

## Frequently Asked Questions (FAQ) - Clothing Storage Unit Tip-overs

### Overview

- The Consumer Product Safety Commission (CPSC) is an independent federal agency – its primary mission is to ‘protect the public against the unreasonable risks of injuries and deaths associated with consumer products.’ At full capacity, it is led by Five (5) Senate-confirmed Commissioners, with one serving as its Chair (also Senate confirmed). Under the Consumer Product Safety Act, the CPSC must consider voluntary standards before they issue a Final Rule/mandatory safety standard.
- One of the primary voluntary standards bodies is ASTM International. With respect to furniture, there is a specific furniture safety subcommittee, ASTM F15.42, which established the ‘Standard Safety Specification for Clothing Storage Units’ in 2000, referred to as the ‘voluntary standard’ later in this document. Since then, the voluntary standard has been updated several times, most recently in 2019.
  - The furniture industry has repeatedly urged CPSC to adopt the voluntary standard as a mandatory standard over many years to address tip-over concerns. Products involved in CPSC recalls have not complied with the voluntary standard.
- In February 2022, the CPSC issued a Notice of Proposed Rulemaking (NPR) to address clothing storage unit (CSU) tip-overs. The HFA, with input from its members, submitted extensive comments raising serious concerns with the proposed test methods and economic analysis contained in the CPSC proposal. CPSC published its Final Rule on November 25<sup>th</sup>, 2022 without addressing those concerns.
- As CPSC was reviewing its proposed rule and considering public comments, a strong coalition including industry, parent, and consumer stakeholders worked on federal legislation, the STURDY Act, requiring the CPSC to adopt a revised ASTM voluntary standard as the federal safety standard.
- Given the complexity and breadth of these issues and the competing timelines, we prepared this FAQ as a member guide. We will update as new developments arise.

## **Consumer Product Safety Commission (CPSC) Final Rule**

### **What is the current status of the CPSC Final Rule?**

- On November 25, 2022, the CPSC [published](#) its Final Rule in the Federal Register, creating a federal Safety Standard for Clothing Storage Units. **The Final Rule is effective May 24, 2023** – clothing storage units under the scope of the CPSC Final Rule manufactured after this date, MUST comply with the CPSC test methods to be sold in the United States.

### **Does the CPSC Final Rule apply to existing inventory?**

- No, the CPSC Final Rule does not apply to existing inventory. It is prospective in nature and will only apply to units manufactured after May 24, 2023.
- Once the Final Rule was published on November 25, 2022, anti-stockpiling rules were triggered which prohibit manufacturers and/or importers of CSUs from manufacturing or importing non-compliant units for any one month period between 11/25/22 and 5/24/23 at a rate greater than 105% of a median volume within the last 13 months immediately preceding November 2022.

### **Is the CPSC Final Rule being challenged in court?**

- Yes, the American Home Furnishings Alliance, along with other groups, has challenged the CPSC Final Rule in the U.S Court of Appeals for the 5<sup>th</sup> Circuit. However, no official rulings have been made in the case so the May 24, 2023 effective date remains.

### **What products are covered?**

- The scope of the CPSC Final Rule is expansive and covers *‘a freestanding furniture item, with drawer(s) and/or door(s), that may be reasonably expected to be used for storing clothing, that is designed to be configured to greater than or equal to 27 inches in height, has a mass greater than or equal to 57 pounds with all extendable elements filled with at least 8.5 pounds/cubic foot times their functional volume (Page 29 of the Final Rule link above).’*
  - *‘The standard provides names of common CSU products, including chests, bureaus, dressers, armoires, wardrobes, chests of drawers, drawer chests, chifferobes, and door chests. Similarly, it names products that, depending on their design, generally do not meet the criteria in the CSU definition, including*

*shelving units, office furniture, dining room furniture, laundry hampers, built-in closets, and single-compartment closed rigid boxes (storage chests).'*

- Another note that the CPSC Final Rule does not explicitly exclude nightstands so nightstands that meet the definition above would be covered by the Final Rule.

### **How is this different from the current ASTM voluntary standard (ASTM 2057)?**

- Importantly, the ASTM standard is solely voluntary – this action from the CPSC creates a **mandatory** standard for this entire category. From a technical perspective, the test methods within the CPSC Final Rule are ambiguous and rigorous. In the Final Rule, CPSC notes there may be one (single) clothing storage unit on the market today which could meet the minimum threshold of its safety standard.
  - Many retailers are familiar with the current ASTM test method requirements including extending drawers, ensuring the unit does not tip-over, as well as extending drawers and adding 50 lbs to the drawer front to ensure it does not tip-over.
  - The CPSC test methods go beyond this to include a testing block to simulate carpet as well as loaded drawers, with all of those drawers extended in the test method. The Final Rule is not specific to a weight and rather calculates the 'moment' the unit tips over with those elements, as weight is applied to the drawer(s).
  - The CPSC Final Rule also creates a hang tag requirement which will display a 'stability rating' on a scale of 1, or '2 or more.'

### **How do Interlocks factor into the CPSC Final Rule?**

- In the CPSC Final Rule, interlocks are contemplated/suggested as a compliance tool. Interlocks are more familiar in office furniture as they restrict drawer opening when another drawer is also open. While interlocks do not exempt pieces from the Final Rule, there are testing benefits to installing them on units.

### **The STURDY Act**

#### **What is the STURDY Act and how does it impact this issue?**

- On December 29, 2022, President Biden signed the 'Consolidated Appropriations Act, 2023' which included text of the STURDY Act. The STURDY Act directs the CPSC to conduct another rulemaking on CSU tip-overs with a requirement to adopt a revised ASTM voluntary standard (to be published in February 2023) as long as it meets testing requirements contained within the STURDY Act.

- The CPSC would have to complete this rulemaking, with its determination of the revised voluntary standard and another round of proposed rule, public comment, and final rule publication, within one year after enactment.
- The mandatory standard created under the STURDY Act would ‘supersede’ any other tip-over standard in place at that time.

### **What are the ASTM Voluntary Standard revisions?**

- Over the last 18 months, the ASTM F15.42 Furniture Safety Subcommittee has worked to build a consensus amongst industry, parent and consumer group stakeholders to revise the current ASTM 2057-2019 voluntary standard. The revisions update test methods to consider additional ‘real world’ factors for CSUs to include tests to represent carpet, multiple open drawers, and loaded drawers. These revisions were approved by the subcommittee in the Fall of 2022 with a strong coalition/consensus. CPSC was the lone dissenting voice in this process.
- Importantly, the STURDY Act now requires the CPSC to adopt this revised standard, formed through a consensus driven process, given that it meets the requirements of the Act.

### **Does the STURDY Act have an impact on the current May 24, 2023 effective date of the CPSC Final Rule?**

- No, the STURDY Act does not impact the current May 24, 2023 effective date. However, industry and other stakeholders are currently seeking clarification from the CPSC on the interaction of these various timelines and rulemakings.