



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

This document has been electronically  
 approved and signed.

**BALLOT VOTE SHEET**

Date: April 15, 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 Hand-Held Infant Carriers

BALLOT VOTE DATE: Tuesday, April 21, 2020

Staff is forwarding to the Commission 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 hand-held infant carriers, 16 CFR part 1225. 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 F2050-19, *Standard Consumer Safety Specification for Hand-Held Infant Carriers*, to become the CPSC-mandated standard for hand-held infant carriers and publish a direct final rule that updates the reference in CPSC’s safety standard for hand-held infant carriers to refer to the revised ASTM standard for those products. A draft *Federal Register* notice for that purpose is attached. The draft notice will be sent to the *Federal Register* for publication after we receive approval of the incorporation by reference from the Office of the *Federal Register*.

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.

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

IV. Take other action specified below.

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft *Federal Register* notice, titled, "Revisions to Safety Standard for Hand-Held Infant Carriers"

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

**[Docket No. CPSC-2012-0068]**

**16 CFR Part 1225**

**Revisions to Safety Standard for Hand-Held Infant Carriers**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Direct final rule.

**SUMMARY:** In December 2013, the U.S. Consumer Product Safety Commission (CPSC) issued a consumer product safety standard for hand-held infant carriers. The standard incorporated by reference the applicable ASTM voluntary standard, with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard. We are publishing this direct final rule revising the CPSC's mandatory standard for hand-held infant carriers to incorporate by reference the most recent version of the applicable ASTM standard.

**DATES:** The rule is effective on August 3, 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 August 3, 2020.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2012-0068, by any of the following methods:

**Draft – April 15, 2020**

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for 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 Written 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) 504-7923.

*Instructions:* All submissions must include the agency name and docket number for this notice. CPSC may post all comments received 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-2012-0068, into the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Keysha L. 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](mailto: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 Hand-Held Infant Carriers Standard*

On December 6, 2013, the Commission published a final rule issuing a mandatory standard for hand-held infant carriers that incorporated by reference the standard in effect at that time, ASTM F2050-13a, *Standard Consumer Specification for Hand-Held Infant Carriers*, with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard. 78 FR 73415. The ASTM standard for hand-held infant carriers, ASTM F2050-19, *Standard Consumer Safety Specification for Hand-Held Infant Carriers*, applies to hand-held infant carriers that are rigid (*e.g.*, infant car seat removed from the car) or semi-rigid (*e.g.*, Moses baskets). A hand-held infant carrier seat often serves as an infant car seat and also can be used with strollers and travel systems. A hand-held bassinet/cradle includes products such as carriage baskets (removed from a stroller base) and Moses baskets (those with handles). The standard was codified in the Commission’s regulations at 16 CFR part 1225. Since publication of ASTM F2050–13a, the current mandatory standard, ASTM has published two revisions to ASTM F2050. ASTM did not notify CPSC of the first revision. The second revision, ASTM F2050–19 was approved on December 15, 2019, and published in January 2020. ASTM officially notified the Commission of this revision on February 5, 2020. The rule is incorporating ASTM F2050–19 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

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Commission determines that the changes made in ASTM F2050–16 and –19 are neutral or improve the safety of hand-held infant carriers. Therefore, the Commission will allow the ASTM F2050-19 to become effective as a mandatory consumer product safety standard under the statute, effective August 3, 2020.

### 1. Differences between 16 CFR part 1225 and ASTM F2050-16

On February 1, 2016, ASTM approved a revised version ASTM F2050 and published ASTM F2050–16, but ASTM did not notify CPSC of the revision. The 2016 revision contained several editorial non-substantive changes and one substantive change, as described below.

#### *Non-substantive changes*

Minor formatting changes were made to bring the standard into accord with ASTM form and style guidelines (*e.g.*, “5s” to “5 s”, punctuation at the end of a sentence, and removing a repeated word). We find that all of the non-substantive changes made in ASTM F2050–16 are editorial in nature, and therefore, are neutral regarding safety for hand-held infant carriers.

#### *Substantive change*

In section 8.3.2.1, hand-held bassinets/cradles were exempt from the requirement to display a “NEVER leave child unattended” warning message. Although we generally assesses exemptions as a reduction in safety, in the case of this warning message, the exemption is unlikely to reduce safety because it is targeted at bassinets and cradles that are intended for sleep. In such a case, the caregiver would be rightly expected to leave a sleeping child unattended in a bassinet. Therefore, we conclude this exemption is neutral regarding safety.

