



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: September 17, 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: Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment; *Federal Register* Notice Regarding Extension of Comment Period

TIME CRITICAL BALLOT VOTE DUE: September 19, 2024

On September 6, 2024, Lisa Trofe, Executive Director of the Juvenile Products Manufacturers Association (JPMA), on behalf of their members and the three companies that co-signed the request, submitted a request for a 90-day extension of the comment period for the Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment (NOA).

JPMA asserts that the 30-day comment period is insufficient for stakeholders to provide meaningful feedback on the NOA, alleging the industry needs additional time to 1) create a prototype and evaluate a new firmness test fixture from the STL file in light of the relevant 3D file becoming available for review on August 28, 2024, after the NOA was published on August 22, 2024, and (2) evaluate the complete incident dataset after documents from one firm became available for review on August 28, 2024. In addition, JPMA seeks further time to manage the downloadability of the 3D file; that particular file became downloadable (as opposed to just viewable) on September 10, 2024.

Commission staff's September 17, 2024, Briefing Memorandum assesses the JPMA request for an additional 90 days to comment and advises that a 45-day comment period extension provides sufficient time to submit comments on the NOA. The Office of the General Counsel is providing for Commission consideration the attached draft *Federal Register* notice that summarizes JPMA's request, provides staff's analysis of the request, and extends the comment period by 45 days. To expedite Commission consideration before the end of the comment period, the General Counsel has designated this matter as time critical and set a two-day deadline.

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

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: Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment; *Federal Register* Notice Regarding Extension of Comment Period

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1240

[CPSC Docket No. CPSC-2023-0046]

Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: In October 2023, the Consumer Product Safety Commission (CPSC) published in the *Federal Register* a notice of proposed rulemaking (NPR) to address risks of death and injury associated with infant suffocations, falls, and other hazards associated with infant and infant/toddler rockers (rockers). On August 22, 2024, CPSC published a notice of availability and request for comment (NOA) to announce the availability of, and to seek comment on, details about incident data relevant to the NPR. The NOA also sought comment on a standard tessellation language (STL) file for a firmness test fixture proposed in the NPR, and an amended version of the voluntary standard for rockers. The NOA invited the public to submit written comments during a 30-day comment period, beginning on the NOA publication date and ending on September 23, 2024. In response to a request for a 90-day extension of the NOA comment period, the Commission is extending the comment period for the NOA by 45 days.

DATES: Submit comments by November 7, 2024.

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

typically does not accept comments submitted by e-mail, except through 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.

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-2023-0046, into 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.

SUPPLEMENTARY INFORMATION:

A. *Background*

Pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056a), the Commission is required to promulgate consumer product safety standards for durable infant or toddler products. Under this statutory direction, the Commission published an NPR, Safety Standard for Infant and Infant/Toddler Rockers, to establish a safety standard for rockers to reduce the risk of death and injury associated with these products. 88 FR 73551 (Oct. 26, 2023). The NPR proposes incorporating by reference the 2022 version of the rockers voluntary standard, ASTM F3084-22, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*, with modifications to make the standard more stringent, to further reduce the risk of injury associated with rockers.

On August 22, 2024, the Commission published in the *Federal Register* an additional request for comment and a release of the underlying incident data, titled Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment (NOA). The NOA sought comment on three items: (1) incorporation of the updated July 2024 version of the voluntary standard for rockers – ASTM F3084-24; (2) incident reports underlying the data discussed in the NPR; and (3) an STL file of the firmness test fixture proposed in the NPR for gauging the firmness of a rocker seat.

B. *Request for Comment Period Extension*

On September 6, 2024, Lisa Trofe, Executive Director of the Juvenile Products Manufacturers Association (JPMA), on behalf of JPMA's members and three companies that individually co-signed the request, submitted a request for a 90-day extension of the NOA

comment period (JPMA request).^{1,2} The JPMA request asserts that the 30-day comment period is insufficient for stakeholders to provide meaningful feedback on the NOA and complete dataset because when first available on August 22, 2024, the STL file and underlying data was only viewable and not downloadable, and some documents did not become available for review until August 28.

