



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: March 20, 2024

THROUGH: Jessica L. Rich, General Counsel
Austin C. Schlick, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs
Meridith L. Kelsch, Attorney, Regulatory Affairs

SUBJECT: Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Infant and Cradle Swings

TIME CRITICAL BALLOT VOTE DUE: March 22, 2024

Attached is a draft *Federal Register* notice announcing that on March 18, 2024, the Commission received notification that ASTM F2088, *Standard Consumer Safety Specification for Infant and Cradle Swings*, has been revised. In the draft notice, CPSC seeks comment on whether the revised ASTM F2088-24 improves the safety of infant and cradle swings.

In 2012, the Commission issued a mandatory standard, *Safety Standard for Infant Swings*, at 16 CFR part 1223, under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The mandatory standard incorporated by reference ASTM F2088-12a, *Standard Consumer Safety Specification for Infant Swings*. The Commission updated the standard in 2013, 2020, 2021, and 2022 and the mandatory standard currently incorporates by reference ASTM F2088-22. Under section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act, effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. 15 U.S.C. § 2056a(b)(4)(B). Consistent with section 104(b)(4)(B), CPSC staff is assessing the revised voluntary standard for its effect on safety.

The draft *Federal Register* notice provides a 14-day public comment period to provide sufficient time for CPSC staff and the Commission to consider the revised standard and any comments received within the 90-day statutory time frame. Likewise, to expedite publication of the draft notice in the

U.S. Consumer Product
Safety Commission
4330 East-West Highway
Bethesda, MD 20814

National Product Testing
and Evaluation Center
5 Research Place
Rockville, MD 20850

Federal Register, the General Counsel has designated this matter as time critical, pursuant to section V of the Commission's Decision-Making Procedures.

Please indicate your vote on the following options:

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

(Signature)

(Date)

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

(Signature)

(Date)

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

(Signature)

(Date)

- IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Infant and Cradle Swings

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Docket No. CPSC-2013-0025

**Notice of Availability and Request for Comment: Revision to the Voluntary Standard for
Infant and Cradle Swings**

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission's (Commission or CPSC) mandatory rule, Safety Standard for Infant Swings, incorporates by reference ASTM F2088-20, Standard Consumer Safety Specification for Infant and Cradle Swings. ASTM notified the Commission that it has revised this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of infant and cradle swings.

DATES: Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by Docket No. CPSC-2013-0025, 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. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by e-mail, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however,

submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want available to the public, you may submit such comments by mail, hand delivery, courier, or you may email them to cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. 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 to this website: 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 mail/hand delivery/courier/confidential 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-2013-0025, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Carlos Torres, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2504; email: CTorres@cpsc.gov.

SUPPLEMENTARY INFORMATION: Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” voluntary standards, or they may be “more stringent” than the

applicable voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Section 104(b)(4)(B) of the CPSIA specifies the process for when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. To reject a revised standard, the Commission must notify the voluntary standards organization within 90 days of receiving the notice that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the *Federal Register*). 15 U.S.C. 2056a(b)(4)(B).

In 2012, the Commission adopted a mandatory rule for infant swings under section 104(b)(1) of the CPSIA, which was codified in 16 CFR part 1223. The rule incorporated by reference ASTM F2088-12a, *Standard Consumer Safety Specification for Infant Swings*, with modifications to the labeling and test method requirements.¹ 77 FR 66703 (Nov. 7, 2012). At the time the Commission published the final rule, ASTM F2088-12a was the current version of the voluntary standard. ASTM subsequently revised the voluntary standard six times. ASTM F2088-22 is the current mandatory standard incorporated by reference in 16 CFR part 1223. ASTM

¹ The modifications included changes to the required warning label content and a revised test method to address an omission in the voluntary standard for toy mobiles attached to swings.

F2088 applies to infant and cradle swings, which it describes as products with powered mechanisms that provide swinging or gliding seats for children who cannot climb out of the products. The ASTM standard includes performance requirements, test methods, and requirements for warning labels and instructional literature to address hazards to infants associated with infant and cradle swings.

In April 2013, ASTM notified CPSC that it had issued a revised standard for infant swings, ASTM F2088-13. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for infant swings. The Commission published a direct final rule to update 16 CFR part 1223, incorporating by reference ASTM F2088-13, without modification. 78 FR 37706 (June 24, 2013).

