

BY FAX

**TO: Office of the Secretary
U.S. Consumer Product Safety Commission**

FROM: Mary Ellen R. Fise

DATE: October 23, 2000

RE: Comments on HP 00-4

Included in this fax are comments (two pages) being filed on behalf of 18 state and local consumer organizations in support of Petition HP 00-4. A copy has also been e-mailed to the Office of the Secretary. Please notify me (phone: 410-296-4290) if there are any transmission problems. Thank you.



"Representing consumers' real interests"

**Petition HP 00-4
Petition to Ban Bath Seats
Comments Submitted by Consumer Alert
October 23, 2000**

Introduction

Consumer Alert is pleased to comment on the petition to the Consumer Product Safety Commission (CPSC), which requests the banning of baby bath seats because the product instills a false sense of security in parents, who may then leave their babies unattended and expose them to the risk of drowning.

Consumer Alert does not support the granting of the petition relating to bath seats for reasons outlined below. However, in the broader interests of consumer safety, it is encouraging that the petition filed by the Consumer Federation of America, et al, represents a long-overdue recognition that "safer" technology may produce a less safe world. It is hoped that this recognition would lead to both CFA and the CPSC considering the Commission's role in product safety from a "risk vs. risk" perspective. That is, in its analysis of risk, the Commission should be aware that in seeking to protect consumers from a specific risk, its actions may increase other risks. As a safety regulatory agency, the CPSC should be required to analyze both sides of the risk equation when faced with a policy decision.

The petitioners request that the CPSC ban a product because it presents an example of "risk compensation." Risk compensation is the concept that people adjust their behavior to compensate for changes in perceived risk. That is, if a product is perceived as decreasing a certain risk, people may engage in behavior that offsets the reduced risk -- they may act to increase the risk.

Consumer Alert would caution the Commission that granting the petition on those grounds would open to challenge a host of CPSC mandates for design of consumer products. There are innumerable examples of products under CPSC rules that would lead consumers to think the products protect them or their children and thus lead them to engage in risk-taking behavior.

It is even conceivable that almost every rule mandated by CPSC could be called into question by granting the petition on the grounds provided by the petitioners. Other petitions using the same arguments could be brought against such products as redesigned high chairs, bunk beds, cribs, ad infinitum.

Background

In July 2000 the Consumer Federation of America (CFA) and eight other groups petitioned the CPSC to ban the products -- baby bath seats.

Baby bath seats (or bath rings) are used to support a baby who cannot yet sit up unassisted in a regular bathtub. The device frees an adult's hands so that bathing the baby is easier. Bath seats usually come with suction cups to attach to the tub surface, with a plastic seat and openings for the baby's legs.

According to the petitioners, there have been 66 incidents of drowning associated with baby bath seats since 1983. In almost all cases, the drowning occurred when the parent or adult caregiver bathing the baby left the room to perform another chore, and the baby was left unattended.

The Petitioners' Contention

CFA's petition says that to simply blame parents or caregivers for the loss of the child in a bath seat drowning incident "absolves the product of having any causal role in the drowning incidents."

The petitioners say that the inherent design of bath seat products induces a "false sense of security" among users. "This 'sense of security' leads to increased risk-taking behavior among those using the product even when the irresponsible nature of caregivers is taken into account."

In support of its contention, the petition cites research done by the Intermountain Injury Control Research Center at the University of Utah to support its argument. The research was conducted by Dr. Clay Mann and presented to the National Congress on Childhood Emergencies in Baltimore on May 27.

According to the petition, Mann's research shows that "parents and caregivers of infants that use bath seats engage in more risk taking behavior than parents and caregivers not using baby bath seats. "Caregivers using bath seats prepare baths with deeper water and are more likely to leave a child unattended in the bath for conscious, willful reasons (e.g., to perform household chores). This study demonstrates that enhanced risk taking behavior persists even when the irresponsible nature of caregivers is taken into account. There is a false sense of safety that is propagated by having a mechanical aid to 'help' hold a slippery baby upright."

"Human Tragedies," Not "Product Failures"

The facts are that tragically some babies do drown in bathtubs -- about 50 small children per year. Those statistics include about nine children a year who drowned in bath tubs while they were in the bath seat. The common factor in the drownings is that the babies were left alone -- sometimes even for short periods of time -- in the tubs.

