



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
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DATE: June 5, 2019

BALLOT VOTE SHEET

This document has been electronically approved and signed.

TO: The Commission
 Alberta E. Mills, Secretary

THROUGH: Patricia M. Hanz, General Counsel
 Mary T. Boyle, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel, Regulatory Affairs
 Meridith L. Kelsch, Attorney, Regulatory Affairs

SUBJECT: Final Rule: Safety Standard for Stationary Activity Centers

BALLOT VOTE DUE: Tuesday, June 11, 2019

Staff is forwarding to the Commission a briefing package recommending that the Commission publish in the *Federal Register* the attached draft final rule for stationary activity centers. Pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008, the draft final rule would incorporate by reference the voluntary standard, ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*, as the mandatory federal safety standard for stationary activity centers. Additionally, the draft final rule would amend the Commission’s regulation regarding third party conformity assessment bodies to include the mandatory standard for stationary activity centers in the list of notices of requirements in 16 CFR part 1112. The Office of the General Counsel is providing the attached draft final rule for Commission consideration.

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: Safety Standard for Stationary Activity Centers

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1238

[Docket No. CPSC-2018-0015]

Safety Standard for Stationary Activity Centers

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the United States Consumer Product Safety Commission (CPSC) to adopt safety standards for durable infant or toddler products. To comply with the CPSIA, the Commission is issuing a safety standard for stationary activity centers (SACs). This rule incorporates by reference ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers* (ASTM F2012-18^{e1}). This rule also amends the regulations for third party conformity assessment bodies to include the safety standard for SACs in the list of notices of requirements (NORs).

DATES: The rule will become effective on [INSERT DATE 6 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of [INSERT DATE 6 MONTHS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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; telephone: (301) 504-6820; email: KWalker@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

Congress enacted the CPSIA (Pub. L. 110-314, 122 Stat. 3016), including the Danny Keysar Child Product Safety Notification Act, on August 14, 2008. Section 104(b) of the CPSIA 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) issue consumer product safety standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Any standard the Commission adopts under this mandate must be “substantially the same as” the voluntary standard, or more stringent than the voluntary standard if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.* Section 104(f)(1) of the CPSIA defines the term “durable infant or toddler product” as “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,” and lists SACs as a durable infant or toddler product. *Id.* 2056a(f).

On June 19, 2018, the Commission issued a notice of proposed rulemaking (NPR), proposing to incorporate by reference the voluntary standard for SACs, ASTM F2012-18^{e1}, without modifications. 83 FR 28390. ASTM F2012-18^{e1} is still the current version of the standard.

In this final rule, the Commission incorporates by reference ASTM F2012-18^{e1}, with no modifications, as the mandatory safety standard for SACs. CPSC staff consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop this standard, largely through the ASTM standard-

development process. In addition, this final rule amends the list of NORs in 16 CFR part 1112 to include the standard for SACs. This rule is based on information in CPSC staff's briefing package, "Staff's Draft Final Rule for Stationary Activity Centers Under the Danny Keysar Child Product Safety Notification Act," which is available on CPSC's website.

II. Product Description

ASTM F2012-18^{e1} defines a SAC as "a freestanding product intended to remain stationary that enables a sitting or standing occupant whose torso is completely surrounded by the product to walk, rock, play, spin or bounce, or all of these, within a limited range of motion." ASTM F2012-18^{e1}, section 3.1.12. This definition does not include doorway jumpers.

SACs are intended for children who are not yet able to walk, but who are able to hold up their heads unassisted. SACs vary in style and design complexity, but typically consist of a seat that is suspended from a frame by springs or supported from the bottom by a fixed base. ASTM F2012-18^{e1} defines three types of SACs: closed-base SACs, open-base SACs, and spring-supported SACs. The standard defines each of these terms, as follows:

- a closed-base SAC is "a stationary activity center that does not allow the occupant's feet to contact the floor when the product is in any manufacturer's recommended use position" (section 3.1.1.);
- an open-base SAC is "a stationary activity center that allows the occupant's feet to contact the floor" (section 3.1.7); and
- a spring-supported SAC is "a stationary activity center in which the sitting or standing platform is supported from below or suspended from above by springs (or equivalent resilient members)" (section 3.1.10).

III. Market Description

SACs typically range in price from \$40 to \$150, with spring-supported SACs typically ranging from \$70 to \$150. Some manufacturers produce multiple models, and several produce models that are similar in design, but with different accessories. SACs typically accommodate children who weigh less than 25 pounds and have a maximum height of 32 inches.

There were approximately 7.5 million¹ SACs in U.S. households with children under 5 years old in 2013, according to CPSC's 2013 Durable Nursery Product Exposure Survey. However, only about 4.1 million of these SACs were actually in use.²

CPSC staff identified 11 domestic firms that currently supply SACs to the U.S. market. These firms primarily specialize in manufacturing children's products. According to the U.S. Small Business Administration's (SBA) standards,³ 7 of the 11 firms are small businesses. All seven firms manufacture SACs; staff did not identify any small domestic importers of SACs. Of the seven small manufacturers, three produce spring-supported SACs. The Juvenile Products Manufacturers Association (JPMA) certifies the SACs of all seven firms, which indicates that these SACs comply with the ASTM standard and undergo third party testing.

IV. Incident Data and Recalls

CPSC receives data about product-related injuries from several sources. One source is the National Electronic Injury Surveillance System (NEISS), from which CPSC may obtain estimates based on a probability sample, determined by sampling weights from NEISS hospitals projected to national estimates. Other sources include reports from consumers and others through the Consumer Product Safety Risk Management System (which also includes some NEISS data)

¹ 95% confidence interval between 6.2 million and 8.8 million.

² 95% confidence interval between 3.1 million and 5.2 million.

³ Under SBA size standards, a SAC manufacturer is "small" if it has 500 or fewer employees, and an importer is "small" if it has 100 or fewer employees.

and reports from retailers and manufacturers through CPSC's Retailer Reporting System—CPSC refers to these sources collectively as Consumer Product Safety Risk Management System data (CPSRMS).

CPSC staff reviewed the NEISS and CPSRMS databases for incidents involving SACs. For the NPR, staff reviewed incident data reported to have occurred between January 1, 2013 and September 30, 2017. For the final rule, staff updated this review to include incident data received from October 1, 2017 through February 20, 2019. This updated review includes additional incident data reported to have occurred between January 1, 2013 and September 30, 2017, as well as new incidents that occurred between October 1, 2017 and February 20, 2019. Because reporting is ongoing, the number of reported incidents may change. For both the NPR and updated data periods, the number of injuries associated with SACs treated in U.S. EDs was insufficient for staff to derive reportable national estimates.⁴ For this reason, staff has not provided injury estimates. However, injuries associated with SACs treated in U.S. EDs are included in the total count of reported incidents presented below.

A. Fatalities

CPSC is not aware of any fatalities associated with SACs that occurred between January 1, 2013 and February 20, 2019.

B. Nonfatal Injuries

CPSC is aware of 4,035 nonfatal incidents related to SACs that reportedly occurred between January 1, 2013 and February 20, 2019. CPSC had received reports of 3,488 of these incidents at the time of the NPR; since the NPR, CPSC received 547 additional reports of SAC

⁴ According to NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33% or smaller.

incidents that reportedly occurred between January 1, 2013 and February 20, 2019. Of the 4,035 total incidents, 359 reportedly resulted in injuries (CPSC had received reports of 304 of these injury incidents at the time of the NPR, and received 55 additional injury reports since the NPR). The remaining 3,676 incidents either did not result in injuries, or did not include sufficient information to determine whether an injury occurred (CPSC had received reports of 3,184 of these incidents at the time of the NPR, and received 492 additional reports since the NPR). Although these reports did not indicate that an injury occurred, many of the incident descriptions indicated the potential for a serious injury.

Of the 304 incidents that had reportedly resulted in injuries at the time of the NPR, 24 of the injured children were treated and released from a U.S. ED. A majority of the injured children suffered a fall, resulting in head injuries, limb fractures, and contusions. A few children treated in U.S. EDs suffered foot, leg, or pelvic bruising, or fractures or swelling while jumping in the product. One child had an allergic reaction to the product's finish or materials, and the limbs of two children became entrapped in the product. Among the remaining 280 injury reports, some identified the type of injury sustained, while others only mentioned an injury, but provided no specifics about the injury. Some of the commonly reported injuries were fractures, head injuries, concussions, teeth injury, abrasions, contusions, and lacerations.

Of the 55 injury incidents reported since the NPR, there were reports of head contusions; arm and leg contusions, abrasions, and lacerations; hand contusions, abrasions, lacerations, and blisters; finger entrapments; mouth lacerations; torso abrasions; a nose contusion; a torso abrasion; a leg fracture; and a skull fracture. Three children suffered allergic reactions to the product finish or material, and one child experienced a choking episode. Three children suffered multiple injuries.

The majority of reported incidents and injuries involved children between 6 months old and 11 months old. Of the 4,035 total incidents, 13 percent involved children under 6 months old; 60 percent involved children between 6 and 11 months old; 7 percent involved children between 12 and 17 months old; 1 percent involved children between 18 and 23 months old; and 18 percent did not report the age of the victim.⁵ Of the 359 incidents that reportedly resulted in injuries, 20 percent involved children under 6 months old; 60 percent involved children between 6 and 11 months old; 6 percent involved children between 12 and 17 months old; 1 percent involved children between 18 and 23 months old; and 12 percent did not report the age of the victim.⁶

C. Hazard Patterns

The hazards reported in the new incidents are consistent with the hazard patterns staff identified in the incidents presented in the NPR. Table 1 lists the number and percentage of the 4,035 total reported incidents within each hazard pattern.

