

From	To	MEA
BARBY, HI FIX ..... *10000—MCA RABAT, HI FIX, W BND **2700—MOCA	*RABAT, HI FIX .....	**10000

**§ 95.6422 HAWAII VOR Federal Airway V22 is Amended to Read in Part**

PLUMB, HI FIX .....	MAUI, HI VORTAC .....	6300
MAUI, HI VORTAC .....	*BARBY, HI FIX .....	8400
*12000—MCA BARBY, HI FIX, SE BND		

From	To	MEA	MAA
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**§ 95.7001 Jet Routes**

**§ 95.7225 Jet Route J225 is Amended to Read in Part**

CEDAR LAKE, NJ VOR/DME .....	KENNEDY, NY VOR/DME .....	18000	45000
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**§ 95.7536 Jet Route J536 is Amended to Read in Part**

SISTERS ISLAND, AK VORTAC .....	U.S. CANADIAN BORDER .....	#21000	45000
#MEA is ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			

**Airway segment**

**Changeover points**

From	To	Distance	From
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**§ 95.8003 VOR Federal Airway Changeover Point V291 is Amended to Add Changeover Point**

FLAGSTAFF, AZ VOR/DME .....	PEACH SPRINGS, AZ VOR/DME .....	39	FLAGSTAFF
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**V325 is Amended to Add Changeover Point**

ATHENS, GA VOR/DME .....	COLUMBIA, SC VORTAC .....	24	ATHENS
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**V417 is Amended to Add Changeover Point**

ATHENS, GA VOR/DME .....	COLLIERS, SC VORTAC .....	24	ATHENS
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**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Parts 1112 and 1235**

[Docket No. CPSC-2016-0023]

**Safety Standard for Baby Changing Products**

**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 consumer product safety standards for durable infant or toddler products. To comply with the CPSIA, the Commission is issuing a safety standard for baby changing products. This rule incorporates by reference ASTM F2388-18, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use* (ASTM F2388-18). In addition, this rule

amends the regulations regarding third party conformity assessment bodies to include the safety standard for baby changing products in the list of Notices of Requirements (NORs).

**DATES:** The rule will become effective on June 26, 2019. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of June 26, 2019.

**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](mailto: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) promulgate consumer product safety standards for durable infant or toddler products. Any standard the Commission adopts under this mandate must be substantially the same as the applicable 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. 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 the Commission identified baby changing tables as a durable infant or toddler product in the product registration card rule codified in 16 CFR 1130.2(a)(14).

On September 29, 2016, the Commission issued a notice of proposed rulemaking (NPR), proposing to incorporate by reference the then-current voluntary standard for baby changing products, ASTM F2388-16, with more stringent requirements for

structural integrity, restraint system integrity, and warnings on labels and in instructional literature. 81 FR 66881. After the Commission issued the NPR, ASTM revised the voluntary standard several times, as discussed in section V of this preamble, and published the current version of the standard, ASTM F2388–18, in March 2018.

In this final rule, the Commission is incorporating by reference ASTM F2388–18, with no modifications, as the mandatory safety standard for baby changing products. As section 104(b)(1)(A) of the CPSIA requires, 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 baby changing products. This rule is based on information CPSC staff provided in its briefing package, “Draft Final Rule for Baby Changing Products for Domestic Use under the Danny Keysar Child Product Safety Notification Act,” which is available on CPSC’s website at: <https://cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Baby%20Changing%20Products%20-%20June%202013%202018.pdf?ZbvMCsfyQfLFivqHRbFWKclOordsuVeC>.

## II. Product Description

ASTM F2388–18 defines a “changing product” as “one of the following: changing table, changing table accessory, add-on changing unit, contoured changing pad.” The standard defines each of those terms, as follows:

- A changing table is “an elevated, freestanding structure generally designed to support and retain a child with a body weight of up to 30 lb (13.6 kg) in a horizontal position for the purpose of allowing a caregiver to change the child’s diaper. Changing tables may convert from or to other items of furniture, such as, but not limited to, a dresser, desk, hutch, bookshelf, or play yard, may have pull-out or drop-down changing surfaces, and may provide storage for diapers and diaper products”;
- a changing table accessory is “an accessory that attaches to a crib or play yard designed to convert the product into a changing table typically having a rigid frame with soft fabric or mesh sides or bottom surface, or both”;
- an add-on changing unit is “a rigid addition to or separate product used in conjunction with an item of furniture

that provides barriers to prevent the infant from rolling off the product when a diaper is being changed”;

- a contoured changing pad is “a changing pad designed for use on an elevated surface which incorporates barriers to prevent a child from rolling off the changing surface.”<sup>1</sup>
- Changing tables used in public facilities, such as public restrooms, are covered by ASTM F2285, *Standard Consumer Safety Performance Specification for Diaper Changing Tables for Commercial Use*, and are not subject to ASTM F2388–18 or this final rule.

Most changing tables and add-on changing units are constructed of wood; contoured changing pads often consist of synthetic-covered foam with contoured edges; and changing table accessories that attach to a play yard or crib generally are constructed of plastic or wood with a foam pad. Changing tables come in various designs, some of which include drawers, cabinets, or retractable stairs to assist children getting onto them.

## III. Market Description

CPSC staff has identified 102 domestic firms that currently supply baby changing products to the U.S. market. Eighty-four of the firms (61 manufacturers and 23 importers or wholesalers) are small, according to the U.S. Small Business Administration’s (SBA) standards,<sup>2</sup> and the remaining 18 firms are large. In addition, staff identified 17 foreign firms that supply baby changing products to the U.S. market, and one additional firm for which staff lacked sufficient information to determine a location or supply source. Staff also identified numerous baby changing products that are manufactured outside the United States and bought domestically through online sales.

At the time CPSC staff assessed the baby changing products market, staff identified 22 of the 61 small domestic manufacturers, and 10 of the 23 small domestic importers and wholesalers, as compliant with the ASTM standard for baby changing products (based on firms’ assertions of compliance, certifications from the Juvenile Products Manufacturers Association, or participation in the development of the ASTM changing products standard).