After the Commission issued the revised mandatory standard in 2013, ASTM approved two more revisions: ASTM F2088-15 and ASTM F2088-19. However, ASTM did not notify CPSC of these revisions under CPSIA section 104(b)(4)(B). Consequently, these revised standards did not become the mandatory standards by operation of law, and the Commission did not update the mandatory standard to incorporate by reference these revised ASTM standards. On October 5, 2020, ASTM notified CPSC that it had revised the voluntary standard for infant swings, issuing ASTM F2088-20. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for infant swings. The Commission published a direct final rule to update 16 CFR part 1223, incorporating by reference ASTM F2088-20, without modification. 86 FR 4961 (Jan. 19, 2021).

On October 2, 2021, ASTM notified CPSC that it had revised the voluntary standard for infant swings, issuing ASTM F2088-21. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for infant

swings. The Commission published a direct final rule to update 16 CFR part 1223, incorporating by reference ASTM F2088-21, without modification. 86 FR 59609 (Oct. 28, 2021).

On July 5, 2022, ASTM notified CPSC that it had revised the voluntary standard for infant swings, issuing ASTM F2088-22. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for infant swings. The Commission published a direct final rule to update 16 CFR part 1223, incorporating by reference ASTM F2088-22, without modification. 87 FR 57390 (Sep. 20, 2022).

On March 18, 2024, ASTM notified CPSC that it had approved and published ASTM F2088-24. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of consumer products covered by the standard. The Commission invites public comment on that question, to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F2088-24.²

The currently incorporated voluntary standard (ASTM F2088-22) and the revised voluntary standard (ASTM F2088-24) are available for review in several ways. A read-only copy of the existing, incorporated standard (ASTM F2088-22) is available for viewing, at no cost, on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. A read-only copy of the revised standard (ASTM F2088-2024), including red-lined versions that identify the changes from the 2022 version to the 2024 version, are available, at no cost, on ASTM's website at: <https://www.astm.org/CPSC.htm>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: 610-832-9585; <https://www.astm.org>. Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's

² The Commission voted **TBD** to approve this notice.

Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway,
Bethesda, MD 20814, telephone: 301-504-7479.

Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF
PUBLICATION IN THE FEDERAL REGISTER]**. Because of the short statutory time frame
Congress established for the Commission to consider revised voluntary standards under section
104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Alberta E. Mills, Secretary
Consumer Product Safety Commission



ASTM INTERNATIONAL
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Katharine E. Morgan

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March 18, 2024

VIA ELECTRONIC MAIL

Ms. Alberta Mills
Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814-4408

Re: Notice of revision to ASTM F2088 Standard Consumer Safety Specification for Infant and Cradle Swings

Dear Ms. Mills:

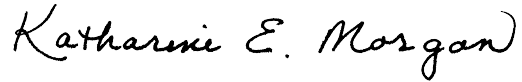
The Consumer Product Safety Improvement Act of 2008 (CPSIA), PL 110-314 Sec.104(b), (4)(B) as revised by PL 112-28 (H.R. 2715) Sec. 3 instructs ASTM International to notify the Consumer Product Safety Commission (CPSC) of revisions to voluntary standards that are a basis for a consumer product safety standard promulgated by the Commission.

“(B) 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.”

We are writing to officially notify the CPSC that ASTM has published a revised 2024 version of ASTM F2088 *Standard Consumer Safety Specification for Infant and Cradle Swings*. The 2022 version of F2088 is currently adopted as a mandatory consumer product safety standard in 16 CFR 1223 Safety Standard for Infant and Cradle Swings. We are enclosing a redlined document highlighting the specific technical changes in this version to help facilitate review by the CPSC Staff.

If you or your staff have any questions about the specific revisions or would like to discuss any issues related to this request, you may contact me or Molly Lynyak (610-832-9743 or mlynyak@astm.org) at any time. ASTM International looks forward to continuing to work with the CPSC to help ensure the safety of consumer products.

Sincerely,

A handwritten signature in black ink that reads "Katharine E. Morgan". The script is cursive and fluid.

Katharine E. Morgan
President, ASTM International

Attachment

cc: Jacqueline Campbell – CPSC Voluntary Standards Coordinator
 Carlos Torres - CPSC Project Manager for Infant and Cradles Swings
 Julia Costello – ASTM Infant and Cradle Swings Subcommittee Chair
 Donald Mays – Chairman, ASTM Committee F15 on Consumer Products