



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
4330 East West Highway, Bethesda MD 20814

January 12, 2016

TRANSMITTED VIA EMAIL

Mr. Len Morrissey  
ASTM  
100 Barr Harbor Dr.  
West Conshohocken, PA 19428-2959

Re: Labeling for Upcoming CPSC Section 104 Rules

Dear Mr. Morrissey:

U.S. Consumer Product Safety Commission (“CPSC”) staff has been engaged for some time in ASTM International (“ASTM”) voluntary standard activities. CPSC staff also has been actively involved in the activities of the ASTM Ad Hoc Wording Task Group (“Ad Hoc TG”), whose stated mission is to develop uniform and consistent recommended language to be applied to similar portions of various ASTM voluntary standards. Staff appreciates the efforts of the Ad Hoc TG, but recent task group meetings suggest that there is still a lot of work left to be done by the task group in order to come to an agreement regarding what requirements should be recommended. To this end, CPSC staff would like to follow up on the views discussed previously in meetings and formally state its approach to evaluating the effectiveness of a product’s warning labels based on format, content, and placement requirements.

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) requires the Commission to promulgate consumer product safety standards for durable infant or toddler products that are substantially the same as applicable voluntary standards, or more stringent than such voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Thus, in the context of warning labels, the question considered by CPSC staff when examining and assessing an ASTM voluntary standard subject to rulemaking under section 104 of the CPSIA is not whether the current requirements are merely adequate, but rather, whether more stringent performance requirements and warning label requirements would further reduce the risk of injury. Staff will consider additional, more stringent content, placement, or format requirements for these products if we believe that such warning label requirements are appropriate, are supported by scientific

and technical literature, and would further reduce the risk of injury.

CPSC staff believes that for product hazards that cannot be effectively addressed through performance requirements, an effective warning label can further reduce the risk of injury associated with the product. When assessing the effectiveness of a product's warning label, CPSC staff considers additional factors beyond formatting, including whether the warning:

- is likely to capture the attention of the consumer;
- is likely to maintain the attention of the consumer;
- is likely to be understood, and to effectively communicate the hazards, consequences of exposure to the hazards, and appropriate steps that consumers should take to avoid the hazards;
- is consistent with consumers' prior beliefs and attitudes, or can influence those beliefs and attitudes; and
- is likely to motivate the desired behavior.

The effectiveness of a warning label, therefore, is dependent not only on the warning label format, but also on the content and placement of the warning label. For example, a warning label should be located where it is readily visible to the consumer in time for that consumer to respond in a way that will avoid the hazard. A warning label that is not visible when the hazard is present may not allow consumers to respond appropriately to avoid the hazard. A warning label that instructs consumers to take some precautionary behavior without also explaining the associated hazard or its consequences may lead consumers to believe that the recommended behavior is not relevant to them or is unlikely to lead to serious injury. Warning label content, format, and placement all play an important role in improving the likelihood that consumers will take appropriate action to avoid those hazards that cannot be prevented through performance requirements.

Staff is committed to continuing our work with the Ad Hoc TG and the individual voluntary standards subcommittees to develop the respective voluntary standards effective warning labels, based on their format, content and placement. As part of any Commission-directed rulemaking, staff will also be evaluating warning labels in the voluntary standards as part of the overall assessment of the voluntary standard and recommending whether more stringent standards would further reduce the risk of injury associated with the following products:

- 1) **ASTM F3118 *Standard Consumer Safety Specification for Infant Inclined Sleep Products***: Staff's recommendations were first shared with the infant inclined sleep products subcommittee chair in an email dated August 28, 2015. On September 22, 2015, that task group met and discussed the recommendations. The same recommendations were also discussed during the October 5, 2015, infant inclined sleep

products subcommittee meeting. The infant inclined sleep products task group met again on December 14, 2015, and decided not to ballot any of the warning label recommendations until hearing the Ad Hoc recommendations. At this time, staff's briefing package, outlining all of our recommendations for infant inclined sleep products is scheduled to be presented to the Commission in spring of 2016.

- 2) **ASTM F1004 *Standard Consumer Safety Specification for Expansion Gates and Expandable Enclosures***: Staff's recommendations were first shared with the gates and enclosures subcommittee chair in an email dated July 27, 2015. On July 30, 2015 the gates warnings and labeling task group met and discussed staff's recommendations for changing the warning/labeling requirements for F1004. In response to task group input, staff made modifications to the recommendations, and these were forwarded to the subcommittee chair before the October 2015 subcommittee meeting, where the revisions were briefly discussed. To date, the subcommittee has not balloted the recommendations. At this time, staff's briefing package, outlining all of our recommendations for gates and enclosures, is scheduled to be presented to the Commission in late spring 2016.
- 3) **ASTM F2012 *Standard Consumer Safety Specification for Stationary Activity Centers***: Staff's specific recommendations for stationary activity centers will be shared with the ASTM subcommittee when staff finalizes our recommendations. At this time, staff's briefing package, outlining all of our recommendations for stationary activity centers, is scheduled to be presented to the Commission in the fall of 2016.
- 4) **ASTM F2388 *Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use***: Staff's recommendations were first shared with the changing table subcommittee chair at the October 7, 2015 ASTM meeting at which time a task group was formed to address these topics. To date, the task group has not met for any further discussion. At this time, staff's briefing package, outlining all of our recommendations for changing tables, is scheduled to be presented to the Commission mid-summer 2016.
- 5) **ASTM F2640 *Standard Consumer Safety Specification for Booster Seats***: Staff requested convening a task group to discuss warnings/instructions during a booster seat subcommittee meeting on October 8, 2015. Staff shared their specific recommendations with the subcommittee chair in an email dated October 21, 2015. The booster seats task group met on November 17, 2015, and the task group decided not to ballot any of the warning label recommendations until hearing the Ad Hoc recommendations. At this time, staff's briefing package outlining all of our recommendations for booster seats is scheduled to be presented to the Commission in fall 2016.

Staff will be attending the upcoming January 2016 meetings, and we welcome any additional task group or subcommittee comments regarding these recommendations.

Thank you for your consideration.

Sincerely,

Patricia L. Edwards  
Program Manager, CPSIA Section 104 Rulemaking

cc: Mr. Jon Robinson, ASTM Subcommittee Chairman for Gates and Enclosures  
Ms. Rachel Shagott, ASTM Subcommittee Chairman for Changing Tables  
Mr. Don Huber, ASTM Subcommittee Chairman for Stationary Activity Centers  
Mr. Tony Paolo, Subcommittee Chairman for ASTM Booster Seats  
Mr. Mike Steinwachs, Subcommittee Chairman for ASTM Infant Inclined Sleep Products  
Scott Heh, Acting CPSC Voluntary Standards Coordinator