<sup>1</sup> ASTM F2388–18 defines a “changing pad” as: “a flat or contoured pad specifically designed for the purpose of changing the diaper of a child with a body weight of up to 30 lb (13.6 kg) on an elevated surface. The child is placed on the pad during the process of changing.”

<sup>2</sup> Under SBA size standards, a baby changing product manufacturer is “small” if it has 500 or fewer employees, and an importer is “small” if it has 100 or fewer employees.

## IV. Incident Data

### A. Summary

CPSC receives data regarding product-related injuries from several sources. One source is the National Electronic Injury Surveillance System (NEISS), from which CPSC can estimate, based on a probability sample, the number of injuries that are associated with specific consumer products that are treated in U.S. hospital emergency departments (U.S. EDs) nationwide. Other sources include reports from consumers and others through the Consumer Product Safety Risk Management System (which also includes some NEISS data) 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).

For this rulemaking, CPSC staff reviewed the NEISS and CPSRMS databases for incidents involving baby changing products and children younger than 3 years old because that age corresponds with the 30-pound weight limit in the ASTM standard. See Centers for Disease Control and Prevention, the National Center for Health Statistics, *Data Table of Infant Weight-for-Age Charts*, [http://www.cdc.gov/growthcharts/html\\_charts/wtageinf.htm](http://www.cdc.gov/growthcharts/html_charts/wtageinf.htm) (last visited Apr. 9, 2018).

The preamble to the NPR summarized reports of incidents involving baby changing products that occurred between January 1, 2005 and December 31, 2015, which CPSC received through CPSRMS sources. For the final rule, CPSC staff has updated this information to reflect one reported changing product incident that occurred between January 1, 2005 and December 31, 2015, but was not included in the NPR, as well as new incidents that occurred between January 1, 2016 and November 30, 2017. In total, CPSC has received 188 reports of incidents involving baby changing products that occurred between January 1, 2005 and November 30, 2017. These incidents involved 7 fatalities, 31 injuries or adverse health problems, 116 incidents that did not result in injuries, and 34 incidents for which CPSC did not receive sufficient information to determine whether an injury occurred.<sup>3</sup>

<sup>3</sup> The NPR indicated that CPSC had received 182 reports of baby changing product-related incidents that occurred between January 1, 2005 and December 31, 2015, of which 5 were fatal, 30 reported injuries, 113 did not result in injuries, and 34 did not provide sufficient information to determine whether an injury occurred. Since the NPR, CPSC staff identified one additional fatality that occurred in 2010, and CPSC received an additional five reports of incidents that occurred

The preamble to the NPR also summarized NEISS estimates for baby changing product incidents that occurred between January 1, 2005 and December 31, 2014. After the Commission issued the NPR, complete injury data became available for 2015 and 2016, and CPSC staff has updated this information for the final rule. Including this new data and extrapolating from the probability sample, CPSC staff estimates that there were 39,010 baby changing product-related injuries to children under 3 years old that were treated in U.S. EDs between January 1, 2005 and December 31, 2016. There was a statistically significant increasing linear trend for injuries associated with baby changing products over this period. Seventy-six percent of the estimated injuries involved children between 0 and 11 months old, and 94 percent of the estimated injuries involved children under 2 years old.

#### B. Fatalities

CPSC is aware of seven fatal incidents to children under 3 years old that occurred between January 1, 2005 and November 30, 2017, involving baby changing products. One death involved a 10-month-old male who was strangled by a strap hanging from a changing table accessory in a play yard while the child was in the play yard beneath. Another death involved a 3-month old female who rolled over and compressed her neck on the changing table ledge, resulting in suffocation. The remaining five reported deaths involved children sleeping on baby changing products, which is not their intended use. All of the victims in these incidents were younger than 1 year old.

One of these incidents involved a 4-month-old male who was sleeping on a changing pad in a crib and died from positional asphyxia when his head hung over the raised side of the changing pad. Another incident involved a 3-day-old female, who died while sleeping on the changing portion of a play yard; her death was determined to be the result of mechanical asphyxia from being swaddled too tightly in a sleep sack. The remaining three sleep-related deaths involved babies (ages 6 weeks, 2 months, and 2 months) sleeping in the changing accessory portion of a play yard.

#### C. Nonfatal Injuries

The injuries and treatments reported through NEISS for 2015 and 2016 were

between January 1, 2016 and November 30, 2017, of which one was fatal, one reported injuries, and three did not result in injuries.

consistent with those for 2005 through 2014, described in the NPR. In 94 percent of cases between 2005 and 2016, the patient was treated in the U.S. ED and released; in 5 percent of cases, the child was hospitalized. The most commonly injured body parts were the head (71 percent for 2005–2014; 73 percent for 2015–2016) and face (13 percent for 2005–2014; 12 percent for 2015–2016). The most common types of injuries were injuries to internal organs (50 percent for 2005–2014; 53 percent for 2015–2016), contusions and abrasions (27 percent for 2005–2014; 29 percent for 2015–2016), and fractures (9 percent for 2005–2014; 8 percent for 2015–2016).

#### D. Hazard Patterns

The hazards reported in the new incidents are consistent with the hazard patterns staff identified in the incidents presented in the NPR. The fatal incidents are discussed above, and primarily involved suffocation or asphyxia when babies were sleeping on baby changing products.

As reported in the NPR, structural integrity issues were the primary hazard associated with nonfatal incidents. Incident reports CPSC received after the NPR, for incidents that occurred between January 1, 2016 and November 30, 2017, also involved structural integrity issues. Three of the four nonfatal incidents that occurred between January 1, 2016 and November 30, 2017, were related to structural integrity. These incidents involved: A wooden shelf on the bottom of the changing table that fell because the small pins were too weak to keep the shelf in place; drawers falling out of a changing table; and bolts falling out. The fourth incident involved an 11-month-old male who fell off of a changing table when his caregiver was distracted.

#### V. ASTM F2388–18

In this final rule, the Commission incorporates by reference ASTM F2388–18. The Commission is incorporating by reference ASTM F2388–18 because it includes provisions that are the same as, or consistent with, the requirements proposed in the NPR, and CPSC staff believes that the standard addresses the hazards associated with baby changing products.

