



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

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approved and signed.

BALLOT VOTE SHEET

Date: March 11, 2015

TO : The Commission
Alberta E. Mills, Acting Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
Patricia H. Adkins, Executive Director

FROM : Patricia M. Pollitzer, Assistant General Counsel
Matthew T. Mercier, Attorney

SUBJECT : Revisions to ASTM F2517, Standard Specification for Determination of Child
Resistance of Portable Fuel Containers for Consumer Use

BALLOT VOTE DUE: March 17, 2015

The Children’s Gasoline Burn Prevention Act (the Act) requires that portable gasoline containers manufactured on or after January 17, 2009 for sale in the United States must conform to ASTM International’s (ASTM) F2517-05’s child-resistance requirements for closures on portable gasoline containers. The Act also addresses revisions of those child-resistance requirements. Specifically, ASTM is required to notify the U.S. Consumer Product Safety Commission (Commission) of the proposed revision. “[U]nless, within 60 days of such notice, the Commission notifies ASTM that the Commission has determined that such revision does not carry out the purposes of [the Act’s provision regarding child-resistance requirements],” then the proposed revision to the ASTM standard “shall be incorporated” as a consumer product safety rule.

On February 11, 2015, ASTM notified the Commission that ASTM had revised ASTM F2517.

I. *Determination regarding incorporation of revised ASTM standard.* In the attached briefing package, staff recommends that the Commission allow the proposed revisions to the child-resistance requirements of ASTM F2517 to be incorporated into the mandatory consumer product safety rule, as provided in the Act.

Please indicate your vote on the following options:

- A. Allow ASTM's revision to the child-resistance requirements in ASTM F2517-15 to be incorporated into the mandatory consumer product safety rule for closures on portable gasoline containers.

Signature

Date

- B. Determine that ASTM's revision does not carry out the purposes of "the child-resistance requirements for closures on portable gasoline containers specified in ASTM F2517-05" and direct the staff to notify ASTM of this determination.

Signature

Date

- C. Take other action. (Please specify.)

Signature

Date

II. Codification of revised ASTM standard into Code of Federal Regulations. If the Commission does not determine that the revision does not further the purposes of the Act's provisions, and the revision thus becomes a mandatory consumer product standard, approve publication of a direct final rule (DFR) that incorporates by reference the child-resistance requirements of ASTM F2517-15. A draft DFR is attached for the Commission's consideration.

Please indicate your vote on the following options:

- A. Approve publication of the DFR in the *Federal Register*, as drafted.

Signature

Date

B. Approve publication of the draft DFR in the *Federal Register*, with changes.
(Please specify.)

Signature

Date

C. Do not approve publication of the DFR in the *Federal Register*.

Signature

Date

D. Take other action. (Please specify.)

Signature

Date

III. Codification of ASTM standard without revisions into Code of Federal Regulations. If the Commission determines that the revision does not further the purposes of the Act's provisions, approve publication of a direct final rule (DFR) that incorporates by reference the child-resistance requirements of ASTM F2517-05 without the most recent revisions. The draft DFR would be revised to refer to ASTM F2517-05 rather than to ASTM F2517-15, and to make other conforming changes.

Please indicate your vote on the following options:

A. Approve publication of the DFR in the *Federal Register* with references to ASTM F2517-05 and other conforming changes.

Signature

Date

B. Approve publication of the draft DFR in the *Federal Register*, with changes. (Please specify.)

Signature

Date

C. Do not approve publication of the DFR in the *Federal Register*.

Signature

Date

D. Take other action. (Please specify.)

Signature

Date

Attachments:

Briefing Package: Staff Recommendation to the Commission on Revisions to ASTM F2517, *Standard Specification for Determination of Child Resistance of Portable Fuel Containers for Consumer Use*

Draft *Federal Register* Notice: Children's Gasoline Burn Prevention Act Regulation

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1460

[Docket No. CPSC -]

Children's Gasoline Burn Prevention Act Regulation

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: The Children's Gasoline Burn Prevention Act (CGBPA or the Act) adopted the child-resistance requirements for closures on portable gasoline containers—found in the 2005 version of the applicable ASTM rule, F2517-05—as a consumer product safety rule. The 2005 ASTM standard was recently revised. Under the Act, the consumer product standard for portable gasoline containers will, by operation of law, incorporate the 2015 revisions to the child-resistance requirements unless the Commission finds that the revisions do not carry out the purposes of the CGBPA's requirements. The Commission has not found that the revisions fail to carry out the purposes of the CGBPA's requirements. As a result, the 2015 revisions to the child-resistance requirements will be automatically incorporated and apply as the statutorily-mandated standard for closures on portable gasoline containers. This direct final rule is to codify certain sections of the 2015 standard to eliminate potential confusion as to the applicable standard.

