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## CONSUMER PRODUCT SAFETY COMMISSION

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

[Docket No. CPSC–2015–0029]

### Safety Standard for Children's Folding Chairs and Stools

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards, or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is issuing a safety standard for children's folding chairs and stools in response to the direction under Section 104(b) of the CPSIA. In addition, the Commission is amending its regulations regarding third party conformity assessment bodies to include the safety standard for children's folding chairs and stools in the list of Notices of Requirements (NORs) issued by the Commission. Finally, the Commission is amending its regulations establishing requirements for consumer registration of durable infant or toddler products to identify children's folding stools as a durable infant or toddler product.

**DATES:** This rule will become effective June 15, 2018. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of June 15, 2018.

**FOR FURTHER INFORMATION CONTACT:** Keysha Walker, Office of Compliance

and Field Operations, U.S. Consumer Product Safety Commission; 4330 East West Highway, Bethesda, MD 20814; email: [kwalker@cpsc.gov](mailto:kwalker@cpsc.gov); telephone: (301) 504–6820.

#### SUPPLEMENTARY INFORMATION:

#### I. Background and Statutory Authority

The CPSIA was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant or toddler products. Standards issued under section 104 are to be “substantially the same as” the applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

On October 19, 2015, the Commission issued a notice of proposed rulemaking (NPR) for children's folding chairs and stools. 80 FR 63155. The NPR proposed to incorporate by reference the voluntary standard that was in effect at that time, ASTM F2613–14, *Standard Consumer Safety Specification for Children's Chairs and Stools*. ASTM F2613–14 contained testing and performance requirements for any chair or stool used by a single child who can get in and get out of the product unassisted and with a seat height 15 inches or less with or without a rocking base. The NPR proposed to limit the scope of the mandatory standard to folding chairs and stools because the hazards presented by folding chairs and stools are different from non-folding chairs and stools. In addition, the NPR proposed to change the stability test method to add a new performance requirement and test method to address sideways stability incidents in addition to rearwards stability incidents, and to revise the marking and labeling sections. Since the NPR was issued, ASTM has revised ASTM F2613–14 several times, as discussed in section V

of this preamble. The current version of the standard is ASTM F2613–17a.

In this document, the Commission is issuing a mandatory safety standard that incorporates by reference the most recent voluntary standard, developed by ASTM International, ASTM F2613–17a, for children's folding chairs and stools. The mandatory standard does not include non-folding chairs and stools. The Commission is not making any other modifications to the ASTM standard. As required by section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop the standard, largely through the ASTM process. In addition, as required by section 14 of the Consumer Product Safety Act (CPSA), the final rule amends the list of NORs issued by the Commission in 16 CFR part 1112 to include the standard for children's folding chairs and stools. The final rule also amends the product registration rule in 16 CFR part 1130 to identify children's folding stools, in addition to children's folding chairs, as a durable infant or toddler product for purposes of consumer product registration requirements.

#### II. Product Description

The current voluntary standard, ASTM F2613–17a, describes a children's folding chair or stool as seating furniture with a seat height of 15 inches or less with a rigid frame that is intended to be used as a support for the body, limbs, or feet of a child when sitting or resting in an upright or reclining position, can be folded for transport or storage, and may include a rocking base. The product is intended to be used by a single child who can get out of the chair unassisted.

ASTM F2613–17a also includes a definition for “chairs with side containment” to describe “a children's chair or folding chair with armrests or otherwise designed in a shape which provides barriers in the vertical direction above the seating surface to the occupant's left and right which can act like arms or other side structures.” Other definitions remain unchanged from ASTM F2613–14. A “children's chair” is defined as “seating furniture with a rigid frame that is intended to be used as a support for the body, limbs, or feet of a child when sitting or resting

in an upright or reclining position.” A “children’s stool” is defined as a “children’s chair without back, or armrest.” A “folding chair” and “folding stool” is defined as “a children’s chair or stool which can be folded for transport or storage.” In the NPR, the Commission proposed to limit the scope of the mandatory standard to folding chairs and stools because the hazards presented by folding chairs and folding stools are different from non-folding chairs and stools. In this document, the Commission incorporates by reference ASTM F2613–17a, but continues to limit the scope of the mandatory standard to folding chairs and stools.

