



United States
CONSUMER PRODUCT SAFETY COMMISSION
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MEMORANDUM

DATE: April 13, 2012

TO : The Commission
Todd A. Stevenson, Secretary

THROUGH: Kenneth R. Hinson, Executive Director
Cheryl A. Falvey, General Counsel
Hyun Kim, Acting Assistant General Counsel

FROM : David M. DiMatteo, Attorney, OGC

SUBJECT: Draft Notice of Proposed Rulemaking (“NPR”) for Requirements Pertaining to
Third Party Conformity Assessment Bodies; Staff Recommended Revisions to
Draft 1112 NPR

The following two staff-recommended revisions are being submitted for Commission consideration:

1. Insertion of proposed draft language for a proposed NOR for the final rule for infant swings for inclusion in the 1112 NPR based upon the language for the proposed NOR for play yards at page 107 of the preamble of the NPR. As is the case for play yards, the Commission, quite possibly, could approve the final rule for infant swings before the 1112 rule is finalized. Therefore, we are recommending inclusion of a draft NOR for infant swings, as we have done for play yards, in order to avoid an additional rulemaking process in the future. The proposed draft NOR language would be inserted as a new paragraph after the paragraph discussing play yards at page 107 of the 1112 NPR. Corresponding changes to the codified text also would be made.

The proposed draft language reads as follows:

In the *Federal Register* of February 10, 2012, we published a proposed rule to establish a safety standard for infant swings. See 77 FR 7011, (February 10, 2012). The standard would be codified at 16 CFR part 1223. We are working on a final rule to establish a safety standard for infant swings and hope to issue it in the near future. Consequently, proposed § 1112.15(b)(8) would include 16 CFR part 1223 among the list of CPSC rules and/or test

methods for accreditation for third party conformity assessment bodies. If, however, the Commission does not issue a final rule to establish a safety standard for infant swings, we will revise § 1112.15(b) accordingly, as part of this rulemaking process.

2. On page 213 of the NPR, insert the word “firewalled” in front of the phrase “third party conformity assessment body” in the two places where it appears in the proposed amendment to 16 CFR §§ 1118.2(a)(1) and (2). The insertion of the word “firewalled” is necessary so that the language of the proposed revisions to 16 CFR § 1118.2 accurately reflects the language of sections 16(a)(1) and (2) of the CPSA. While the NPR is proposing that we use the investigation process contained in 16 CFR part 1118 for purposes of 1112 investigations and inspections, 16 CFR part 1118 is the regulation that implements the Commission inspection authority in section 16 of the CPSA and should be consistent with the underlying statutory language. Corresponding changes also would be made to the preamble.