2. Differences Between 16 CFR part 1225 and ASTM F2050-19

In December 2019, ASTM revised ASTM F2050–19. These changes included non-substantive changes and one substantive change. The resulting standard is ASTM F2050–19, which was published in January 2020. The 2019 revision contained several editorial non-substantive changes and two substantive changes as described below.

Non-substantive changes

A number of minor and editorial changes were made throughout ASTM F2050–19 that do not affect the safety of hand-held infant carriers. These include:

- In section 1.7, “safety and health” was changed to “safety, health, and environmental.”
- Section 1.8 was added, stating that ASTM developed the standard in accordance with principles recognized by the World Trade Organization.
- Changes to unit expressions bring the standard into accordance with ASTM form and style guidelines. For example, the revision added a unit of measurement for each numerical value—“73 °F ± 9 °F.” instead of “73 ± 9 °F” and “minute” changed to “min.”
- Minor spelling changes (*e.g.*, “gage” to “gauge” in 7.4.2.1)
- Definition for acronyms added (*e.g.*, “EPS (expanded polystyrene), EPP (expanded polypropylene)” in note 3).

All of the non-substantive changes made in ASTM F2050–19 are editorial in nature and are neutral regarding safety for hand-held infant carriers.



Substantive changes

There are two substantive changes in ASTM F2050–19 that impact the safety of hand-held infant carriers, as described below.

- In section 3.1.3, the definition of “hand-held infant carrier” changed to include “semi-rigid.” This change harmonizes ASTM F2050 with the definition in 16 CFR part 1225, and is, therefore, an improvement in safety over the previous standard.
- In section 9.2.4.1, ASTM added a new warning icon and warning statement regarding the fall hazard with shopping cart use. Specifically, the message “Fall Hazard: The carrier can fall from the shopping cart. Do not use on shopping cart,” and a related icon must now appear in the instructional literature for a hand-held infant carrier. We conclude that this change is an improvement in safety because it alerts the caregiver to an additional hazard.

The two substantive changes made to ASTM F2050–19 improve the safety of hand-held infant carriers, and the non-substantive changes are neutral regarding safety.

In December 2013, the Commission incorporated by reference ASTM F2050–13a, with one modification in 16 CFR § 1225.2(b)(1) to the definition of “hand-held infant carrier” in section 3.1.3 of ASTM F2050-13a to clarify that semi-rigid carriers fall within the scope of the standard. The modification in 16 CFR § 1225.2(b)(1) is no longer necessary because ASTM F2050-19 includes semi-rigid products in the definition.

Therefore, the rule incorporates by reference ASTM F2050-19 and removes 16 CFR § 1225.2(b)(1).

**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).

In accordance with the OFR’s requirements, section A of this preamble summarizes the major provisions of the ASTM F2050-19 standard that the Commission incorporates by reference into 16 CFR part 1225. 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](http://www.astm.org). 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/>. 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.

**D. Certification**

Section 14(a) of the CPSA requires manufacturers of 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, to certify that the products comply 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 hand-held infant carriers are children’s products, a CPSC-accepted third party conformity assessment body must test samples of the products. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA<sup>1</sup>, the phthalates prohibitions in section 108 of the CPSIA and 16 CFR part 1307<sup>2</sup>, the tracking label requirement in section 14(a)(5) of the CPSA<sup>3</sup>, and the consumer registration form requirements in section 104(d) of the CPSIA.<sup>4</sup>

#### **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 portable bed rails (78 FR 73415, December 6, 2013). The NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing hand-held infant carriers to 16 CFR part 1225. The NORs for all mandatory standards for durable infant or toddler products

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<sup>1</sup> 15 U.S.C. 1278a.

<sup>2</sup> 15 U.S.C. 2057c.

<sup>3</sup> 15 U.S.C. 2063(a)(5).

<sup>4</sup> 15 U.S.C. 2056a(d).

are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified at 16 CFR part 1112.

None of the test methods have been changed in the revised standard ASTM F2050-19. Therefore, testing laboratories that are currently CPSC-accepted, have demonstrated competence for testing in accordance with ASTM F2050-13a, and will have the competence to source a new sheet and conduct the testing to the new standard under the revised standard ASTM F2050-19. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2050-13a to be capable of testing to ASTM F2050-19 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories’ accreditation to reflect the revised standard in the normal course of renewing their accreditation.