### III. Market Description

CPSC staff’s review of the market shows that there are currently 13 domestic firms, rather than 14 domestic firms identified in the NPR, supplying children’s folding chairs and/or folding stools to the U.S. market. Three firms are large and ten firms are considered small according to the Small Business Administration (SBA) criteria.<sup>1</sup> The Juvenile Products Manufacturers Association (JPMA) maintains a certification program for children’s folding chairs and folding stools, and there is one active participant at this time. Other than this certification program, compliance with the ASTM standard is self-reported. Two additional children’s folding chair suppliers claim compliance with the voluntary standard.

### IV. Incident Data

The preamble to the NPR summarized the incident data covering the period from January 2003 through December 31, 2014. CPSC staff identified a total of 98 incidents, including 45 nonfatal injuries, related to children’s folding chairs or stools that were reported to have occurred. Since the publication of the NPR, CPSC staff has received ten new reports of incidents. Two of the incidents occurred in July and December of 2014, but were not fully investigated or reported until 2015. Of the other eight incidents, two occurred in 2015, three in 2016, and three in 2017. All ten incidents involved folding chairs intended for children under age 5. They were reported under CPSC’s Consumer Product Safety Risk Management System (CPSRMS). Seven indicated some form of injury, including amputation or fracture of a finger,

bruising (petechiae) of an arm, and head injuries due to falls.

Additionally, since December 31, 2014, CPSC staff’s review of the National Electronic Injury Surveillance System (NEISS) included several reports of folding chair incidents, but there was insufficient information to determine which, if any, of the NEISS cases involved folding chairs intended for children under the age of 5. Most of the hazards identified in the new incidents are consistent with the hazard patterns identified among the incidents presented in the NPR briefing package, with pinch/shear hazards the most common hazard category.

### V. Overview of ASTM F2613

The voluntary standard, ASTM F2613, *Standard Consumer Safety Specification for Children’s Chairs and Stools*, was first approved and published in 2007. The scope of products covered by the original version, F2613–07, was limited to “children’s folding chairs” with a seat height of 15 inches or less. Significant revisions were made in 2013, in ASTM F2613–13, that were designed to expand the scope of the voluntary standard to all children’s chairs and stools. On October 19, 2015, the Commission proposed to incorporate by reference ASTM F2613–14, with modifications. 80 FR 63155. Since the publication of the NPR, the standard has been revised four additional times, as discussed below. The current voluntary standard for children’s chairs and stools is ASTM F2613–17a.

#### A. ASTM F2613–16

ASTM F2613–16 was published in May 2016. The changes adopted in ASTM F2613–16 included the following revisions:

- Added a definition for *chairs with side containment* (a children’s chair or folding chair with armrests or otherwise designed in a shape which provides barriers in the vertical direction above the seating surface to the occupant’s left and right, which can act like arms or side structures);
- Added a test requirement and test method for sideways stability for chairs with side containment;
- Added a diagram for measuring seat surface height;
- Added a diagram for side stability test.

#### B. ASTM F2613–16<sup>e1</sup>

ASTM F2613–16<sup>e1</sup> was published in June 2016. ASTM published an editorial revision, which corrected a printing error which had distorted the diagram in Figure 4, and a typographical error in

paragraph 6.8.1.1, revising the test surface angle tolerance from  $\pm 5$  degree to  $\pm 0.5$  degree.

#### C. ASTM F2613–17

ASTM F2613–17 was published in August 2017 with the following revisions:

- Modifications to the marking and labeling section of ASTM F2613–16<sup>e1</sup> to address the changes proposed in the NPR.
- Modifications to the stability test performed on chairs with non-rigid seats to clarify the placement of the test cylinder during the stability test.
- Modifications to the folding mechanisms and hinges section of F2613–16<sup>e1</sup> to clarify that chairs that fold are required to either have a locking mechanism to prevent folding of the chair by the child, or have adequate hinge-line clearance to prevent pinching and lacerations during folding.
- Modification of the standard’s scope to exempt children’s potties.

#### D. ASTM F2613–17a

The current version, ASTM F2613–17a, was published in October 2017. The revision makes minor editorial changes including the removal of side stability testing for stools because chairs and stools without side containment are exempt from side stability testing, and stools, by definition, do not have side containment. In addition, an incorrect reference to Fig.1 (Tension test Adaptor/Clamp) is removed.