##### A. History of ASTM F2388

ASTM F2388, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use*, is the voluntary standard that addresses the hazard patterns associated with the use of baby changing products (in domestic

settings). ASTM first approved and published the standard in 2004, as ASTM F2388–04, *Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use*. ASTM has revised the standard several times since then. In the NPR, the Commission proposed to incorporate by reference ASTM F2388–16, with modifications.

After the Commission issued the NPR, ASTM revised ASTM F2388 three times. CPSC staff worked with representatives of manufacturers, consumer groups, retailers, and other industry members and groups on the ASTM subcommittee for baby changing products to develop requirements to address the hazards associated with baby changing products, including issues raised in the NPR. CPSC staff also participated in the ASTM Ad Hoc Committee on Standardized Wording for Juvenile Product Standards (Ad Hoc TG) to finalize recommendations for warning labels, entitled, “Recommended Language Approved by Ad Hoc Task Group, Revision C” (November 10, 2017), to provide consistent and effective warnings for juvenile product standards. The most recent version of the standard, ASTM F2388–18, reflects the work of these groups. ASTM approved ASTM F2388–18 on February 15, 2018, and published it in March 2018.

##### B. ASTM F2388–18: Comparison With the NPR and Assessment of Requirements

In the NPR, the Commission proposed to incorporate by reference ASTM F2388–16, which addressed many of the hazard patterns associated with baby changing products, with modifications to four areas of the standard. Specifically, the Commission proposed more stringent requirements than those in ASTM F2388–16 for structural integrity, restraint systems, warnings on labels, and instructional literature.

The requirements in ASTM F2388–18 are largely the same as those the Commission proposed in the NPR. ASTM F2388–18 includes the same scope, definitions, general requirements (e.g., small parts; openings), performance requirements, and test methods that the Commission proposed incorporating by reference from ASTM F2388–16. In addition, ASTM F2388–18 includes modifications to reflect the more stringent requirements the Commission proposed in the NPR, to address comments filed in response to the NPR, and to provide additional detail and clarity. The following discussion compares the areas in which the NPR and ASTM F2388–18 differ, describes the more stringent

requirements in the NPR and ASTM F2388–18, and provides CPSC staff's assessment of the ASTM F2388–18 provisions.

#### 1. Definitions

ASTM F2388–18 includes six definitions that were not in ASTM F2388–16, two of which are consistent with definitions the Commission proposed in the NPR. In the NPR, the Commission proposed to define “key structural elements” and “non-rigid add-on changing unit accessory.” ASTM F2388–18 includes these definitions, but uses the term “changing table accessory” instead of “non-rigid add-on changing unit accessory.” In addition, ASTM F2388–18 defines the terms “changing product,” “protective component,” “secondary support component,” and “threaded fastener.” As explained below, the Commission concludes that these definitions are appropriate and provide additional clarity.

ASTM F2388–18 defines “changing product” to clarify that this general term, used in the title of the standard and throughout the standard, encompasses changing tables, changing table accessories, add-on changing units, and contoured changing pads. Although the Commission did not propose to define this term in the NPR, the NPR did use “changing products” as the general term encompassing all products subject to the standard and the proposed rule, which included each of the products listed in the ASTM F2388–18 definition. Accordingly, this definition is appropriate and provides clarity about the products that are subject to the standard.

ASTM F2388–16 (and the NPR, through proposed incorporation by reference) used the term “protective component,” although that version of the standard did not define it. ASTM F2388–16 described protective components as “caps, sleeves, or plugs used for protection from sharp edges, points or entrapment of fingers and toes.” The definition in ASTM F2388–18 is nearly identical to this description, stating “any component used for protection from sharp edges, points or entrapment of fingers or toes.” Consequently, this definition is accurate and adds clarity to the standard.

Although the Commission did not propose to define “secondary support component” in the NPR, the NPR did propose requirements regarding secondary support straps, and the preamble to the NPR described the feature as “a metal band that runs under the center of the changing surface to provide additional support” that is

installed by consumers when assembling a baby changing product. 81 FR at 66888. ASTM F2388–18 defines a “secondary support component” as “a strap, bar, rod, or other component that is consumer installed and provides added support, to the changing surface of the changing table.” Because these descriptions are consistent, this definition is appropriate, and it provides added clarity to include an explicit definition in the standard.

Similarly, the Commission did not propose to define “threaded fastener” in the NPR, but the NPR did describe threaded fasteners as products, such as wood or sheet metal screws, metal inserts, and machine screws, which allow consumers to assemble and disassemble products. 81 FR at 66887. ASTM F2388–18 defines a “threaded fastener” as “a discrete piece of hardware that has internal or external screw threads which is used for the assembly of multiple parts and facilitates disassembly.” This definition is consistent with the NPR description, indicating that the definition is accurate, and including it in the standard provides clarity.

#### 2. Scissoring, Shearing, and Pinching

ASTM F2388–18 requires baby changing products to be designed to prevent injuries from scissoring, shearing, or pinching, and includes a method of assessing compliance with this requirement (which consists of admitting a probe of particular dimensions). ASTM F2388–16 did not include requirements regarding scissoring, shearing, and pinching, and the Commission did not propose additional requirements to address these hazards in the NPR. However, these requirements are appropriate in light of other durable infant and toddler product standards. The scissoring, shearing, and pinching provisions in ASTM F2388–18 are identical to those in other ASTM durable infant and toddler product standards (e.g., high chairs, infant walkers, full-size baby cribs, play yards) that have the potential for these injuries. Accordingly, these requirements are appropriate to address a hazard common across products.

#### 3. Self-Folding Steps

ASTM F2388–18 includes two distinct methods of assessing the single action release mechanism on self-folding steps, depending on the type of action necessary to release the mechanism. In ASTM F2388–16, the test for assessing self-folding steps on a baby changing product applied to all products with self-folding steps that had a “single action release mechanism.”

