



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

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approved and signed.

BALLOT VOTE SHEET

DATE: April 22, 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
Hyun S. Kim, Attorney, OGC

SUBJECT: Petition CP 13-1; CPSC Staff's 12-Month Update on Request for Ban or
Standard for Adult Portable Bed Rails

BALLOT VOTE Due: _____ April 28 _____, 2015

The Commission received a petition to address an unreasonable risk of injury associated with adult portable bed rails ("APBR") under the Consumer Product Safety Act ("CPSA"), which was docketed as Petition CP 13-1, Petition Requesting a Ban or Standard on APBR. On June 4, 2013, the Commission published notice of the petition for comment (78 Fed. Reg. 33393). On April 29, 2014, the Commission voted to defer the petition and directed the staff to provide an update to the Commission in 6 months and again in 12 months on the progress of the ASTM voluntary standards process on APBRs. CPSC staff provided the 6-month update on October 14, 2014. For the 12-month update, the Commission directed staff to assess the progress of the voluntary standard development and make a recommendation on whether the Commission should grant the petition and initiate rulemaking.

This is the 12-month update; as directed by the Commission, the accompanying materials describe progress of voluntary standard development and contain a staff recommendation. As explained in the attached memorandum, staff recommends that the Commission defer the decision on the petition to allow the ASTM balloting process to continue. Staff would update the Commission again in 9 months, by January 2016, to report on the progress of the APBR standard development.

Please indicate your vote below:

I. Grant the petition.

(Signature)

(Date)

II. Defer the petition.

(Signature)

(Date)

III. Deny the petition.

(Signature)

(Date)

IV. Take other action (please specify).

(Signature)

(Date)

Attachment: CPSC Staff's 12-Month Update to Petition CP 13-1 Request for a Ban or Standard for Adult Portable Bed Rails



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
ROCKVILLE, MD 20850

This document has been electronically
approved and signed.

DATE: April 17, 2015

MEMORANDUM

TO : The Commission
Todd A. Stevenson, Secretary

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

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

Richard McCallion, Project Manager
Office of Hazard Identification and Reduction

SUBJECT: Twelve-Month Update to Petition CP-13-1 Request for a Ban or Standard for
Adult Portable Bed Rails

Background

Petition CP 13-1 requests that the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”) ban or issue a standard for adult portable bed rails (“APBR”). On April 29, 2014, the Commission voted unanimously (3-0) to defer the petition and directed the staff to provide an update to the Commission in 6 months and again in 12 months on the progress of the ASTM voluntary standards process. The Commission directed staff to include in the 12-month update an assessment of the progress of the voluntary standard development and a recommendation on whether the Commission should grant the petition and initiate rulemaking. This memorandum provides CPSC staff’s 12-month update and recommendation.

On October 14, 2014, CPSC staff provided the 6-month update. As the update reflects, ASTM, at CPSC’s request, established a subcommittee of the F15 Committee on Consumer Products in April 2014, which was charged with developing an APBR standard. At the time of the 6-month update, the newly formed subcommittee lacked a chairperson and structuring task groups; substantive work had just begun. Although the subcommittee chair post remains vacant, ASTM’s staff manager serves as the acting chairperson; task groups have been formed; and substantive work is ongoing. Additionally, CPSC staff continues to provide technical expertise in meetings, technical recommendations, and administrative assistance to update the subcommittee and each task group.

The lack of a permanent chairperson has not hampered the subcommittee’s progress, as demonstrated by the task group’s ongoing activities, described below. Specifically, the subcommittee created three task groups to address the draft APBR standard’s scope, performance requirements, and marking, labeling, and instructional requirements. Each task

group has identified a lead person, and most of the subcommittee members participate actively on each task group.

APBR Task Group Activities

Performance Requirements

Since the 6-month update, the ASTM F15 Committee continues to move toward the goal of a published standard. To assist in these efforts, CPSC staff hosted a 2-day ASTM meeting at CPSC's National Product Test and Evaluation Center (NPTEC) in Rockville, MD, held December 16-17, 2014. This meeting focused on the development of performance requirements to reduce entrapment hazards associated with APBRs.

The task group for performance requirements updated the draft language and continues to refine the draft standard. ASTM made substantial progress on the performance requirements during the meeting at NPTEC. Currently, the subcommittee continues to review the draft and has identified a few outstanding substantive testing issues that require resolution before balloting. The latest conference call with ASTM and stakeholders occurred on April 9, 2015. The conference call included a review of the test requirements, testing procedures, and test equipment, and other outstanding issues were discussed and addressed. CPSC staff anticipates that remaining work on the performance requirements will include clarifications and other similar modifications to make sure that the technical information is stated clearly in the next draft. The next draft will include the development of supporting sections of the standard, such as definitions, reference standards, and appendices to address specific technical points. Work on developing these sections is under way.

Warnings and Labels

The warnings and labeling task group has been active and has completed a working draft. One purpose of warnings, labels, and instructional literature is to inform the consumer of hazards that are not addressed fully by the performance requirements. Because a significant portion of the performance requirements have been drafted, work on the warnings and labels section has increased and the draft is being refined by the task group. The section may continue to evolve as the performance requirements are refined. However, the current draft version is moving closer to a finished version. The work on this section is going smoothly, and CPSC staff does not anticipate that any significant issues will arise.

Scope

The subcommittee task group on the scope completed a draft version, which will be reviewed before the completion of the performance requirements. This section was developed at the outset of the process to establish a direction for the subcommittee to develop an APBR standard. Similar to the warnings, labels, and instructional literature section, the scope may change, depending on the development of the performance requirements. CPSC staff and other participants have been conducting ongoing testing and evaluation of a wide range of products to identify and resolve issues that are expected to conclude with the completion of the performance

requirements. Currently, staff does not anticipate major revisions to the scope, based on the range of products assessed, to date.

Staff Recommendation:

To continue the development of the standard, staff anticipates that ASTM will schedule a conference call on warning labels in April or May. CPSC staff is willing to host additional voluntary standards meetings, in addition to the ASTM conference calls, to expedite the process. CPSC staff will maintain involvement with the goal of completing development of this standard by calendar year's end. As noted previously, at this time, staff anticipates that a draft standard may be ready for an initial subcommittee balloting by September 2015, depending on ASTM's balloting schedule. An ASTM ballot is open for 30 days. CPSC staff expects negative votes on the initial ballot. The subcommittee must address the negative votes, and this will result in the standard being balloted a second time. The balloting process will take several months.

Upon completion, the proposed standard must go through the same balloting process at the main committee level before the standard can be published. A published standard is not expected before 2016. Therefore, staff recommends that the Commission defer the decision on the petition to allow the ASTM voluntary standard development process to continue. Staff will provide an update to the Commission in 9 months, by January 2016, on the progress of the APBR voluntary standards process.