



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

This document has been electronically approved and signed.

DATE: May 5, 2021

**BALLOT VOTE SHEET**

**TO:** The Commission  
 Alberta E. Mills, Secretary

**THROUGH:** Jennifer Sultan, Acting General Counsel  
 Mary T. Boyle, Executive Director

**FROM:** Daniel R. Vice, Acting Assistant General Counsel, Regulatory Affairs  
 David M. DiMatteo, Attorney, Regulatory Affairs

**SUBJECT:** ASTM’s Revised Safety Standard for Children’s Folding Chairs and Stools

**BALLOT VOTE DUE:** Tuesday, May 11, 2021

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 F2613-21, *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. The direct final rule would also amend references to 16 CFR parts 1112, 1130, and 1232, to be consistent with a revision to the title of the mandatory standard and to clarify that the standard applies to children’s folding chairs and children’s folding stools. A draft *Federal Register* notice for that purpose is attached. If approved by the Commission, we will send the notice 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 notice in the *Federal Register*, as drafted.

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

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

CPSC Hotline: 1-800-638-CPSC(2772) ★ CPSC's Web Site: <http://www.cpsc.gov>

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

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

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

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

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

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

IV. Take other action specified below.

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

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

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

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

**16 CFR Parts 1112, 1130, and 1232**

**[Docket No. CPSC-2015-0029]**

**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. The Consumer Product Safety Improvement Act (CPSIA) sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. Since 2017, ASTM has revised the voluntary standard for children’s folding chairs and stools twice. Consistent with the CPSIA update process, this direct final rule updates the mandatory standard for children’s folding chairs and stools to incorporate by reference ASTM’s 2021 version of the voluntary standard.

**DATES:** The rule is effective on August 21, 2021, 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 21, 2021.

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**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 submitting comments. The CPSC does not accept comments submitted by electronic mail (e-mail), except through <https://www.regulations.gov> and as described below. 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. Alternatively, as a temporary option during the COVID-19 pandemic, you can email such submissions to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions received must include the agency name and docket number for this notice. CPSC may post all comments 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](mailto:kwalker@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

*1. Statutory Authority*

Section 104(b)(1)(B) of the 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 (CPSA) (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. *ASTM Standard for Children's Chairs and Stools*

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 voluntary standard in effect at that time, ASTM F2613-17a, *Standard Consumer Safety 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 original mandatory standard, ASTM has published two revisions to ASTM F2613. ASTM F2613-19 was approved and published in November 2019. On April 1, 2020, the Commission issued a direct final rule updating the incorporation by reference to ASTM F2613-19 as the mandatory standard. 85 FR 18111. In February 2021, ASTM approved and published ASTM F2613-21. ASTM officially notified the Commission of this revision on February 22, 2021. The rule is incorporating by reference ASTM F2613-21 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 F2613–21 are neutral or improve the safety of children’s folding chairs and stools. Therefore, the Commission will allow the revised voluntary standard ASTM F2613-21 to become effective as a mandatory consumer product safety standard under the statute, effective August 21, 2021.

*Differences between 16 CFR part 1232 and ASTM F2613-21*

In February 2021, ASTM revised ASTM F2613-19. The resulting standard, ASTM F2613-21, includes the following changes:

Substantive change

ASTM F2613-21 makes one substantive change to the standard, by updating the definition of “stools” in the standard to include ottomans. The Commission finds the substantive change made in ASTM F2613-21 to be an improvement to safety, because it clarifies the standard’s scope to include ottomans, a product previously not clearly subject to the mandatory standard.

Non-substantive changes

Other changes to the standard were minor or editorial in nature, as described below:

- Clarification that infant/toddler rockers are not included within the scope of the standard, because infant/toddler rockers are subject to a different voluntary

standard, ASTM F3084-20, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*.

- Removal of a previous version of a locking test method that is no longer referenced in ASTM F2613-21. The ASTM F2613-21 standard contains the current latching and locking test method that is similar to a previous version of a locking test method. Although removal of the previous version of the test method was included on an ASTM ballot when ASTM published F2613–19, the previous locking test method was inadvertently retained in the test method section of the standard. There are no performance requirements associated with the previous locking testing method, and the test method is not currently being used for testing products to the standard. Therefore, ASTM F2613– 21 removed this unused test method.