In its approach to product safety, Consumer Alert suggests that there has to be a balance between producer responsibility and user responsibility. Producers have a responsibility to produce products that do not have manufacturing or mechanical defects that can cause injury or death. Consumers, as users of those products, have a responsibility to use them according to directions. No product is "safe"—every product could conceivably cause injury to some person or persons. But some products are "safer."

This is not the first time that the Commission has focused attention on baby bath seats. CPSC Commissioners had addressed the issue previously, when CPSC staff proposed to initiate formal rulemaking on the products in 1994.

At that time, the Commissioners voted two-to-one against rulemaking and decided instead to work with the industry to begin a public information campaign to warn parents and caregivers never to leave children unattended in bathtubs. The decision was made on the basis that the bath seats exhibited no mechanical or design defects that created a hazard.

The current Commissioners should keep in mind the statement of former Commissioner Jacqueline Jones-Smith in 1994, who clearly pointed out the facts and the issues: "Bathtubs and unattended babies are a deadly combination. No product, no device, no convenience of any kind can substitute for the physical presence of a parent or caregiver. The incidents associated with bathtub seats and rings that have occurred were all tragic and preventable events. But these were all human tragedies and not product failures. These bath seats and rings contained no manufacturing or design defects that constituted a mechanical hazard."

While every single drowning death of an infant in a tub is regrettable, and preventable, banning the bath seat seems to be a peculiar remedy. Faulting a product — bath seats for babies — because it is "too safe" seems to be an odd position for both for CPSC and CFA. The criticism seems to be that the seats lull parents into a false sense of security that they can leave their infants unattended. However, most parents should know that where children, especially infants and toddlers, are concerned, no product design can substitute for parental attention.

Unfortunately, it is not likely that banning the bath seats will reduce the number of babies drowning each year in bathtubs; in fact, a ban may increase drowning accidents. From statistics cited in a recent newspaper article, it appears that about nine children using bath seats drown per year versus 41 small children who die each year from bathtub drownings without a bath seat being involved. Tragically, the primary cause seems to be parents who leave babies alone in bathtubs.

A Dilemma for the CPSC

The concept of banning a product because it is too safe also flies in the face of many other CPSC mandates for the redesign of products never intended for use with small children.

There is a certain irony and inconsistency in the CFA petition to the CPSC. Both the CPSC chairman and the consumerist group overlook those arguments when the Commission itself mandates rules for other consumer products.

The concept of banning a product because it is too safe flies in the face of many other CPSC rules calling for the redesign of products never intended for use with small children.

One prominent example is children's bunk beds, which carry warning labels that children under six shouldn't use them. Some parents, perhaps thinking that guard rails on the top bunks make such beds "safe" for their toddlers, have put small children in bunk beds -- even in the upper bunks -- and have suffered the tragic consequences.

Some CPSC data seem to support that hypothesis. For example, from January 1990 through September 1997, CPSC received reports of 54 bunk-bed related deaths of children, with almost all (96 percent) of the victims three years of age and younger. (<http://www.cpsc.gov/businfo/frnotices/fr98/bunkbed.html>)

CPSC should apply the same logic to bunk beds as CFA would have them apply to bath seats. Thus, the question arises: Would upper bunks without railings have been "safer" for those children since most parents would never dream of putting an infant or a toddler there? It can be argued that the CPSC-mandated design of bunk beds encourages dangerous consumer behavior by instilling a false sense of security in a parent. Under this logic, the bunk beds thus present a "hidden hazard."

The Issue of Risk Trade-Offs

It has been Consumer Alert's observation that too often regulators avoid looking at the trade-offs inherent in safety regulations or in attempts at risk reduction -- by reducing one set of risks, you may increase another. That approach is critical in any consumer protection regulation -- there is a need to raise questions about how a proposed regulation meant to improve safety may entail greater risk to some segments of the population. That very issue arose with child-resistant packaging -- that many seniors who found it difficult to open medicines were negatively impacted.

Consumer Alert had raised that issue previously with the CPSC in public comments relating to bunk beds. That is, consumers may not themselves take proper precautions in product use because they may be misled into thinking that there is "zero risk" -- an unattainable goal.

Devices and products designed for increased consumer protection may have some unintended consequences. Increasingly safer products can lead to increased risk-taking.

Biased Risk Analysis

Attempting to prevent harm by limiting the use of technologies or by insisting on standards that do not recognize risk trade-offs may be counterproductive. Specifically, it may result in the failure to adopt new technologies that significantly reduce actual and

potential risks. In addition, insisting on a level of safety that approaches zero risk can actually harm consumers by causing increases in costs that can price "safer" products out of range for the average consumer, or by creating the "moral hazard" problem of risk compensation.

The CPSC thus must take care not to engage in biased risk analysis, which can occur in two ways -- both of which undermine consumer safety:

(1) The Commission could focus only on the "moral hazard" problem -- the product is "too safe" and thus parents engage in "risk compensation -- a higher level of risk-taking.

If the CPSC takes this narrow approach, then innovations in consumer product safety would all be called into question. Features that are more protective -- "safer" products -- would not as likely be introduced under this concept. "Safer" products on the market would be banned.

(2) The Commission could focus only on the need to protect people who would misuse a product or ignore directions.

That approach -- the traditional one for the CPSC -- creates both a "moral hazard" problem and other safety concerns that could arise from mandating design of products so that they are "fail-safe" -- such as higher costs so that consumers instead use a riskier substitute.

But the CPSC as a regulatory agency can't have it both ways -- mandating "safer" products and trying to ban other "safer" ones. Whether attempts to force products to be "safe" under all circumstances can lead to behavior that increases risks is indeed a serious question that the CPSC needs to grapple with in relation to its own actions. But banning products like the baby bath seats that have no manufacturing and design defects flies in the face of reason and commonsense.

Submitted by
Frances B. Smith
Executive Director
Consumer Alert

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Stevenson, Todd A.

From: Beth Vozenilek [beth.vozenilek@wcom.com]
Sent: Tuesday, October 24, 2000 2:29 AM
To: Cpsc-Os@Cpsc. Gov
Subject: Petition HP 00-4, Petition to Ban Bath Seats' in the subject field.

On June 9, 2000 my 7-month old granddaughter , Olivia Jade Gardner died 24 hours after nearly drowning in a 'Safety First ' baby bath seat.
 If you will for a few minutes, put yourself in my place. For 7 months I saw my daughter , Stephanie take very good care of Olivia. Not once during that time did I ever have any doubts about Olivia's care or well-being. I realize I'm asking you to take my word on that , but anyone who knew Steph would say the same thing. This isn't something that is happening to parents on drugs, this is happening to good people , good parents , who loved their babies very much, but just were misled (being fooled by the sturdiness of the seat) and now have to live the rest of their lives with this tragedy. I'm not sure if you (the 3 deciding commisioners) are parents or grandparents , but if you are, you can only imagine, therefore , my shock that dreadful June afternoon when I received that frantic call from Steph from the hospital , and our world fell apart.

I remember Steph 's words as we stood alongside Olivia 's hospital bedside the wee hours of that awful night.. I remember her words so well , as I too , as you are today , stood struggling to understand how this could happen.

"Mom" , she said "I 'm so sorry , I just got so comfortable , seeing her in that seat , so happy and playing . I thought she was safe, It never even occurred to me that the seat might tip, never even thought about how it could , or I would have never ever left that room. "

I know you will hear many arguments, all the finger pointing. The manufacturers hiding behind their warning label, pointing at the parents/caregivers . But the numbers speak volumes . The warning label is not working !!! And whose paying the price ?? Is it the manufacturers ? They are content to sit back , doing nothing , as the death tally climbs. And what a price the parents/caregivers pay. I know firsthand of the pain . Olivia was my only grandchild , and my heart aches for her. And the pain I see Steph in everyday . She has to say nothing , because I can see her pain clearly everyday in her eyes.

The seats are misleading parents , fooling them into believing they are something they are not. I know for a fact, that if that seat would have never entered my daughters home , Olivia would be alive today. There is NO WAY , if she was bathing her in her sink , without the (false) security of the baby bath seat, would she have ever taken her hands off Olivia .

You are appointed to protect consumers from products that are not safe .

And I ask of you this day, to REACH OUT AND PROTECT YOUR SMALLEST, MOST PRECIOUS CONSUMER OF ALL!!!

Listen to your hearts . If these seats were "safe", would there be 67 Plus deaths associated with them??

And before you cast your vote, ask yourself ...HOW MANY MORE BABIES, IN JUST ONE YEAR FROM NOW, DO YOU THINK WILL DIE IF YOU ONCE AGAIN VOTE NOT TO BAN???

Thank-you & May God Bless you and give you the wisdom to do the right thing. Get these deathtraps off the shelves !!

