

U.S. Consumer Product Safety Commission



Get Involved: CPSC Rulemaking on Durable Infant and Toddler Products

Spring 2012 Update

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Views expressed in this presentation are those of the staff and do not necessarily represent the views of the Commission.

Today's Agenda

- Update on Consumer Product Safety Improvement Act (CPSIA) of 2008 and Public Law 112-28 (August 12, 2011)
- Overview of Rulemaking for Durable Infant and Toddler Products under Sec. 104 of the CPSIA
- Sec. 104 Lessons Learned So Far – CPSC Staff Perspective
- Get Involved!

Consumer Product Safety Improvement Act (CPSIA) of 2008

Consumer Product Safety Improvement Act (CPSIA) of 2008

- “Children’s products” are designed or intended primarily for children 12 years old and younger.
- Key **substantive** requirements for children’s products:
 1. Lead content in accessible components (100 ppm)
 2. Lead in paint and surface coatings (0.009%, 90 ppm)
 3. Phthalates (0.1% per banned phthalate) – Accessible components of toys and certain child care articles (related to sleeping & feeding)
 4. Toy Safety Standard (ASTM F963-08) (ASTM F963-11, effective 6/12/12)

- Key **process** requirements for children's products primarily intended for children 12 years old and younger:
 - Third party testing by CPSC-accepted labs
 - (Registered small batch manufacturers are not required to third party test for certain rules)
 - Conformity certificates issued by importers & manufacturers (Children's Product Certificate)
 - Tracking labels
- New safety rules for durable infant products:
 - Cribs; walkers; bath seats; toddler beds; play yards; bed rails; additional items every six months
 - Product registration cards
- www.SaferProducts.gov – Publicly Searchable Database₅

Durable Infant and Toddler Products

www.cpsc.gov/durableinfantproducts

Durable Infant or Toddler Product Categories

According to CPSIA Sec. 104 (f)(2) these include:

1. **Full-size and non-full-size cribs (2);***
2. **Toddler beds (1);**
3. High chairs, booster chairs, and hook-on chairs (3);
4. **Bath seats (1);**
5. Gates and other enclosures for confining a child (1);
6. **Play yards (1);**
7. Stationary activity centers (1);
8. Infant carriers (4);
9. **Strollers (1);**

* bold = regulations approved/process begun by the Commission
(#) = number of voluntary standards/rules per category

Other Durable Infant or Toddler Product Categories

- 10. Walkers (1);
- 11. Swings (1);
- 12. Bassinets and cradles (3);

16 CFR §1130.2 – Added in Product Registration Card Rule

- 13. Children's folding chairs (1);
- 14. Bed rails (1);
- 15. Bath tubs (1);
- 16. Bouncers/inclined seats (1);
- 17. Changing tables (1); and
- 18. Slings (1).

Durable Infant or Toddler Product: Status Update

Number of total rules
per category



1. Full-size and non-full-size cribs (2);

- Final rules at 16 CFR Parts 1219 and 1220, respectively. Published on 12/28/10, effective date 6/28/11.

- Child care centers, crib rental services, hotels and places of public accommodation must comply by 12/28/12. No further extensions are expected!

- www.cpsc.gov/cribs

Principal hazards addressed: Drop sides and other structural integrity issues such as slat strength, mattress support systems and hardware.

Durable Infant or Toddler Product: Status Update

2. Toddler beds (1);

- Final rule published on 4/20/11 and codified at 16 CFR Part 1217.
- Currently in effect and enforced.
- Working with the ASTM subcommittee on a revised standard.

Principal hazards addressed: Entrapments due to various structural aspects.

Durable Infant or Toddler Product: Status Update

3. **High chairs, booster chairs, and hook on chairs (3);**
 - Current voluntary standard is ASTM F 404-10 (High chairs); ASTM F 2640-10 (Booster Seats); and ASTM F 1235-08 (Hook on Chairs).
 - CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed:

Falls, head & neck entrapment, pinching/
shearing/scissoring.

Durable Infant or Toddler Product: Status Update

4. Bath Seats (1);

- Final rule published on 6/4/10 and codified at 16 CFR Part 1215.
- Currently in effect and enforced.

