



# Ballot Vote Sheet

**TO:** The Commission  
Alberta E. Mills, Secretary

**DATE:** October 30, 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 Proposed Rulemaking: Safety Standard for Toys: Requirements for  
Water Beads; *Federal Register* Notice Regarding Extension of Comment  
Period

## TIME CRITICAL BALLOT VOTE DUE: November 1, 2024

On October 21, 2024, Joan Lawrence, Senior Vice President, Standards and Regulatory Affairs of The Toy Association, submitted a request for a 60-day extension of the comment period for the Notice of Proposed Rulemaking: Safety Standard for Toys: Requirements for Water Beads (NPR). The Toy Association asserts that the 60-day comment period provided for in the NPR, currently scheduled to end on November 8, 2024, is insufficient for stakeholders to provide meaningful feedback on the NPR, alleging the industry needs additional time to review acrylamide testing data that was shared with The Toy Association on October 7, 2024.

All data the Commission relied on and that was referenced in the NPR was properly made public when the rulemaking was published on September 9, 2024. Nevertheless, a June 13, 2024 letter from CPSC's Freedom of Information Act (FOIA) office had advised The Toy Association that acrylamide testing data would be made public as part of the rulemaking process. To address the discrepancy between the statement in the FOIA letter and the acrylamide testing data not being shared with The Toy Association until October 7, 2024, staff advises that a 30-day comment period extension would provide sufficient time to examine the acrylamide testing data, and recommends such an extension as reasonable under these unusual circumstances. The acrylamide testing data is currently available on CPSC's FOIA website at: [https://www.cpsc.gov/Newsroom/FOIA/ReportList/all/all?month=all&year=all&nfr\\_type=All&title=24-f-00409](https://www.cpsc.gov/Newsroom/FOIA/ReportList/all/all?month=all&year=all&nfr_type=All&title=24-f-00409), and is available with the incident data referenced in the NPR upon submitting a request to: <https://forms.office.com/g/gSZi1gHic8>.

The Office of the General Counsel is providing for Commission consideration the attached draft *Federal Register* notice that summarizes The Toy Association's request, provides staff's analysis of the request, and extends the comment period by 30 days. To expedite Commission consideration before the end of the comment period, the General Counsel has designated this matter as time critical, pursuant to section V of the Commission's Decision-Making Procedures.

Please indicate your vote on the following options:

U.S. Consumer Product  
Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

National Product Testing  
and Evaluation Center  
5 Research Place  
Rockville, MD 20850

THIS DOCUMENT HAS NOT BEEN REVIEWED  
OR ACCEPTED BY THE COMMISSION

CLEARED FOR PUBLIC RELEASE  
UNDER CPSA 6(b)(1)

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

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

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

II. Approve publication of the attached document in the *Federal Register*, with the specified changes:

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

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

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

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

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

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

IV. Take other action specified below:

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

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

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

Attachment: Notice of Proposed Rulemaking: Safety Standard for Toys: Requirements for Water Beads; Federal Register Notice Regarding Extension of Comment Period

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1250**

**[CPSC Docket No. CPSC-2024-0027]**

**Notice of Proposed Rulemaking: Safety Standard for Toys: Requirements for Water Beads; Extension of Comment Period**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Extension of comment period.

**SUMMARY:** On September 9, 2024, the Consumer Product Safety Commission (CPSC) published in the *Federal Register* a notice of proposed rulemaking (NPR) to address the risk of death and injury associated with children ingesting or inserting in the nose or ear water bead toys by adding performance and labeling requirements for water bead toys or toys containing water beads. The Commission also made public incident data relied upon and referenced in the NPR. The NPR invited the public to submit written comments by November 8, 2024. On October 21, 2024, CPSC received a request to extend the comment period to provide stakeholders with time to review additional testing data. The Commission is extending the comment period for the NPR by 30 days.

**DATES:** The comment period for the proposed rule published on September 9, 2024, at 89 FR 73024, is extended. Submit comments by December 8, 2024.

