



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

DRAFT MINUTES OF COMMISSION MEETING

November 29, 2012

(Final Minutes of the Meeting will be posted in 5 days)

Chairman Inez M. Tenenbaum convened the November 28, 2012, 10:00 a.m., meeting of the U. S. Consumer Product Safety Commission in open session. Commissioners Nancy A. Nord, and Robert S. Adler were in attendance. Chairman Tenenbaum made welcoming remarks and summarized the agenda for the meeting.

Decisional Matter: Notice of Proposed Rulemaking ("NPR") - Safety Standard for Bedside Sleepers (Briefing package dated November 7, 2012, OS No. 5281)

Chairman Tenenbaum introduced the decisional matter and asked the Commission whether there was any discussion about the issuance in the *Federal Register* ("FR") of a NPR for a safety standard for bedside sleepers under section 104(b) of the Consumer Product Safety Improvement Act ("CPSIA"). Gregory Rea, Mechanical Engineer, Division of Mechanical Engineering, and Hyun Kim, General Attorney, Office of the General Counsel, were present to respond to any questions. There being no discussion, Chairman Tenenbaum called for any motions. Commissioner Nord moved that the Commission adopt for publication of the draft NPR on a safety standard for bedside sleepers in the *FR*. Commissioner Adler seconded the motion. Chairman Tenenbaum called for any discussion. Hearing none, Chairman Tenenbaum called for the vote. The Commission voted unanimously (3-0) to approve publication in the *FR* of the NPR on a safety standard for bedside sleepers.

Decisional Matter: Notice of Proposed Rulemaking ("NPR") - Safety Standard for Hand-Held Infant Carriers (Briefing package dated November 8, 2012, OS No. 4393)

Chairman Tenenbaum introduced the decisional matter and asked the Commission whether there was any discussion about the issuance of a NPR for a safety standard for hand-held infant carriers under section 104(b) of the CPSIA. Patricia Edwards, Project Manager, Directorate for Engineering Sciences, and Andrew J. Kameros, General Attorney, Office of the General Counsel, were present to respond to any questions. There being no discussion, Chairman Tenenbaum called for any motions. Commissioner Adler moved for the adoption of the package, the NPR on a safety standard for hand-held infant carriers. Commissioner Nord moved that Commission consider her amendment of the draft NPR that she had previously circulated to the other Commissioners. Chairman Tenenbaum seconded the motion. Commissioner Nord explained the purpose of the amendment is to seek public comments regarding inclusion of Moses baskets within the definition of hand-held infant carriers. (The amendment is attached.) The Commission discussed the amendment and Moses baskets.

Chairman Tenenbaum called for the question on the motion pending, Commissioner Nord's amendment. The Commission voted unanimously (3-0) to adopt the amendment to the draft NPR.

Chairman Tenenbaum called for any other motions. Commissioner Nord moved for the suspension of the consideration of the NPR until the first meeting of the Commission in January 2013. Commissioner Adler seconded the motion. Commissioner Nord explained her reasons for the suspension, namely, issues involving whether the surrogate used in the handle auto locking test should be the cylinder referenced in the NPR or a hinge gauge. The Commission discussed the issue and asked questions of the staff about the test apparatus. Chairman Tenenbaum moved the Commission amend the NPR to solicit comments on whether the public knows of any other surrogates including the hinge gauge that might be used to test hand-held infant carriers. Commissioner Adler seconded the motion. Chairman Tenenbaum called for the vote on the motion. The Commission voted unanimously (3-0) to draft and adopt an amendment to the draft NPR.

Chairman Tenenbaum called for any motions. Commissioner Adler moved for publication of the amended NPR for the safety standard for hand-held carriers in the *FR*. Commissioner Nord seconded the motion. Chairman Tenenbaum called for the vote on the matter. The Commission voted unanimously (3-0) approve the publication of the amended NPR for the safety standard for hand-held infant carriers in the *FR*.

Decisional Matter: Final Rule: Amendment in Regulation on Testing and Labeling Pertaining to Product Certification Regarding Representative Samples for Periodic Testing of Children's Products (Briefing package dated November 6, 2012)

Chairman Tenenbaum introduced the decisional matter and asked the Commission to consider amending the regulation on testing and labeling to implement testing of representative samples for periodic testing of children's products to ensure continued compliance with the applicable rules. Randy Butturini, Project Manager, Office of Hazard Identification and Reduction, and Mary A. House, General Attorney, Office of the General Counsel, were present to respond to any questions. Chairman Tenenbaum called for any discussion or motions. Commissioner Nord moved to amend the draft final rule to edit the requirement to test representative samples for periodic testing of children's products and to remove the provision on recordkeeping. The proposed amendment was previously circulated to the other Commissioners. Chairman Adler seconded the motion. Commissioner Nord explained the purpose of the amendment regarding the burden of the recordkeeping in the final rule related to the selection of the representative sample. (The amendment is attached.) The Commission discussed the issues of the amendment and asked questions of the staff. Chairman Tenenbaum called for the question on the motion pending, Commissioner Nord's amendment. The Commission voted 2-1 to not adopt the amendment to the draft final rule. Chairman Tenenbaum and Commissioner Adler voted to not adopt the amendment. Commissioner Nord voted to adopt the amendment.