TABLE 1.—*Reported Incidents by Hazard Pattern (January 1, 2013 to February 20, 2019)*

Hazard	Number of Incidents	Percentage of Total Incidents
Spring Issues	1,756	44
Problems with Toy Accessories	1,166	29
Strap Issues	513	13
Structural Integrity Problems	166	4
Problems with Seats/Seat Pads	136	3
Stability Issues	112	3
Design Issues	59	1
Electrical Problems	38	1
Miscellaneous/Other Problems	31	1
Multiple Problems	32	1
Unspecified/Unknown Problems	26	1
Total	4,035	101 ⁷

⁵ Total does not sum to 100 percent due to rounding.

⁶ Total does not sum to 100 percent due to rounding.

⁷ Total does not sum to 100 percent due to rounding.

Spring issues. These incidents involved problems with the springs that attach the seat of the SAC to the frame. A total of 1,756 incident reports CPSC received between January 1, 2013 and February 20, 2019 involved spring issues (CPSC received 1,617 of these reports before the NPR and 139 after the NPR). Thirty of these incidents reportedly resulted in injuries, including 1 injury treated in a U.S. ED (CPSC received 27 of these reports before the NPR and 3 after the NPR).

Problems with toy accessories. These incidents involved problems with the toy accessories attached to SACs, including detached small parts posing a choking hazard, toys striking children in the face, toys pinching or entrapping children's fingers, and laceration hazards caused by sharp edges or surfaces. A total of 1,166 incident reports CPSC received between January 1, 2013 and February 20, 2019 involved toy accessory issues (CPSC received 1,075 of these before the NPR and 91 after the NPR). Of these 1,166 incidents, 169 reportedly resulted in injuries, including 15 injuries treated in U.S. EDs (CPSC received 156 of these reports before the NPR and 91 after the NPR).

Strap issues. These incidents involved torn, fraying, twisted, or detached straps. Typically, the strap system on a SAC is attached to a support spring and serves as the primary means of support for most spring-supported SACs. If the strap fails, the SAC may be unsupported on one side and often results in a child falling. A total of 513 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved strap issues (CPSC received 306 of these before the NPR and 207 after the NPR). Of these 513 incidents, 42 reportedly resulted in injuries, including one injury treated in a U.S. ED (CPSC received 30 of these reports before the NPR and 12 after the NPR).

Structural integrity problems. These incidents involved a problem with structural components, such as frame tube damage, broken battery cover tabs, loose screws or small parts, broken activity bars, and problems with locks, which led to product collapse, detachment of the top and bottom parts of the SAC, or failure of the height adjustment mechanism. A total of 166 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved structural integrity issues (CPSC received 158 of these before the NPR and 8 after the NPR). Twelve of these incidents reportedly resulted in injuries (CPSC received all 12 of these reports before the NPR).

Problems with seats or seat pads. These incidents included stitching on the seat pad fraying or tearing; tabs used to attach the pad to the seat frame breaking, tearing, or separating; attachments disassembling and causing the seat pad to fall; inadequately constrictive leg openings; seat fabric detaching from pegs; ripped seat pads; and rough seat pad material. A total of 136 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved seat or seat pad issues (CPSC received 122 of these before the NPR and 214 after the NPR). Thirteen of these incidents reportedly resulted in injuries (CPSC received 12 of these reports before the NPR and 1 after the NPR).

Stability issues. These incidents involved SACs leaning to one side, lifting off the floor, or tipping over during use. A total of 112 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved stability issues (CPSC received 76 of these before the NPR and 36 after the NPR). Thirteen of these incidents reportedly resulted in injuries, including two injuries treated in U.S. EDs (CPSC received four of these reports before the NPR and nine after the NPR).

Design issues. These incidents involved problems with the design of the SAC, such as entrapment of limbs or extremities, failure of the seat to contain a child, placement of structural components that made it easier for a child to get hurt during routine use, mold buildup in a wire compartment, the base of the product disassembling while a child jumped in it, and straps that loosen when a baby kicks them. A total of 59 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved design issues (CPSC received 32 of these before the NPR and 27 after the NPR). Of these 59 incidents, 26 reportedly resulted in injuries, including two injuries treated in U.S. EDs (CPSC received 20 of these reports before the NPR and six after the NPR).

Electrical problems. These incidents involved melting, leaking, or corroded batteries, or failure of the circuit board on the product. A total of 38 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved electrical issues (CPSC received 36 of these before the NPR and 2 after the NPR). Two of these incidents reportedly resulted in injuries (CPSC received both of these reports before the NPR).

Miscellaneous or other problems. These incidents involved the product falling from an elevated surface; a rough surface, sharp edges, or protrusions; problems with the paint or finish; problems with the product packaging; allergic reactions to the product; and a loose unraveling string. A total of 31 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved miscellaneous or other issues (CPSC received 22 of these before the NPR and 9 after the NPR). Eighteen of these incidents reportedly resulted in injuries, including five injuries treated in U.S. EDs (CPSC received 13 of these reports before the NPR and 5 after the NPR).

Multiple problems. These incidents involved more than one of the hazard patterns listed above. CPSC staff could not determine the priority of the hazard patterns involved. A total of 32

incident reports CPSC received between January 1, 2013 and February 20, 2019, involved multiple issues (CPSC received 20 of these before the NPR and 12 after the NPR). Nine of these incidents reportedly resulted in injuries (CPSC received five of these reports before the NPR and four after the NPR).

Unspecified or unknown problems. These reports provided incomplete or unclear descriptions of the incident. A total of 26 incident reports CPSC received between January 1, 2013 and February 20, 2019, involved unspecified or unknown issues (CPSC received 24 of these before the NPR and 2 after the NPR). Twenty-five of these incidents reportedly resulted in injuries, mostly resulting from falls, and included 17 injuries treated in U.S. EDs (CPSC received 23 of these reports before the NPR and 2 after the NPR).

D. Recalls

In the preamble to the NPR, the Commission reported that one consumer-level recall between January 2013 and March 2018, involved a SAC.⁸ The hazard that prompted the recall was a toy attachment on the SAC, which posed an impact hazard when it rebounded. The firm received 100 reports of incidents, including 61 reported injuries. The injuries included bruises and lacerations to the face, a 7-month-old child who sustained a lineal skull fracture, and an adult who sustained a chipped tooth. The recall involved 400,000 units in the United States. There have not been any additional consumer-level recalls of SACs since the NPR.

V. ASTM F2012-18¹

A. History of ASTM F2012

ASTM F2012 addresses the hazard patterns associated with SACs. ASTM first approved and published the standard in 2000, as ASTM F2012-00, *Standard Consumer Safety*

⁸ CPSC website link to the recalled product: <https://www.cpsc.gov/Recalls/2013/Kids-II-Recalls-Baby-Einstein-Activity-Jumpers/>.

Specification for Stationary Activity Centers. ASTM has revised the standard several times since then. In the NPR, the Commission proposed to incorporate by reference the then-current version of the standard, ASTM F2012-18^{e1}, with no modifications. ASTM approved ASTM F2012-18^{e1} on March 1, 2018, and published it in March 2018. ASTM F2012-18^{e1} is still the current version of the standard.

B. Assessment of ASTM F2012-18^{e1}

ASTM F2012-18^{e1} adequately addresses the risk of injuries and deaths associated with SACs. The standard addresses multiple hazards, including the hazard patterns that make up the majority of incidents and injuries in the SAC incident data. ASTM F2012-18^{e1} includes requirements to address the following hazards:

- sharp edges and points;
- small parts;
- latching or locking mechanisms to prevent unintentional folding;
- openings;
- scissoring, shearing, and pinching;
- exposed coil springs;
- toy accessories sold with SACs;
- protective components;
- spring failures on spring-supported SACs;
- structural integrity;
- leg openings;
- stability (including tip overs and seat tilt); and
- motion resistance.

The standard also includes requirements for warning labels and instructional literature. On-product warning labels inform caretakers of the risks of strangulation and occupants falling from SACs; the potential severity of resulting injuries; and how to avoid these hazards. The instructions that accompany SACs also include these warnings, as well as developmental criteria to explain when to begin using the product and when to discontinue use.

ASTM F2012-18^{e1} addresses the four primary hazard patterns associated with SACs in the incident data. These are: (1) spring issues (44 percent of incidents); (2) problems with toy accessories (29 percent of incidents); (3) strap issues (13 percent of incidents); and (4) structural integrity problems (4 percent of incidents). This section discusses how ASTM F2012-18^{e1} addresses each of these hazard patterns.

Spring issues. Spring issues typically involve SACs in which the activity tray and child hang from springs at multiple points. These incidents often involve one or more parts of the spring system failing, which can result in the child falling out of the SAC when it tilts, tips, topples, or leans from the manufacturer's recommended-use position. ASTM F2012-18^{e1} addresses this hazard with a performance requirement that support springs withstand 100 drops from a 33-pound weight from a height of at least 1 inch. In addition, based on input from CPSC staff, ASTM F2012-18^{e1} requires a secondary support for load-bearing springs, so that there is a redundant system to prevent the seat from falling if a spring fails. CPSC concludes that these requirements adequately address the spring issues indicated in the incident data.

Problems with toy accessories. The majority of reported problems with toy accessories involve detached small parts causing choking or gagging, toys striking children in the face, pinch or entrapment points created by small gaps, and lacerations from sharp edges. ASTM F2012-18^{e1} addresses these hazards by requiring toy accessories for SACs, and their means of attachment, to

meet relevant requirements in ASTM F963-17, *Standard Consumer Safety Specification for Toy Safety* (ASTM F963). ASTM F963 includes requirements that address the hazards evident in the injury data, including choking, ingestion, and inhalation hazards from small objects; sharp edges, hazardous points, and hazardous projections; folding mechanisms and hinges; and entanglement and strangulation hazards from cords, straps, and elastics. CPSC concludes that ASTM F963 adequately addresses the majority of hazards related to toy accessories on SACs.