DATES: This rule will be effective on April 12, 2015, unless the Commission receives significant adverse comment by April 3, 2015. If we receive timely significant adverse comments, we will publish notification in the **Federal Register** withdrawing this direct

final rule. The incorporation by reference of the publications listed in this rule is approved by the Director of the Federal Register as of April 12, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2015-####, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written comments (paper, disk, or CD-ROM submissions) by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

FOR FURTHER INFORMATION CONTACT: John Boja, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408; telephone (301) 504-7300; jboja@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Children's Gasoline Burn Prevention Act. The Children's Gasoline Burn Prevention Act was enacted on July 17, 2008. The Act establishes as a consumer product safety rule ASTM International's (ASTM) F2517-05's child-resistance requirements for closures on portable gasoline containers. All portable gasoline containers manufactured on or after January 17, 2009 for sale to consumers in the United States must conform to the 2005 ASTM standard's child-resistance requirements. By mandating closures that resist access by children under age 5, the Act seeks to reduce hazards to children, including children ingesting gasoline and inhaling gasoline fumes, and the risk of burns from fires and explosions that may occur when children access gasoline stored in portable gasoline containers. The Act did not require the Commission to take any action for the Act's provisions to take effect; rather, ASTM 2715-05's child-resistance requirements were made mandatory through operation of law, as discussed below.

ASTM F2517-05. Under ASTM F2517-05 *Standard Specification for Determination of Child Resistance of Portable Fuel Containers for Consumer Use*, closures on affected containers must prove adequately resistant to children as old as 4 years and 3 months.

CGBPA Provisions Regarding Updates to ASTM F2517-05. Under the Act, ASTM must notify the Commission of any revision to the child-resistance requirements for closures contained in ASTM F2517-05. Once ASTM notifies the CPSC of ASTM's revisions to the standard, the revisions will be incorporated by operation of law and will become the consumer product safety standard within 60 days after such notice unless the

Commission determines that the revision does not carry out the purposes of the child-resistant requirements for closures on portable gasoline containers specified in ASTM F2517-05 and so notifies ASTM.

Under the Act, the ASTM standard for portable gasoline containers became, by operation of law, the applicable consumer product safety standard. Similarly, any revision to the child-resistance requirements of the ASTM standard becomes, by operation of law, part of the applicable consumer product safety standard unless the Commission determines, within 60 days after receiving notice from ASTM of a revised ASTM standard, that the revisions are not acceptable as provided in the Act.

On February 11, 2015, ASTM gave to CPSC notice of revisions to ASTM F2517-05. The revised standard is designated F2517-15.

The Commission has not made a determination that the revisions to ASTM F2517-05's child-resistance requirements for closures on portable gasoline containers fail to further the purposes of the CGBPA's requirements.

II. Description of the Rule

The rule codifies the child-resistance requirements for closures on portable gasoline containers as stated in ASTM F2517-15. As stated above, these requirements become mandatory through operation of law; the Commission is publishing this rule so that the Code of Federal Regulations will reflect the current version of the mandatory standard.

III. Direct Final Rule

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking,

section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” The Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* ACUS, Recommendation, 95-4, 60 FR 43108, 43110 (August 18, 1995).

This rule will codify in the Code of Federal Regulations the child-resistance requirements of a consumer product safety standard, ASTM F2517-15, that already are in full force and effect by operation of law. Codification of the rule into CPSC’s regulations is intended to eliminate potential confusion as to the child-resistance standard applicable to portable gasoline containers. In these circumstances where the substantive requirements are mandated by statute and have become effective under the statute, public comment serves little purpose. Moreover, codification of existing substantive requirements is not expected to be controversial or to result in significant adverse comment. As a result, the Commission believes that issuance of a rule codifying the revised standard in these circumstances is appropriate.

Unless we receive a significant adverse comment by April 3, 2015, the rule will become effective on April 12, 2015. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be one in which the commenter explains why the rule would be inappropriate, including an assertion challenging the rule’s underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change. Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the

comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking providing an opportunity for public comment.