#### **F. Direct Final Rule Process**

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it. Section 553 of the APA provides an exception when the agency, “for good cause,” finds that notice and comment 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 under

**Draft – April 15, 2020**

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 F2050-19 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 CFR, but under the terms of the CPSIA, ASTM F2050-19 takes effect as the new CPSC standard for hand-held infant carriers, even if the Commission did not issue this rule. Thus, public comments would 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 rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). ACUS recommends 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 CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notice, the rule will become effective on August 3, 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.” 60 FR 43108, 43111. As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives 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 hand-held infant carriers 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 under that provision “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 that the Commission adopted as a mandatory standard, 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 Commission has not set a different effective date. Thus, in accordance with this provision, this rule takes effect 180 days after we received notification from ASTM of revision to this standard. 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 August 3, 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 1225**

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 1225 – SAFETY STANDARD FOR HAND-HELD INFANT CARRIERS**



**Draft – April 15, 2020**

1. Revise the authority citation for part 1225 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 § 1225.2 by revising to read as follows:

**§ 1225.2 Requirements for hand-held infant carriers.**

Each hand-held infant carrier must comply with all applicable provisions of ASTM F2050-19, *Standard Consumer Safety Specification for Hand-Held Infant Carriers*, approved on December 15, 2019. The Director of the Federal Register approves the incorporation by reference listed in this section 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](http://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](mailto:fedreg.legal@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

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

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



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

This document has been electronically  
approved and signed.

## Memorandum

April 15, 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  
  
Hope E J. Nesteruk, Children's Program Manager  
Division of Mechanical and Combustion Engineering  
Directorate for Engineering Sciences

SUBJECT : Notice of Revision to the Standard for Hand-Held Infant Carriers (16 CFR part 1225)

## 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 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 F2050, *Standard Consumer Safety Specification for Hand-Held Infant Carriers*, applies to hand-held infant carriers that are rigid (e.g., infant car seat removed from the car) or semi-rigid (e.g., moses baskets). A hand-held infant carrier seat often serves as an infant car seat and also can be used with strollers and travel systems. A hand-held bassinet/cradle includes products such as carriage baskets (removed from a stroller base) and Moses baskets (those with handles).

On February 5, 2020, ASTM officially notified CPSC that it published a revised 2019 version of ASTM F2050 that affects the requirements for hand-held infant carriers.

This memorandum outlines the differences between ASTM F2050 – 19, which also incorporates the change described below in ASTM F2050 – 16, and 16 CFR part 1225, which was based on ASTM F2050 – 13a, with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard. Staff recommends allowing this revision to be considered as the new CPSC safety standard for hand-held infant carriers. In addition, staff recommends issuing a direct final rule to incorporate by reference ASTM F2050 – 19 into the CPSC mandatory standard. The modification in 16 CFR § 1225.2(b)(1) to the definition of “hand-held infant carrier” in section 3.1.3 of ASTM F2050 – 13a is no longer necessary because the definition in ASTM F2050 – 19 is harmonized with section 16 CFR § 1225.2(b)(1) with respect to including semi-rigid products in the definition.

## **II. REVIEW/COMPARISON OF STANDARDS**

ASTM published ASTM F2050 – 13a in September 2013. The Commission incorporated ASTM F2050 – 13a by reference into 16 CFR part 1225, with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard in 16 CFR 1225.2(b)(1). On February 1, 2016, ASTM approved a revised version ASTM F2050 and published it as ASTM F2050 – 16, but did not notify CPSC of the revision. The 2016 revision contained several editorial, non-substantive changes, and one substantive change.

### *Non-substantive changes*

Minor formatting changes were made to bring the standard into accord with ASTM’s form and style guidelines (e.g., “5s” to “5 s,” punctuation at the end of a sentence, and removing a repeated word). Staff finds that all of the non-substantive changes made in

ASTM F2050 – 16 are neutral regarding safety for hand-held infant carriers because they are editorial in nature.

#### Substantive change

- In section 8.3.2.1, hand-held bassinets/cradles were exempt from the requirement to display a “NEVER leave child unattended” warning message. Although staff generally assesses exemptions as a reduction in safety, in the case of this warning message, the exemption is unlikely to reduce safety because it is targeted at bassinets and cradles that are intended for sleep. In such a case, the caregiver would be rightly expected to leave a sleeping child unattended in a bassinet. Therefore, staff concludes that this exemption is, in fact, neutral regarding safety.