The Commission finds that all of the non-substantive changes in ASTM F2613-21 are editorial in nature, and therefore, are neutral regarding safety, and thus, do not affect the safety of children’s folding chairs and stools.

### **C. Revisions to Parts 1112, 1130, and 1232**

CPSC has received an inquiry from a testing laboratory regarding whether 16 CFR part 1232 was intended to apply to non-folding stools, because the title of the Part did not specifically state it applied to “folding chairs and folding stools.” Previous discussions in the preambles of the NPR (80 FR 63155, October 19, 2015) and the final rule (82 FR 59505, December 15, 2017) for the folding chairs and stools standard clearly indicated that folding stools fell within the scope of the mandatory standard. To avoid any misinterpretation regarding the scope of the standard, the Commission is amending

the title of the rule to read “Safety standard for children’s folding chairs and children’s folding stools,” and likewise, amending the title of the requirements in section 1232.2 to read “Requirements for children’s folding chairs and children’s folding stools,” to remove any ambiguity regarding whether the standard applies to children’s folding stools versus non-folding stools. The rule also amends section 1232.1 regarding scope, to state that it establishes a standard for “children’s folding chairs and children’s folding stools.” For consistency, the rule makes the corresponding amendment to the notice of requirements listed in section 1112.15(b)(43) of 16 CFR part 1112 to read: “16 CFR part 1232, Safety Standard for Children’s Folding Chairs and Children’s Folding Stools.” The rule also makes the corresponding amendment to the definition in section 1130.2(a)(13) of 16 CFR part 1130 to read: “Children’s folding chairs and children’s folding stools.”

**D. Incorporation by Reference**

Section 1232.2 of the direct final rule incorporates by reference ASTM F2613-21. 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 F2613-21 standard that the Commission incorporates by reference into 16 CFR part 1232. The standard is reasonably available to interested parties, and interested parties can purchase a copy of ASTM F2613-21 from

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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). Additionally, until the direct final rule takes effect, a read-only copy of ASTM F2613-21 is available for viewing on ASTM's website at: <https://www.astm.org/CPSC.htm>. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

**E. 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.

**F. Notice of Requirements**

In accordance with section 14(a)(3)(B)(vi) of the CPSA, 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.

None of the changes to ASTM F2613-21 would impact a CPSC accepted laboratory’s competence to be able to conduct testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2613-19 to be competent to conduct testing to ASTM F2613-21 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.

**G. 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 F2613-21 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 CPSIA, ASTM F2613-21 takes effect as the new CPSC standard for children’s folding chairs and children’s folding stools, even if the Commission did not issue this rule. Additionally, the title and text of part 1232 is revised to clarify the scope of the standard regarding children’s folding stools, with corresponding revisions to the

references in parts 1112 and 1130 for consistency. 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 August 21, 2021. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be one in which 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 and corresponding changes to part 1232 and two other parts for consistency and clarity.

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.

#### **H. 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.

#### **I. 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 to the standard 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.

#### **J. 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). This rule falls within the categorical

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

**K. 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 to be “consumer product safety standards.” 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.

**L. 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 Commission is taking neither of those actions with respect to the standard for children’s folding chairs and stools. Therefore, ASTM F2613-21 will automatically take effect as the new mandatory standard for children’s folding chairs and stools on August 21, 2021, which is 180 days after the Commission received notice of the revision on February 22, 2021.

**M. 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**

**16 CFR Part 1112**

Consumer protection, Incorporation by reference, Third party conformity assessment body requirements, Audit.

**16 CFR Part 1130**

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

**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 1112 – REQUIREMENTS PERTAINING TO THIRD PARTY  
CONFORMITY ASSESSMENT BODIES**

1. The authority citation for part 1112 continues to read as follows:

**Authority:** 15 U.S.C. 2063; Pub. L. 110-314, section 3, 122 Stat. 3016, 3017  
(2008).

2. Amend Part 1112.15 by revising paragraph (b)(43) to read as follows:

**§ 1112.15 When can a third party conformity assessment body apply for CPSC  
acceptance for a particular CPSC rule or test method?**

\* \* \* \* \*

(b) (43) 16 CFR part 1232, Safety Standard for Children’s Folding Chairs and  
Children’s Folding Stools.