Strap issues. The strap system on a SAC supports the occupant's weight and allows the occupant to bounce. The strap system is the primary means of support for most spring-supported SACs. A typical spring-supported SAC includes a strap system that connects at the top to the frame structure, and at the bottom to the side or underside of the carrier, to support the occupant. The length of the strap system typically consists of an upper segment that serves as the frame support strap, a lower segment that serves as the occupant support strap, and a middle section that consists of a spring to allow the occupant to bounce. Because the strap system serves as the primary means of support for most spring-supported SACs, if the strap fails, the SAC may be unsupported on one side, resulting in a child falling. Incidents involving strap issues include torn, fraying, twisted, or detached straps.

To address this hazard, ASTM F2012-18^{e1} requires dynamic and static loading at the seat of the product to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the product, such as straps. The standard requires that the product show no failure of seams, material breakage, or changes of adjustments that could cause the product to not fully support the child. CPSC staff concludes that these provisions adequately address the strap issues indicated in the incident data.

As the NPR discussed, while preparing the NPR, CPSC staff learned of one product in which the occupant support strap frayed and broke because the strap rubbed against a metal buckle during normal use. The support structure durability requirements in ASTM F2012-18^{e1} do not address this scenario. On April 27, 2018, CPSC staff requested that ASTM address this hazard scenario, and ASTM created a task group to review the issue. The NPR requested comments about this issue, but CPSC received none. CPSC staff is participating in the ASTM task group, and the task group is making progress toward developing a requirement to address fraying straps. In this final rule, the Commission is not adopting an additional requirement to address this hazard because: (1) the ASTM task group has made progress toward developing a requirement to address fraying straps; (2) CPSC is aware of only one product that involved this issue; and (3) the one product has been redesigned with parts that will not cause the strap to fray.

Structural integrity problems. Incidents involving structural integrity problems include frame tube damage; loose screws; broken activity bars; and problems with locks that lead to the product collapsing, the top and bottom parts of the product detaching, or the height adjustment mechanism failing. To address these issues, ASTM F2012-18^{e1} requires dynamic and static loading at the seat of the SAC to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the SAC. The standard requires that the product show no failure of seams, material breakage, or changes of adjustments that could cause the product to not fully support the occupant. CPSC concludes that these requirements are adequate to address the structural integrity issues indicated in the incident data.

VI. Comments Filed in Response to the NPR

CPSC received two comments in response to the NPR. The comments are available in the docket for this rulemaking, CPSC-2018-0015, at: www.regulations.gov.

The first comment, from JPMA (a national non-profit trade association that represents producers, importers, and distributors of childcare articles), expressed support for the proposed rule and CPSC staff's collaboration with ASTM. The second comment also expressed general support for the proposed rule, but stated that there should be oversight of small manufacturers and importers. It appears that the commenter misunderstood the Regulatory Flexibility Act (RFA) analysis to mean that the rule would not apply to small entities; this is incorrect. The rule applies to all manufacturers and importers of SACs sold in the United States.

VII. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. These regulations require the preamble to a final rule to summarize the material the agency is incorporating by reference, discuss how the material is reasonably available to interested parties, and explain how to obtain the material. 1 CFR 51.5(b). This section summarizes ASTM F2012-18^{e1}, and describes how to obtain a copy of the standard.

ASTM F2012-18^{e1} contains test methods and requirements regarding:

- sharp edges or points;
- small parts;
- latching or locking mechanisms to prevent unintentional folding;
- openings;
- scissoring, shearing, or pinching;
- exposed coil springs;
- toy accessories sold with SACs;
- protective components;
- spring failures on spring-supported SACs;

- structural integrity;
- leg openings;
- stability (including tip overs and seat tilt);
- motion resistance;
- warnings and labels; and
- instructional literature.

Interested parties may obtain a copy of ASTM F2012-18^{e1} from ASTM, through its website (<http://www.astm.org>), or by mail from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428. Alternatively, interested parties may inspect a copy of the standard at CPSC's Division of the Secretariat.

VIII. Final Rule

Section 1238.2 of the final rule requires SACs to comply with ASTM F2012-18^{e1} and incorporates the standard by reference. Section VII of this preamble describes the OFR requirements for incorporating material by reference. To comply with those requirements, section VII summarizes ASTM F2012-18^{e1}, explains how the standard is reasonably available to interested parties, and indicates how to obtain a copy of the standard.

The final rule also amends 16 CFR part 1112 to add a new § 1112.15(b)(48) that lists 16 CFR part 1238, *Safety Standard for Stationary Activity Centers*, as a children's product safety rule for which the Commission has issued an NOR. Section XV of this preamble provides additional information about certifications and NORs.

IX. Effective Date

The Administrative Procedure Act (5 U.S.C. 551-559) generally requires that agencies set an effective date for a final rule that is at least 30 days after the *Federal Register* publishes the

final rule. *Id.* 553(d). The NPR proposed that the final rule for SACs, and the amendment to part 1112, would take effect 6 months after publication. CPSC did not receive any comments about this timeline. Six months is generally enough time for firms to modify their products to meet a new standard, it is consistent with other CPSIA section 104 rules, and JPMA typically allows six months for products in its certification program to shift to a new standard. For these reasons, this rule will take effect 6 months after publication in the *Federal Register*, and will apply to products manufactured or imported on or after that date.

X. Paperwork Reduction Act

This rule contains information collection requirements that are subject to public comment and Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501-3521). Under the PRA, CPSC must estimate the “burden” associated with each “collection of information.” 44 U.S.C. 3506(c).

In this rule, section 8 of ASTM F2012-18^{e1} contains labeling requirements that meet the definition of “collection of information” in the PRA. *Id.* 3502(3). In addition, section 9 of ASTM F2012-18^{e1} requires instructions be provided with SACs; however, CPSC staff believes this requirement can be excluded from the PRA burden estimate. OMB allows agencies to exclude from the PRA burden estimate any “time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities,” if the disclosure activities required to comply are “usual and customary.” 5 CFR 1320.3(b)(2). CPSC staff is not aware of SACs that require use or assembly instructions but lack such instructions, so staff believes that providing instructions with SACs is “usual and customary.” For this reason, the burden estimate includes only the labeling requirements.

The preamble to the NPR discussed the information collection burden of the proposed rule and requested comments on the accuracy of CPSC’s estimates. 83 FR 28395. CPSC did not receive any comments about the information collection burden of the proposed rule. The information collection burden has not changed since the NPR. The estimated burden of this collection of information is as follows:

TABLE 2.—*Estimated Annual Reporting Burden*

16 CFR Section	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Burden Hours
1238.2	11	4	44	1	44

CPSC staff is aware of 11 suppliers of SACs to the U.S. market. This estimated reporting burden assumes that all 11 suppliers may need to modify their labels to comply with the final rule. CPSC staff estimates that it will take about one hour per model to make these modifications and, based on staff’s evaluation of product lines, that each firm supplies an average of four models of SACs. Therefore, CPSC staff estimates that the burden associated with the labeling requirements is: 11 entities × 1 hour per model × 4 models per entity = 44 hours. CPSC staff estimates that the hourly compensation for the time required to create and update labels is \$34.50 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” Dec. 2018, <http://www.bls.gov/ncs/>). Therefore, the estimated annual cost associated with the labeling requirements is: \$34.50 per hour × 44 hours = \$1,518. CPSC staff does not expect there to be operating, maintenance, or capital costs associated with this information collection.

As the PRA requires, CPSC has submitted the information collection requirements of this final rule to OMB. 44 U.S.C. 3507(d). OMB has assigned control number 3041-0179 to this information collection.

XI. Regulatory Flexibility Act

A. Introduction

The RFA (5 U.S.C. 601-612) requires agencies to consider the potential economic impact of a proposed and final rule on small entities, including small businesses. An agency must prepare and publish a final regulatory flexibility analysis (FRFA) when it issues a final rule, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604(a), 605(b). If, rather than publishing a FRFA, the head of the agency makes the above certification, the agency must publish the certification and a statement of the factual basis for it in the *Federal Register* with the final rule. *Id.* 605(b).

The Commission made the above certification in the NPR because staff found that the cost of modifying products to meet the standard would not be significant, and the SACs of all seven small manufacturers were JPMA certified. JPMA certification indicates that the products comply with the ASTM standard and undergo third party testing. The Commission does not have any new information that would change that conclusion. Therefore, the Commission certifies that this rule, incorporating by reference ASTM F2012-18^{e1} as a CPSC standard, will not have a significant economic impact on a substantial number of small entities involved in manufacturing or importing SACs.

B. Comments Relevant to the RFA Analysis

CPSC did not receive any comments addressing the RFA analysis or from the Chief Counsel for Advocacy of the SBA, but did receive one comment regarding small entities. The commenter stated that there should be oversight of small manufacturers or importers if the rule does not apply to them. It appears that the commenter misunderstood the RFA analysis to mean

that the rule would not apply to small entities; this is not correct. The rule applies to all manufacturers and importers of SACs sold in the United States.

XII. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that, before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, OIRA designated this rule as not a “major rule,” as defined in 5 U.S.C. 804(2). In addition, to comply with the CRA, the Office of the General Counsel will submit the required information to each House of Congress and the Comptroller General.

XIII. Environmental Considerations

CPSC’s regulations list categories of agency actions that “normally have little or no potential for affecting the human environment.” 16 CFR 1021.5(c). Such actions qualify as “categorical exclusions” under the National Environmental Policy Act (42 U.S.C. 4321-4370m-12), which do not require an environmental assessment or environmental impact statement. One categorical exclusion listed in CPSC’s regulations is for rules or safety standards that “provide design or performance requirements for products.” 16 CFR 1021.5(c)(1). Because the final rule for SACs creates design or performance requirements, the rule falls within the categorical exclusion.