Chairman Tenenbaum called for any other motions. Hearing none, Chairman Tenenbaum called for the vote on the final rule on the amendment to the regulation on testing

and labeling pertaining to product certification regarding representative samples for periodic testing of children's products. The Commission voted 2-1 to approve publication of the final rule in the *FR*. Chairman Tenenbaum and Commissioner Adler voted to approve publication of the final rule amending the regulation regarding representative samples. Commissioner Nord voted to not approve the final rule.

The Commission thanked the staff regarding all of the decisional matters. There being no further business on the agenda, Chairman Tenenbaum adjourned the meeting at 11:10 a.m.

For the Commission:

Todd A. Stevenson
Secretary

Attachments: Motions of Commissioner Nord

Changes to Draft Notice of Proposed Rulemaking on a Safety Standard for Hand-held Infant Carriers

Inclusion of Moses baskets within the definition of hand-held infant carriers

1. On pages 4 to 5, delete the following text.

One type of popular hand-held bassinet/cradle is known as a Moses basket. This product typically has semi-rigid sides and semi-rigid hand holds or handles. The fact that the ASTM definition of “hand-held infant carrier” uses the term “rigid-sided” could create some confusion about the inclusion of Moses baskets in the standard. We request comments on whether some clarification or revision of these definitions is needed.

Insert the following text as a new paragraph.

A Moses basket is considered to be a freestanding product with a rest/support surface to facilitate sleep and typically has hand-holds or handle(s) intended to allow carrying an occupant. Moses baskets typically have semi-rigid sides. The Commission seeks comments on whether Moses baskets are or should be covered by this safety standard. The Commission specifically seeks comments on (1) whether the definition of “hand-held bassinet/cradle” in ASTM F 2050-12 includes Moses baskets, and (2) if Moses baskets are not covered by the safety standard but should be, how the present definition should be amended to more clearly cover Moses baskets.

2. On page 23, in the second sentence in the first paragraph in section “B. The Market,” insert the underlined words and strike the struck-through words as indicated.

~~The~~ A potential exception is the Moses baskets (whose inclusion in the scope as a type of hand-held bassinet/ or cradle is under consideration by the Commission), which ~~are~~ is often marketed by bedding manufacturers and distributors.

3. On page 31, in the third sentence of the last paragraph, insert the underlined word as indicated.

Because these products are recent potential additions to the scope of ASTM F2050, it is unlikely that any of them has been designed to comply with this standard.

4. On page 39, delete the last sentence of the only paragraph in section “XIII. Request for Comments,” shown here.

We specifically seek comments addressing whether the definition of “hand-held infant carrier” in ASTM F2050-12 as being a “rigid-sided” product leaves ambiguity about coverage of a type of hand-held

bassinet/cradle known as a Moses basket, and whether some clarification of the product definitions in ASTM F2050-12 is needed.

Replace the deleted text with the following text.

We specifically seek comments from the public on whether Moses baskets should be included in this safety standard. If Moses baskets should be included in this safety standard, does the present definition cover Moses baskets? And if the present definition does not cover Moses baskets, how should it be amended to cover them?

Proposed Amendment to Representative Sample proposed final rule:

“(f) A manufacturer must select representative product samples to be submitted to the third party conformity assessment body for periodic testing. The procedure used to select representative product samples for periodic testing must provide a basis for inferring compliance about the population of untested products produced during the applicable periodic testing interval. The manufacturer must include the procedure used to select the product samples for periodic testing in the plans developed pursuant to paragraphs (b) and (c) of this section.”

In the last sentence of paragraph (d)(1), insert after “interval” and before “and” the following: “determining that the samples for periodic testing are representative”. The amended sentence would read as follows:

“A manufacturer may consider the information obtained from testing conducted by an ISO/IEC . . . laboratory when determining the appropriate testing interval, determining that the samples for periodic testing are representative, and the number of samples for periodic testing that are needed to ensure that there is a high degree of assurance that the other untested children’s products manufactured during the testing interval comply with the applicable children’s product safety rules.”