\* \* \* \* \*

**PART 1130 – REQUIREMENTS FOR CONSUMER REGISTRATION OF  
DURABLE INFANT OR TODDLER PRODUCTS**

3. The authority citation for part 1130 continues to read as follows:

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

4. Amend Part 1130.2 by revising paragraph (a)(13) to read as follows:

**§ 1130.2 Definitions.**

\* \* \* \* \*

(a) (13) Children’s folding chairs and children’s folding stools;

\* \* \* \* \*

5. The authority citation for part 1232 continues 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.

6. Amend Part 1232 by revising to read as follows:

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

Sec.

1232.1 Scope.

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

7. Amend § 1232.1 by revising to read as follows:

**§ 1232.1 Scope**

This part establishes a consumer product safety standard for children’s folding chairs and children’s folding stools.

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

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

Each children’s folding chair and children’s folding stool shall comply with all applicable provisions of ASTM F2613-21, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, approved on February 1, 2021. 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, P.O. 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

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<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 301-504-7479, email: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov), 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

May 5, 2021

TO : The Commission  
Alberta E. Mills, Secretary

THROUGH: Jennifer Sultan, Acting 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 : Consumer Product Safety Improvement Act of 2008 (CPSIA), as revised by  
Pub. L. No. 112-28 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 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.*

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*. Since publication of ASTM F2613-17a, ASTM has published two revisions to ASTM F2613 in 2019 and 2021. On April 1, 2020, the Commission published a revision to the final rule in response to the updated F2613 standard in 2019. This revision referenced the updated F2613-19 standard. ASTM F2613-19, *Standard Consumer Safety Specification for Children's Chairs and Stools*, applies to children's folding chairs and stools intended to be used by a single child who can get in and out of the product unassisted and with a seat height of 15 inches or less, with or without a rocking base.

On February 22, 2021, ASTM notified CPSC that it published a revised 2021 version of ASTM F2613 that affects the requirements for children's folding chairs and stools.

This memorandum outlines the differences between ASTM F2613-21 and ASTM F2613-19, which is incorporated into 16 CFR part 1232. Staff recommends that the Commission issue a direct final rule to incorporate by reference ASTM F2613-21 in the CPSC mandatory standard at 16 CFR part 1232, update the title of part 1232 from "children's folding chairs and stools" to "children's folding chairs and children's folding stools" to reduce confusion, and to update references in 16 CFR parts 1112 and 1130 from "children's folding chairs and stools" to "children's folding chairs and children's folding stools," for consistency.

## **II. ANALYSIS AND COMPARISON OF STANDARDS:**

ASTM published the previous version of the ASTM F2613 standard in December 2019. The Commission incorporated by reference ASTM F2613-19 into 16 CFR part 1232, on April 1, 2020 85 FR 18114. In February 2021, ASTM made minor revisions to ASTM F2613-19 and published ASTM F2613-21. ASTM F2613-21 included one substantive change and two non-substantive changes:

### *A. Substantive change in ASTM F2613-21:*

ASTM F2613-21 makes one substantive change to the standard by updating the definition of "stools" in the standard to include ottomans.

CPSC staff finds the substantive change made in ASTM F2613-21 to be an improvement to safety because it clarifies the standard's scope to include products that previously were not clearly subject to the mandatory standard.

*B. Non-substantive changes in ASTM F2613-21:*

ASTM F2613-21 makes several non-substantive changes to the standard as follows:

- Clarification to the standard's scope that infant/toddler rockers are not included, because infant/toddler rockers are subject to a different voluntary standard, ASTM F3084-20 *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*.
- Removal of a non-referenced previous version of a locking test method. The F2613-21 standard contains the current latching and locking test method that is similar. In ASTM F2613-19, the locking test method was updated to simplify the requirement to require that all products without latching and locking mechanisms must have a hinge gap greater than or equal to 1/2-inch. At the time of the update, staff concluded:

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.

Although removal of the test method was included on the ballot, when ASTM published F2613-19, the previous locking test method was inadvertently retained in the test method section of the standard; however, there were no associated performance requirements. Therefore, the test method was not actually used when testing a product to the standard. ASTM F2613-21 removes this unused test method, which staff considers a non-substantive, neutral, editorial change.

CPSC staff finds that all of the non-substantive changes made in ASTM F2613-21 are neutral regarding safety for children's folding chairs and children's folding stools because they are editorial in nature.

