;
- (2) toddler beds;
- (3) high chairs, booster seats, and hook-on chairs;
- (4) bath seats;
- (5) gates and other enclosures for confining a child;
- (6) play yards;
- (7) stationary activity centers;
- (8) infant carriers;
- (9) strollers;
- (10) walkers;
- (11) swings; and
- (12) bassinets and cradles;
- (13) children's folding chairs;
- (14) changing tables;
- (15) infant bouncers;
- (16) infant bathtubs;
- (17) bed rails;
- (18) infant slings.

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(b) *Manufacturer*, for purposes of this part, in the case of a product produced within the United States, means the domestic manufacturer of the product, and in the case of an imported product, means the importer of the product.

(c) *Product recall* means action taken pursuant to sections 12, 15(c) or 15(d) of the CPSA (15 U.S.C. 2061, 2054(c), or 2064(d)), and action taken pursuant to a corrective action plan implemented by a company in cooperation with the Commission, where the firm is conducting one or more of the following: repair of the product; replacement of the product; or refund of the purchase price of the product.

(d) *Safety alert* means notice or warning of a potential problem with an individual or class of products so that consumers and other users of the affected products respond accordingly to reduce or eliminate the potential for injury.

### **§ 1130.3 General requirements.**

(a) Each manufacturer of a durable infant or toddler product shall:

(1) Provide consumers with a postage-paid consumer registration form that meets the requirements of this part 1130 with each such product;

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(2) Maintain a record in accordance with the requirements set forth in § 1130.9 of the contact information (names, addresses, email addresses, and telephone numbers) of consumers who register their products with the manufacturer under this part 1130;

(3) Permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product in accordance with the requirements set forth in § 1130.4.

(b) Consumer information collected by a manufacturer pursuant to the requirements of this part 1130 shall not be used by the manufacturer, nor disseminated by the manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

**§ 1130.4 Identification on the product.**

(a) Each durable infant or toddler product shall be permanently marked with the manufacturer name, and contact information (U.S. address and telephone number, toll free if available) model name and number, and date of manufacture.

(1) If the manufacturer regularly uses only a model name or a model number, but not both, to identify the

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product, he/she may provide only the model name or number rather than creating a model name or number for the sole purpose of this part 1130.

(2) If the manufacturer regularly identifies the product by a product identification number ("PIN") or other similar identifying number rather than a model number, he/she may provide that identifying number instead of a model number.

(3) The date referred to in paragraph (a) of this section shall include the month and year of manufacture and can be stated in code.

(4) A permanent mark is one that can reasonably be expected to remain on the product during the useful life of the product.

(b) The information required by this section shall be in English, legible, and in a location that is conspicuous to the consumer.

(c) The information required by this section may be combined with other information marked on the product.

### **§ 1130.5 Requirements for registration forms.**

The registration form required under § 1130.3(a)(1) shall:

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(a) Comply with the format and text requirements set forth in §§ 1130.6 and 1130.7 as shown in figures 1 and 2 of this part;

(b) State all information required by this part 1130 in the English language;

(c) Be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(d) Include the manufacturer's name, model name and number for the product, and the date of manufacture;

(e) Include an option for consumers to register through the Internet;

(f) Include the statement required in § 1130.7(a) that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

### **§ 1130.6 Requirements for format of registration forms.**

(a) *Size of form.* The form shall be at least the size of two standard post cards connected with perforation for later separation, so that each of the two portions is at least 3 ½ inches high by 5 inches wide by 0.007 inches thick.

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(b) *Layout of form.* (1) *General.* The form shall consist of four parts: top and bottom, divided by perforations for easy separation, and front and back.

(2) *Top of form.* The top portion of the form is to be retained by the consumer. The front top portion shall provide the purpose statement set forth in § 1130.7(a). The back of the top portion shall provide the manufacturer's contact information as required in § 1130.7(b).