The test involved applying a force of 10 lbf (45 N) to the locking or latching mechanism. The NPR proposed to incorporate this requirement by reference, without modification. ASTM F2388–18 retains this test for mechanisms that require a “pull or push action,” and adds a duration for applying the force. Specifying a test duration is helpful to provide clarity about the test procedure.

ASTM F2388–18 also includes a different test for self-folding steps with a release mechanism that requires a “twist or turn action” to release, which was not in ASTM F2388–16 and was not proposed in the NPR. For steps with this mechanism, testers must apply a torque of 4 lb-in. (0.5 N-m) to the mechanism. This separate test is appropriate to better reflect and assess the different types of release mechanisms on self-folding steps.

#### 4. Structural Integrity Requirements

In the NPR, the Commission proposed more stringent requirements in two areas to address structural integrity issues—threaded fasteners and secondary support straps. First, the Commission proposed requirements for threaded fasteners, to provide secure connections between fasteners and key structural elements of changing tables and products. Specifically, the Commission proposed to:

- Prohibit the use of threaded fasteners, such as wood screws or sheet metal fasteners, directly into wood components that are key structural elements assembled by consumers;
- require a means of preventing manufacturer-installed metal threaded fasteners used in key structural elements from loosening (such as with lock washers); and
- require a means of preventing manufacturer-installed metal inserts in key structural elements from loosening (such as by gluing).

The Commission proposed these limits for key structural elements, such as primary changing surface supports and side, end, base, and leg assemblies to address the stability of components that support the weight of occupants.

ASTM F2388–18 includes the same requirements regarding threaded fasteners as the Commission proposed in the NPR, as well as two additions. As one minor addition, ASTM F2388–18 includes additional detail about the features that are “non-key structural elements,” and therefore, not subject to the threaded fastener requirements. Specifically, where the NPR listed drawers, secondary supports, storage components, and accessory items, ASTM F2388–18 lists these as well as

other examples, such as fasteners that attach contoured pads and add-on changing units to supporting furniture (section 5.8.1.1). This additional detail is consistent with the requirements proposed in the NPR, which will improve the structural integrity of baby changing products. ASTM F2388–18 also specifies that the prohibition of threaded fasteners on key structural elements assembled by consumers does not apply to products that are also clothing storage units, because those products fall under the scope of ASTM F2057, *Safety Specification for Clothing Storage Units*. This added exemption is acceptable because incident data indicate that the products that were involved in structural integrity incidents associated with fasteners were traditional stand-alone changing products, and not clothing storage units, such as dressers.

Second, the Commission proposed to adopt the structural integrity testing required in ASTM F2388–16, but modified the test to specify that consumer-installed secondary support straps must not be installed for the test. This would reflect the less-structurally sound condition the product may be in when consumers use it without installing the secondary support strap or install the strap incorrectly.

ASTM F2388–18 includes the same provisions proposed in the NPR. The only minor difference is that where the NPR used the term “secondary support straps or bars,” ASTM F2388–18 uses “secondary support components.” The meaning of these terms is the same, and these requirements are appropriate to provide greater product stability.

#### 5. Restraint System Requirements

ASTM F2388–16, the NPR, and ASTM F2388–18 do not require baby changing products to include restraint systems. However, to ensure that restraints function effectively if provided, in the NPR, the Commission proposed to require testing of restraint systems. The proposed test required any restraint provided with a baby changing product to be secured on a CAMI dummy and pulled in four directions anticipated during normal use with a 30 pound force. To pass this performance standard, straps and buckles were required not to break or separate from baby changing products more than 1 inch from their initial adjustment positions.

ASTM F2388–18 includes the same restraint system testing requirements as those proposed in the NPR. Accordingly, these requirements are appropriate to reduce the hazards associated with ineffective restraints.

#### 6. Warning Label Requirements

In the NPR, the Commission proposed more stringent warning label content and format requirements than those in ASTM F2388–16. With respect to content, the NPR proposed to require on-product warning labels specifically addressing fall hazards, proper securement of attachable changing products, and the suffocation hazard if babies sleep on a changing product. With respect to form, the NPR proposed to include form requirements for warnings, to increase the likelihood that consumers would notice, read, and follow the warnings. The requirements for warning format proposed in the NPR were drawn from the Ad Hoc TG recommendations, which were under development at the time.

ASTM F2388–18 includes labeling requirements that are the same as those proposed in the NPR. ASTM F2388–18 includes some minimal modifications that do not notably alter the requirements. For example, ASTM F2388–16 and the NPR specified that changing accessories sold with non-full-size cribs and play yards were exempt from the requirement to mark manufacturer and manufacturing date information on the product and retail package because they were subject to another ASTM standard with similar requirements. ASTM F2388–18 extends this exemption to accessories sold with full-size cribs, as well. This does not reduce the stringency of the requirement because full-size cribs are also subject to another ASTM standard that addresses this information. As another example, ASTM F2388–18 includes more example figures of warnings than the NPR provided, which clarify the meaning of some requirements and provide examples of additional combinations of warning statements. Additionally, ASTM F2388–18 includes a note, explaining what “address” means in the requirement that product warnings “address” specified information. The NPR also required warnings to “address” specific information, but did not explicitly define that term. This explanatory note is useful and including it aligns with the Ad Hoc TG recommendations.

#### 7. Instructional Literature Requirements

In the NPR, the Commission proposed more stringent requirements for instructional literature, including format requirements consistent with those for on-product warnings, a requirement that instructions be in English (at a minimum), and that additional labels must not contradict the meaning of the required information. Additionally, the

Commission proposed to include a note in the regulatory text, referencing ANSI Z535.6, *Product Safety Information in Product Manuals, Instructions, and Other Collateral Materials* (ANSI Z535.6; available at: <http://www.ansi.org/>), for optional additional guidance about the design of product safety messages in instructional literature.

The instructional literature requirements in ASTM F2388–18 are consistent with those in the NPR, with minor adjustments to align with the Ad Hoc TG recommendations. For example, where the NPR required warnings in instructions to align with the on-product warning format requirements generally, ASTM F2388–18 includes an equivalent requirement, but exempts warnings in instructions from distinctiveness and color requirements. These requirements are appropriate because they are consistent with the NPR and the Ad Hoc TG recommendations.