10/24/00

Beth Vozenilek
1194 Linn Ridge Road
Mt Vernon, Iowa
52314
319 375-1229 Work
319 366-6748 Home

**In the United States of America
Before the Consumer Product Safety Commission**

**In The Matter of the Petition of
Consumer Federation of America,
The Drowning Prevention
Foundation, et al. to Ban Baby
Bath Seats**

NO. HP00-4

**INITIAL COMMENTS IN OPPOSITION BY THE JUVENILE
PRODUCTS MANUFACTURERS ASSOCIATION**

The Juvenile Products Manufacturers Association (“JPMA” or “the Association”) is a not-for-profit trade association comprised of more than 400 manufacturers, importers and distributors of juvenile products, which are used in the care of infants. The Association is dedicated to the promotion of the safe responsible use of such products for infants. JPMA promotes public information and safety campaigns, such as Baby Safety Month, adherence to voluntary and mandatory safety standards, and distributes millions of safety brochures and product inserts to the public, promoting sound infant care practices.

The Association is submitting these comments in opposition to the above-cited Petition, requesting that the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”) determine that infant bath seats present a mechanical hazard pursuant to Section 2(f)(1)(D) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261, and should be considered a banned hazardous substance in accordance with Section 2(q)(1)(A) of the FHSA. Petitioners argue that the product category encourages “risk-taking behavior” by the caregiver, and that such behavior is more prevalent with the public that chooses to use the product than those who do not use bath seats. Simply put, the available evidence and record does not support Petitioners’ contention and there is no adequate basis, in fact or law, to ban these products from the marketplace. The American public finds these products useful and they may actually help prevent serious injuries and deaths.

I. The Product Category

Infant bath seats, rings and reclining tubs are consumer products intended to assist in bathing infants by providing an environment in which an infant can be confined to make bathing easier. The infant sits within the confines of the product. Most products are designed to permit easy access to the caregiver bathing the child. Bath seats and rings are generally not recommended for use until six months of age or when the child can sit upright unassisted. They are usually discontinued in use when a child seeks to escape the confines of the product or can stand up while holding onto other objects. These products have a useful product life of several months with both lower and upper limits being determined by the development and ability of the child. Consumers perceive significant advantages associated with using the products. They report that, by supporting the infant, they enable the infant to be bathed more easily. Additionally, they are reported to significantly reduce the likelihood of injury (serious or otherwise) that may be associated with slips and falls. They also reduce potential injury from slips, falls and muscular strain to caregivers who frequently bathe children.¹ These products are useful bathing aids favored by the consuming public.²

II. Background

The Commission has Previously Rejected the Relief Sought by Petitioners

The Petitioners (“Consumer Federation of America” or “CFA” and associated advocacy groups) have requested that the CPSC issue a rule banning baby bath seats and bath rings from use by the American public. The Petitioners inaccurately assert that this category of bathing aids pose an unreasonable risk of injury under the theory that they imbue parents and other caregivers with a false sense of security that children placed in the products will be safe in water-filled bathtubs when left alone.

¹ A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats, CPSC P-93-5839, p. 6, 14.

² Recent media attention about the Petition has resulted in overwhelming public support for the continued use of the products. More than 95% of public contact with the Association or its members have indicated favorable views toward these products.

The issue Petitioners seek to raise before the Commission has already been previously considered by the CPSC. In June 1994, the CPSC voted against initiating formal rulemaking proceedings on baby bath seats and to work with industry to initiate a public information campaign focusing on the risks taken by parents and other caregivers who leave children unattended in bathtubs.³ The CPSC majority made it clear to the public that

“Bathtubs and unattended babies are a deadly combination. No product, no device, no convenience of any kind can substitute for the physical presence of a parent or caregiver. The incidents associated with bathtub seats and rings that have occurred were all tragic and preventable events. But these were all human tragedies, and not product failures. These bath seats and rings contained no manufacturing or design defects that constituted a mechanical hazard.”⁴

In voting against mandatory rulemaking for the product category, the CPSC stated

“It is clear that the irresponsible actions of those entrusted with caring for these children have, almost without exception, caused their deaths. If the Commission fails to address this issue, we will have failed in exercising our responsibility to alert consumers to the primary cause of these tragedies. Parents and caregivers must use these products as labeled and never leave a baby unattended in a bathtub.”⁵

³ “CPSC Votes Against Rulemaking for Baby Bath Seats”, Release #94-095, June 15, 1994.

⁴ *Ibid.* See also Statement of Commissioner Jacqueline Jones-Smith on a Staff Proposal to Issue an ANPR on Baby Bath Rings and Seats, June 15, 1994.

⁵ CPSC Press Release, #94-095, *supra*. See also Statement of Commissioner Mary Sheila Gall - Baby Bath Rings and Seats, June 15, 1994.