ASTM F2613–17a addresses the issues raised in the NPR by strengthening the provisions of the voluntary standard. The current standard clarifies in section 5.8 (Products that Fold) that chairs that fold are required to either have a latching or locking mechanism to prevent folding of the chair by the child, or have adequate hinge-line clearance to prevent pinching and lacerations during folding. These requirements are intended to eliminate possible crushing, laceration, or pinching hazards that might occur in folding latching or locking mechanisms and hinges. In addition, the current standard now includes, under section 6.8 (Stability Test Method), a sideways stability test, in addition to a rearward stability test. The standard also clarifies proper cylinder positioning for chairs and stools for stability testing. The addition of the sideways stability test, in addition to the rearwards stability test will help address incidents that involve children’s chairs with side containment tipping sideways or rearwards.

ASTM F2613–17a also incorporates the recommendations developed by the ASTM Ad Hoc Committee on

<sup>1</sup> The Small Business Administration categorizes manufacturers as “small” if they have fewer than 500 employees and importers or wholesalers as small if they have fewer than 100 employees.

Standardized Wording for Juvenile Product Standards (ASTM Ad Hoc Task Group), and the proposed language in the NPR. The current standard specifies that each folding chair and folding stool that does not meet the hinge line clearance requirements must have a warning label that contains statements consistent with the proposed language in the NPR. Specifically, the warning label shall contain the words "Amputation Hazard" and address the following:

- Chair can fold or collapse if lock not fully engaged. Moving parts can amputate child's fingers.
- Keep fingers away from moving parts.
- Completely unfold chair and fully engage locks before allowing child to sit in a chair.
- Never allow child to fold or unfold chair.

The Commission believes that ASTM F2613–17a provides clarifications to the standard and addresses the issues raised in the NPR for children's folding chairs and stools by adopting more stringent requirements than those in the ASTM version referenced in the NPR. Accordingly, the Commission incorporates ASTM F2613–17a, by reference, in the final rule for the CPSC's safety standard for children's folding chairs and stools.

## VI. Response to Comments

The Commission received nine comments in response to the NPR. A summary of each comment and a response is provided below.

### A. Scope of the Rule

*Comment:* One commenter stated that the scope of the mandatory standard should not be limited to just folding chairs and stools, and that the CPSC should include all non-folding chairs and stools in the standard.

*Response:* As we stated in the NPR, CPSC staff conducted a preliminary review of the incident data involving all children's chairs and stools. Some hazards are common among both folding and non-folding products such as tip overs, falling out of the chair, loose parts, staples or, other protruding objects with the potential for lacerations requiring sutures. However, the staff's review showed that the hazard associated with the folding mechanism in folding chairs and stools could result in the most serious injury, including pinching/scissoring, finger amputations, degloving or compound fracture, which could be addressed in a mandatory standard. Due to the variety of non-folding children's chair products in the market, including certain infant chairs/

seats, the Commission concludes that additional study and testing regarding any potential hazards associated with non-folding chairs/stools will need to be conducted before the CPSC could propose performance requirements in a standard. To that end, CPSC staff will continue to evaluate incident data regarding non-folding chairs and stools and will make a recommendation to the Commission, if further action is required.

*Comment:* One commenter requested that the Commission clarify that the mandatory standard excludes toy seats.

*Response:* ASTM F963–17, Standard Consumer Safety Specification for Toy Safety (which is a CPSC mandatory standard, 16 CFR part 1250) specifically covers toy seats that have play features. Section 3.1.93 of ASTM F963–17 provides that a "toy seat" is a stationary toy product with a seat where the amusement of the child is a primary function of the product and the play pattern intends that the child be in a seated position. Section 3.1.93.1 further explains that play features may include, but are not limited to, sliding or rotating features, learning toys, manually actuated music, with which the seated child may interact. Children's furniture products without any interactive play features such as stools, chairs, patio sets, rocking chairs, picnic tables, storage units, are not considered toy seats. In addition, section 3.1.93.1 provides that juvenile products such as bouncers, infant seats, and stationary activity centers are not considered toy seats. Accordingly, toy seats are adequately addressed in ASTM F963–17, and the Commission does not believe that further clarification is necessary.