### VI. Comments Filed in Response to the NPR

CPSC received nine comments in response to the NPR. The comments are available in the docket for this rulemaking, CPSC–2016–0023, at: [www.regulations.gov](http://www.regulations.gov). A summary of the comments, grouped by topic, and CPSC staff’s responses are below.

#### A. Postpone Rulemaking

*Summary of Comment:* Comments recommended that the Commission delay issuing a final rule or issue a supplemental NPR because ASTM’s then-upcoming 2017 revisions to the standard likely would address the concerns raised in the NPR.

*Response:* ASTM has updated its standard several times since the NPR, and approved ASTM F2388–18 on February 15, 2018. ASTM F2388–18, which the Commission is incorporating by reference without modification, addresses the issues raised in the NPR. As discussed in section V of this notice, the requirements in ASTM F2388–18 align with the requirements in the NPR, making a supplemental NPR unnecessary.

#### B. Wood Screws

*Summary of Comment:* Comments requested that the Commission only apply the wood screw restriction to “open frame” products, or exclude from the wood screw restrictions furniture, such as dressers, that include barriers or a changing pad. Commenters stated that incident data does not indicate that these types of products are involved in incidents. Commenters stated that

furniture is often sold unassembled and consumers use wood screws to assemble it, making it difficult for such products to comply with the wood screw restriction. Commenters noted that the ASTM subcommittee considered excluding these types of furniture from the wood screw restriction. One commenter recommended removing the wood screw restriction and, instead, relying on the structural performance tests in the standard.

*Response:* Consistent with these comments, ASTM F2388–18 excludes changing tables that are also clothing storage units (such as dressers) from the wood screw restriction. This exclusion is reasonable because incident data indicate that fastener failures occur in open-frame changing tables, rather than changing tables that are also clothing storage units. In addition, changing tables that are also clothing storage units are subject to requirements in ASTM F2057, *Safety Specification for Clothing Storage Units*. For all other changing tables, ASTM F2388–18 prohibits the use of wood screws on key structural elements, consistent with requirements in other ASTM durable infant or toddler product standards, such as cribs and high chairs. This requirement is good engineering practice and addresses incidents in which a changing product collapsed due to wood screws coming out or missing from the product.

### C. Metal Inserts

*Summary of Comment:* Comments opposed the proposal to require glue or other locking means for metal inserts. Commenters stated that glue inside the insert can result in assembly difficulties for consumers, is design restrictive, and unnecessary. In addition, one commenter requested definitions of “key structural elements” and “threaded fasteners” to clarify which products and features would be subject to the requirement.

*Response:* This requirement is similar to requirements in other ASTM durable infant or toddler product standards (such as cribs and high chairs), is good engineering practice, and addresses structural integrity issues identified in incident data. CPSC staff does not consider the wording “. . . shall be glued or include other means to impede loosening or detaching” to be design restrictive because it provides manufacturers with flexibility to meet the requirements by any means (glue is just an example of how the requirement can be met). In addition, to provide clarity about the features subject to this requirement, ASTM F2388–18 includes definitions for “key structural elements” and “threaded fasteners.”

### D. Restraints

*Summary of Comment:* A comment requested that the Commission require baby changing products to include restraint straps, rather than allow them to be optional. The commenter stated that barriers are not sufficient to prevent children from rolling off of products and that there are restraint designs that would not interfere with changing a diaper.

*Response:* Restraints may give caregivers a sense of safety, diminishing their attentiveness, and increasing potential hazards. For example, if caregivers believe that restraint straps provide safety, they may leave a child unattended on a changing table, and an unattended child in a restraint consisting of a single waist strap is exposed to a potential strangulation hazard. As such, the Commission does not believe it is appropriate to require restraints at this time. Moreover, incident data indicate that restraint failures involve restraints detaching from the product, or straps or buckles breaking. The final rule addresses these demonstrated hazards by requiring that if restraints are provided, they must be tested to ensure they are effective.

### E. Warnings

*Summary of Comment:* A comment suggested that the Commission require pictograms in warnings to convey the hazards associated with baby changing products.

*Response:* The commenter did not provide recommended pictograms for staff to evaluate. CPSC’s Division of Human Factors staff believes that a well-developed and tested pictogram can increase comprehension, but designing effective, understandable graphics can be difficult. Readers do not properly understand some seemingly obvious graphics, which can result in misinterpretations.

### F. Effective Date

*Summary of Comment:* CPSC received comments about the proposed 6-month effective date. One comment, submitted by three consumer advocate groups, supported the 6-month effective date. Two commenters requested a longer effective date (one firm requested 1 year and the other at least 1 year). The latter two commenters expressed concern that six months would not provide adequate time for producers to modify their products, and one of the commenters noted that some manufacturers “purchase their materials as a single order to cover an entire year,” which would be problematic if these firms need to change their products sooner than that.

*Response:* The Commission generally considers 6 months an appropriate effective date for rules issued under section 104 of the CPSIA, but recognizes that longer effective dates minimize the impact on affected firms. As the final regulatory flexibility analysis for this rule explains, the final rule could have a significant economic impact on as much as 43 percent of the small firms that supply baby changing products to the U.S. market. Many of those firms may not be aware of the ASTM voluntary standard for changing products or this rulemaking. Accordingly, the Commission is providing a longer effective date for the final rule than proposed in the NPR. The rule will take effect 12 months after publication of this final rule.

### G. Miscellaneous

*Summary of Comment:* A comment stated that a mandatory standard for baby changing products would not reduce the risk of fatalities because the fatalities reported to CPSC involved babies sleeping on products, which is not their intended use.

*Response:* As the Division of Human Factors memorandum in the NPR briefing package explained, the fatal incidents involving baby changing products suggest that caregivers may mistake changing accessories for sleep surfaces. To address this issue and reduce the risk associated with babies sleeping on baby changing products, the NPR proposed and the final rule requires baby changing products to bear warnings specifically cautioning against allowing babies to sleep on the products. The Commission believes that this will reduce the risk of such foreseeable misuse and the resulting injuries and deaths.

