

# Ballot Vote Sheet

**TO:** The Commission  
Alberta E. Mills, Secretary **DATE:** July 31, 2024

**THROUGH:** Jessica L. Rich, General Counsel  
Austin C. Schlick, Executive Director

**FROM:** Daniel R. Vice, Assistant General Counsel, Regulatory Affairs  
Charlotte G. Alton, Attorney, Regulatory Affairs

**SUBJECT:** Notice of Availability and Request for Comment: Data Regarding Incidents Associated with Infant and Infant/Toddler Rockers

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**BALLOT VOTE DUE:** August 6, 2024

The Office of the General Counsel is providing for the Commission's consideration the attached draft notice of availability (NOA) for Data Regarding Incidents Associated with Infant and Infant/Toddler Rockers. The draft NOA announces the availability of, and seeks comments from the public on, this information related to the Notice of Proposed Rulemaking (NPR), Safety Standard for Infant and Infant/Toddler Rockers, 88 FR 73551 (Oct. 26, 2023), as well as a computer-aided design file for a firmness test fixture proposed in the NPR. It also seeks comment on incorporation by reference of ASTM International's [Month] 2024 update to the voluntary standard for rockers – ASTM F3084-24, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*.

Please indicate your vote on the following options:

- I. Approve publication of the attached notice in the *Federal Register*, as drafted.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- II. Approve publication of the attached notice in the *Federal Register*, with the specified changes.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

III. Do not approve publication of the attached notice in the *Federal Register*.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

IV. Take other action specified below.

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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft *Federal Register* notice entitled Notice of Availability and Request for Comment: Data Regarding Incidents Associated with Infant and Infant/Toddler Rockers

**CONSUMER PRODUCT SAFETY COMMISSION**

**Docket No. CPSC-2023-0046**

**Notice of Availability and Request for Comment: Data Regarding Incidents Associated with Infant and Infant/Toddler Rockers**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed rule; availability of supplemental information; request for comment.

**SUMMARY:** The U.S. Consumer Product Safety Commission (Commission or CPSC) published a notice of proposed rulemaking (NPR) in October 2023 to address risks of death and injury associated with infant suffocations, falls, and other hazards associated with infant and infant/toddler rockers (rockers). CPSC announces the availability of, and seeks comment on, details about incident data relevant to the rulemaking and associated with infant and toddler rocker use. CPSC also seeks comment on a standard tessellation language (STL) file (used in computer-aided design) for a firmness test fixture proposed in the NPR, and an amended version of the voluntary standard for rockers.

**DATES:** Submit comments by [**30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

**ADDRESSES:** Submit comments, identified by Docket No. CPSC-2023-0046, by any of the following methods:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC does not accept comments submitted by e-mail, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

*Mail/Hand Delivery/Courier Written Submissions:* Submit comments by mail/hand delivery/courier to: Office of the Secretary, U.S. Consumer Product Safety Commission 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

*Docket:* To read background documents or comments regarding this proposed rulemaking, go to: <https://www.regulations.gov>, insert Docket No. CPSC-2023-0046 in the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Zachary S. Foster, Project Manager, Division of Human Factors, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone (301) 987–2034; email: [zfoster@cpsc.gov](mailto:zfoster@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. Under this statutory direction, in October 2023, the Commission published an NPR,

*Safety Standard for Infant and Infant/Toddler Rockers*, to reduce the risk of death and injury associated with rockers. 88 FR 73551 (Oct. 26, 2023).

The NPR defines an “infant rocker” as “a freestanding product intended to support an occupant who has not developed the ability to sit up unassisted, up to 20 lb. (approximately 0 through 6 months of age), in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means,” while an “infant/toddler rocker” is “a freestanding product intended to support an occupant in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means until the occupant is approximately age 2.5 years, up to 40 lb.” 89 FR 2544.

In July 2014, ASTM International’s (ASTM) Committee F15 on Consumer Products first published a voluntary standard for rockers – ASTM F3084-14, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*, to minimize the risk of injury or death associated with children’s use of rockers. The standard addressed hazards associated with product disassembly and collapse, stability, and falls from an elevated surface. Hazard mitigation provisions included performance requirements, warnings, and instructional literature. The ASTM standard has been revised six times since 2014: in 2016, 2018, 2020, 2022, and twice after publication of the NPR (in January 2024 and again in [Month] 2024).