IV. Incorporation by Reference

Section 1460.3 of the final rule provides that closures on portable gasoline containers must comply with the child-resistance requirements of ASTM F2517-15. The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. The OFR recently revised these regulations to require that, for a final rule, agencies must discuss in the rule's preamble ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble of the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in this section summarizes the provisions of ASTM F2517-15. Interested persons may purchase a copy of ASTM F2517-15 from ASTM, either through ASTM's website or by mail at the address provided in the rule. One may also inspect a copy of the standard at the CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, or at the National Archives and Records Administration (NARA), as discussed in the rule.

The CPSC is incorporating by reference child-resistance requirements of ASTM F2517-15 pursuant to the Act because the Commission has determined that the revised standard carries out the purposes of the child-resistant requirements for closures on portable gasoline containers specified in ASTM F2517-05.

The revised standard, ASTM F2517-15, contains:

- Testing procedures for assessing child-resistance and senior adult-use effectiveness for closures on portable gasoline containers
- A minimum required effectiveness rate of child-resistance and senior adult-use for closures on portable gasoline containers to establish compliance with the standard
- A requirement that child-resistant containers and closures first meet the feasible and appropriate spill resistance requirements in CARB CP-501, TP-501, TP-502, and EPA Regulation 40 CFR 59.623.

Because the scope of the consumer product safety rule is established by the GCBPA, this rule does not incorporate by reference the scope section of ASTM F2517-15 or Appendix X1 that relates to the scope section of ASTM F2517-15.

V. Effective Date

As discussed in the preceding section, this is a direct final rule. Unless the Commission receives a significant adverse comment by April 3, 2015, the rule will become effective on April 12, 2015.

VI. Other Relevant Statutory Provisions

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statutes unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 and 605. This rule merely codifies requirements that will take effect through operation of law as specified in the CGBPA. The rule does

not impose any requirements beyond those put in place by the CGBPA. Thus, the rule does not create new substantive obligations for any entity, including any small entity. Accordingly, the Commission certifies that the rule will not have a significant impact on a substantial number of small entities.

B. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement because they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

C. Paperwork Reduction Act

This direct final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) is not required.

VII. Preemption

Section 26(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2075(a), provides that where a "consumer product safety standard under [the CPSA]" is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. (Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances).

As discussed above, under the CGBPA, the child-resistance requirements of ASTM F2517-15 became a consumer product standard for CPSA purposes. Children’s Gasoline Burn Prevention Act, Pub. L 110-278, Sec. 2(a) (July 17, 2008). The child-resistance requirements of ASTM F2517-15, which will be codified under this rule, will invoke the preemptive effect of section 26(a) of the CPSA.

VIII. Certification

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program. Because ASTM F2517-15 is deemed a “consumer product safety rule” for CPSA purpose, portable gasoline containers manufactured on or after April 12, 2015 are subject to the testing and certification requirements of section 14 of the CPSA with respect to ASTM F2517-15.

List of Subjects

16 CFR Part 1460

Consumer protection, Gasoline, Incorporation by reference, Safety.

For the reasons stated above, the Commission amends Title 16 CFR chapter II as follows:

PART 1460 – Children’s Gasoline Burn Prevention Act Regulation

Sec.

1460.1 Scope

1460.2 Definition

1460.3 Incorporation by Reference of Requirements for Child-Resistance of Closures on Portable Gasoline Containers

Authority: The Children’s Gasoline Burn Prevention Act, Pub. L 110-278, Sec. 2 (July 17, 2008).

§ 1460.1 Scope and application.

In accordance with the Children’s Gasoline Burn Prevent Act, portable gasoline containers must comply with the requirements specified in § 1460.3, which are considered to be a consumer product safety rule.

§ 1460.2 Definition.

Portable gasoline container means any portable gasoline container intended for use by consumers.

§ 1460.3 Requirements for child-resistance for closures on portable gasoline containers.

Each portable gasoline container manufactured on or after April 12, 2015 for sale in the United States shall conform to the child-resistance requirements for closures on portable gasoline containers specified in sections 2 through 6 of ASTM F2517-15 (including Appendixes X2 and X3 referenced therein), *Standard Specification for Determination of Child Resistance of Portable Fuel Containers for Consumer Use*, approved on January 1, 2015. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of these ASTM standards from ASTM

International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA, telephone: 610-832-9585; <http://www.astm.org/>. You may inspect copies at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Dated: _____

Alberta E. Mills,
Acting Secretary
U.S. Consumer Product Safety Commission



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

This document has been electronically
approved and signed.