C. Assessment of the JPMA Request

CPSC's practice is to make available the underlying incident data that it is legally authorized to publicize. Stakeholders are currently able to review all underlying incident data that supports the NPR and submit comments on that data; therefore, there is no need for stakeholders to download the underlying incident data. The Commission agrees, though, that stakeholders may benefit from additional time to review the complete underlying incident dataset because some of the data became reviewable on August 28, 2024, rather than August 22 as intended. Further, CPSC agrees with JPMA that the STL file is difficult to evaluate without downloading it, and that this file was not downloadable until September 9, 2024.

An *additional* 90 days, totaling 4 months (30 days plus 90 days), is unnecessary to assess the STL file and incident data, and provide feedback. However, CPSC is granting a 45-day extension of the comment period. This extension provides commenters not only additional time to review incident data, but also, in the assessment of CPSC's technical staff, ample time to manufacture, test, and comment on the firmness test fixture proposed in the NPR and described in the STL file.

D. Conclusion

¹ JPMA's request has been placed on the docket for this rulemaking, as well as attached as to Staff's September 17, 2024, Briefing Memorandum: Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment; Extension of Comment Period, available at: [\[Insert Link\]](#).

² On **XXXX**, 2024, the Commission voted (**X-X**) to publish this notice.

The Commission has considered JPMA's request to extend the comment period and staff's assessment of the request. Currently, the comment period is due to close on September 23, 2024. To provide additional time for stakeholders to comment on the NOA, the Commission will grant a 45-day extension of the comment period, until November 7, 2024.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission



Memorandum

TO: The Commission
Alberta E. Mills, Secretary

DATE: September 17, 2024

THROUGH: Jessica L. Rich, General Counsel
Austin C. Schlick, Executive Director
DeWane Ray, Deputy Executive Director, Safety Operations

FROM: Duane E. Boniface, Assistant Executive Director,
Office of Hazard Identification and Reduction

Zachary S. Foster, Infant and Infant/Toddler Rockers Project Manager, Division of
Human Factors, Directorate for Engineering Sciences

SUBJECT: Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment; Request for Extension of Comment Period

On August 22, 2024, the Commission (CPSC or Commission) published a notice of availability (NOA) for data relevant to the Notice of Proposed Rulemaking (NPR) for infant and infant/toddler rockers published in October 2023, and requested public comments for 30 days, closing September 23, 2024. 89 Fed. Reg. 67,917. The NOA announces the availability of details about incident data relevant to the rulemaking and a standard tessellation language (STL) file (used in computer-aided design) for a handheld firmness test fixture proposed in the NPR and seeks comments on both. This data was provided to the public via a Box folder. Additionally, the NOA seeks comments on ASTM F2034-24, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*.

On August 26, 2024, CPSC staff was notified that several files, including the STL file, were not included in the Box folder. This issue was corrected on August 28, 2024. On August 30, 2024, CPSC staff was notified that the STL file, while viewable from the Box folder in accordance with CPSC's standard practice for NOAs, could not be downloaded, thus limiting its utility for making the test fixture. A downloadable version of the STL file was made available on September 9, 2024, and every requester received an email informing them the downloadable file was available.

On September 6, 2024, the Juvenile Products Manufacturers Association (JPMA) requested an extension of the comment period (JPMA request, attached as Exhibit A). The JPMA request provides three reasons for their request for additional time to comment on the NOA:

- (1) The delays in providing all of the data and a downloadable version of the STL file have effectively shortened the comment period;
- (2) The incident data files, while viewable, cannot be downloaded from Box or converted into a tabular format, thus limiting stakeholders' ability to review and categorize the incident data; and
- (3) Stakeholders need approximately 90 days to review the STL file, source components, and 3D printing for the handheld firmness test fixture; evaluate non-specified components of the test fixture; and evaluate the repeatability and reproducibility of the test fixture.

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JPMA's request proposes that the comment period deadline be extended to 90 days after a useable (*i.e.*, downloadable) STL file is made available. (This was done on September 9, 2024, making the requested 90-day deadline December 8, 2024.)