### B. Stability Test Method

*Comment:* One commenter noted that the original stability test requirement in ASTM F2613–14, for chairs with soft seating surfaces, specified that the test cylinder should be replaced with a weighted bag filled with steel shot. However, the commenter questioned why the provision for soft seating surfaces was deleted.

*Response:* During the development of the proposed modification to address sideways stability incidents, CPSC staff determined that all chairs should be tested with the same test cylinder for consistency and the option for testing with a weighted bag was removed. After publication of the NPR, ASTM balloted and approved a modification which is consistent with proposed NPR. ASTM F2613–16 included a sideways stability test and removed the option to conduct stability testing with a weighted bag.

This stability requirement has not been changed in the current version, ASTM F2613–17a. Accordingly, this issue has been adequately addressed.

*Comment:* Two commenters stated that during development of requirements for sideways stability, a review of CPSC incident data indicated that side stability issues were limited to chairs with side containment, such as arms, and did not support a requirement for sideways stability testing for chairs without side containment.

*Response:* Since the NPR was issued, ASTM balloted and approved a modification, first incorporated into ASTM F2613–16, and retained in the current version, ASTM F2613–17a, which excludes chairs without side containment from the sideways stability testing. Although CPSC's rule does not apply to non-folding chairs, the ASTM standard applies to both folding and non-folding chairs. Because incident data does not show problems with the sideways stability of chairs without arms, the Commission agrees that folding chairs and stools without side containment also should be excluded from the sideways stability testing requirement.

*Comment:* One commenter stated that the proposed requirement for rearward stability is flawed because it specifies that the test cylinder be allowed to "come to rest," but then requires further adjustment to its position to complete the testing.

*Response:* Since the publication of the NPR, ASTM balloted and approved a modification, first incorporated into ASTM F2613–16, and retained in the current version, ASTM F2613–17a, which revised the test language to delete the words "come to rest." The Commission agrees that the revised language, specified in ASTM F2613–17a removes inconsistent language regarding the rearward and side stability requirement. Accordingly, the Commission accepts the stability testing requirements as set forth in ASTM F2613–17a.

### C. Warning Label

*Comment:* A number of commenters requested that the Commission delay publishing final warning requirements for children's folding chairs and stools until the ASTM Ad Hoc Task Group's recommendations are developed, balloted, and then incorporated into ASTM F2613.

*Response:* After publication of the NPR, the ASTM Ad Hoc Task Group made its recommendations for warning label formatting across juvenile products. Accordingly, formatting issues including fonts, markings, and colors in

signal word panels addressed by the Ad Hoc Task Group were incorporated in ASTM F2613–17, and retained in ASTM F2613–17a. Therefore, the final rule incorporates by reference ASTM F2613–17a without any modification to the ASTM provisions on warning label format.

*Comment:* One commenter stated that the proposed requirement for the warning label on stools is not clear. The commenter stated that the proposed requirement to place the label in a “visible location” is not defined. The commenter also stated that the proposal requiring that the label not “wrap around the legs” is unclear. Another commenter expressed concern that the requirement to “contain sufficient white space” is unclear and can be potentially misconstrued by laboratories evaluating compliance of a product.

*Response:* Since the publication of the NPR, the labeling requirement was revised in ASTM F2613–17 and retained in the current version, ASTM F2613–17a, to require that all warnings shall be conspicuous and permanent. In addition, for products with limited space, the language “contain sufficient white space” was eliminated and warnings may be placed in two separate locations. Accordingly, this issue has been adequately addressed.

*Comment:* Several commenters recommended that CPSC add pictograms to the warnings to convey the hazard more effectively and avoid language barriers that minimize comprehension of these warnings.

*Response:* Although pictograms can help to convey the hazard that is presented, especially for users with limited or no English literacy, CPSC staff believes that designing effective pictograms for warning labels can present many challenges. The labeling section revised in ASTM F2613–17, and retained in the current version, ASTM F2613–17a, requires that the warnings shall be easy to read and understand and be in the English language at a minimum. Thus, the standard does not preclude the addition of other languages to address those groups who do not read English. However, CPSC staff will continue to review incidents and consider whether additional warning symbols are needed to further reduce the risk of injury associated with these products.

#### D. Effective Date

*Comment:* One commenter stated that small firms should have more time to comply with the rule.