Memorandum

Date: February 27, 2015

TO : The Commission
Todd A. Stevenson, Secretary

THROUGH : Stephanie Tsacoumis, General Counsel
Patricia H. Adkins, Executive Director

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

Scott Ayers, Fire Protection Engineer
Directorate for Engineering Sciences

SUBJECT : Staff Recommendation to the Commission on Revisions to ASTM F2517,
*Standard Specification for Determination of Child Resistance of Portable
Fuel Containers for Consumer Use*

The Children's Gasoline Burn Prevention Act (the Act), enacted on July 17, 2008,¹ requires that portable gasoline containers manufactured for sale to consumers in the United States on or after January 17, 2009 (6 months after enactment), must conform to ASTM International's (ASTM) F2517-05's child-resistance requirements for closures on portable gasoline containers. The Act provides that this requirement shall be considered a consumer product safety rule under section 9 of the Consumer Product Safety Act (CPSA).

Under the Act, if ASTM proposes to revise the child-resistance requirements of ASTM F2517-05, ASTM shall notify the U.S. Consumer Product Safety Commission (CPSC or Commission) of "the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule unless, within 60 days of such notice, the Commission notifies ASTM that the Commission has determined that such revision does not carry out the purposes of" the child-resistance requirements for closures on portable gasoline containers specified in ASTM F2517-05.

This memorandum summarizes the child-resistance requirements of the 2005 version of ASTM F2517 (which was deemed a consumer product safety standard by the Act), summarizes ASTM's revisions to the voluntary standard, and provides staff's assessment of those changes.

¹ Children's Gasoline Burn Prevention Act, Pub. L. No. 110-278, § 2(b) (July 17, 2008).

ASTM F2517-05 Summary

Under ASTM F2517-05, *Standard Specification for Determination of Child Resistance of Portable Fuel Containers for Consumer Use*, closures on affected containers must prove adequately resistant to children under the age of 5 (*i.e.*, children as old as 4 years and 3 months). ASTM F2517-05 also requires that testing demonstrate a satisfactory level of accessibility by adults 50 to 70 years of age. By mandating closures that resist access by children under age 5, the Act seeks to reduce hazards to children, including ingestions, fume inhalation, and the risk of burns from fires and/or explosions resulting from children interacting with, and accessing, or inadvertently releasing, the gasoline stored in gas cans.

ASTM F2517 is under the jurisdiction of ASTM Subcommittee F15.10 on Standards for Flammable Liquid Containers. ASTM originally published the standard in 2005, and subsequently revised the standard in 2009. ASTM did not officially notify the Commission of the 2009 revisions, and therefore, the 2009 revisions were not incorporated into the consumer product safety rule. On February 11, 2015, ASTM officially notified the Commission that ASTM had revised ASTM F2517 again on January 1, 2015. According to the Act, the Commission has until April 12, 2015 to notify ASTM if the Commission determines that this revision does not carry out the purposes of the Act; if the Commission does not notify ASTM accordingly, the revised child-resistance requirements will be incorporated into the consumer product safety rule by operation of law.

The changes in new revision, F2517-15 can be separated into three areas:

- Scope changes,
- Spill resistance requirement changes, and
- Test protocol changes.

The changes to the spill-resistance requirement and the test protocols are the only provisions that “revise the child resistance requirements of ASTM F2517-05.” Thus, only revisions to these provisions could be incorporated into the consumer product safety rule (unless the Commission notifies ASTM that the proposed revisions are not acceptable as provided in the Act, in which case the 2005 version would remain the consumer product safety rule).

Scope Changes

ASTM expanded the scope section in F2517-15 in several ways. The revised scope section adds:

- Containers for kerosene and diesel fuel;
- Closure mechanisms that are sold separately for use with or on portable gasoline, kerosene, or diesel receptacles; and
- Containers used for “gas/oil mixtures as commonly used for two-cycle engines.”

Although ASTM can expand the scope of the voluntary standard to cover other products, the scope of the mandatory consumer product safety rule is established by the Act. The Act requires “portable gasoline containers” to conform to “the child-resistance requirements for closures” stated in ASTM F2517. The Act defines “portable gasoline container” as “any portable gasoline container intended for use by consumers” and does not mention any other fuel. As such, the application of the revised standard to containers for other fuels cannot be mandated under the current statutory or regulatory framework.

Spill-Resistance Requirement Changes

ASTM revised the spill-resistance requirements in ASTM F2517. The 2005 version, F2517-05, required containers and closures to meet the feasible and appropriate spill-resistance requirements in ASTM F2234, *Specification for Portable Gasoline and Kerosene Spill Resistant Fueling Systems for Consumer Use*. ASTM F2517-15 requires containers and closures to meet the feasible and appropriate spill-resistance requirements in:

- California Environmental Protection Agency Air Resources Board (CARB) standards:
 - CP-501, *Certification Procedure 501 For Portable Fuel Containers And Spill-Proof Spouts*;
 - TP-501, *Test Procedure for Determining Integrity of Spill-Proof Spouts and Spill-Proof Systems*;
 - TP-502, *Test Procedure for Determining Diurnal Emissions from Portable Fuel Containers*; and
- U.S. Environmental Protection Agency (EPA) Regulation 40 C.F.R. § 59.623.

ASTM F2234 was developed by the same ASTM subcommittee that developed ASTM F2517, to match earlier versions of CP-501, TP-501, TP-502, and 40 C.F.R. § 59.623. When the CARB and EPA regulations were revised, making the permeability and emission requirements for gasoline vapors more stringent, the subcommittee decided to change the references in ASTM F2517, rather than revise F2234.

Test Protocol Changes

ASTM made two updates to the test protocol. First, F2517-15 now includes a permissive statement regarding use of teeth by the children, which makes the test protocol more consistent with the Poison Prevention Packaging Act (PPPA) test protocol. If neither of the children has used their teeth during the first 5 minutes, the tester tells the children, before beginning the second 5-minute period that the children may use their teeth. CPSC staff advocated for this requirement in the original F2517-05 voluntary standard because children often access poisonous substances by using their teeth; but children are unlikely to do so spontaneously during the test while an adult is watching closely. Second, F2517-15 now requires that a consent form be completed for each child participant. The PPPA regulations (16 C.F.R. § 1700.20) do not require informed consent for children participating in testing. However, the CPSC requires written informed consent for testing conducted by the staff or by contractors who test on CPSC's behalf. The CPSC regulations that require cigarette and multipurpose lighters to be child-resistant require that written informed consent be obtained from a parent or legal guardian before children participate in testing (16 C.F.R. § 1210.4 and 1212.4). This added requirement makes the test more stringent than the PPPA protocol, and depending on the current practices regarding consent forms used by manufacturers and test firms, this requirement could add to the administrative burden and cost of testing.

Conclusions

The changes to the scope section of ASTM F2517 do not “revise the child resistance requirements of the ASTM standard” and would not become part of the consumer product safety rule.

After reviewing the changes to the child-resistance requirements in F2517-15, staff believes that the revised standard carries out the purposes of the child-resistant requirements for closures on portable gasoline containers specified in ASTM F2517-05. The spill-resistance requirements are more stringent and the test protocol updates improve testing by aligning with or improving on PPPA and CPSC requirements. (Table 1 summarizes the non-editorial changes from F2517-05 to F2517-15 and staff’s assessment of the changes.) As a result, staff recommends that the Commission allow the proposed revisions to the child-resistance requirements of ASTM F2517 to be incorporated into the CPSC mandatory rule, as provided in the Act.

Staff also recommends that if the Commission determines that ASTM’s revision does carry out the purposes of the Act mandating child-resistance requirements for closures on portable gasoline containers, the Commission should publish a direct final rule incorporating by reference the child-resistance requirements of ASTM F2517-15. Specifically codifying the applicable mandatory standard would reduce regulatory uncertainty and burden by having current requirements explicitly delineated in the Code of Federal Regulations.