Principal hazard(s) addressed: Drowning due to instability of bath seats and entrapment in leg openings.

Durable Infant or Toddler Product: Status Update

5. Gates and other enclosures for confining a child (1);
 - The current voluntary standard is ASTM F 2236-10.
 - CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed:

Falls down stairs, pinching/scissoring/shearing.

Durable Infant or Toddler Product: Status Update

6. Play yards (1);

- The current voluntary standard is ASTM F406-12.
- NPR published in September 2011.
- Commission briefing on the final rule likely this summer.

Principal hazards to be addressed:

Climbing/falling out, side rail collapse, accessories, assembly/other product-related problems, lack of structural integrity, mattress pad/floor board, fabric- or mesh-related issues.

Durable Infant or Toddler Product: Status Update

7. Stationary activity centers (1);
 - Current voluntary standard is ASTM F2012-11.
 - CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed: Falls due to product instability, choking from small parts.

Durable Infant or Toddler Product: Status Update

8. Infant carriers (4);

- Category has been broken down into 4 separate rules:
 - soft infant and toddler carriers (SITC) (ASTM F 2236-10);
 - hand-held infant carriers (ASTM F 2050-09);
 - frame/back carriers (ASTM F 2549-09a);
 - infant slings (ASTM F 2907-12).
- CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed: Child falls (leg openings, fastener failures, strap slippage), caregiver falls/actions, child positioning, strangulation on restraints, smothering, positional asphyxia, fractures, external environmental factors, material/component failures.

Durable Infant or Toddler Product: Status Update

9. Strollers (1);

- Current voluntary standard is ASTM F833-11.
- CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed: Head and face abrasions/contusions due to front wheel detachments on jogging strollers; finger amputations on stroller frame components, *e.g.*, hinges, latches, locks; asphyxiation in travel systems (stroller with car seat) due to children left unattended and unrestrained.

Durable Infant or Toddler Product: Status Update

10. Walkers (1);

- Final rule was published on 6/21/10 and codified at 16 CFR Part 1216. The final rule references ASTM F 977-07.
- Currently in effect and enforced.

Principal hazard(s) addressed: Falls down stairs.

Durable Infant or Toddler Product: Status Update

11. Swings (1);

- NPR was published on 2/10/12. Comment period closed on 4/25/2012.
- Staff to review and analyze comments, prepare briefing package, and make recommendation to Commission for Commission vote likely fall 2012.

Principal hazard(s) to be addressed: Restraints, housing issues, seat failures, seat designs, electrical/battery failures, clearance, instability, attached toys, slump-overs, falls, & entrapment.

Durable Infant or Toddler Product: Status Update

12. Bassinets and cradles (3);

- *Bassinets*: NPR was published on 4/28/10. Due to significant developments since then, the rule will be repropose, with a new comment period.
 - The new NPR is expected in summer 2012.
- *Inclined sleep products/Hammocks*: Voluntary standard work in progress with ASTM to develop a new standard.
- *Bedside sleepers*: Voluntary standard is ASTM F2906-11, first voluntary standard for this category.

Principal hazard(s) to be addressed: Asphyxiation or suffocation due to soft bedding or non flat surfaces.

Durable Infant or Toddler Product: Status Update

14. Bed rails (1);

- Final rule was published on 2/29/2012 and codified at 16 CFR Part 1224.
- Effective date for the standard is 8/29/2012.

Principal hazard(s) addressed:

Entrapment between bed rail/mattress and falls.

Durable Infant or Toddler Product: Status Update

15. Bath tubs (1);

- Current voluntary standard is F 2670-09.
- CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed:
Drownings and falls.

Durable Infant or Toddler Product: Status Update

16. Bouncers/inclined seats (1);

- Current voluntary standard is ASTM F 2167-12.
- CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed:

Falls from seats on elevated surfaces, falls when seat is lifted up by toy bar.

Durable Infant or Toddler Product: Status Update

17. Changing tables (1);

- Current voluntary standard is ASTM F 2388-09.
- CPSC rulemaking has not yet begun.