*Response:* The Commission intended that the proposed 6-month effective date would give all firms 6 months to

produce, or find suppliers to produce, compliant products. The Commission believes that most firms should be able to comply within the 6-month time frame and allow ample time for manufacturers and importers to arrange for third party testing, consistent with the timeframe adopted in a number of other section 104 rules. The commenter did not provide any justification to support a longer effective date. Moreover, the Commission did not receive comments from any affected suppliers (manufacturer or importer) that suggested the proposed effective date was too short. Therefore, the Commission requires a 6-month effective date in the final rule.

#### E. Cost Considerations

*Comment:* One commenter stated that the Commission should have considered additional costs for importers, such as negotiation costs with foreign suppliers. The commenter also stated that the Commission should have considered the rule’s potential effect on retail prices and the impact of higher prices on consumers.

*Response:* CPSC staff conducted a regulatory flexibility analysis on the impact of the rule on small firms, including manufacturers, suppliers, and importers, as well as test laboratories, affected by the rulemaking. Staff’s review showed that the rule will not have a significant economic impact on a substantial number of small entities. The Commission recognizes that an increase in costs for children’s folding chair and stool suppliers could increase the retail price of these products; however, the Commission is required to promulgate consumer product safety standards on durable infant or toddler products, including on children’s folding chairs and stools.

### VII. Description of the Final Rule

#### A. Final Rule for Part 1232 and Incorporation by Reference

Section 1232.2(a) of the final rule provides that folding chairs and stools must comply with the applicable sections of ASTM F2613–17a.

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble of the rule the way in which 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 of the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR’s requirements, the discussion in this section summarizes the provisions of ASTM F2613–17a. Interested persons may purchase a copy of ASTM F2613–17a from ASTM, either through ASTM’s website or by mail at the address provided in the rule. A copy of the standard may also be inspected at the CPSC’s Office of the Secretary, U.S. Consumer Product Safety Commission. We note that the Commission and ASTM arranged for commenters to have “read only” access to ASTM F2613–14 during the NPR’s comment period.

ASTM F2613–17a contains requirements covering children’s folding chairs and stools covering:

- Sharp points;
- Small parts;
- Lead in paint;
- Wood parts;
- Latching and locking mechanisms;
- Scissoring, shearing, and pinching
- Hinge line clearance;
- Circular holes in rigid materials;
- Labeling;
- Protective components;
- Strength requirements; and
- Stability

The standard additionally contains test methods that must be used to assess conformity with these requirements.

#### B. Amendment to 16 CFR Part 1112 To Include NOR for Children’s Folding Chairs and Stools Standard

The final rule amends part 1112 to add a new section 1112.15(b)(43) that lists 16 CFR part 1232, *Safety Consumer Safety Specification for Children’s Folding Chairs and Stools*, as a children’s product safety rule for which the Commission has issued an NOR. Section XIII of the preamble provides additional background information regarding certification of children’s folding chairs and stools and issuance of an NOR.

#### C. Amendment to 16 CFR Part 1130 To Include Children’s Folding Chairs and Stools

The statutory definition of “durable infant or toddler product” in section 104(f) of the CPSIA identified certain product categories as examples of products included under that definition. The Commission identified additional products as “durable infant or toddler products” when the Commission issued its rule requiring that manufacturers of durable infant or toddler products establish a program for consumer registration of those products. 16 CFR part 1130. Among the products the Commission added is “children’s folding chairs.” *Id.* 1130.2(a)(13). As explained in the NPR, based on ASTM’s

definitions, the Commission considers folding stools to be a subset of folding chairs. The configuration of children's folding chairs and folding stools are similar. The same potential hazards are presented in the folding mechanisms. The Commission is amending the definition section in the registration rule to make clear that both children's folding chairs and children's folding stools are considered durable infant or toddler products. Thus, the final rule amends part 1130, *Requirements for Consumer Registration of Durable Infant or Toddler Products*, by revising section 1130.2(a)(13) to add "stools" to the definition of children's folding chairs.

#### VIII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The safety standard for folding chairs and stools and the corresponding changes to part 1112, regarding requirements for third party conformity assessment bodies, and part 1130, regarding requirements for consumer registration of durable infant or toddler products, will become effective 6 months after publication of the final rule in the **Federal Register**.

Without evidence to the contrary, CPSC generally considers 6 months to be sufficient time for suppliers to come into compliance with a new standard, and a 6-month effective date is typical for other CPSIA section 104 rules. Six months is also the period that JPMA typically allows for products in the JPMA certification program to transition to a new standard once that standard is published. The Commission proposed a 6-month effective date in the NPR for children's folding chairs and stools and we addressed the comment on the proposed effective date. Accordingly, the final rule for children's folding chairs and stools, as well as the amendments to parts 1112 and 1130, have a 6-month effective date.

#### IX. Regulatory Flexibility Act

##### A. Introduction

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that agencies review a proposed rule and a final rule for the rule's potential economic impact on small entities, including small businesses. Section 604 of the RFA generally requires that agencies prepare a final regulatory flexibility analysis (FRFA) when promulgating final rules, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

##### B. Impact on Small Businesses

Based on the analysis summarized below, the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities.

CPSC staff's review of the market shows that there are currently 13 domestic firms, rather than the 14 domestic firms identified in the NPR, supplying children's folding chairs and/or folding stools to the U.S. market. Of these, ten firms are considered small. Four of the small firms are manufacturers, five are importers or wholesalers, and the supply source for one firm could not be identified. Most firms only supply one model of chair, but one firm supplies four models and another firm supplies five models. Of the four small manufacturers of children's folding chairs and folding stools, one claims that its products comply with the voluntary standard and participates in the ASTM process. The compliance of the other three firms could not be determined. Of the five small importers/wholesalers, only one claims that its products comply with the ASTM standard. Staff could not determine the compliance status for the other four firms. For the firms currently in compliance with the voluntary standard, there should be minimal burden associated with compliance.

The children's folding chairs from the three small manufacturers whose products that do not meet the voluntary standard may require redesign to comply with the voluntary standard. One manufacturer estimates the cost to completely redesign a chair to be \$10,000, including nine to twelve months of research and development time. It does not appear that the economic impact would be significant for any of the small manufacturers (*i.e.*, the cost would be less than 1 percent of annual revenue). In addition, although staff could not rule out a significant economic impact on one small importer of noncompliant folding chairs, staff does not expect the rule to have a significant economic impact on the three other non-compliant importers.

Under section 14 of the CPSA, once new children's folding chairs and folding stools requirements become effective, all manufacturers will be subject to the third party testing and certification requirements. Third party testing will include any physical and mechanical test requirements specified in the final children's folding chairs and folding stools rule. One firm estimated that chemical and structural testing of one unit of a children's folding chair costs around \$1,000 annually. Estimates

provided by suppliers for other section 104 rulemakings indicate that around 40 to 50 percent of testing costs can be attributed to structural requirements, with the remaining 50 to 60 percent resulting from chemical testing (*e.g.*, lead testing, to which they are already subject). If these percentages are applied to folding stools and chairs, the testing to structural components of the ASTM voluntary standard could cost about \$400 to \$500 per sample tested ( $\$1,000 \times .4$  to  $\$1,000 \times .5$ ), and are consistent with testing cost estimates for products with standards of similar complexity. Based on an examination of each small firm's revenues, staff did not find that testing, in addition to costs of redesign, would be economically significant for the majority of the small firms. For these reasons, the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities.

#### X. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, a rule that has "little or no potential for affecting the human environment," is categorically exempt from this requirement. 16 CFR 1021.5(c)(1). The final rule falls within the categorical exemption.

#### XI. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The preamble to the proposed rule discussed the information collection burden of the proposed rule. Section 7 of ASTM F2613–17a contains requirements for marking and labeling, that are disclosure requirements, thus falling within the definition of "collections of information" as defined in 44 U.S.C. 3502(3). OMB has assigned control number 3041–0172 to this information collection. The Commission did not receive any comments regarding the information collection burden of this proposal.

Since the publication of the NPR, staff has determined that there are 13 known firms, rather than 14 firms supplying children's folding chairs to the U.S. market. All firms are assumed to use labels on both their products and their packaging already, but they might need to make some modifications to their existing labels. The estimated time required to make these modifications is about 1 hour per model. Each of these

firms supplies an average of 1.5 different models of children’s folding chairs; therefore, the estimated burden hours associated with labels is 1 hour × 13 firms × 1.5 models per firm = 19.5 annual hours.