XIV. Preemption

Under section 26(a) of the CPSA, no state or political subdivision of a state may establish or continue in effect a requirement dealing with the same risk of injury as a federal consumer

product safety standard under the CPSA unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). However, states or political subdivisions of states may apply to CPSC for an exemption, allowing them to establish or continue such a requirement if the state requirement “provides a significantly higher degree of protection from [the] risk of injury” and “does not unduly burden interstate commerce.” *Id.* 2075(c).

Section 104 of the CPSIA requires the Commission to issue consumer product safety standards for durable infant or toddler products. As such, consumer product safety standards that the Commission creates under CPSIA section 104 are covered by the preemption provision in the CPSA. Therefore, the preemption provision in section 26 of the CPSA applies to the mandatory safety standard for SACs.

XV. Testing, Certification, and Notification of Requirements

Section 14(a) of the CPSA requires the manufacturer or private labeler of a children’s product that is subject to a children’s product safety rule to certify that, based on a third party conformity assessment body’s (*i.e.*, third party laboratory’s) testing, the product complies with the relevant children’s product safety rule. 15 U.S.C. 2063(a)(2)(A), 2063(a)(2)(B). The Commission must publish an NOR for a third party laboratory to obtain accreditation to assess conformity with a children’s product safety rule. 15 U.S.C. 2063(a)(3)(A).

Effective June 10, 2013, the Commission adopted 16 CFR part 1112, which sets out the general requirements and criteria concerning third party laboratories. 78 FR 15836 (Mar. 12, 2013). Part 1112 includes procedures for CPSC to accept a third party laboratory’s accreditation and lists the children’s product safety rules for which the Commission has published NORs. When the Commission issues a new NOR, it must amend part 1112 to include that NOR.

Because this final rule is a children's product safety rule, the Commission is amending part 1112 to include an NOR for the SACs standard. Third party laboratories that apply for CPSC acceptance to test SACs for compliance with the new SAC rule will have to meet the requirements in part 1112. When a laboratory meets the requirements of a CPSC-accepted third party conformity assessment body, the laboratory can apply to CPSC to include 16 CFR part 1238, *Safety Standard for Stationary Activity Centers*, in the laboratory's scope of accreditation of CPSC safety rules listed on the CPSC website at: www.cpsc.gov/labsearch.

As the RFA requires, CPSC staff prepared a FRFA for the Commission's part 1112 rulemaking. 78 FR 15836, 15855 (Mar. 12, 2013). The FRFA concluded that the accreditation requirements would not have a significant economic impact on a substantial number of small laboratories because no requirements applied to laboratories that did not intend to provide third party testing services. The only laboratories CPSC 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.

For the same reasons, adding an NOR for the SACs standard to part 1112 will not have a significant economic impact on small test laboratories. Because only a small number of laboratories in the United States have applied for accreditation to test for conformance to existing juvenile product standards, CPSC expects that only a few laboratories will seek accreditation to test for compliance with the SACs standard. Of those that seek accreditation, CPSC expects that most already will have accreditation to test for conformance to other juvenile product standards. The only costs to those laboratories will be the cost of adding the SACs standard to their scopes of accreditation. For these reasons, CPSC certifies that amending 16 CFR part 1112 to include an

NOR for the SACs standard will not have a significant economic impact on a substantial number of small entities.

List of Subjects in

16 CFR Part 1112

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

16 CFR Part 1238

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, 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: 15 U.S.C. 2063; Pub. L. 110-314, section 3, 122 Stat. 3016, 3017 (2008).

2. Amend § 1112.15 by adding paragraph (b)(48) to read as follows:

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

* * * * *

(b) * * *

(48) 16 CFR part 1238, Safety Standard for Stationary Activity Centers.

* * * * *

3. Add part 1238 to read as follows:

PART 1238-SAFETY STANDARD FOR STATIONARY ACTIVITY CENTERS

Sec.

1238.1 Scope.

1238.2 Requirements for Stationary Activity Centers.

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

§ 1238.1 Scope.

This part establishes a consumer product safety standard for stationary activity centers.

§ 1238.2 Requirements for stationary activity centers.

Each stationary activity center shall comply with all applicable provisions of ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*, approved on March 1, 2018. 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 Division of the Secretariat, 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: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Alberta E. Mills,
Secretary,
Consumer Product Safety Commission.



**Stationary Activity Centers
Draft Final Rule**

June 5, 2019

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Briefing Memorandum



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

This document has been electronically
approved and signed.

Memorandum

Date: June 5, 2019

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Patricia M. Hanz, General Counsel
Mary T. Boyle, Executive Director

FROM: George A. Borlase, Ph.D., P.E., Assistant Executive Director
Office of Hazard Identification and Reduction

Kevin K. Lee, Project Manager
Division of Mechanical and Combustion, Directorate for Engineering Sciences

SUBJECT: Staff's Draft Final Rule for Stationary Activity Centers under the Danny
Keysar Child Product Safety Notification Act

I. INTRODUCTION

The Danny Keysar Child Product Safety Notification Act, *i.e.*, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the U.S. Consumer Product Safety Commission (CPSC) to: (1) examine and assess voluntary safety standards for certain infant or toddler products, and (2) promulgate mandatory consumer product safety standards that are substantially the same as or more stringent than the voluntary standards if the Commission determines that more stringent standards would further reduce the risk of injury associated with these products. Section 104(f) of the CPSIA defines "durable infant or toddler products" as "durable products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years." The list of products in section 104(f)(2) specifically includes stationary activity centers. (16 CFR § 1130.2(a)(7))

Section 104 also requires the Commission to consult with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts to examine

and assess the effectiveness of the relevant voluntary standards. CPSC staff regularly participates in the juvenile products subcommittee meetings of ASTM International (ASTM). ASTM subcommittees consist of members who represent producers, users, consumers, government, and academia.¹ The consultation process for this rulemaking commenced when staff presented incident data related to stationary activity centers during the ASTM F15.17 subcommittee meeting in fall 2015. Since then, staff has actively participated in the revisions to the voluntary standard to address the hazards identified in the data.

On June 19, 2018, the Commission published a notice of proposed rulemaking (NPR) in the *Federal Register* (83 FR 28390) that proposed to incorporate by reference the most recent voluntary standard for stationary activity centers (ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*). This briefing package on the draft final rule for stationary activity centers provides:

- an update of the incident data since publication of the NPR;
- an assessment of the effectiveness of the current voluntary standard for stationary activity centers (ASTM F2012-18^{e1});
- staff’s response to comments received on the NPR;
- a review of recent recalls associated with stationary activity centers;
- a discussion of the potential impact of a final rule on small businesses; and
- staff’s recommendations for a final rule to address potential hazards associated with stationary activity centers.

II. DISCUSSION

A. Product Description

ASTM F2012-18^{e1} defines a “stationary activity center” as “a freestanding product intended to remain stationary that enables a sitting or standing occupant whose torso is completely surrounded by the product to walk, rock, play, spin or bounce, or all of these, within a limited range of motion.” (ASTM F2012 §3.1.12) The intended users of stationary activity centers are children who have not yet reached the developmental milestone of walking. Stationary activity centers vary in style and design complexity, but they typically consist of a seating area that is suspended from a frame by springs or supported from the bottom by a fixed base (see Figure 1).

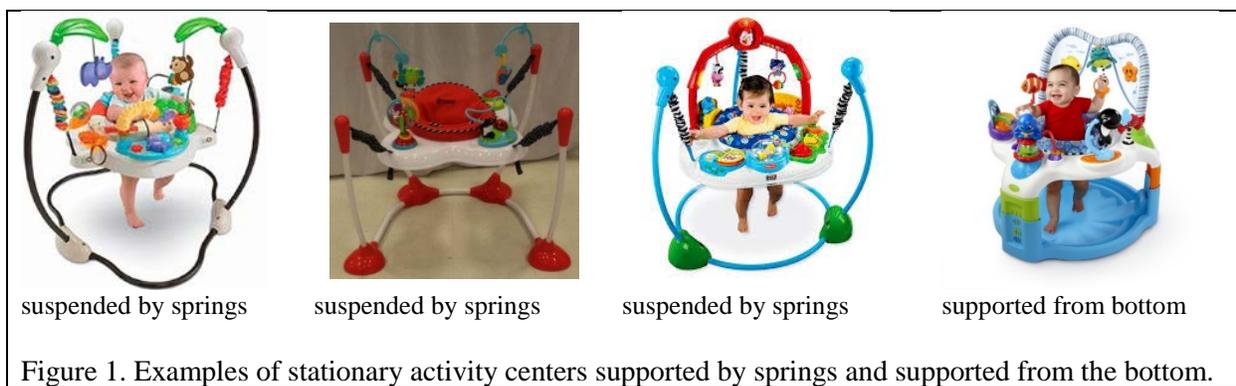


Figure 1. Examples of stationary activity centers supported by springs and supported from the bottom.

¹ ASTM International website: www.astm.org, About ASTM International.

B. Overview of Data (Tab A)

In the NPR briefing package, Directorate for Epidemiology (EP) staff searched CPSC's Consumer Product Safety Risk Management System (CPSRMS) and the National Electronic Injury Surveillance System (NEISS) and determined that these databases included 3,488 incidents, including 304 reported injuries and no fatalities associated with stationary activity centers from January 1, 2013 to September 30, 2017. EP did not provide a national estimate of the annual injuries because the number of NEISS cases was insufficient to meet EP's publication criteria. The number of emergency department (ED)-treated injuries associated with stationary activity centers during this period was insufficient for staff to derive reportable national estimates (Tab A).