CPSC staff recognizes that the brief delays in making the NOA data available has reduced the time that stakeholders have to review the data and provide comments, and on this basis agrees that some extension of the comment period is warranted. However, staff assesses that a thorough evaluation of the STL file and handheld firmness test fixture can be accomplished in a shorter period than JPMA suggests. JPMA states that between 4 to 6 weeks would be needed to produce the test fixture, and another 3 to 4 weeks would be needed to conduct testing. Staff assesses that these timelines are excessive. JPMA also calls for expansive testing, including round robin testing. Given that CPSC is just specifying a handle for a standard test fixture, and most of the components needed to make the fixture are readily available, staff assesses the requested additional 6 to 8 weeks is unwarranted. Staff assesses that the firmness test fixture can be produced within 2 weeks, and that adequate testing to assess the fixture can be accomplished within approximately 4 weeks. In total, staff assesses that the handheld firmness test fixture can be evaluated within 45 days.

Additionally, staff assesses that providing the NOA's incident data via view-only files sufficiently allows stakeholders to review the incident data and is consistent with CPSC's standard practice for all prior NOAs. Therefore, staff recommends extending the comment period by 45 days, thus moving the closing date to November 7, 2024, so that commenters have an opportunity to provide useful, practical, assessments of the NPR proposals, especially as it relates to the test fixture and their specific products.

Attachments:

[JPMA Request for Comment Period Extension](#)



September 6, 2024

Alberta Mills
Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Re: Request for Extension of Comment Period for Docket No. CPSC-2023-0046: Safety Standard for Infant and Infant/Toddler Rockers; Supplemental Information; Notice of Availability and Request for Comment

Submitted Electronically

Dear Chair Hoehn-Saric:

The Juvenile Products Manufacturers Association (JPMA), on behalf of our members and the undersigned companies, is writing to you today to respectfully request an extension of the comment period allotted for the Notice of Availability (NOA) and Request for Comment: Supplemental Information for the Safety Standard for Infant and Infant/Toddler Rockers, currently set to close on September 23.

The Juvenile Products Manufacturers Association is a national not-for-profit trade organization representing 95% of the prenatal to preschool industry including the producers, importers, or distributors of a broad range of childcare articles that provides protection to infants and assistance to their caregivers. JPMA collaborates with government officials, consumer groups, and industry leaders on programs to educate consumers on the safe selection and use of juvenile products. JPMA, our member companies, and CPSC staff have often worked together via the ASTM process to develop standards and rules that make products safer and better for parents and their babies.

On the day of publication of the NOA (August 22nd) JPMA and many of our members requested access to the new data, as outlined in the Federal Register posting. The NOA states, "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 updated version of the voluntary standard for rockers."¹ Once JPMA received access to the data on Box.com, however, it became clear that the data did not reflect what was referenced in the NOA and

¹ <https://www.federalregister.gov/d/2024-18133/p-3>

JUVENILE PRODUCTS MANUFACTURERS ASSOCIATION, INC.

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was incomplete. In fact, since the day of publication (August 22nd), more and more information has been added to the available data in a piecemeal way – yet the information is still incomplete as of today. Given the already-tight turnaround time of 30 days, and the fact that, as of today the data still remains incomplete, JPMA and the undersigned parties believe that an extension request of 90 days, once the full information had been made available, is necessary to thoroughly analyze the data and provide meaningful feedback.

STL File

On August 22, when the NOA was published to the Federal Register and the comment period was opened, the NOA outlined that the data provided to those who requested would include an STL file for the handheld firmness fixture handle. However, when the data was made available to JPMA and several of our members, the STL file was not made available. The file only was made available on August 28, six days after the comment period opened. When one considers that the full comment period is only 30 days, the six lost days of analysis and feedback development of the STL file constitutes a fifth of the available timeframe to provide comment. Certainly, this matter alone necessitates an extension, as the 30 days provided in the NOA was shrunk to 24 from the very beginning due to the missing STL file.

Further, the STL file, once made available on August 28, was only made available to view, not download – making it unusable in any 3D printing software. The NOA specifically states, “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 and used by CPSC staff in testing rockers.”² As of today, the STL is still not downloadable. As there are no dimensions in the viewable file, and it cannot be downloaded and 3D printed, it is impossible to provide feedback 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,” which the NOA is seeking to capture.³

Given the original absence of the STL file, the loss of one fifth of the relatively short comment period, and the fact that the STL file is still unable to be used in the way that the NOA is requiring, an extension is critically needed at this juncture in order for stakeholders to provide meaningful, accurate, and data-based feedback.

Incomplete IDIs

When the NOA data was made available, a total of 73 IDIs/incident reports were initially included. However, when referring to the original Infant Rocker NPR from last October, Table 1 showed a total 1108 incidents. Naturally, JPMA and several member companies were concerned about such a massive a gap in the number of incident reports. On August

² <https://www.federalregister.gov/d/2024-18133/p-24>

³ <https://www.federalregister.gov/d/2024-18133/p-24>

28, six days after publication of the NOA, an additional file was added, that included a table summary of roughly 1000 line items, no IDI files, nor ID numbers. As with the STL file, this data comes after a fifth of the comment period has already elapsed. The 30 days for comment had already become 24 before the entire picture of the NOA had been made available. This alone constitutes a need for an extension to the comment period.

Like the STL file, the file containing the 1000 line items cannot be downloaded or converted into a tabular format, making it extremely difficult and onerous to review and categorize incidents. In order to provide meaningful analysis and feedback on this data, stakeholders must be able to download and analyze it. The current format is not conducive to any in-depth analysis and only delays any ability to truly provide a data-driven response.

Estimated Timeline

To properly respond to the NOA and the questions it is seeking feedback on, various tasks and timing would be needed. JPMA is requesting a 90-day extension, once CPSC provides a copy or downloadable access to the STL file or provides sufficient dimensions for said file, due to the following estimated timeline:

- Once an updated STL file is provided, a review of files and all other drawing components from Appendix B of the *Seated Product Characterization Report* (BSU 2023) will take 1-2 weeks to complete.
- Stakeholders will then need to commence sourcing of components and 3D printing for the handheld firmness tester, including the sourcing of components that are not specified in the BSU 2023 Appendix B drawing package such as bearings, fasteners, and displacement gauges. That process will take 3-4 weeks.
- Evaluation of non-specified components on the handheld firmness device, and alternating non-specified components on the device will take 3-4 weeks.
- Initial repeatability and reproducibility evaluation will commence, with various constructed devices and a round robin test with labs and industry members, which has not been conducted to date. This step will take 6-8 weeks.

This timeline is based on the fact that no third-party lab or CPSC-approved lab has built this handheld firmness device to date. There have been no repeatability and reproducibility studies conducted amongst multiple labs/devices with multiple devices and users with this device to date. JPMA understands that the ASTM Handheld Firmness Tester Task Group is planning an initial repeatability and reproducibility study on this handheld firmness device (built without the updated handle design/ file) but has been advised by CPSC staff that they will not be able to fully participate in such a study until October, and to date such a study has not commenced.

JPMA, its members, and the undersigned are eager to work with CPSC and all stakeholders in making children's products as safe as possible. This NOA was published with incomplete data, shortening the comment period significantly and providing an insufficient opportunity for stakeholders to provide meaningful, data-driven feedback. As such, in the name of

product safety and science-based analysis of this data, JPMA and the undersigned companies are requesting an extension of 90-days to begin once the (usable) STL file is provided by the CPSC, based on our estimated timeline, to the comment period of this NOA.

JPMA and our members will always prioritize the safety and well-being of infants, toddlers, and their parents. We appreciate your consideration of this matter and look forward to remaining engaged as leaders in ensuring the safe design, manufacture, and use of juvenile products.

Respectfully,

Lisa Trofe, JPMA Executive Director
BabyBjörn AB
DECA Consulting Inc.
Graco Children's Products Inc.