**XII. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when 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 Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as “consumer product safety rules.” Therefore, the preemption provision of section 26(a) of the CPSA would apply to a rule issued under section 104.

**XIII. Amendment to 16 CFR Part 1112 To Include Notice of Requirements (NOR) for Children’s Folding Chairs and Stools Standard**

Section 14(a) of the CPSA imposes the requirement 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, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children’s products subject to a children’s product safety rule be based on testing conducted by a CPSC-accepted, third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish a NOR for the accreditation of third party conformity assessment bodies (or laboratories) to assess conformity with a children’s product safety rule to which a children’s product is subject. The *Standard Consumer Safety Specification for Children’s Folding Chairs and Stools*, to be codified at 16 CFR 1232, is a children’s product safety rule that requires the issuance of an NOR.

The Commission published a final rule, *Requirements Pertaining to Third-Party Conformity Assessment Bodies*, 78 FR 15836 (March 12, 2013), which is codified at 16 CFR part 1112 (referred to here as part 1112). This rule became effective on June 10, 2013. Part 1112 establishes requirements for

accreditation of third-party conformity assessment bodies (or laboratories) to test for conformance with a children’s product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies a list of all of the NORs that the CPSC had published at the time part 1112 was issued. All NORs issued after the Commission published part 1112, such as the standard for children’s folding chairs and stools, require the Commission to amend part 1112. Accordingly, the Commission is now amending part 1112 to include the standard for children’s folding chairs and stools in the list of other children’s product safety rules for which the CPSC has issued NORs.

Laboratories applying for acceptance as a CPSC-accepted third-party conformity assessment body to test to the new standard for children’s folding chairs and stools would be required to meet the third-party conformity assessment body accreditation requirements in 16 CFR part 1112, *Requirements Pertaining to Third-Party Conformity Assessment Bodies*. When a laboratory meets the requirements as a CPSC-accepted third-party conformity assessment body, the laboratory can apply to the CPSC to have 16 CFR part 1232, *Standard Consumer Safety Specification for Children’s Folding Chairs and Stools*, included in its scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: [www.cpsc.gov/labsearch](http://www.cpsc.gov/labsearch).

As required by the RFA, staff conducted a FRFA when the Commission issued the part 1112 rule (78 FR 15836, 15855–58). Briefly, the FRFA concluded that the accreditation requirements would not have a significant adverse impact on a substantial number of small test laboratories because no requirements were imposed on test laboratories that did not intend to provide third-party testing services. The only test laboratories that were expected to provide such services were those that anticipated receiving sufficient revenue from the mandated testing to justify accepting the requirements as a business decision. Moreover, a test laboratory would only choose to provide such services if it anticipated receiving revenues sufficient to cover the costs of the requirements.

Based on similar reasoning, amending 16 CFR part 1112 to include the NOR for the folding chairs and stools standard will not have a significant adverse impact on small test laboratories. Moreover, based upon the number of test laboratories in the United States that have applied for CPSC acceptance

of accreditation to test for conformance to other mandatory juvenile product standards, we expect that only a few test laboratories will seek CPSC acceptance of their accreditation to test for conformance with the children’s folding chairs and stools standard. Most of these test laboratories will have already been accredited to test for conformity to other mandatory juvenile product standards, and the only costs to them would be the cost of adding the children’s folding chairs and stools standard to their scope of accreditation. For these reasons, the Commission certifies that the NOR amending 16 CFR part 1112 to include the children’s folding chairs and stools standard will not have a significant economic impact on a substantial number of small entities.

**List of Subjects**

*16 CFR Part 1112*

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third-party conformity assessment body.

*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, Labeling, Law enforcement, and Toys.

For the reasons discussed in the preamble, the Commission amends 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:** Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

- 2. Amend § 1112.15 by adding 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 and/or test method?**

\* \* \* \* \*

(b) \* \* \*

(43) 16 CFR part 1232, Safety Standard for Children’s Folding Chairs and 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 § 1130.2 by revising paragraph (a)(13) to read as follows:

**§ 1130.2 Definitions.**

\* \* \* \* \*

(a) \* \* \*

(13) Children's folding chairs and stools;

\* \* \* \* \*

■ 5. Add part 1232 to read as follows:

**PART 1232—SAFETY STANDARD FOR CHILDREN'S FOLDING CHAIRS AND STOOLS**

Sec.