(3) *Bottom of form.* The bottom portion of the form is to be returned to the manufacturer. The bottom front panel shall have blocks for the consumer to provide his/her contact information as required in § 1130.7(c). Below the consumer contact information shall be product information as required in § 1130.7(d) which may be printed on the form or provided on a pre-printed label placed on the form by the manufacturer. The back of the bottom portion of the form shall be pre-addressed and postage-paid with the manufacturer's name and mailing address where registration information is to be collected.

(c) *Font size and typeface.* The registration form shall use bold black typeface. The size of the type shall be at least 12-point for the purpose statement required in

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§ 1130.7(a) and no less than 10-point for the other information in the registration form. The title of the purpose statement shall be in all capitals. All other information shall be in capital and lower case type.

### **§ 1130.7 Requirements for text of registration form.**

(a) *Purpose statement.* The front top portion of each form shall state: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL. We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail this card or visit our online registration at www.websitename.com." Manufacturers that do not have a website may provide an email address and state at the end of the purpose statement: "To register your product, please complete and mail this card or email your contact information, the model name and number and date of manufacture of the product as provided on this card to: name@firmname.com".

(b) *Manufacturer and product information.* The back of the top portion of the form shall state the manufacturer's name and contact information (a U.S. mailing address, a telephone number, toll free if available), website address,

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product model name and number, and manufacture date of the product.

(c) *Consumer information.* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, address, telephone number, and email address. These blocks shall be 5 mm wide and 7 mm high, with as many blocks as possible to fill the width of the card allowing for normal printing practices.

(d) *Product information.* The following product information shall be provided on the back of the bottom portion of the form below the blocks for customer information printed directly on the form or on a pre-printed label that is applied to the form: the manufacturer's name, the model name and number, and the date of manufacture of the product. A rectangular box shall be placed around the model name, model number and manufacture date.

### **§ 1130.8 Requirements for website registration or alternative email registration.**

(a) *Link to registration page.* The manufacturer's website, or other website established for the purpose of registration under this part 1130, shall be designed with a

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link clearly identified on the main web page that goes directly to "Product Registration."

(b) *Purpose statement.* The registration page shall have the following statement at the top of the page: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL ONLY. We will use the information provided on this page only to contact you if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. If you register on this website you do not need to fill out the card that came with your product."

(c) *Content of registration page.* The website registration page shall request only the consumer's name, address, telephone number, email address, product model name and number, and the date of manufacture. The consumer's telephone number and email address shall not be required for the consumer to submit the registration form. No other information shall appear on the electronic registration form, except for identification of the manufacturer or a link to the manufacturer's home page, a field to confirm submission, and a prompt to indicate any incomplete or invalid fields before submission. Accessing the electronic registration form shall not cause additional screens or electronic banners to appear.

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(d) *Alternative for manufacturers without a website.*

A manufacturer that lacks a website shall provide for consumers to register their product through email. Such email addresses shall be set up to provide an automatic reply to confirm receipt of the consumer's registration information.

### **§ 1130.9 Recordkeeping and notification requirements.**

(a) Each manufacturer of a durable infant or toddler product shall maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered.

(b) Each manufacturer of a durable infant or toddler product shall use the information provided by the registrant to notify the registrant in the event of a voluntary or involuntary recall of, or safety alert regarding, such product.

(c) Each manufacturer of a durable infant or toddler product shall maintain a record of the information provided by the registrant for a period of not less than 6 years after the date of manufacture of the product.

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FIGURE 1 TO PART 1130 - FRONT OF REGISTRATION CARD

[INSERT Figure 2]

FIGURE 2 TO PART 1130 - BACK OF REGISTRATION CARD

Dated: \_\_\_\_\_

\_\_\_\_\_  
Todd Stevenson, Secretary  
U.S. Consumer Product Safety Commission

**PRODUCT REGISTRATION FOR  
SAFETY ALERT OR RECALL ONLY**

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**We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail this card or visit our on-line registration at [www.websitename.com](http://www.websitename.com).**



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