For this briefing package EP staff updated the search to include data from January 1, 2013 to February 20, 2019, and identified an additional 547 incidents, including 55 injuries and no fatalities. With this updated information, staff is aware of 4,035 incidents associated with stationary activity centers, including 359 reported injuries and no fatalities, from January 1, 2013 to February 20, 2019. All of the new incidents fall within the same hazard patterns identified in the NPR briefing package.

1. Fatalities

No fatalities associated with the use of stationary activity centers were reported to have occurred between January 1, 2013 and February 20, 2019.

2. Nonfatal Incidents

Since publication of the NPR, 547 new incidents associated with stationary activity centers were reported to CPSC. Of the 547 new incidents, 55 reported nonfatal injuries that include: head contusions, arm and leg contusions/abrasions/lacerations, hand contusions/abrasions/lacerations/blisters, finger entrapments, mouth lacerations, torso abrasions, a nose contusion, a torso abrasion, a leg fracture, and a skull fracture. Three children suffered allergic reactions to the product finish or material, while one child experienced a choking episode. Three children suffered multiple injuries.

3. Hazard Pattern Characterization Based on Incident Data

In the NPR briefing package, staff identified nine hazard patterns associated with the use of stationary activity centers. The 547 new incidents identified since publication of the NPR fall within the hazard patterns identified in the NPR. Four of the nine hazards account for 90 percent of the reported

incidents and injuries and are categorized below in order of frequency of reports.²

- **Spring** issues account for 1,617 of the 3,488 incidents reported in the NPR briefing package and account for 139 of the 547 new incidents reported since publication of the NPR. To date, 1,756 of the 4,035 total incidents (44%) are related to springs. The reported incidents involved a problem with the springs that suspend the seat from the product's frame. In the NPR briefing package, 27 injuries were reported in the spring category.³ Since publication of the NPR, three new injuries were reported in this category, bringing the total to 30 injuries.
- **Toy accessories** issues account for 1,075 of the 3,488 incidents reported in the NPR briefing package and for 91 of the 547 new incidents reported since publication of the NPR. To date, 1,166 of the 4,035 total incidents (29%) are related to toy accessories. The reported incidents involved problems related to the toys attached to the stationary activity center, such as detachment of small parts, and toys pinching or entrapping fingers. In the NPR briefing package, 156 injuries were reported in this category.⁴ Since publication of the NPR, 13 new injuries were reported, bringing the total to 169 injuries.
- **Strap** issues account for 306 of the 3,488 incidents reported in the NPR briefing package and 207 of the 547 new incidents reported since publication of the NPR. To date, 513 of the 4,035 total incidents (13%) are related to straps. The reported incidents involved fraying, twisted, or detached straps. In the NPR briefing package, 30 injuries related to strap issues were reported.⁵ Since publication of the NPR, 12 new injuries were reported, bringing the total to 42 injuries.
- **Structural integrity** issues account for 158 of the 3,488 incidents reported in the NPR briefing package and for eight of the 547 new incidents reported since publication of the NPR. To date, 166 of the 4,035 total incidents (4%) are related to structural integrity. The reported incidents involved problems related to weak frame tubes, loose screws, or broken activity bars. In the NPR briefing package, 12 injuries related to structural integrity were reported.⁶ Since publication of the NPR, no new injuries were reported in this category, and there remains a total of 12 injuries.

² The remaining categories of hazard patterns are: seats/seat pad issues; stability issues; electrical issues; design issues; miscellaneous other issues; and multiple problems from all categories; and unspecified/unknown issues. A full review of the hazard patterns is discussed in Tab A.

³

Proposed Rule: Safety Standard for Stationary Activity Centers (Tab A) retrieved from: https://cpsc.gov/s3fs-public/Proposed%20Rule%20-%20Safety%20Standard%20for%20Stationary%20Activity%20Centers%20-%20June%206%202018_0.pdf?rD.IMQYNesjkZ6sEXeOtSm1qBYoxTtA5

⁴ *ibid.*

⁵ *ibid.*

⁶ *ibid.*

C. Recalls

In the NPR briefing package, CPSC staff reviewed recalls of stationary activity centers that occurred between January 2013 and March 2018. During that period, there was one consumer-level recall involving a Kids II, Inc., stationary activity center.⁷ The recall involved 400,000 units and was conducted to resolve an impact hazard posed by a toy accessory on the support seat that could rebound with enough force to cause bruises and lacerations. Since publication of the NPR, there have been no new recalls of stationary activity centers.

D. Staff's Assessment of F2012-18^{e1} (Tab B and C)

The voluntary standard for stationary activity centers, ASTM F2012, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*, was developed to address the hazard patterns associated with the use of stationary activity centers. ASTM first approved the standard in April 2000, and revised the standard 10 times; the current version of the standard is ASTM F2012-18^{e1}.

As stated in the NPR, staff concluded that ASTM F2012-18^{e1} adequately addressed the hazard patterns identified in the incident data. The four most common hazard patterns associated with the majority of reported incidents and injuries are: spring support issues, toy accessory issues, support strap issues, and structural integrity issues. ASTM F2012-18^{e1} addresses spring support issues by requiring dynamic load and a redundant system in case of spring failure. The standard addresses toy accessory issues by requiring product compliance with ASTM F963-17, *Standard Consumer Safety Specification for Toy Safety*, which addresses hazards related to toy accessories. The standard addresses support strap issues by requiring dynamic load and static load tests. The standard addresses structural integrity issues by requiring dynamic and static loading at the seat to evaluate the durability of the support structures for the seat. Staff concludes that these requirements address the hazard patterns indicated in the incident data.

While preparing the NPR, CPSC staff learned of one product in which the occupant support strap frayed and broke. Abrasion of the strap against a metal buckle during normal use eventually caused the strap to fray and fail. Staff determined that this specific scenario, with this one product, is not addressed by the support structure durability requirements in the ASTM standard. On April 27, 2018, staff sent a letter to ASTM asking ASTM to address this failure scenario. ASTM responded positively by creating a task group, in which CPSC staff participates, and is continuing this work on future modifications to the current standard to address this scenario. Based on the progress made by the task group, staff is confident that the ASTM subcommittee is

⁷ CPSC website link to recalled product: <https://www.cpsc.gov/Recalls/2013/Kids-II-Recalls-Baby-Einstein-Activity-Jumpers/>

making adequate progress in developing a requirement to address this scenario. At this time, staff does not recommend adopting a more stringent requirement than the ASTM standard to address this scenario, given that only one product is involved and that product was recently redesigned (with parts that will not cause the strap to fray), and given the progress ASTM has made in working with CPSC staff towards a requirement to address this scenario.

The current voluntary standard for stationary activity centers, ASTM F2012-18^{e1}, is the same standard that staff discussed in the NPR briefing package. Staff believes that the formatting and context for warning and instructional requirements specified in Sections 8 and 9 of ASTM F2012-18^{e1} adequately addresses the risk of injuries and deaths associated with using stationary activity centers.

E. Staff's Responses to NPR Comments (Tab D)

CPSC received two comments in response to the NPR. One comment supported the NPR and staff's commitment to collaborating with ASTM. The other comment expressed support for the proposed rule, but stated that the rule should apply to small businesses to address the safety issues. It appears that the commenter misunderstood the Regulatory Flexibility Act analysis to mean that the rule would not apply to small businesses.

Staff concludes that the draft final rule addresses the issue raised by the commenter because the draft final rule would apply to all manufacturers and importers of stationary activity centers and apply to all stationary activity centers sold in the United States.

The draft final rule is the same as the proposed rule and incorporates by reference the same voluntary standard, without change. CPSC staff does not recommend making any changes to the proposed rule in response to the comments received on the NPR.

F. Potential Small Business Impact (Tab D)

In the NPR, CPSC staff identified 11 firms supplying stationary activity centers to the U.S. market. These firms primarily specialize in manufacturing children's products. Based on U.S. Small Business Administration (SBA) guidelines, seven of the 11 firms are small businesses, all domestic manufacturers. Of these seven small domestic manufacturers, three produce spring-supported stationary activity centers.

Staff's analysis of the impact of the rule (Tab D) at the NPR stage concluded that the cost of making any needed physical modification to the stationary activity centers product would not be economically significant and that all seven small manufacturers are already conducting third party testing because they are certified by the Juvenile Products Manufacturers Association. The proposed rule has not been modified in the draft final rule. Consequently, staff believes that the Commission can continue to certify that the rule would not have a significant impact on a substantial number of small entities, the same conclusion reached in the NPR.

G. Notice of Requirements

Section 14(a) of the CPSA requires that any children's product subject to a consumer product safety rule under the CPSA must be certified as complying with all applicable CPSC-enforced requirements. The children's product certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body (test laboratory). The CPSA requires the Commission to publish a notice of requirements (NOR) for the accreditation of third party test laboratories to determine compliance with a children's product safety rule to which a children's product is subject. If issued, the draft final rule would be a children's product safety rule that requires issuing a NOR.

The Commission published a final rule, *Requirements Pertaining to Third Party Conformity Assessment Bodies*, 16 CFR part 1112 (78 Fed. Reg. 15836 (March 12, 2013)) (referred to here as Part 1112). This rule took effect on June 10, 2013. Part 1112 establishes the requirements for accreditation of third party testing laboratories to test for compliance with a children's product safety rule. Part 1112 also codifies all of the NORs that the CPSC has published to date for children's product safety rules. All new children's product safety rules, such as the draft stationary activity center standard, require an amendment to Part 1112 to create an NOR. Therefore, staff recommends that the Commission amend Part 1112 to include stationary activity centers in the list of children's product safety rules for which the CPSC has issued NORs.

H. Effective Date of Final Rule

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 NPR proposed a six month effective date, and CPSC received no comments regarding that timeline. Therefore, staff recommends a six month effective date for the final rule.

III. STAFF RECOMMENDATIONS

CPSC staff recommends that the Commission issue a final rule for stationary activity centers that incorporates by reference ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*, without any modifications. CPSC staff concludes that ASTM F2012-18^{e1} will adequately address the hazard patterns identified in the incident data associated with stationary activity centers. Staff recommends that the Commission provide an effective date of 6 months after publication of the final rule, to allow time for stationary activity center manufacturers to bring their products into compliance, and to arrange for third party testing. Staff also recommends that the Commission amend 16 CFR part 1112, which would establish the NOR for testing laboratories that want to test stationary activity centers for compliance with the final rule.

TAB A: Stationary Activity Centers-Related Deaths, Injuries, and Potential Injuries; October 1, 2017 - February 20, 2019

**T
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**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814**

Date: March 21, 2019

TO : Kevin Lee
Stationary Activity Centers Project Manager
Division of Mechanical Engineering
Directorate for Engineering Sciences

THROUGH: Risana Chowdhury
Division Director, Division of Hazard Analysis
Directorate for Epidemiology

FROM : Ted Yang
Division of Hazard Analysis
Directorate for Epidemiology

SUBJECT : Stationary Activity Centers-Related Deaths, Injuries, and Potential Injuries;
October 1, 2017 – February 20, 2019⁸

I. Introduction

This memorandum updates data for children's stationary activity centers received by the CPSC since the NPR briefing package was presented to the Commission in June 2018. The period covered in the previous data extraction, discussed in the NPR briefing package, was from January 1, 2013 to September 30, 2017. This memorandum summarizes children's stationary activity center incident data received from October 1, 2017 through February 20, 2019.⁹ CPSC staff extracted data from CPSC's CPSRMS and NEISS databases. Similar to the previous data extraction, the number of emergency department (ED)-treated injuries associated with stationary activity centers during this period was insufficient for staff to derive reportable national

⁸ This analysis was prepared by CPSC staff. It has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

⁹ Not all of these incidents are addressable by an action the CPSC could take. It is not the purpose of this memorandum, however, to evaluate the addressability of the incidents, but rather, to quantify the number of fatalities and injuries reported to CPSC staff and to provide, when feasible, estimates of emergency department-treated injuries.

estimates.¹⁰ As such, injury estimates are not provided, but injury cases are included in the total count of reported incidents.

II. Incident Data¹¹

From the NPR briefing package, CPSC staff was aware of a total of 3,488 incidents, including 304 reported injuries, involving stationary activity centers occurring from January 1, 2013 to September 30, 2017. Since that data extraction, CPSC staff identified an additional 547 incidents from January 1, 2013 to February 20, 2019, including 55 reported injuries related to stationary activity centers derived from CPSRMS and NEISS records. Of the remaining 493 incidents, there were no reported injuries. There were no reported fatalities associated with the use of stationary activity centers during the same period. Because reporting is ongoing, the number of reported incidents during this period may change in the future; CPSC staff strongly discourages drawing inferences based on the year-to-year increase or decrease shown in the reported data. Table 1 shows the number of incidents reported to CPSC from January 1, 2013 through February 20, 2019.

Table 1: Stationary Activity Centers-Related Incidents Reported 01/01/13 through 02/20/19

<i>Incident Year</i>	<i>Reported Incidents</i>			<i>Reported Injuries</i>		
	<i>Presented at NPR</i>	<i>Since NPR</i>	<i>Total</i>	<i>Presented at NPR</i>	<i>Since NPR</i>	<i>Total</i>
2013	1,051	1	1,052	93	0	93
2014	1,060	0	1,060	97	0	97
2015	633	18	651	51	6	57
2016	609	199	808	40	7	47
2017*	135	134	269	23	16	39
2018*	N/A	186	186	N/A	23	23
Through 2/20/19*	N/A	9	9	N/A	3	3
Total	3,488	547	4,035	304	55	359

Source: CPSC epidemiological databases CPSRMS and NEISS.

Note: * indicates data collection is ongoing.

¹⁰ According to NEISS publication criteria, an estimate must be 1,200 or greater, the sample size must be 20 or greater, and the coefficient of variation must be 33% or smaller.

¹¹ Staff searched the CPSC databases CPSRMS and NEISS. These reported incidents do not provide a complete count of all that occurred during this period. However, they do provide a minimum number of deaths and incidents occurring during this period and illustrate the circumstances involved in the incidents related to stationary activity centers.

Date of extraction for reported incident data occurred on 2/20/19. Staff extracted all data coded under product codes 1520 (*Baby Exercisers*) and 1508 (*Baby Walkers or Jumpers*). From among the data coded under 1508, staff excluded incidents related to baby walkers and doorway jumpers. Upon careful joint review with CPSC's Directorates for Engineering Sciences and Health Sciences, many cases were considered out of scope for the purposes of this memorandum. For example, a report of an adult tripping over a stationary activity center and damaging the product, and a report of an older sibling pushing over the stationary activity center with the child in it, were excluded. With exception for incidents occurring on U.S. military bases, all incidents that occurred outside the United States have been excluded. To prevent any double-counting, when multiple reports of the same incident were identified, they were consolidated and counted as one incident.

Among the 55 injuries reported since the data extraction for the NPR, there were reports of head contusions, arm and leg contusions/abrasions/lacerations, hand contusions/abrasions/lacerations/blisters, finger entrapments, mouth lacerations, torso abrasions, a nose contusion, a torso abrasion, a leg fracture, and a skull fracture. Three children suffered allergic reactions to the product finish or material, while one child experienced a choking episode. Three children suffered multiple injuries.

Table 2 provides the age breakdown among the 547 incident reports received from October 1, 2017 to February 20, 2019.

Table 2: Age Distribution in Stationary Activity Centers-Related Incident Reports Received 10/01/17 – 02/20/19

<i>Age of Child</i>	<i>Total Reported Incidents</i>		<i>Reported Injuries</i>	
	<i>Frequency</i>	<i>Percentage</i>	<i>Frequency</i>	<i>Percentage</i>
Unreported*	200	37	5	9
Less Than 6 months	85	16	10	18
6 – 11 months	233	43	36	65
12 – 17 months	27	5	4	7
18 – 23 months	2	< 1	0	0
Total	547	100	55	100

Source: CPSC epidemiological databases CPSRMS and NEISS.

*Age is considered “unreported” if age was unknown or age was not reported because the incident involved no injury.

Percentages do not always add to 100 due to rounding.

Similar to the age distribution for stationary activity center incidents presented in the NPR briefing package, a majority of the reported incidents and injuries involved victims from 6 months to 11 months old.

III. Hazard Pattern Identification

In the NPR briefing package, staff identified nine different hazard patterns among 3,488 reported incidents; these included *spring issues*, *problems with toy accessories*, *strap issues*, *structural integrity problems*, *problems with seats/seat pads*, *stability issues*, *electrical problems*, *design issues*, and *miscellaneous other issues*. Staff did not identify any new hazards in the updated incident data other than the hazard patterns already described in the NPR briefing package. The specific hazard patterns staff identified in the updated incident data, in descending frequency, were as follows:

- **Strap** issues: Two hundred and seven of the 547 incidents (38 percent) involved torn, fraying, twisted, or detached straps. Twelve injuries, including one ED-treated injury, were reported in this category. Overall, including data presented at the NPR, 513 out of 4,035 incidents (13 percent) involved strap issues.
- **Spring** issues: One hundred and thirty-nine of the 547 incidents (25 percent) reported a problem with the springs attached to the seat from the frame of the stationary activity

center. Three injuries were reported in this category. Overall, including data presented at the NPR, 1,756 out of 4,035 incidents (44 percent) involved spring issues.

- Problems with **toy accessories**: Ninety-one of the 547 incidents (17 percent) involved problems with toy accessories attached to the product, such as detached small parts posing a choking hazard, toys striking children in the face, toys pinching or entrapping children's fingers, and laceration hazards caused by sharp edges or surfaces. Thirteen injuries, including two ED-treated injuries, were reported in this category. Overall, including data presented at the NPR, 1,166 out of 4,035 incidents (29 percent) involved toy accessories.
- **Stability** issues: Thirty-six of the 547 incidents (7 percent) reported stationary activity centers leaning to one side, lifting off the ground, or tipping over during use. Nine injuries, including two ED-treated injuries, were reported in this category. Overall, including data presented at the NPR, 112 out of 4,035 incidents (3 percent) involved stability issues.
- **Design** issues: Twenty-seven of the 547 incidents (5 percent) involved problems concerning the design of the product, such as limb/extremity entrapment, mold buildup in a wire compartment, the base of the product disassembling while a child jumps in it, and straps attached to poles that can loosen from a baby kicking them. Six injuries were reported in this category. Overall, including data presented at the NPR, 59 out of 4,035 incidents (1 percent) involved design issues.
- Problems with **seats/seat pads**: Fourteen of the 547 incidents (3 percent) involved stationary activity center seats or seat pads. Specific examples of seat or seat pad problems included seat fabric detaching from pegs, tabs tearing off seat pads, seat pads detaching from the seat ring, attachments disassembling and causing the seat pad to fall, and partially ripped seat pads. One injury was reported in this category. Overall, including data presented at the NPR, 136 out of 4,035 incidents (3 percent) involved seats or seat pads.
- **Miscellaneous other** issues: Nine of the 547 incidents (2 percent) involved miscellaneous issues, such as allergic reactions to the product, a loose, unraveling string, and sharp plastic edges or protrusions. Five injuries, including one ED-treated injury, were reported in this category. Overall, including data presented at the NPR, 32 out of 4,035 incidents (1 percent) involved miscellaneous issues.
- **Structural integrity** problems: Eight of the 547 incidents (1 percent) reported a problem with structural components, such as weak frame tubes, broken battery cover tabs, loose screws/small parts, and broken activity bars. No injuries were reported in this category. Overall, including data presented at the NPR, 166 out of 4,035 incidents (4 percent) involved a problem with structural components.
- **Electrical** problems: Two of the 547 incidents (less than 1 percent) reported melting, leaking, corroded batteries. No injuries were reported in this category. Overall,

including data presented at the NPR, 38 out of 4,035 incidents (1 percent) involved electrical issues.

- Twelve of the 547 incidents (2 percent) reported *multiple problems* from the above-listed hazard patterns. CPSC staff could not determine whether there was any priority (*e.g.*, primary, secondary) regarding the order in which the problems occurred. Four injuries were reported in this category. Overall, including data presented at the NPR, 32 out of 4,035 incidents (1 percent) involved multiple problems.
- Two of the 547 incidents (less than 1 percent) reported *unspecified/unknown* injuries due to incomplete or unclear scenario descriptions. Two ED-treated injuries were reported in this category. Overall, including data presented at the NPR, 26 out of 4,035 incidents (1 percent) involved unspecified/unknown injuries.

TAB B: Staff's Review and Evaluation of the Effectiveness of ASTM F2012-18^{ε1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*, in Addressing Emerging Hazards.

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

Date: March 25, 2019

TO: Kevin Lee, Mechanical Engineer
Stationary Activity Centers Project Manager

THROUGH: Andrew Stadnik, P.E.
Assistant Executive Director
Directorate for Laboratory Sciences
Office of Hazard Identification and Reduction

Michael Nelson, Director
Division of Mechanical Engineering
Directorate for Laboratory Sciences

FROM: Brian Baker, Mechanical Engineer/Physical Scientist
Division of Mechanical Engineering
Directorate for Laboratory Sciences

SUBJECT: Staff's Review and Evaluation of the Effectiveness of ASTM F2012-18^{e1},
*Standard Consumer Safety Performance Specification for Stationary
Activity Centers*, in Addressing Emerging Hazards.

I. INTRODUCTION

This memorandum assesses the effectiveness of ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers* (the current ASTM voluntary standard), and outlines staff's recommendation to incorporate by reference the standard into the rule for stationary activity centers (SACs), in accordance with section 104 of the CPSIA.

ASTM F2012-18^{e1} defines a "stationary activity center" as "*a freestanding product intended to remain stationary that enables a sitting or standing occupant whose torso is completely surrounded by the product to, walk, rock, play, spin or bounce, or all of these, within a limited range of motion.*" The products depicted in Figure 1a & 1b both qualify as typical SACs, the difference being their means of support. Figure 1a shows a SAC supported from the bottom, and the product in Figure 1b is supported by means of springs from the top.



Figure 1a



Figure 1b

Figure 1a & 1b: Examples of a stationary activity center - supported from the bottom (1a) and by springs (1b).

History of ASTM F2012

The voluntary standard for stationary activity centers was first approved and published in April 2000, as ASTM F2012-00, *Standard Consumer Safety Specification for Stationary Activity Centers*. The standard has been revised ten times since its publication. The current version, ASTM F2012-18^{e1}, was approved on May 18, 2018.

ASTM F2012-18^{ε1} (approved on March 1, 2018) has the following major requirements:

- 5.1 requires there be no hazardous sharp edges or points.
- 5.2 requires there are no small parts as defined in 16 CFR part 1501.
- 5.4 requires the product does not unintentionally fold in the manufacture’s recommended use position.
- 5.5 requires there are no hazardous holes in the product.
- 5.6 requires the product to be designed to prevent injury from any scissoring, shearing or pinching when in a manufacturer’s recommended use position.
- 5.7 requires there are no hazardously sized exposed coil springs.
- 5.9 requires toy accessories to meet ASTM F963, *Consumer Safety Specification for Toy Safety*.
- 5.11 requires spring supported products to have a redundant system to prevent the seat from falling if a spring fails.
- 6.1 requires the product to withstand structural integrity tests, including a dynamic and static load test.
- 6.2 requires leg openings to meet size restrictions.
- 6.3 tests the stability of the SAC with a tip over test and a seat tilt test, and requires the product not to tip over or tilt more than a specified angle.
- 8.4 and 8.5 ensure that clear, conspicuous warning labels are provided.

II. ADEQUACY OF ASTM F2012-18^{ε1} REQUIREMENTS

CPSC’s Directorate for Laboratory Sciences’ Division of Mechanical Engineering (LSM) staff concludes that the current voluntary standard, ASTM F2012-18^{ε1}, sufficiently addresses many of the general hazards associated with the use of SACs, such as sharp points, small parts, lead in paint, scissoring, shearing, pinching, openings, exposed coil springs, locking and latching, unintentional folding, labeling, protective components, flammability, and toy accessories that are sold with the carrier, given the low frequency and low severity of incidents and injuries reported.

This section discusses the four primary hazard patterns that account for the majority of the total 4,035 reported incidents and injuries: (1) Support spring issues - 44 percent, (2) Toy accessories - 29 percent, (3) Strap issues - 13 percent, and (4) Structural integrity issues - 4 percent, and how each is addressed in the current voluntary standard, ASTM F2012-18^{ε1}.¹²

Hazard Pattern (1) - Spring Support Issues

¹² Yang, Ted, “Stationary Activity Centers-Related Deaths, Injuries, and Potential Injuries; October 1, 2017 – February 20, 2019” March 21, 2019.

This hazard is associated with 1,617 of the 3,488 incidents reported in the NPR briefing package and for 139 of the 547 new incidents reported since publication of the NPR. To date, 1,756 of the 4,035 total incidents (44%) are related to springs. Reports of support spring failures typically involved a common type of SAC in which the child and activity tray are suspended by springs from multiple points (see Figure 1b). These hazards often involve the failure of one or more members of the spring system, which causes the occupant to dynamically tilt, tip, topple, or lean from the manufacturer's recommended use position, which can result in the occupant falling out of the activity center. The 2018 version of the voluntary standard (ASTM F2012-18^{e1}) addressed spring failures with a performance requirement that support springs withstand 100 drops from a 33-lb. weight from a height of at least 1 inch. CPSC staff presented the incident data to the voluntary standards committee and suggested a secondary support for load-bearing springs. This resulted in ASTM F2012-18^{e1} also requiring a redundant system to prevent the seat from falling should the spring fail. Because this support strap would function as a fail-safe if springs break, including springs not identified during the dynamic load test, staff concludes that this change will address the hazard pattern identified.

Hazard Pattern (2) – Problems with Toy Accessories

This hazard pattern is associated with 1,075 of the 3,488 incidents reported in the NPR briefing package and for 91 of the 547 new incidents reported since publication of the NPR. To date, 1,166 of the 4,035 total incidents (29%) are related to toy accessories. The majority of the incidents involved pinching, laceration, choking/gagging, and entanglement injuries. ASTM F2012-18^{e1} addresses hazards associated with toys by requiring that toy accessories meet the relevant requirements of ASTM F963-17, *Standard Consumer Safety Specification for Toy Safety*. Staff believes that the majority of the hazards related to toy accessories are adequately addressed by ASTM F963. Therefore, staff believes the current voluntary standard for SACs, ASTM F2012-18^{e1}, adequately addresses this hazard.

Hazard Pattern (3) – Occupant Support Strap Issues

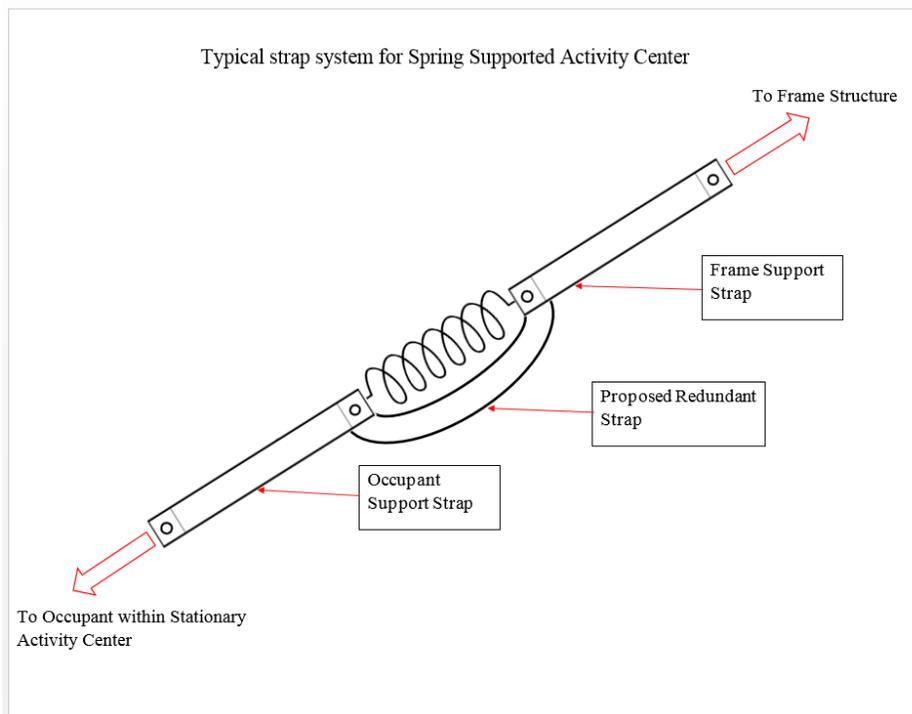


Figure 2: Typical strap system for spring-supported SACs; System is used multiple times on one product, to support occupant’s weight, and allows occupant to bounce.

This hazard pattern is associated with 306 of the 3,488 incidents reported in the NPR briefing package and 207 of the 547 new incidents reported since publication of the NPR. To date, 513 of the 4,035 total incidents (13%) are related to straps. The strap system on a stationary activity center is the primary means by which most spring-suspended activity centers are supported. The reported incidents involved fraying, twisted, or detached straps. Upon failure of the occupant support strap, the activity center is often left unsupported on one side, and typically, this results in the child falling. ASTM F2012-18^{e1} requires dynamic and static loading at the seat of the product to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the product, such as straps; and the standard requires that the product show no seam failure, material breakage, or changes of adjustments that could cause the product not to fully support the child.