In December 2019, ASTM revised ASTM F2050 – 16. Changes to the standard included non-substantive changes and one substantive change. The resulting standard, ASTM F2050 – 19, was published in January 2020. On February 5, 2020, ASTM notified CPSC that it published this revised version.

#### Non-substantive changes

A number of minor and editorial changes were made throughout ASTM F2050 – 19 that do not affect the safety of hand-held infant carriers. These include:

- In section 1.7, “safety and health” was changed to “safety, health, and environmental.”
- Section 1.8 was added, stating that ASTM developed the standard in accordance with principles recognized by the World Trade Organization.
- Changes to unit expressions bring the standard into accordance with ASTM form and style guidelines. For example, the revision added a unit of measurement for each numerical value—“73 °F ± 9 °F.” instead of “73 ± 9 °F” and “minute” changed to “min.”
- Minor spelling changes (*e.g.*, “gage” to “gauge” in section 7.4.2.1)
- Definition for acronyms added (*e.g.*, “EPS (expanded polystyrene), EPP (expanded polypropylene)” in note 3).

Staff finds that all of the non-substantive changes made in ASTM F2050 – 19 are neutral regarding safety for hand-held infant carriers because they are editorial in nature.

#### Substantive changes

There are two substantive changes in ASTM F2050 – 19 that impact the safety of hand-held infant carriers.

- In section 3.1.3, the definition of “hand-held infant carrier” was changed to include “semi-rigid” carriers within the standard. This change harmonizes ASTM 2050 with 16 CFR part 1225, which includes within the definition of “hand-held infant carrier” “semi-rigid” carriers, and therefore, is an improvement in safety.
- In section 9.2.4.1, ASTM added a new warning icon and warning statement regarding the fall hazard with shopping cart use. Specifically, the message “Fall Hazard: The carrier can fall from the shopping cart. Do not use on shopping cart,” and a related icon must now appear in the instructional literature for a hand-held infant carrier. Staff concludes that this change is an improvement in safety because it alerts the caregiver to an additional hazard not previously warned about.

### III. DISCUSSION

#### A. Staff's Assessment of the Revised Standards

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 to ASTM F2050 – 19 improve the safety of hand-held infant carriers for the substantive changes and are neutral for the non-substantive changes. Therefore, staff recommends that the Commission allow the revised voluntary standard to become the consumer product safety standard for hand-held infant carriers, 16 CFR part 1225, pursuant to the statute. Additionally, staff recommends removing the modification for semi-rigid carriers in 16 CFR § 1225.2(b)(1).

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

The notice of requirements (NOR), as set out in the final rule for hand-held infant carriers, provides the criteria and process for the Commission's acceptance of accreditation of third party conformity assessment bodies for testing hand-held infant carriers to 16 CFR part 1225 (which incorporated ASTM F2050 – 13a). The NORs for children's product safety rules are listed in the Commission's rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” at 16 CFR part 1112.

As discussed above, the changes are limited to the warning and instructional literature, with no changes to the test methods. Laboratories that are currently CPSC-accepted will have the competence to assess the existence of a warning statement and icon.

For these reasons, staff recommends that the Commission consider the existing accreditations that CPSC has 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*

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 has determined that a proposed revision does not improve the safety of a consumer product covered by the standard (or the Commission specifies another date). Therefore, ASTM F2050 – 19 would become effective on August 3, 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 F2050 – 19 was approved on December 15, 2019, published in January 2020. Of the three substantial changes, one was implemented in the 2016 voluntary standard and the second harmonized with the mandatory standard. The third change is to the instructional literature, which does not require product redesign, manufacturing retooling, or new test devices. It is, therefore, unlikely to be affected by the global COVID-19 pandemic. Staff believes that manufacturers should have no issue with making complying products that meet this standard by August 3, 2020.

## IV. RECOMMENDATION

Staff recommends that the Commission allow ASTM F2050 – 19 to be considered the consumer product safety standard issued by the Commission for hand-held infant carriers. Staff also recommends that the Commission issue a direct final rule to revise the reference in 16 CFR part 1225 to reflect ASTM F2050 - 19 and remove §1225(b)(1). Under section 104(b)(4)(B) of the CPSIA, unless the Commission notifies an organization that it has 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 ASTM F2050 – 19 to become effective on August 3, 2020.