Table 1. Summary of changes from ASTM F2517-05 to ASTM F2517-15

F2517 Paragraph	Change	Staff’s Technical Assessment
1.1	Expanded the scope to include diesel and kerosene containers.	The mandatory consumer product safety rule only covers “portable gasoline containers” as defined in the Act.
1.1.1	Added a definition for “container.”	The definition removes the ambiguity in determining whether a fuel receptacle should be considered a container or not.
1.1.1, 1.2, 1.3	Expanded the scope to include explicitly external spouts and other closure mechanisms, gas and oil mixtures, and single and multi-compartment containers.	The mandatory consumer product safety rule only covers “portable gasoline containers” as defined in the Act.
1.2	Removed a statement that the standard is not a fire hazard standard, but rather, a specification for containers.	The standard is a specification for containers; however, one of the dangers of children gaining access to the fuel inside of the containers is fire. Therefore, removing the statement removes a potential point of ambiguity.
1.3	Removed a statement that the standard establishes requirements for determining senior adult-use effectiveness of containers.	Although the standard does establish requirements for determining senior adult-use effectiveness, the purpose of the standard is to determine the child-resistance of the container. To be child-resistant, the container also must be able to be opened and secured by senior adults. Therefore, removing the statement removes a potential point of ambiguity.
1.4, 1.4.1, 1.4.2, 1.4.3, 1.4.4, 1.4.5	Added an acknowledgment that the standard addresses effectiveness of child-resistance devices after closure cycling only, and does not address closure effectiveness at high or low temperatures, after thermal aging, after exposure to sunlight, after exposure to fuel, or after physical abuses, such as drops and impacts.	This acknowledges the conditioning requirements of the container for testing. The Act requires that the child-resistant devices function for the life of the container. Section 3.1.1 requires that the containers first meet ASTM F852, which tests the container to these conditions.

2.1, 2.2, 2.3, 3.1.1	Updated reference documents for spill-resistant container requirements from ASTM F2234, <i>Specification for Portable Gasoline and Kerosene Spill Resistant Fueling Systems for Consumer Use</i> , to California Environmental Protection Agency Air Resources Board (CARB) standards CP-501, <i>Certification Procedure 501 For Portable Fuel Containers And Spill-Proof Spouts</i> , TP-501, <i>Test Procedure for Determining Integrity of Spill-Proof Spouts and Spill-Proof Systems</i> , TP-502, <i>Test Procedure for Determining Diurnal Emissions from Portable Fuel Containers</i> , and EPA Regulation 40 C.F.R. § 59.623.	The standard changed the referenced spill-resistance requirements from a voluntary standard to state and federally mandated standards. The same ASTM subcommittee that is responsible for F2517 is responsible for F2234. F2234 matched the requirements in previous versions of CP-501, TP-501, TP-502 and 40 C.F.R. § 59.623; however, it was not updated when these mandatory standards were most recently revised. Instead, the subcommittee chose to change the references in F2517.
3.1.4	Added an explicit requirement that containers found to leak cannot be used for further testing.	Leaking containers would be considered defective; this requirement removes defective products from the testing.
4.1.4	Changed the room temperature from 22.25 °C to 23 ± 3 °C.	Adding a temperature range would not adversely affect the testing.
4.2.1	Added the requirement that a guardian sign a consent form for each child participating in the testing.	This requirement is more stringent than the PPPA regulations regarding testing. Depending on current practices, this requirement could increase the cost and administrative burden of testing.
4.6.22	Removes a redundancy in specifying the length of the second part of the children's test.	Section 4.6.21 specifies the length of the second part of the children's test.
4.6.22	Added a provision that if one or both children have not used their teeth to try to open their containers during the first 5 minutes, the tester shall say immediately before beginning the second 5-minute period, "You can use your teeth if you want to."	This is consistent with the requirements of the PPPA test protocol. This requirement makes the test more stringent, giving the children more options to try to open the container.
5.2	Added an explicit requirement that screening test containers shall be the same containers as the CR test containers, only with non-child-resistant closures.	Requiring the same container to be used ensures that participants are able to use non-CR containers of the same shape, size, and weight of the container to be tested.
X1	In the appendix, added non-mandatory information explaining that the containers are tested only at room temperature and after closure cycling tests because of the potential health hazards.	This is non-mandatory, but provides the reasoning why additional conditioning tests are not performed. The conditioning requirements in this standard are more stringent than the child-resistant testing in the PPPA, which does not include high, low temperature, or pre-cycling of the closure prior to testing, because those conditions are not applicable to most substances regulated under the PPPA.
X2	In the appendix, added an example consent form for adult participants.	This is an example of a consent form.
X3	In the appendix, added an example consent form for child participants.	This is an example of a consent form.