



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

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BALLOT VOTE SHEET

Date: March 11, 2020

TO : The Commission
 Alberta E. Mills, Secretary

THROUGH: John G. Mullan, General Counsel
 Mary T. Boyle, Executive Director

FROM : Hyun S. Kim, Acting Assistant General Counsel
 David M. DiMatteo, Attorney

SUBJECT : ASTM’s Revisions to Safety Standard for Children’s Folding Chairs and Stools

BALLOT VOTE DATE: Tuesday, March 17, 2020

Staff is forwarding to the Commission for consideration a briefing memorandum recommending that the Commission issue a direct final rule updating the reference to the ASTM standard cited in the Commission’s rule for children’s folding chairs and stools, 16 CFR part 1232. Under the Consumer Product Safety Improvement Act of 2008, revised voluntary standards automatically are considered consumer product safety standards, unless the Commission determines and notifies the voluntary standards organization that the revised voluntary standard “does not improve the safety of the consumer product.” Staff recommends that the Commission allow the revised ASTM F2613-19, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, to become the CPSC-mandated standard for children’s folding chairs and stools, and publish a direct final rule that updates the reference in CPSC’s safety standard for children’s folding chairs and stools to refer to the revised ASTM standard for those products. A draft *Federal Register* notice for that purpose is attached.

Please indicate your vote on the following options:

- I. Approve publication of the attached document in the *Federal Register*, as drafted.

 (Signature)

 (Date)

II. Approve publication of the attached document in the *Federal Register*, with the specified changes.

(Signature)

(Date)

III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)

IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* notice, titled, “Revisions to Safety Standard for Children’s Folding Chairs and Stools”

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2015-0029]

16 CFR Part 1232

Revisions to Safety Standard for Children’s Folding Chairs and Stools

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In December 2017, the U.S. Consumer Product Safety Commission (CPSC) issued a consumer product safety standard for children’s folding chairs and stools. The standard incorporated by reference the applicable ASTM voluntary standard. We are publishing this direct final rule revising the CPSC’s mandatory standard for children’s folding chairs and stools to incorporate by reference the most recent version of the applicable ASTM standard.

DATES: The rule is effective on July 6, 2020, unless we receive significant adverse comment by **[insert date 30 days after publication in the FEDERAL REGISTER]**. If we receive timely significant adverse comments, we will publish notification in the *Federal Register*, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of July 6, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2015-0029, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for

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submitting comments. The CPSC does not accept comments submitted by electronic mail (e-mail), except through <https://www.regulations.gov>. The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2015-0029, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408; telephone: 301-504-6820; email: kwalker@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1)(B) of the Consumer Product Safety Improvement Act (CPSIA), also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires these standards to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC’s durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

2. The Children’s Folding Chair and Stool Standard

On December 15, 2017, the Commission published a final rule issuing a mandatory standard for children’s folding chairs and stools that incorporated by reference the standard in effect at that time, ASTM F2613-17a, *Standard Consumer Specification for Children’s Chairs and Stools*. 82 FR 59505. The ASTM standard for children’s folding chairs and stools, ASTM F2613, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, applies to children’s folding chairs and stools with a seat height of 15 inches or less, and equipped with or without a rocking base. These chairs are intended to be used by a single child who can get in and out of the product unassisted. The standard was codified in the Commission’s regulations at 16 CFR part 1232. Since publication of ASTM F2613–17a, the current mandatory standard, ASTM has published one revision to ASTM F2613. ASTM F2613–19 was approved and published in November 2019. ASTM officially notified the Commission of this revision on January 6, 2020. The rule is incorporating ASTM F2613–19 as the mandatory standard.