While preparing the NPR, CPSC staff learned of one product in which the occupant support strap frayed and broke. Abrasion of the strap against a metal buckle during normal use eventually caused the strap to fray and fail. Staff determined that this specific scenario, with this one product, is not addressed by the support structure durability requirements in the ASTM standard. On April 27, 2018, staff sent a letter to ASTM asking ASTM to address this failure scenario. ASTM responded positively by creating a task group, in which CPSC staff participates, and is continuing this work on future modifications to the current standard to address this scenario. Based on the progress made by the task group, staff is confident that the ASTM subcommittee is making adequate progress in developing a requirement to address this scenario. At this time,

staff does not recommend adopting a more stringent requirement than the ASTM standard to address this scenario, given that only one product is involved and that product was recently redesigned (with parts that will not cause the strap to fray), and given the progress ASTM has made in working with CPSC staff towards a requirement to address this scenario.

Hazard Pattern (4) – Structural Integrity

Structural integrity issues account for 158 of the 3,488 incidents reported in the NPR briefing package and for eight of the 547 new incidents reported since publication of the NPR. To date, 166 of the 4,035 total incidents (4%) are related to structural integrity. The reported incidents involved problems related to weak frame tubes, loose screws, or broken activity bars. The NPR reported 12 structural integrity related injuries. The updated data reported no injuries, keeping the total at 12 injuries. ASTM F2012-18^{e1} requires dynamic and static loading at the seat of the product to evaluate the durability of the support structures for the seat. This testing also stresses the structural integrity components of the product, and the standard requires that the product show no seam failures, material breakage, or changes of adjustments that could cause the product not to fully support the child. Therefore, staff believes that the current voluntary standard for SACs, ASTM F2012-18^{e1}, adequately addresses this hazard.

III. OTHER STANDARDS

LSM staff found no comparable international standard that addresses SACs similar to ASTM F2012-18^{e1}.

IV. RECOMMENDATIONS

LSM staff recommends that the Commission incorporate by reference ASTM F2012-18^{e1} as the mandatory safety standard for SACs. Staff will continue to work with ASTM on the frayed strap issue, but staff does not believe that a more stringent requirement to address this issue is necessary in the final rule at this time.

**TAB C: Human Factors Assessment of ASTM F2012-18^{ε1} Requirements
for Stationary Activity Centers (CPSIA Section 104)**

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

Memorandum

DATE: June 5, 2019

TO: Kevin Lee, Project Manager, Stationary Activity Center Rulemaking,
Division of Mechanical Engineering, Directorate for Engineering Sciences

THROUGH: Rana Balci-Sinha, Ph.D., Division Director
Division of Human Factors
Directorate for Engineering Sciences

FROM: Celestine T. Kish, Senior Engineering Psychologist
Division of Human Factors, Directorate for Engineering Sciences

SUBJECT: Human Factors Assessment of ASTM F2012-18^{e1} Requirements for Stationary
Activity Centers (CPSIA Section 104)

BACKGROUND

This memorandum, prepared by the Directorate for Engineering Sciences, Division of Human Factors (ESHF) staff updates the staff's assessment of ASTM F2012-18^{e1} *Standard Consumer Safety Performance Specification for Stationary Activity Centers* previously included in the notice of proposed rulemaking (NPR) briefing package presented to the Commission in June 2018.

As noted in the NPR briefing package, the voluntary standard was created to mitigate the risk of injury and fatalities by addressing the hazard patterns. Additionally, the on-product warnings were carefully devised to help inform caretakers of the primary hazards to be addressed during use of the product. The instructions included with stationary activity centers (SACs) must include "developmental criteria to begin using the product when the child can hold his head up unassisted at a minimum (or a later developmental level if deemed appropriate by the manufacturer), and when to discontinue using the product as a stationary activity center such as when the child begins to walk unassisted."

DISCUSSION

ESHF STAFF REVIEW OF INCIDENT DATA

According to the latest assessment of hazard patterns outlined by CPSC's Directorate for Epidemiology¹ (EPI), the incident data are consistent with hazard patterns identified and discussed in the NPR. The majority of incidents occurred in the age range of 6 months to 11 months old. No fatalities were reported from January 1, 2013 through February 20, 2019.

CURRENT ASTM WARNING AND INSTRUCTIONAL REQUIREMENTS

The current voluntary standard for SACs, ASTM F2012-18^{e1}, is the same standard that ESHF staff discussed in the NPR briefing package. Staff considers this standard an effective improvement over previous standards. On-product warning labels that meet the requirements in the F2012-18^{e1} (see Figure 1) address numerous warning format issues related to capturing consumer attention, improving readability, and increasing hazard perception and avoidance behavior. Additionally, ESHF staff determines that the warnings adequately inform consumers of the fall and strangulation hazards, consequences of these hazards, and instructions on how to reduce the risks of injury and death due to falls and strangulation associated with SACs.

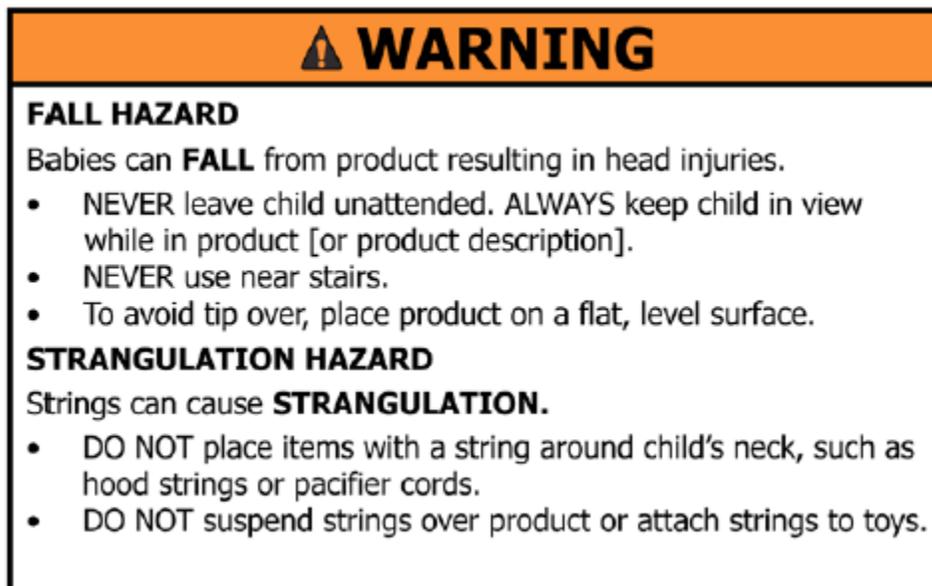


Figure 1: Sample SAC warning

¹ Memorandum from Ted Yang to Kevin Lee, "Stationary Activity Centers-Related Deaths, Injuries, and Potential Injuries; October 1, 2017 – February 20, 2019."

CONCLUSIONS

ESHF staff concludes that the formatting and context for warning and instructional requirements specified in Sections 8 and 9 of ASTM F2012-18^{e1} adequately addresses the risk of injuries and deaths associated with using SACs.

TAB D: Impact of the Draft Final Rule for Stationary Activity Centers on Small Entities

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

Memorandum

Date: March 15, 2018

TO : Kevin Lee
Project Manager, Stationary Activity Centers
Directorate for Engineering Sciences

THROUGH: Gregory B. Rodgers, Ph.D.
Associate Executive Director
Directorate for Economic Analysis

FROM : Robert L. Franklin
Economist
Directorate for Economic Analysis

SUBJECT : Impact of the Draft Final Rule for Stationary Activity Centers on Small Entities

On June 19, 2018, the Commission published an NPR in the *Federal Register* (83 FR 28390), proposing to incorporate by reference the most recent voluntary standard for stationary activity centers (ASTM F2012-18^{e1}, *Standard Consumer Safety Performance Specification for Stationary Activity Centers*). The NPR included an analysis of the impact of the proposed rule on small entities, which was conducted by the Directorate for Economic Analysis (EC). The analysis concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities. The analysis found that the cost of any physical modifications to make the products conform to the rule would be low and that all seven small manufacturers were already conducting third party testing because their products were certified by the Juvenile Products Manufacturers Association (JPMA). On the basis of this analysis, the Commission certified that the rule would not have a significant economic impact on a substantial number of small entities. The draft final rule is the same as the proposed rule and incorporates by reference the same voluntary standard, without change. The staff does not have any new information that would change the conclusion in the NPR regarding the economic impact of the rule on small entities. Therefore, we believe that the certification of no significant impact on a substantial number of small entities is still valid.

The Commission received one comment concerning small entities. However, it is apparent that the commenter misunderstood the conclusion of the analysis to mean that the rule would not apply to small businesses. The commenter wrote:

The proposed rule will definitely address the safety hazards associated with stationary activity centers (SACs) manufactured by US companies. I commend the stringent requirements being proposed. However, I believe, it should also be able to regulate the

substantial number of smaller players in the industry that manufacture or import SACs. Otherwise, the same safety issues could prevail in the consumer market.

The rule would, in fact, apply to all manufacturers and importers of SACs. All SACs sold in the United States would have to meet the requirements of the rule. The analysis of the impact on small entities under the RFA simply found that covering small manufacturers or importers would not have a significant economic impact on a substantial number.

The NPR also included a provision to amend 16 CFR part 1112 to include the requirements that third party conformity assessment bodies must meet to test SACs for conformance to the proposed rule. Staff found that these requirements do not have a significant economic impact on a substantial number of small entities, and the Commission certified this in the NPR. We did not receive any comments regarding this certification, and we believe that it is still valid.