The January 2024 revision of ASTM’s voluntary standard for rockers, ASTM F3084-23, included: (1) revisions to the definitions to include an upper weight limit for infant rockers and infant/toddler rockers; (2) modification to restraint storage requirements; (3) clarification of the forward stability test and modification to the static load application location; and (4) addition of battery compartment performance requirements and a battery leakage test. ASTM published its latest revision on [Month], 2024 – ASTM F3084-24. This revision includes the January 2024

additions, while also establishing new elements intended to address the tethered strap and/or cord hazards discussed in the NPR. In relevant part, ASTM F3084-24 adds (1) definitions for “cord,” “strap,” and “tethered strap and/or cord” and (2) performance requirements and test methods to address tethered strap and/or cord hazards, including entrapment and entanglement, as well as adds accompanying figures of test probes. CPSC intends to refer to the [Month] 2024 version of ASTM F3084 should it proceed to issuing a final rule. CPSC will evaluate whether the NPR’s recommended substantive changes are addressed in ASTM’s [Month] 2024 version of the voluntary standard. The Commission seeks comment on incorporation of ASTM F3084-24 in the proposed rule.

The Commission is now making available to the public incident reports underlying the data discussed in the NPR, as described below.<sup>1</sup> The Commission’s intent is to disclose all relied-upon incidents, including reports submitted into SaferProducts.gov, hospital database reports, In-Depth Investigations (IDIs), and incidents submitted to CPSC by manufacturers and retailers under section 15 of the Consumer Product Safety Act (CPSA), subject to the limits in section 6 of the CPSA (section 15 reports). 15 U.S.C. 2055.

These reports have been redacted to protect personal information, confidential medical information, and other information protected from disclosure by section 6 of the CPSA. In particular, section 6(a) of the CPSA prohibits CPSC from disclosing trade secrets and commercial or financial information obtained from a person that is privileged or confidential, and it requires CPSC to offer such manufacturer or private labeler an opportunity to mark such information as confidential. 15 U.S.C. 2055(a). If the Commission determines that a report marked as confidential by a manufacturer or private labeler may be disclosed because it is not

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<sup>1</sup> The Commission voted X-X on XX, 2024, to publish this document.

confidential information as provided by section 6(a)(2), the Commission must notify the manufacturer or private labeler within a specified time frame before any disclosure. Section 6(b) of the CPSA also imposes limitations on CPSC's public disclosure of information that will permit the public to ascertain readily the identity of a manufacturer or private labeler but contains specific exceptions for disclosure of such information in the course of or concerning a rulemaking proceeding. 15 U.S.C. 2055(b)(4). Section 6(b)(5) of the CPSA contains limitations on public disclosure of information if the information was submitted to CPSC pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b). 15 U.S.C. 2055(b). Section 6(b)(5)(c) also prohibits disclosure of information submitted pursuant to CPSA section 15(b) unless the firm submitting the information "agrees to its public disclosure." 15 U.S.C. 2055(b)(5)(C). Thus, prior to disclosure, CPSC offers such a manufacturer or private labeler an opportunity to mark such information as confidential, and it asks for the firm's agreement to release the documents.

CPSC notified all four submitters who provided incident information underlying the NPR to CPSC under section 15(b), and it sought consent to release the incident information pursuant to section 6. All four submitters consented to disclosure with redactions. Two of those firms consented to disclosure of one section 15 report each, the third firm consented to disclosure of six section 15 reports, and the fourth firm consented to disclosure of 1,010 section 15 reports.

The NPR contained information about incidents from two databases: the Consumer Product Safety Risk Management System (CPSRMS)<sup>2</sup> and the National Electronic Injury

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<sup>2</sup> CPSRMS includes data primarily from three groups of sources: incident reports, death certificates, and in-depth follow-up investigation reports. A large portion of CPSRMS consists of incident reports from consumer complaints, media reports, medical examiner or coroner reports, retailer or manufacturer reports (incident reports received from a retailer or manufacturer involving a product they sell or make), safety advocacy groups, law firms, and federal, state, or local authorities, among others. It also contains death certificates that CPSC purchases from all 50 states, based on selected external cause of death codes (ICD-10). The third major component of CPSRMS is the collection of in-depth follow-up investigation reports. Based on the incident reports, death certificates, or NEISS injury reports, CPSC Field staff conduct IDIs (on-site, via telephone, or online) of incidents, deaths, and injuries, which are then stored in CPSRMS.