## 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 and discuss the ways in which the material the agency incorporates by reference is reasonably available to interested persons, and how interested parties can obtain the material. 1 CFR 51.5(b). In accordance with the OFR regulations, this section summarizes ASTM F2388–18, and describes how interested parties may obtain a copy of the standard.

ASTM F2388–18 contains requirements concerning:

- Sharp points and edges;
- small parts;
- surface coatings;
- wood parts;

- openings;
- toys;
- threaded fasteners;
- protective components;
- scissoring, shearing, and pinching;
- structural integrity;
- stability;
- barriers;
- retention of contoured changing pads and add-on changing units;
- entrapment in shelves and in enclosed openings;
- self-folding steps;
- restraint systems;
- warnings and labels; and
- instructional literature.

The standard also includes test methods to assess conformance with these requirements. Interested parties may obtain a copy of ASTM F2388–18 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 Office of the Secretary.

**VIII. Final Rule**

Section 1235.2(a) of the final rule requires baby changing products to comply with ASTM F2388–18 and incorporates the standard by reference. Section VII of this preamble describes the OFR requirements for incorporating material by reference. In accordance with those requirements, section VII summarizes ASTM F2388–18, explains how the standard is reasonably available to interested parties, and how interested parties may obtain a copy of the standard.

The final rule also amends 16 CFR part 1112 to add a new § 1112.15(b)(45) that lists 16 CFR part 1235, *Safety*

*Standard for Baby Changing Products*, as a children’s product safety rule for which the Commission has issued an NOR. Section XIV 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. 5 U.S.C. 553(d). The NPR proposed that the final rule for baby changing products, and the amendment to part 1112, would take effect 6 months after publication. CPSC received comments requesting an implementation date of 1 year, asserting that additional time would be necessary for firms to modify products to meet the standard. CPSC believes that 1 year is sufficient for firms to modify their products to meet the new standard. Therefore, this rule will take effect 1 year 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 9 of ASTM F2388–18 contains labeling requirements that meet the definition of “collection of information” in the PRA.

44 U.S.C. 3502(3). In addition, section 10 of ASTM F2388–18 requires instructions to be provided with baby changing products; however, CPSC 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). Because baby changing products generally require use and assembly instructions, and CPSC is not aware of baby changing products that generally require instructions but lack them, CPSC believes that providing instructions with baby changing products 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. 81 FR 66893 to 66894. CPSC did not receive any comments about the information collection burden of the proposed rule. However, the information collection burden has changed since the NPR because CPSC staff has identified 120 baby changing product suppliers (102 domestic firms, 17 foreign firms, and 1 firm of unknown location), rather than the 85 firms identified in the NPR, that it estimates will be subject to the information collection burden. Accordingly, the estimated burden of this collection of information is as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1235.2 .....	120	6	720	1	720

The estimated reporting burden is based on CPSC staff’s expectation that all 120 baby changing product suppliers known to CPSC will need to modify their labels to comply with the final rule. CPSC staff estimates that it will take about 1 hour per model to make these modifications and, based on staff’s evaluation of product lines, that each supplier has an average of 6 models of baby changing products. Consequently, CPSC estimates that the burden associated with the labeling requirements is: 120 entities × 1 hour per model × 6 models per entity = 720

hours. CPSC staff estimates that the hourly compensation for the time required to create and update labels is \$34.21 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” Sept. 2017, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>). Therefore, the estimated annual cost associated with the labeling requirements is: \$34.21 per hour × 720 hours = \$24,631.20. 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 3041–0175 to this information collection.

**XI. Regulatory Flexibility Act**

*A. Introduction*

The Regulatory Flexibility Act (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. Section 604 of the RFA requires agencies to prepare and publish a final regulatory flexibility analysis (FRFA) when they issue 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. The FRFA must discuss:

- The need for and objectives of the rule;
- significant issues raised in public comments about the initial regulatory flexibility analysis (IRFA), a response to comments from the Chief Counsel for Advocacy of the SBA, the agency's assessment of the comments, and any changes made to the rule as a result of the comments;
- the description and estimated number of small entities that will be subject to the rule;
- the reporting, recordkeeping, and other compliance requirements of the rule, as well as the small entities that would be subject to those requirements, and the types of skills necessary to prepare the reports or records;
- steps the agency took to minimize the significant economic impact on small entities; and
- the factual, policy, and legal reasons the agency selected the alternative in the final rule, and why it rejected other significant alternatives.

5 U.S.C. 604.

Based on an assessment by CPSC's Directorate for Economic Analysis staff, CPSC cannot certify that this rule will not have a significant economic impact on a substantial number of small entities. As a result, staff has prepared a FRFA. This section summarizes the FRFA for this final rule. The complete FRFA is available as part of CPSC staff's briefing package at: <https://cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Baby%20Changing%20Products%20-%20June%202018.pdf?ZbvMCsfyQfLFivqHRbFWKclOordsuVeC>.

#### B. Comments Relevant to the FRFA

CPSC did not receive any comments specifically addressing the IRFA that accompanied the proposed rule or from the Chief Counsel for Advocacy of SBA. However, CPSC received comments about the effective date of the final rule, which are relevant to the FRFA insofar as they address the costs associated with the rule. These comments are discussed in section VI.F. of this preamble. After considering these comments, and the potential economic impact of the rule on small firms, the Commission is extending the effective date for the final

rule to 1 year, rather than the proposed 6 months. CPSC believes that this longer effective date will reduce the economic impact of the rule on firms, some of which may not be aware of the ASTM standard or this rulemaking, by reducing the potential for a lapse in production or imports while bringing products into compliance with the rule, and spreading the costs of compliance over a longer period.

#### C. Description of Small Entities Subject to the Rule

CPSC staff identified 120 firms that supply baby changing products to the U.S. market, consisting of 102 domestic firms, 17 foreign firms, and 1 firm for which staff could not determine the location. Of the 102 domestic firms, 84 are small entities, according to SBA's standards, and 18 are large. Of the 84 small domestic entities, 61 are manufacturers, and 23 are importers or wholesalers. It is possible that there are additional baby changing product suppliers in the U.S. market that staff has not identified.