**ADDRESSES:** Submit comments, identified by Docket No. CPSC-2024-0027, 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 typically does not accept comments submitted by e-mail, except through [www.regulations.gov](https://www.regulations.gov).

CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

*Mail/Hand Delivery/Courier/Confidential Written Submissions:* Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (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 e-mail them to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions must include the agency name and docket number. 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 through this website: 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/confidential written submissions.

*Docket:* For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2024-0027, into the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Matthew Kresse, Division of Mechanical Engineering, Directorate for Laboratory Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; Telephone 301-987-2222; email: [mkresse@cpsc.gov](mailto:mkresse@cpsc.gov).

**SUPPLEMENTARY INFORMATION:**

*A. Background*

Pursuant to section 106 of the Consumer Product Safety Improvement Act of 2008 (CPSIA; 15 U.S.C. 2056b(a)), the Commission is required to promulgate toy safety standards that are more stringent than the applicable voluntary standard – ASTM F963, *Standard Consumer Safety Specification for Toy Safety* – if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product, as well as to periodically review and revise the rules set forth under section 106 to ensure that such rules provide the highest level of safety for such products that is feasible. 15 U.S.C. 2056b(c) and (d).

Accordingly, on September 9, 2024, the Commission published an NPR in the *Federal Register* proposing to establish a safety standard for water bead toys and toys that contain water beads by adding requirements in part 1250. 89 FR 73024. In the September 9 notice, the Commission provided a 60-day comment period closing on November 8, 2024.

*B. Request for Comment Period Extension*

On April 11, 2024, The Toy Association submitted a Freedom of Information Act (FOIA) request seeking acrylamide testing data related to water beads. CPSC’s FOIA office anticipated that the acrylamide testing data could be made public as part of the water bead rulemaking process in a Notice of Availability (NOA) and informed The Toy Association that it should wait until the Commission began its rulemaking. On September 9, 2024, CPSC published the NPR (not an NOA), which did not cite the requested data. The FOIA office then amended its response to The Toy Association’s FOIA request and published the testing data on CPSC’s website, alerting The Toy Association on October 7, 2024.

On October 21, 2024, Joan Lawrence, Senior Vice President, Standards and Regulatory Affairs of The Toy Association, submitted a request for a 60-day extension of the NPR comment

period.<sup>1,2</sup> The Toy Association's request asserts that the provided 60-day comment period is insufficient for stakeholders to provide meaningful feedback on the NPR and that stakeholders need time to review the acrylamide testing data on CPSC's website.

*C. Assessment of the JPMA Request*

Section III.D of the NPR states that CPSC would make available for review and comment the incident data relied upon and discussed in the NPR, which CPSC did when the NPR was published in the *Federal Register*. Nevertheless, CPSC's FOIA office stated that the acrylamide testing data would be released at the same time as the NPR data, when it was not shared with The Toy Association until October 7, 2024. A 30-day extension of the comment period will be granted to address this unusual circumstance.

*D. Conclusion*

The Commission has considered The Toy Association request to extend the comment period and staff's assessment of the request, and is granting a 30-day extension of the comment period, until December 8, 2024. The acrylamide testing data is currently available on CPSC's FOIA website at: [https://www.cpsc.gov/Newsroom/FOIA/ReportList/all/all?month=all&year=all&nfr\\_type=All&title=24-f-00409](https://www.cpsc.gov/Newsroom/FOIA/ReportList/all/all?month=all&year=all&nfr_type=All&title=24-f-00409), and is available with the incident data referenced in the NPR upon submitting a request to: <https://forms.office.com/g/gSZi1gHic8>.

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Alberta E. Mills,  
Secretary, Consumer Product Safety Commission

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<sup>1</sup> The Toy Association's request has been placed on the docket for this rulemaking.

<sup>2</sup> On November 1, 2024, the Commission voted (X-X) to publish this notice.