1232.1 Scope.

1232.2 Requirements for children's folding chairs and stools.

**Authority:** Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

**§ 1232.1 Scope.**

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

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

(a) Each children's folding chair and stool shall comply with all applicable provisions of ASTM F2613–17a, *Standard Consumer Safety Specification for Children's Chairs and Stools*, approved on October 1, 2017. 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 from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; <http://www.astm.org>. You may inspect a copy at the Office of the Secretary, 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, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(b) [Reserved]

**Alberta E. Mills,**

*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc. 2017–26997 Filed 12–14–17; 8:45 am]

**BILLING CODE 6355–01–P**

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Part 133**

[USCBP–2016–0076; CBP Dec. 17–21]

**RIN 1515–AE21**

**Donations of Technology and Related Support Services To Enforce Intellectual Property Rights**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the U.S. Customs and Border Protection (CBP) regulations relating to the enforcement of intellectual property rights. This final rule implements section 308(d) of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), which requires CBP to prescribe regulatory procedures for the donation of technologies, training, or other related services for the purpose of assisting CBP in intellectual property enforcement.

**DATES:** Effective January 16, 2018.

**FOR FURTHER INFORMATION CONTACT:** Garrett D. Wright, Chief, Donations Acceptance Program, Office of Field Operations, U.S. Customs and Border Protection, telephone (202) 344–2344.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), Public Law 114–125, 130 Stat. 122 (19 U.S.C. 4301 note), was enacted on February 24, 2016, and includes several provisions regarding trade facilitation and trade enforcement, some of which deal with improving U.S. Customs and Border Protection's (CBP's) intellectual property rights (IPR) enforcement at the border. Section 308(d) of the TFTEA requires the Commissioner of CBP to prescribe regulations to enable CBP to receive donations of hardware, software, equipment, and similar technologies, and to accept training and other support services, from private sector entities, for the purpose of enforcing IPR.

Acceptance of such donations must also be consistent with either section 482 of the Homeland Security Act of 2002, as amended by section 2 of the Cross-Border Trade Enhancement Act of 2016 (Pub. L. 114–279), or section 507 of the Department of Homeland Security

(DHS) Appropriations Act of 2004 (Pub. L. 108–90).

Section 482 of the Homeland Security Act replaced section 559 of Title V of Division F of the Consolidated Appropriations Act, 2014 (Pub. L. 113–76) and permits CBP, in consultation with the General Services Administration (GSA), to “enter into an agreement with any entity to accept a donation of personal property, money or nonpersonal services” to be used for certain CBP activities at most ports of entry where CBP performs inspection services. Pursuant to section 482(c)(3), CBP in consultation with GSA will establish criteria for evaluating donation proposals under section 482 and make such criteria publicly available.

If donations cannot be accepted under section 482, they may be accepted under section 507 of the DHS Appropriations Act of 2004. Section 507 made the DHS Gifts and Donations account “available to the Department of Homeland Security . . . for the Secretary of Homeland Security to accept, hold, administer and utilize gifts and bequests, including property to facilitate the work of the Department of Homeland Security.” Title V, Public Law 108–90, 117 Stat. 1153–1154. DHS policy on the acceptance of gifts pursuant to section 507 is contained in DHS Directive 112–02 and DHS Instruction 112–02–001. The Secretary of DHS delegated the authority to accept and utilize gifts to the heads of certain DHS components, including the Commissioner of CBP, in DHS Delegation 0006.

This document implements section 308(d) of the TFTEA by promulgating a new subpart H to part 133 of title 19 of the Code of Federal Regulations (CFR) which provides for the receipt and acceptance by CBP of donations of hardware, software, equipment, and similar technologies, as well as training and related support services, for the purpose of assisting CBP in enforcing IPR. New subpart H, as set forth in § 133.61, prescribes the methods by which donations of IPR technology and related support services may be made. Specifically, 19 CFR 133.61(a) sets forth the scope of this section and identifies the authority to accept donations, § 133.61(b) describes the donation process, and § 133.61(c) lays out the elements of the written donation agreement.

On January 17, 2017, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (82 FR 4800) proposing to amend its regulations pertaining to the enforcement of intellectual property rights in order to enhance CBP's intellectual property rights enforcement