Surveillance System (NEISS).<sup>3</sup> CPSC staff searched these databases for fatalities, incidents, and concerns associated with rockers and involving infants and toddlers up to five years old, reported to have occurred between January 1, 2011, and November 7, 2022. This search revealed data pertaining to at least 11 fatalities and 88 injuries, with 1,088 total incidents reported to CPSC. The NPR included information about the hazard patterns associated with these fatal and nonfatal incidents, such as the child's age, hazard scenarios, and product-design concerns.

Relevant data from CPSRMS for the 11-year period include records of fatal and nonfatal incidents, such as incident reports from medical examiners, consumers, death certificates, and manufacturers. Some of the incident data relied on for the rulemaking were obtained from 47 IDIs conducted by CPSC. Among these IDIs, 11 were fatal incidents and 36 were nonfatal incidents. Incident data have been redacted for personally identifiable information or confidential medical information, as required by law and any applicable confidentiality agreements.

Data available from NEISS for the 11-year period contain too few emergency department-treated injuries associated with rockers to derive reportable national estimates based on the NEISS-participating sample hospitals. Although CPSC was unable to provide national injury estimates based on NEISS data, one NEISS injury case is included in the total count of reported incidents.

The Commission is also making available an STL file for the handle of the firmness test fixture proposed in the NPR. Commenters on the NPR indicated that the drawing of the fixture in the NPR was incomplete and did not include enough detail to allow development and testing

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<sup>3</sup> NEISS is the source of the injury estimates; it is a statistically valid injury surveillance system. NEISS injury data are gathered from emergency departments of a representative sample of U.S. hospitals, with 24-hour emergency departments and at least six beds. The surveillance data gathered from the sample hospitals enable CPSC staff to make timely national estimates of the number of injuries associated with specific consumer products.



of the proposed fixture.<sup>4</sup> The STL file can be used to examine the handle geometry, or to 3D print a handle similar to that used in the seated product report referenced in the NPR<sup>5</sup> and used by CPSC staff in testing rockers. The Commission seeks comment on which design features of the handle should be considered critical to the performance of the firmness test; which features should be customizable by users based on the test equipment that is attached to the handle; and whether any changes should be made to the drawing of the handle based on the assessment.

The Commission invites comments on the incident data and analysis of this data in the NPR, the STL file and its proposed use in the NPR, and incorporation by reference of the updated ASTM standard, F3084-24. By permission of ASTM, the standard can be viewed as a read-only document during the comment period of the NPR, at: <http://www.astm.org/cpsc.htm>. To download or print the standard, interested persons may purchase a copy of the standard 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 by contacting Alberta E. Mills, Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479; e-mail: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov). Upon publication of this notice in the *Federal Register*, CPSC will make available for review and comment the incident reports relied upon and discussed in the NPR, to the extent allowed by applicable law, along with the associated IDIs. The data will be made available by submitting a request at: [\[Insert link\]](#). You will then receive a website link to access the data at the email address you

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<sup>4</sup> *Safety Standard for Infant and Infant/Toddler Rockers*, Notice of Proposed Rulemaking, published Oct. 26, 2023, Figure 4 to Paragraph (b)(10)(x) – Hand-Held Firmness Test Device; 88 Fed. Reg. 73566.

<sup>5</sup> Mannen, E. M., Siegel, D., Goldrod, S., Bossart, A., Lujan, T. J., Wilson, C., Whitaker, B., Carrol, J. (2023). *Seated Products Characterization and Testing*. Report available at <https://www.cpsc.gov/content/Report-Boise-State-Universitys-Seated-Products-Characterization-and-Testing>.

provide. If you do not receive a link within two business days, please contact Zachary S. Foster, email: [zfoster@cpsc.gov](mailto:zfoster@cpsc.gov). Information on how to submit comments and contact information for CPSC's Office of the Secretary are in the **ADDRESSES** section of this notice.

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Alberta E. Mills, Secretary  
Consumer Product Safety Commission