#### D. Description of the Final Rule

Sections V and VII of this preamble describe the requirements in the final rule, which incorporates by reference ASTM F2388-18. In addition, the final rule amends the regulations regarding third party conformity assessment bodies to include the safety standard for baby changing products in the list of NORs.

#### E. Impact on Small Businesses

For the FRFA, staff limited its analysis to the 84 small domestic firms staff identified as supplying baby changing products to the U.S. market because SBA guidelines and definitions apply to domestic entities. In assessing whether a rule will have a significant economic impact on small entities, staff generally considers impacts "significant" if they exceed 1 percent of a firm's revenue. This section provides details about staff's assessment of the economic impact of the final rule on small domestic entities. To summarize, staff believes that it is unlikely that the final rule will have a significant economic impact on 22 of the 61 small manufacturers and 10 of the 23 small importers and wholesalers, all of which already comply with a version of the ASTM standard. Of the remaining firms, which do not already comply with the voluntary standard, staff does not expect the final rule to have a significant economic impact on 13 of the 39 small manufacturers and 3 of the 13 small importers and wholesalers because most of these firms supply products that staff

does not expect will require changes to conform to the rule. Staff could not rule out a significant economic impact on the remaining 26 small manufacturers and 10 small importers and wholesalers.

#### 1. Small Manufacturers

At the time staff prepared the FRFA, 22 of the 61 small manufacturers reported that their baby changing products complied with the then-current ASTM standard. Staff believes that firms that report complying with the voluntary standard will continue to comply with the standard as it evolves, as part of an established business practice. Staff does not expect the final rule to have a significant economic impact on any of these 22 firms because ASTM F2388-18 was published well before the effective date of this rule. Staff expects third party testing costs to be minimal because these firms already test their products for compliance with the voluntary standard.

The remaining 39 small manufacturers produce baby changing products that do not comply with the voluntary standard. Seven of these firms manufacture only wooden changing trays that are sold separately from furniture, which are subject to few requirements other than side height, labeling, and instructions. Staff does not expect changes to warnings, instructions, or side heights to create significant costs. An additional 12 firms manufacture only contoured changing pads, which are also subject to minimal requirements, primarily including barrier and retention requirements, labels, and instructions. Staff believes that firms will not have to modify most of these changing pads to meet these requirements, but it is possible that a few firms would need to modify their products to meet the barrier and retention requirements. These modifications could be costly because firms would need new molds for foam products. For purposes of the FRFA, staff assumed that two firms would need to modify their contoured changing pads to comply with the final rule.

The remaining 20 firms manufacture a variety of changing products. Firms staff interviewed before the Commission issued the NPR indicated that the cost of completely redesigning a product could range from \$25,000 to \$200,000, depending on the type of changing product. It is likely that the final rule will have a significant impact on nine of these firms (and possibly one more) based on their revenue levels; it is unlikely the rule will have a significant economic impact on three of these firms, based on their revenues; and staff

could not determine the revenues of the remaining seven firms.

Staff believes that third party testing costs are not likely to have a significant economic impact on 21 of the 39 small domestic noncompliant manufacturers, but could exceed 1 percent of revenues for the remaining 18 firms, with varying degrees of likelihood. Staff also believes that third party testing costs could result in significant economic impacts for 7 of the 20 small domestic noncompliant manufacturers that are not likely to experience significant economic impacts from the requirements in ASTM F2388–18.

## 2. Small Importers and Wholesalers

At the time staff prepared the FRFA, 10 of the 23 small importers and wholesalers reported that their baby changing products complied with the then-current ASTM standard. Staff considered the economic impact to importers and wholesalers together because both rely on outside firms to supply the products they distribute to the U.S. market. Like small, compliant manufacturers, staff expects that these importers and wholesalers will comply with ASTM F2388–18 before the effective date of the final rule. Therefore, staff does not expect the final rule to have a significant economic impact on any of these firms. Likewise, staff expects third party testing costs to be minimal because costs would be limited to the difference between the cost of current testing regimes and third party testing costs.

The remaining 13 small importers and wholesalers supply baby changing products that do not comply with the voluntary standard. The economic impact of the rule on these importers and wholesalers depends on the extent of the changes needed for their products to comply with the rule and the response of their suppliers. Staff generally cannot determine this information for importers and wholesalers that do not comply with the voluntary standard.

Nevertheless, staff anticipates that the rule could have a significant economic impact on some of these firms. Staff estimates that the rule will not have a significant economic impact on one importer that supplies only wooden changing trays. The rule also may not have a significant economic impact on two importers and one wholesaler that provide only contoured changing pads. However, one of these firms may need to redesign its product, which would have a significant economic impact on the firm. Each of these firms has wide enough product lines that it could stop

supplying changing products, although the impact of that on revenue is unclear.

Of the remaining six importers and three wholesalers, four firms have low enough revenues that they are likely to experience a significant economic impact, regardless of how their suppliers respond, as their suppliers are not likely to absorb any of the costs and finding alternative suppliers can be costly. Three of these firms may be able to stop supplying changing products, but it is not clear what impact this would have on their revenues. Staff does not have revenue information for the remaining five firms. As a result, staff cannot rule out the possibility that the rule will have a significant economic impact on these five firms. However, one of these firms appears to be tied to its suppliers, who may absorb some of the costs, and another firm has a wide enough product line that it could stop supplying changing products.

Staff believes that third party testing could result in significant costs for three of the firms that import noncompliant baby changing products. For two of these firms, testing costs could exceed 1 percent of gross revenue if the firm tests only one unit per model. A third firm would need to test about three units per model before testing costs would exceed 1 percent of its gross revenue. Staff did not have access to revenue data for seven of the small noncompliant importers and wholesalers to determine the potential economic impact of the rule.

## 3. Accreditation Requirements for Testing Laboratories

Section 14 of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires all children’s products that are subject to a children’s product safety rule to be tested by a third party conformity assessment body (*i.e.*, testing laboratory) that has been accredited by CPSC. Testing laboratories that want to conduct this testing must meet the NOR for third party conformity testing. The final rule amends 16 CFR part 1112 to establish a NOR for testing laboratories to test for compliance with the baby changing product rule.