B. Revisions to the ASTM Standard

Under section 104(b)(4)(B) of the CPSIA, unless the Commission determines that ASTM’s revision of a voluntary standard that is a CPSC mandatory standard “does not improve the safety of the consumer product covered by the standard,” the revised voluntary standard becomes the new mandatory standard. As discussed below, the Commission determines that the changes made in ASTM F2613–19 are neutral or improve the safety of children’s folding chairs and stools. Therefore, the Commission will allow the revised voluntary standard to become effective as a mandatory consumer product safety standard under the statute, effective July 6, 2020.

Differences between 16 CFR part 1232 and ASTM F2613-19

In November 2019, ASTM revised ASTM F2613-17a. The resulting standard, ASTM F2613-19, includes the changes below:

Non-substantive changes

Several changes were minor and editorial and do not affect the safety of children’s folding chairs and stools. Specifically, sections 5.7 and 5.8 removed duplicative language such as “when folded” and “when being folded,” and clarified words to add “comply with” instead of “meet.” The Latching and Locking Mechanisms sections under section 5.8.1 were restructured to improve clarity and organization. All of these changes are explanatory or editorial in nature and non-substantive. The Commission finds that all of the non-substantive changes made in ASTM F2613-19 are neutral regarding safety and do not affect the safety of children’s folding chairs and stools.

Substantive change

There is one substantive change in ASTM F2613–19 concerning the requirement that products without latching or locking mechanisms have adequate clearance to protect fingers, hands and toes from crushing, laceration or pinching hazards.

The original ASTM F2613-17a sections 5.8.2 and 5.8.2.1 provided that if products without latching or locking mechanisms had an accessible gap at the hinge line that could “admit a 3/16-in. (5-mm) diameter rod, it shall also admit a 1/2-in. (13-mm) diameter rod at all positions of the hinge.” In other words, products without locking or latching mechanisms could have gaps at the hinge line smaller than 3/16 inch or larger than 1/2 inch, but could not have gaps between 3/16 and 1/2 inch wide.

ASTM F2613–19 now simplifies this requirement by requiring that all products without latching and locking mechanisms must have a hinge gap greater than or equal to 1/2-inch. A minimum 1/2 inch gap will require that all hinge clearances must be large enough to prevent injury should a child insert their finger in the hinge gap. Thus, section 5.8.2 now requires that products without latching and locking mechanisms “shall be constructed such that a 1/2-in (13-mm) diameter rod can be admitted at all positions between any adjacent moving parts and between any moving part and an adjacent stationary part along the entire length of the clearance. The entire length of the clearance shall be assessed during folding and unfolding of the product.” In section 6.2, *Locking Test Method*, testing for the latching or locking mechanism would apply a force of 10 lbf (45 N) to the latching or locking mechanism in the direction tending to release it. CPSC staff concludes that ASTM F2613–19 section 5.8.2 is a simpler requirement that enhances safety compared to the original ASTM F2613-17a. Instead of the original ASTM F2613-17a standard which allowed for hinge gaps less than or equal to 3/16- inch and greater than or equal to 1/2-inch, the new standard simply prohibits hinge gaps less than a 1/2-inch. The Commission considers these changes an improvement to safety.

C. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

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In accordance with the OFR’s requirements, section A of this preamble summarizes the major provisions of the ASTM F2613-19 standard that the Commission incorporates by reference into 16 CFR part 1232. The standard is reasonably available to interested parties, and interested parties may purchase a copy of the standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; www.astm.org. A copy of the standard can also be inspected at CPSC’s Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923. In addition, once the rule becomes effective, a read-only copy of the standard will be available for viewing on the ASTM website at <https://www.astm.org/READINGLIBRARY/>.

D. Certification

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children’s products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because children’s folding chairs and stools are children’s products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA, the tracking label requirement in section 14(a)(5) of the CPSA, and the consumer registration form requirements in section 104(d) of the CPSIA.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission has previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing children’s folding chairs and stools (82 FR 59505, December 15, 2017). The NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing children’s folding chairs and stools to 16 CFR part 1232. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified at 16 CFR part 1112.

The section 5.8.2 revision in ASTM F2613-19 simplifies the minimum hinge gap size to 1/2-in. for all positions in a product without latching and locking mechanisms. This reduces the number of probes required to test compliance to the standard. Testing laboratories that are currently CPSC-accepted, have demonstrated competence for testing in accordance with ASTM F2613-17a, and will have the competence to conduct the testing to the new standard under the revised standard ASTM F2613-19. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM

F2613-17a to be capable of testing to ASTM F2613-19 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected in the normal course of renewing their accreditation to update the scope of the testing laboratories' accreditation to reflect the revised standard.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). The Commission concludes that when the Commission updates a reference to an ASTM standard that the Commission has incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference as a Commission standard for a durable infant or toddler product under section 104(b)(1)(b) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F2613-19 to become CPSC's new standard. The purpose of this direct final rule is merely to update the reference in the Code of Federal Regulations (CFR) so that it reflects accurately the version of the standard that takes effect by statute. The rule updates the reference in the

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CFR, but under the terms of the CPSIA, ASTM F2613-19 takes effect as the new CPSC standard for children’s folding chairs and stools, even if the Commission did not issue this rule. Thus, public comment will not impact the substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are not necessary. In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgating rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). ACUS recommended that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because we do not expect any significant adverse comments.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on July 6, 2020. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule’s underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change. As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute.

Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a

subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As explained, the Commission has determined that notice and comment are not necessary for this direct final rule. Thus, the RFA does not apply. We also note the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The standard for children’s folding chairs and stools contains information-collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The revisions made no changes to that section of the standard. Thus, the revisions will have no effect on the information-collection requirements related to the standard.

I. Environmental Considerations

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

exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

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

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standard organization revises a standard upon which a consumer product safety standard was based, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. The statutory effective date of 180 days falls on July 4, 2020, a legal holiday and a weekend. Therefore, the Commission is setting the effective date of the rule on the next business day, July, 6, 2020. As discussed in the preceding section, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on July 6, 2020.

L. The Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that, before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C.

801(a)(1). The submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.” Pursuant to the CRA, this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, the Office of the General Counsel will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1232

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys.

For the reasons stated above, the Commission amends Title 16 CFR chapter II as follows:

PART 1232 – SAFETY STANDARD FOR CHILDREN’S FOLDING CHAIRS AND STOOLS

1. Revise the authority citation for part 1232 to read as follows:

Authority: Sec. 104, Pub. L. 110-314, 122 Stat. 3016 (15 U.S.C. 2056a); Sec 3, Pub. L. 112-28, 125 Stat. 273.

2. Amend § 1232.2 by revising to read as follows:

§ 1232.2 Requirements for children’s folding chairs and stools.

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Each children’s folding chair and stool shall comply with all applicable provisions of ASTM F2613-19, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, approved on November 1, 2019. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; www.astm.org. A read-only copy of the standard is available for viewing on the ASTM website at <https://www.astm.org/READINGLIBRARY/>. You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Dated: _____

Alberta E. Mills, Secretary
U.S. Consumer Product Safety Commission



UNITED STATES
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Memorandum

March 11, 2020

TO : The Commission
Alberta E. Mills, Secretary

THROUGH: John G. Mullan, General Counsel

Mary T. Boyle, Executive Director

DeWane Ray, Deputy Executive Director for Safety Operations

FROM : Duane E. Boniface, Assistant Executive Director
Office of Hazard Identification and Reduction

Kevin K. Lee, Mechanical Engineer
Division of Mechanical and Combustion Engineering
Directorate for Engineering Sciences

SUBJECT : Notice of Revision to the Safety Standard for Children's Folding Chairs and
Stools (16 CFR part 1232)

I. INTRODUCTION

The Danny Keysar Child Product Safety Notification Act, section 104 of the CPSIA, instructs voluntary standards organizations, such as ASTM International (ASTM), to notify the U.S. Consumer Product Safety Commission (CPSC) of revisions to voluntary standards that are a basis for a consumer product safety standard promulgated by the Commission. CPSIA section 104(b)(4)(B) states:

COMMISSION ACTION ON REVISED VOLUNTARY STANDARD - If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the



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organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

ASTM F2613, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, applies to children’s folding chairs and stools with a seat height of 15 inches or less, and equipped with or without a rocking base. These chairs are intended to be used by a single child who can get in and out of the product unassisted.

On January 6, 2020, ASTM officially notified CPSC that it published a revised 2019 version of ASTM F2613 that affects the requirements for children’s folding chairs.

This memorandum outlines the differences between ASTM F2613-19 and 16 CFR part 1232. Staff recommends allowing this revision to be considered the new CPSC safety standard for children’s folding chairs. In addition, staff recommends issuing a direct final rule to incorporate by reference ASTM F2613-19 into the CPSC mandatory standard.

II. REVIEW/COMPARISON OF STANDARDS

ASTM published ASTM F2613-17a in October 2017. The Commission incorporated ASTM F2613-17a by reference in 16 CFR part 1232. On July 2019, the subcommittee chair submitted ballot F15 (19-09) item 24. This ballot restructured sections 5.7, 5.8, 5.8.1, 5.8.1.1, 5.8.1.2, 5.8.1.3, 5.8.2, and 5.8.2.1 to improve clarity, organization, rationale, and terminology consistency. In October 2019, ballot F15 (19-09) passed in Main Committee, resulting in ASTM publishing ASTM F2613-19 in December 2019. The specific changes are attached at Appendix A.

Non-Substantive changes

Several changes were minor and editorial and do not affect the safety of children’s folding chairs. Specifically, sections 5.7 and 5.8 removed duplicative language, such as “when folded,” and “when being folded,” and clarified words to add “comply with” instead of “meet.” The Latching and Locking Mechanisms sections under 5.8.1 were restructured to improve clarity and organization. All of these changes are explanatory or editorial in nature and non-substantive.



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Staff finds that all of the non-substantive changes made in ASTM F2613-19 are neutral and do not affect the safety of children's folding chairs. A substantive change related to locking and latching mechanisms is discussed below.

Substantive change

There is one substantive change in ASTM F2613–19 concerning the requirement that products without latching or locking mechanisms have adequate clearance to protect fingers, hands, and toes from crushing, laceration, or pinching hazards.

The original F2613-17a sections 5.8.2 and 5.8.2.1 provided that if products without latching or locking mechanisms had an accessible gap at the hinge line that could “admit a 3/16-in. (5-mm) diameter rod, it shall also admit a 1/2-in. (13-mm) diameter rod at all positions of the hinge.” In other words, products without locking or latching mechanisms could have gaps at the hinge line smaller than 3/16 inch or larger than 1/2 inch, but could not have gaps between 3/16 and 1/2 inch wide.

ASTM F2613–19 now simplifies this requirement by requiring that all products without latching and locking mechanisms must have a hinge gap greater than or equal to 1/2-inch. A minimum 1/2-inch gap will require that all hinge clearances must be large enough to prevent injury should a child insert their finger in the hinge gap. Thus, 5.8.2 now requires that products without latching and locking mechanisms “shall be constructed such that a 1/2-in (13-mm) diameter rod can be admitted at all positions between any adjacent moving parts and between any moving part and an adjacent stationary part along the entire length of the clearance. The entire length of the clearance shall be assessed during folding and unfolding of the product.” In Section 6.2 *Locking Test Method*, testing for the latching or locking mechanism would apply a force of 10 lbf (45 N) to the latching or locking mechanism in the direction tending to release it.

CPSC staff concludes that ASTM F2613–19 section 5.8.2 is a simpler requirement that enhances safety, compared to the original F2613-17a. Instead of the original F2613-17a standard, which allowed for hinge gaps less than or equal to 3/16- inch and greater than or equal to 1/2-inch, the new standard simply prohibits hinge gaps less than a 1/2-inch.

III. DISCUSSION

A. Staff's Assessment of the Revised Standards



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Under CPSIA section 104(b)(4)(B), unless the Commission determines that ASTM's revision to a voluntary standard that is referenced in a mandatory standard "does not improve the safety of the consumer product covered by the standard," the revised voluntary standard becomes the new mandatory standard. As detailed in the staff assessment above, the changes made in ASTM F2613-19 are neutral on safety for children's folding chairs and stools for the non-substantive changes and an improvement on safety for the substantive change. Therefore, staff recommends that the Commission allow the revised voluntary standard to become effective as the consumer product safety standard for children's folding chairs and stools, 16 CFR part 1232, pursuant to the statute.

B. *Effect of the Changes on Third Party Testing*

The notice of requirements (NOR), as set out in the final rule for children's folding chairs and stools, provides the criteria and process for the Commission's acceptance of accreditation of third party conformity assessment bodies for testing children's folding chairs and stools to 16 CFR part 1232 (which incorporated ASTM F2613-19). The NORs are listed in the Commission's rule, "Requirements Pertaining to Third Party Conformity Assessment Bodies" at 16 CFR part 1112.

As discussed above, the substantial revision in ASTM F2613-19 simplifies the minimum hinge gap size to 1/2-in. for all positions in a product without latching and locking mechanisms. This reduces the number of probes required to test compliance to the standard. Labs that are currently CPSC-accepted will have the competence to use the 1/2-in. probe that was used to test compliance to the previous version of the standard.

Staff recommends that the Commission consider the existing accreditations that CPSC accepted for testing to these standards to cover testing to the revised standard as well. If the Commission follows this recommendation, the existing NORs for these standards would remain in place, and CPSC-accepted third party conformity assessment bodies would be expected to update the scope of the testing laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation(s). If the Commission approves the draft direct final rule, CPSC staff will notify all CPSC-accepted laboratories by e-mail and will provide links to the *Federal Register* notice to explain the changes to the standard and the effective date.

C. *Effective Date*



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Section 104(b)(4) of the CPSIA provides that the revised standard will become effective 180 days after the date on which an organization notifies the Commission of the revision, unless the Commission notifies an organization that it determined that a proposed revision does not improve the safety of a consumer product covered by the standard (or the Commission specifies another date). Under this time frame, ASTM F2613-19 will become effective on July 4, 2020, unless the Commission specifies a later date. Staff does not believe that a longer effective date is necessary. JPMA typically allows 6 months for products in their certification program to shift to a new voluntary standard once that new voluntary standard is published. Therefore, juvenile product manufacturers are accustomed to adjusting to new voluntary standards within this time frame. ASTM F2613 – 19 was approved on November 1, 2019, published in December 2019, and staff believes that manufacturers should have complying products that meet this standard by July 2020. However, the statutory effective date of 180 days falls on July 4, 2020, a legal holiday and a weekend. Therefore, staff recommends the Commission set the effective date of the rule on the next business day, July 6, 2020.

IV. RECOMMENDATION

Staff recommends that the Commission allow the provisions regarding children's folding chairs and stools in ASTM F2613–19 to be considered a consumer product safety standard issued by the Commission for children's folding chairs and stools. Staff also recommends that the Commission issue a direct final rule to revise the references in 16 CFR parts 1232 to reflect the revisions. According to CPSIA section 104(b)(4)(B), unless the Commission notifies an organization that it determined that a proposed revision does not improve the safety of a consumer product covered by the standard and that the Commission is retaining the existing standard, the revised standard will become effective 180 days after the date on which an organization notifies the Commission of the revision. Staff recommends allowing this effective date, so that ASTM F2613–19 will become effective on July 6, 2020.



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

Memorandum



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Memorandum

Appendix A (Changes between F2613-17a and F2613-19):

The following are the changes between F2613-17a and F2613-19. Words with strikethroughs are deletions, while underlined words were added.

4.7 *Scissoring, Shearing, or Pinching (for folding chairs and folding stools only)*—~~Pinching~~—AThe product, when ~~folded, when being unfolded, or when~~ in the manufacturer's recommended use position, shall be designed and constructed to prevent injury to the occupant from any scissoring, shearing, or pinching when members or components rotate about a common axis or fastening point, slide, pivot, fold, or otherwise move relative to one another. Scissoring, shearing, or pinching that may cause injury ~~shall not be permissible~~ exists when the edges of the rigid parts admit a probe that is greater than 0.210 in. (5.30 mm) and less than 0.375 in. (9.50 mm) in diameter at any accessible point throughout the range of motion of such parts.

~~5.7.1 Products that fold and that are evaluated per the requirements of 5.8.1 shall be evaluated only when in the manufacturer's recommended use position(s).~~

5.8 *Products that Fold*—Products that fold shall ~~meet~~ comply with either 5.8.1 or 5.8.2. These requirements are intended to eliminate possible crushing, laceration, or pinching hazards that might occur in latching or locking mechanisms and hinges. Examples are the sudden collapse or unexpected motion of a latching or locking mechanism or hinge that produces a scissor action; and the changing clearances at the hinge line between two hinged portions, such that the gap will admit fingers at one position of the hinge but not at all positions.

5.8.1 *Latching and Locking Mechanisms:*

5.8.1.1 Products shall have a latching or locking mechanism or other means to prevent folding of the product.

5.8.1.2 Latching and locking mechanisms and other means to prevent folding of the product shall engage automatically when the product is placed in any manufacturer's recommended use position. Latching and locking mechanisms may be manually activated to allow placement of the product into the use position but must engage automatically when released. During and upon completion of the testing in 6.1, the unit shall remain in its recommended use position.

5.8.1.3 ~~Products~~ If the product is designed with a latching or locking mechanism must meet and locking mechanism that prevents unintentional folding, the latching and locking mechanism either 5.8.1.2 shall or have a double action release system or shall not release and remain operative when tested in accordance with 5.8.1.2 6.9(-2).

~~(1) Products shall be designed with a single action release mechanism that shall not release when tested in accordance with~~

~~6.2.~~

~~(2) Products shall be designed with a double action release mechanism. There are no force requirements for a double action release system.~~

5.8.1.4 No product shall give the appearance of being in any manufacturer's recommended use position unless the latching ~~or~~ and locking mechanism is fully engaged.

5.8.2 *Hinge Line Clearance*—~~Products without Latching and Locking Mechanisms~~—Products ~~shall have adequate clearance to~~ provide without latching and locking mechanisms shall be constructed such that a



Memorandum

~~1/2~~protection for the fingers, hands, and toes from crushing or laceration—in. (13-mm) diameter rod can be admitted at all positions between any adjacent moving parts and between any moving part and an adjacent stationary part along the entire length of the clearance, as shown in Fig. 1 the event of sudden movement or collapse of the. The entire length of the clearance shall be assessed during folding and unfolding the product.

5.8.2.1 Products having a gap or clearance along the hinge line between a stationary portion and a movable portion shall be so constructed that, if the accessible gap at the hinge line will admit a 3/16-in. (5-mm) diameter rod, it shall also admit a 1/2-in. (13-mm) diameter rod at all positions of the hinge. The hinge shall be evaluated along the entire length of the gap in all positions of the hinge.



FIG. 1 Examples of Evaluation Between Moving Parts and Between Moving and Stationary Parts

6.9 Latching and Locking Mechanism—With the product in the manufacturer’s recommended use position, gradually apply a force of 10 lbf (45 N) to the latching or locking mechanism in the direction tending to release it.