

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Austin C. Schlick, General Counsel
Jason K. Levine, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel,
Regulatory Affairs
Barbara E. Little, Attorney, Regulatory Affairs

SUBJECT: Notice of Availability and Request for Comment:
Revision to the Voluntary Standard for Children's
Chairs and Stools

TIME CRITICAL BALLOT VOTE DUE: August 26, 2022

Attached is a draft *Federal Register* notice announcing that on August 22, 2022, the Commission received notification that ASTM F2613, *Standard Consumer Safety Specification for Children's Chairs and Stools*, has been revised. The Commission has incorporated ASTM F2613-21 by reference into its mandatory rule on the Safety Standard for Children's Folding Chairs and Children's Folding Stools, 16 CFR part 1232.

Pursuant to section 104(b)(4)(B) of the Consumer Product Safety Improvement Act (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 children's chairs and children's stools to determine its effect on safety.

In the draft notice, CPSC seeks comment on whether the revision improves the safety of the consumer products covered by the standard. To provide sufficient time for CPSC staff consideration of any comments received and subsequent Commission consideration within the 90-day statutory time frame, the draft notice provides a 14-day public comment period. Likewise, to expedite publication of the draft notice in the *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 Children’s Chairs and Stools

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Docket No. CPSC-2015-0029

Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Children's Chairs and Children's Stools

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 Children's Folding Chairs and Children's Folding Stools, incorporates by reference ASTM F2613-21, Standard Consumer Safety Specification for Children's Chairs and Stools. The Commission has received notice of a revision to this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of the consumer products covered by the standard.

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-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. 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 electronic mail (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.

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>. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may e-mail them to: cpsc-os@cpsc.gov.

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: Kevin K. Lee, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2486; email: klee@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 may be “more stringent” than 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.

Pursuant to 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 (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission in the *Federal Register*) 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, and therefore the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, the Commission issued a mandatory safety rule for children's folding chairs and children's folding stools in 2017. The rulemaking created 16 CFR part 1232, which incorporated by reference, without modification, ASTM F2613-17a, Standard Consumer Safety Specification for Children's Chairs and Stools. Although the voluntary standard applies to children's chairs and children's stools, the scope of the mandatory standard is limited to children's folding chairs and children's folding stools. 82 FR 59505 (Dec. 15, 2017). The mandatory standard includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children associated with children's folding chairs and children's folding stools. After promulgation of the final rule, ASTM revised the voluntary standard in 2019 and 2021, and the Commission issued two direct

final rules to update the mandatory standard for children’s folding chairs and children’s folding stools to incorporate by reference the latest version of ASTM F2613:

- On April 1, 2020, the Commission published a direct final rule to update part 1232 to reflect incorporation by reference of ASTM F2613-19, with no modifications (85 FR 18111).
- On May 17, 2021, the Commission published a direct final rule to update part 1232 to reflect incorporation by reference of ASTM F2613-21, with no modifications (86 FR 26654).

In August 2022, ASTM published a revised version of the incorporated voluntary standard, ASTM F2613-22. On August 22, 2022, ASTM notified the Commission that it had approved and published that revised version of the voluntary standard. 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 F2613-22.¹

The incorporated voluntary standard and the revised voluntary standard are available for review in several ways. ASTM has provided on its website (at <https://www.astm.org/CPSC.htm>), at no cost, a read-only copy of ASTM F2613-22 and a red-lined version that identifies the changes made to ASTM F2613-21. Likewise, a read-only copy of the existing, incorporated standard (ASTM F2613-21) is available for viewing, at no cost, on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr

¹ The Commission voted [TBD] to approve this notice.

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 Office of the Secretary, U.S. Consumer Product Safety
Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email:
<mailto:cpsc-os@cpsc.gov>.

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.

Dated:

Alberta E. Mills, Secretary
Consumer Product Safety Commission