Principal hazard(s) to be addressed:

Falls from changing surface.

Lessons Learned

Sec. 104 Rulemaking & Voluntary Standards Process

Perspective from CPSC Staff

Lessons Learned - Sec. 104 Rulemaking & Voluntary Standards Process

- “In consultation with...”

The Commission shall –

(A) In consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products...

- CPSC staff believes it has taken an extremely collaborative approach to date.
- CPSC staff would prefer to present a single “clean” voluntary standard to the Commission but will eventually move to NPR based on CPSC timetable and/or when further progress on any outstanding issues is unlikely.

Lessons Learned - Sec. 104 Rulemaking & Voluntary Standards Process

- Work with the ASTM subcommittee chairman and with CPSC staff project manager. Ensure excellent, clear communication.
- Stay engaged. Don't just show up to one meeting. It takes time to get your issues addressed. Continue by attending, calling-in via conference call, speaking to the committee chairperson.
- Be sensitive to CPSC open government meetings policy – provide CPSC staff with minimum of 7 days notice. Keep us involved.

Lessons Learned - Sec. 104 Rulemaking & Voluntary Standards Process

- Provide clearly worded and constructive proposals.
 - Rulemakings were mandated by Congress and must occur.
 - Propose definitions and other language for the standard.
- Focus on developing performance standards that address (i) the hazards that have already resulted in death or injury and (ii) the hazards with the potential to cause death and injury.
 - Do not try to argue “just one death” or “just one injury.”
 - Do not try to argue “numbers of injury/death” relative to the volume of product sold or in use; legislatively mandated rulemakings.

Lessons Learned - Sec. 104 Rulemaking & Voluntary Standards Process

- Provide a clear, rational basis for your positions
- Support your proposals with data
 - Don't focus solely on cost.
- Follow the ASTM rules.
 - Learn from your colleagues.

Lessons Learned - Sec. 104 Rulemaking & Voluntary Standards Process

- CPSC staff concerned with each standard individually and all of the standards holistically.
 - Similar product categories
 - Definitional overlap and consistency
- Self-Updating Standards (P.L. 112-28)
 - ASTM must notify Commission and vol. standard update becomes effective 180 days from date of notice unless, within 90 days of receiving notice, the Commission notifies ASTM that the proposed revision does not improve the safety of the consumer product covered by the standard.
- Administrative Delays (Balloting, typographical errors, etc.)

Get Involved !

**Sec. 104 Rulemaking &
Voluntary Standards Process**

Get Involved!

- Voluntary Standards Process
 - Join ASTM International— nominal fee
 - Stay involved and knowledgeable about your industry.
 - Network in your industry.
 - Feel good about being an important part of producing improved safety standards.
 - View the list of standards subcommittees that have CPSC staff involvement.

Get Involved!

- Comment on Rulemakings
 - Different from involvement in vol. standards process
 - Comments from vol. standards process not necessarily reconsidered
 - Need to submit comments formally
 - In your comments, explain your industry and how proposed rule would likely affect your business.
 - Be specific and data driven.
 - Support your positions with data, not anecdotes.
 - Provide the actual alternative wording you would recommend that the Commission consider, with all needed rationale.

Get Involved!

- Engage with CPSC staff:
 - Office of Education, Global Outreach, and Small Business Ombudsman
 - Specialized issues may need specialized CPSC staff.
 - Don't "forum shop" around multiple CPSC staff.
 - Your Credibility: It is a small agency, and we talk to each other. You should say the same thing to everyone, and let everyone know with whom you are speaking.
- Rules
 - Meetings Policy; Government in the Sunshine Act
 - Written comments represent best practices during the rulemaking process

Get Involved!

www.cpsc.gov/cpsia

“Get Involved”

Resources for Industry and Others
to Get Involved



Rulemaking

Exercise Your Rights & Get Involved

Whether you are an individual consumer or a small business, everyone has the right to become an active participant in agency rulemaking on regulations that may affect you.