In the IRFA for this rule, staff anticipated that the accreditation requirements would not have a significant economic impact on a substantial number of small laboratories because: (1) The rule imposed requirements only on laboratories that intended to provide third party testing services; (2) laboratories would assume the costs only if they anticipated receiving sufficient revenue from the testing to justify accepting the requirements as a business decision;

and (3) most laboratories would already have accreditation to test for conformance to other juvenile product standards, thereby limiting the costs to adding the baby changing product standard to their scope of accreditation. CPSC has not received any information to date that contradicts this assessment. Therefore, staff believes that the NOR for the baby changing product standard will not have a significant economic impact on a substantial number of small entities.

## F. Alternatives and Steps To Minimize Economic Impacts

In response to comments, the Commission is providing a 1 year effective date, rather than the proposed 6 months. This should reduce the economic impact of the rule for small entities. Setting a later effective date reduces the likelihood of a lapse in production or imports if firms cannot comply with the standard or obtain third party testing within the time provided. In addition, a later effective date spreads the costs of compliance over a longer period, reducing annual costs and the present value of total costs.

## XII. 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 baby changing products creates design or performance requirements, the rule falls within the categorical exclusion.

## XIII. 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. As a result, the preemption provision in section 26 of the CPSA applies to the mandatory safety standard for baby changing products.

#### XIV. 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 testing, the product complies with the applicable children’s product safety rule. 15 U.S.C. 2063(a)(2)(A), 2063(a)(2)(B). Section 14(a) also requires the Commission to publish an NOR for a third party conformity assessment body (*i.e.*, testing laboratory) to obtain accreditation to assess conformity with a children’s product safety rule. 15 U.S.C. 2063(a)(3)(A). Because this safety standard for baby changing products is a children’s product safety rule, it requires the Commission to issue an NOR.

On March 12, 2013, the Commission published a final rule in the **Federal Register**, entitled *Requirements Pertaining to Third Party Conformity Assessment Bodies*, establishing 16 CFR part 1112, which sets out the general requirements and criteria concerning testing laboratories. 78 FR 15836. Part 1112 includes procedures for CPSC to accept a testing 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. Accordingly, the Commission is amending part 1112 to include the baby changing products standard.

Testing laboratories that apply for CPSC acceptance to test baby changing products for compliance with the new baby changing product rule would 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 1235, *Safety Standard for Baby Changing Products*, in the laboratory’s scope of accreditation of CPSC safety rules listed on the CPSC website at: [www.cpsc.gov/labsearch](http://www.cpsc.gov/labsearch).

As the RFA requires, CPSC staff conducted a FRFA for the rulemaking in which the Commission adopted part 1112. 78 FR 15836, 15855 (Mar. 12, 2013). To summarize, the FRFA concluded that the accreditation requirements would not have a significant economic impact on a substantial number of small laboratories because no requirements were imposed on 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.

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

#### XV. Consumer Registration of Durable Infant or Toddler Products

As section 104(d) of the CPSIA requires, regulations in 16 CFR part 1130 require manufacturers of durable infant or toddler products to provide registration forms with each product, maintain the contact information consumers submit on these forms, and mark manufacturer and model information on products. Section 1130.2(a)(14) lists “changing tables” as one of the products subject to the registration card requirements. However, “changing tables” is no longer used as the general term to encompass all baby changing products that are subject to ASTM F2388–18 and this final rule, and this term may create confusion since it is only one type of baby changing product. Because all of the baby changing products subject to this rule are “durable infant or toddler products,” section 104(d) of the CPSIA

requires the registration card requirements to apply to all of these products.

Accordingly, the Commission anticipates issuing a notice proposing to amend 16 CFR part 1130 to clarify that “changing tables” include all changing products identified in ASTM F2388–18, which includes changing tables, contoured changing pads, changing table accessories, and add-on changing units.

#### List of Subjects

##### 16 CFR Part 1112

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

##### 16 CFR Part 1235

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:** Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

- 2. Amend § 1112.15 by adding paragraph (b)(45) 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) \* \* \*

(45) 16 CFR part 1235, Safety Standard for Baby Changing Products.

\* \* \* \* \*

- 3. Add part 1235 to read as follows:

#### PART 1235—SAFETY STANDARD FOR BABY CHANGING PRODUCTS

Sec.

1235.1 Scope.

1235.2 Requirements for baby changing products.

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

##### § 1235.1 Scope.

This part establishes a consumer product safety standard for baby changing products.

**§ 1235.2 Requirements for baby changing products.**

Each baby changing product shall comply with all applicable provisions of ASTM F2388–18, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use*, approved on February 15, 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 Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2018–13556 Filed 6–25–18; 8:45 am]

BILLING CODE 6355–01–P

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**DEPARTMENT OF HOMELAND SECURITY**
**Coast Guard**
**33 CFR Part 165**

[Docket Number USCG–2018–0499]

RIN 1625–AA00

**Safety Zone; City of Erie Fourth of July Fireworks; Lake Erie, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 280-foot radius of the launch site located at Dobbins Landing, Erie, PA. This safety zone is intended to restrict vessels from portions of Lake Erie during City of Erie Fourth of July fireworks display. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 9:45 p.m. until 10:45 p.m. on July 3, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being

available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0499 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Michael Collet, Chief Waterways Management Division, U.S. Coast Guard; telephone 716–843–9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**
**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard’s ability to protect spectators and vessels from the hazards associated with a fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule’s objectives of enhancing safety of life on the navigable waters and protection of persons and vessels in vicinity of the fireworks display.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has

determined that a fireworks display presents significant risks to the public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display takes place.

**IV. Discussion of the Rule**

This rule establishes a safety zone on July 3, 2018, from 9:45 p.m. until 10:45 p.m. The safety zone will encompass all waters of Lake Erie, Erie, NY contained within 280-foot radius of: 42°08′17.13″ N, 080°05′30.17″ W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

**A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the conclusion that this rule is not a significant regulatory action. We anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular