

Consumers Union * Consumer Federation of America
*** Kids In Danger ***

October 28, 2015

Office of the Secretary
Consumer Product Safety Commission
Room 820
4330 East-West Highway
Bethesda, Maryland 20814
Via: www.regulations.gov

**Comments of Consumers Union, Consumer Federation of America and Kids
In Danger to the U.S. Consumer Product Safety Commission
On “Safety Standard for Infant Bath Tubs”
16 CFR Part 1234**

Introduction

Consumers Union (CU), Consumer Federation of America (CFA), and Kids In Danger (KID) (jointly “We”) submit the following comments in response to the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”) in the above-referenced matter.¹

Background

Section 104(b) of the Consumer Product Safety Improvement Act of 2008, Public Law 110-314, 122 Stat. 3018 (“CPSIA”), requires the CPSC to promulgate consumer product safety standards for certain durable infant and toddler products. In this Notice of Proposed Rulemaking (“NPR”), the CPSC is seeking comment on its proposed safety standard for baby bath tubs. The proposed standard is “substantially the same” as voluntary standard ASTM F 2670-13, “Standard Consumer Safety Specifications for Infant Bath Tubs,” but includes some modifications, especially in instructions and warnings.²

¹ “Safety Standard for Infant Bath Tubs,” 80 Fed. Reg. 48769 (August 14, 2015).

² Id.

Recommendations

We support the staff recommendation to adopt ASTM F2670-13 as well as the inclusion of specific changes to the instructions and warnings and additional changes in other areas. Infant bath tubs are more commonly used now that there are currently no infant bath seats made or sold in the United States that meet CPSC's mandatory standard (16 C.F.R. Part 1215). The biggest danger with any product used by infants and toddlers in water is drowning as shown by the incident data CPSC reviewed in preparing the proposed rule. While design can help direct more parental supervision, warnings are used to communicate the drowning risk directly.

We support the proposed rules additions to the ASTM standard in the warnings and instructions sections to increase the size of the text, require hazard color use on the product and packaging warnings, simplify and clarify language, add a warning on the risk of falls and specify the format of the warnings on the product, packaging and instructions. We agree that these changes will increase the potential impact of the warnings and help capture and maintain the caregiver's attention. While warnings are the last resort for safety, it is important that when used, they are clear, concise and designed to be as effective as possible.

Our groups also support the changes to the latching/locking test to better address different types of latches and ensure all latches are adequately tested. We also support the change in the static load testing, which as noted, has also been adopted the ASTM sub-committee, although not yet in the published standard.

However, we are concerned with the lack of proposed language to address hazards from infant bath slings that are used in conjunction with infant bath tubs or alone. Given that more than half of the product failures reported involved slings, we urge CPSC to work with ASTM International to obtain performance requirements for this part of the product into the infant bath tub standard as soon as possible.

We would also urge CPSC to add a requirement that infant bath tubs include a marking for water levels. We recommend that all bath tubs be clearly labeled with a maximum water level to be used. We recommend that the fill line demarcation be specified at depths of no greater than 2 inches.

We support the amendment of 16 CFR Part 1112 to include the new infant bath tub standard for purposes of accreditation of third party conformity assessment bodies to assess conformity with the new rule.

Conclusion

For the foregoing reasons, we urge the Commission to adopt these recommendations in its implementation of Section 104(b) of the CPSIA.

Respectfully submitted,

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