Congress provides the Commission authority to enact regulations in the area of consumer product safety. By law, the Commission must follow a standard process for federal government rulemaking, known as the Administrative Procedure Act (APA). The APA requires the Commission to solicit input from the public on proposed regulations and to respond to public comments in issuing its regulations. This means that when a new regulation is proposed, you have the right to provide a comment, and the agency must consider your comment (individually or grouped with other similar comments) and address your concerns in writing. Your comment may be found to be persuasive and the regulation may be adjusted as a result of your comment, or your comment may be found not to be persuasive, and the regulation may not be adjusted. This process is called "notice and comment rulemaking," and it is explained in more detail below.

Your comments are very important in helping the Commission to understand how the proposed regulation may affect you and others if the regulation is adopted by the Commission. We encourage you to get involved and participate.

The Commission's Rulemaking Activities

I. CPSC's statutory authorities.

The following discussion provides an overview of the requirements for the Commission's rulemaking activities that directly affect products. For any particular action that is

Find Rulemakings Currently in Progress

There are a few ways to identify which regulations are currently being proposed and are open for comment:

1. Subscribe to the [CPSIA listserv](#)
2. Review CPSC's [List of Federal Register Notices Soliciting Public Comments](#) on CPSC.gov for a listing of CPSC's Rulemakings that are "Open" for Public Comment.
3. Follow CPSC on [Regulations.gov](#) through a direct search or via an RSS feed for real time updates. (Advanced Search Criteria: CPSC, Open for Comment, Proposed Rule.)



Voluntary Standards

What are voluntary standards?

There are thousands of voluntary consensus safety standards¹ ("voluntary standards") in existence and one may exist for your consumer product. There are many voluntary standard organizations (like ANSI, ASTM, CSA, UL, and others) that facilitate the creation of these voluntary standards for individual consumer products. In many cases these standards bring industry groups, government agencies, and consumer groups together to agree on best consumer product safety practices. Most voluntary standards committees are open to the public for participation and membership for a nominal membership fee. Individual voluntary standards are available for purchase from the relevant voluntary standard development organization.

When you are designing and manufacturing your product, you should contact voluntary standards organizations that may have standards in place for your product or may have standards in place for products similar to yours. If you are designing a new product in a new product category, there may not be voluntary safety standards that directly address your product, but there may be standards for similar products that may be relevant to you. For example, if you are designing a non-toy children's product that contains a cord, there are a few different standards, including the toy safety standard, that exist and that may provide helpful guidance for you in determining the safe length of cord or string to be used. Although not a mandatory requirement, you would be well advised to consider the guidance in these other standards because it is based on the considered judgment of other manufacturers, designers, and safety experts.

When reviewing voluntary safety standards, you should remember that the standards

Get Involved

Members of industry can join voluntary standard organizations for a nominal fee and participate as a member of any standards committee that interests them. (Consumers can also participate and often receive a fee waiver from the voluntary standard organizations.) Participating in the development of voluntary consensus safety standards is a great way to stay on top of developments in your industry.

Where can I find relevant consumer product voluntary standards?

U.S. Consumer Product Safety Commission (CPSC) staff promotes safety by providing technical support to voluntary standards activities for a wide



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Voluntary Standards

U.S. Consumer Product Safety Commission (CPSC) staff promotes safety by providing technical support for voluntary standards activities for a wide range of consumer products. Click on any active link below to obtain additional information, including hazard or incident data analyses, research reports, CPSC staff recommendations to voluntary standard committees, and related safety information. You can also view and comment on staff's [draft recommendations](#) and [research reports](#) to improve safety requirements prior to their submittal to voluntary standards organizations. In addition, links are provided to the appropriate voluntary standards organization for further information.

Your inquiries and comments are welcome if you care to contact CPSC staff about a voluntary standard activity. Please note that CPSC staff will take all comments and inquiries into consideration, although you may not receive a direct response to your submittal. You may also subscribe to receive updates concerning CPSC staff's voluntary standards activities. Click on the appropriate link in the Contact CPSC section of any standards activity.

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➔ Children's Products

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SMALL BATCH MANUFACTURERS

**Public Law 112-28
(August 12, 2011)**

www.cpsc.gov/smallbatch

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