CPSC staff finds all the substantive and non-substantive changes made in ASTM F2613-21 to be neutral or improve the safety for children's folding chairs and stools. Therefore, staff recommends that the Commission allow the revised voluntary standard ASTM F2613-21 to become the mandatory safety standard for children's folding chairs and stools, 16 CFR part 1232, pursuant to the statute.

*C. Revision to the Title of the Mandatory Standard:*

As explained below, CPSC staff recommends changing the title of 16 CFR part 1232 from "Safety Standard for Children's Folding Chairs and Stools" to "Safety Standard for Children's

Folding Chairs and Children’s Folding Stools,” to clarify that the scope of the regulation applies to children’s folding stools and does not apply to non-folding stools.

### 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 in ASTM F2613-21 are neutral or improve the safety for children’s folding chairs and stools. Therefore, staff recommends that the Commission allow the revised voluntary standard to become the mandatory safety standard for children’s folding chairs and stools, 16 CFR part 1232, pursuant to the statute.

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#### *B. Revisions to the Title of the Mandatory Standard*

In August 2020, a test laboratory informed CPSC staff that it encountered a test engineer that failed to understand that 16 CFR 1232 did not apply to non-folding stools, because the title did not specifically state “folding chairs and folding stools.” Given this potential misinterpretation, staff recommends that the Commission clarify the title with this amendment to the rule.

The discussion in the preambles of the NPR (80 FR 63155, October 19, 2015) and the final rule (82 FR 59505, December 15, 2017) for the folding chairs and stool standard make it clear that folding chairs and folding stools are products that were intended to fall within the scope of the mandatory standard. Therefore, staff is recommending that the title of part 1232 be updated to reference children’s folding stools, to remove any ambiguity regarding the applicability of the standard to folding stools, but not non-folding stools.

Staff recommends the following clarification in the section titles and language in 16 CFR part 1232 (adding the underlined text):

#### 16 CFR Part 1232 - SAFETY STANDARD FOR CHILDREN'S FOLDING CHAIRS AND CHILDREN’S FOLDING STOOLS

1. § 1232.2 Requirements for children's folding chairs and children’s folding stools.

Staff recommends the following clarification in 16 CFR § 1112.15(b)(43) (by substituting the underlined text for the existing language in the regulation):

“16 CFR part 1232, Safety Standard for Children's Folding Chairs and Children’s Folding Stools.”

Staff recommends the following clarification in 16 CFR §1130.2(a)(13) (by substituting the underlined text for the existing language in the regulation):

“Children's folding chairs and children’s folding stools;”

*C. Effect of the Changes to the Voluntary Standard on Third Party Testing*

The notice of requirements (NOR), as set forth 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 to the requirements of children’s folding chairs and children’s folding stools in 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.

Staff recommends that the Commission consider the existing accreditations that CPSC accepted for testing to the mandatory standard for children’s folding chairs and stools to cover testing to the revised standard as well. The CPSC-accepted testing laboratories that have ASTM F2613-19 in their scope of accreditation are competent to conduct testing to the ASTM F2613-21. None of the changes to the standard would impede a CPSC-accepted laboratory from being able to conduct testing to the revised standard. If the Commission accepts this recommendation, the existing NOR for this standard would remain in place, and CPSC-accepted third party conformity assessment bodies for children’s chairs and stools 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. 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.

*D. 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 (February 22, 2021), 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 F2613-21 will become effective on August 21, 2021, unless the Commission specifies a later date. Staff does not believe that a longer effective date is necessary. The Juvenile Products Manufacturers Association 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 F2613-21 was approved and published on February 1, 2021, and staff believes that manufacturers should have complying products that meet this standard by August 21, 2021.

#### **IV. RECOMMENDATION**

Staff recommends the Commission allow the provisions of ASTM F2613-21 to become the mandatory safety standard for children's folding chairs and children's folding stools. To clarify the scope of products subject to 16 CFR part 1232, staff recommends changing the title of the standard from "Safety Standard for Children's Folding Chairs and Stools" to "Safety Standard for Children's Folding Chairs and Children's Folding Stools." Staff also recommends that the Commission issue a direct final rule to revise the incorporation by reference in 16 CFR part 1232 to reflect the most recent version of the voluntary standard and the title change. According to CPSIA section 104(b)(4)(B), unless the Commission notifies a standards organization within 90 days of notification by the standards 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 the statutory effective date of August, 21, 2021 for F2613-21.