The Commission at that time believed that this category of products did not constitute a mechanical hazard or present an unreasonable risk of injury to consumers under the FHSA. The FHSA requires that before an article may be regulated under the Act, it be determined to present a mechanical hazard. In defining such hazard, consideration of the product's design or manufacture under normal use, or when subject to reasonably foreseeable damage or abuse, as it relates to an unreasonable risk of personal injury or illness, is required.⁶ When the product itself does not contain a mechanical hazard by virtue of its design under normal use or reasonably foreseeable misuse conditions, it cannot be considered as presenting a mechanical hazard. The record thus far does not indicate that the products themselves contain a design or manufacturing defect or that they fail when subjected to reasonably foreseeable damage or abuse. In almost all of the investigations cited by Petitioners, the bath aids did not fail to perform as intended. The unsubstantiated theory that use of the products themselves create a false sense of security because they are too well-made, leading users to somehow believe that it is safe to leave infants alone in water-filled bathtubs is not a basis for banning the product from the marketplace. Indeed, evidence suggests that such a theory is simply not true and this theory was explicitly rejected by the Commission as untenable.⁷

Industry Has Cooperated with CPSC Safety Initiatives on Bath Aids

⁶ Federal Hazardous Substances Act, 15 U.S.C. 1261(s)

⁷ See Statement of Commissioner Jacqueline Jones-Smith on a Staff Proposal to Issue an ANPR on Baby Bath Rings and Seats, June 15, 1994; and Statement of Commissioner Mary Sheila Gall - Baby Bath Rings and Seats, June 15, 1994.

During the past decade, the Association has worked extensively with the CPSC staff to improve baby bath seats and rings. The result of this collaborative effort has been permanent warnings on the product and warnings on the packaging of these products not to leave children unattended or to keep children within arm's reach. Advertising is developed to always show a caregiver in attendance when infants in bathtubs are depicted. The Association and industry has worked to advise retailers to always depict caregivers in attendance when using pictures of infants in a bath seat or bathtub. Bathing safety tips were included in the Association's "Be Sure It's Safe for Baby" brochures, with extensive distribution nationally. The Association has worked to obtain editorial coverage of the issue in national and trade media. Some of our members have developed creative programs designed to promote bathroom safety that covers a broad range of infant products. These efforts have been consistent with the vote of the CPSC to promote public information and education.⁸

The Commission needs to dedicate greater resources to promote public information and education about safe bathing practices. The fundamental flaw in the information and education approach by the government to date has been its unwillingness to focus on the issue as a bathtub safety issue, ignoring up to ten times as many fatalities as are estimated to occur in bathtubs where bath seats have not been used.⁹ This approach should be contrasted with other public service announcements (PSAs) used by other children's safety advocacy groups.¹⁰

Notwithstanding the Commission vote not to ban the products or establish performance and labeling standards or require development of a voluntary standard, an extensive voluntary

⁸ For example, JPMA contacted many consumer and trade publications to promote feature articles on safe bathing practices; Gerber Products Company distributes bathroom safety tips and a checklist in English and Spanish in its Baby Safety Shower How-To Kit; Sassy, Inc. distributes attractive play decals that incorporate bathing safety tips with its bath toys; Safety 1st, Inc. has promoted a proper display and representation of bath seat use with catalog and retail distributors.

⁹ For instance, see "CPSC Announces Study Results of Drowning Danger Using Infant Bathtub Seats", Release #98-002, October 6, 1997.

¹⁰ See, for example, Egleston Children's Hospital at Emory University PSA "A Child Can Drown in the Time It Takes to Answer the Phone", previously referred to by the CPSC staff as a model PSA; see also *Options to Address Risk With Baby Bath Rings/Seats*, OS #5348, May 1994, Tab D; AAP .

standard requiring performance and warning requirements has been implemented by the American Society for Testing and Materials (ASTM) at ASTM F1967. Interestingly, a comparison of the Standard's requirements with those originally set forth in the "Options to Address Risks with Baby Bath Rings/Seats", CPSC OS#5348, dated May 1994, indicates that almost all of the CPSC staff-delineated performance and labeling options have been implemented.

The Drowning Hazard is Created by Leaving Baby Alone in the Bathtub

Petitioners unsubstantiated claim that the inherent design of bath seat products induce a "false sense of security" among users in unfounded. Petitioners argue, in effect, that caregivers are not responsible for exercising reasonable due care while caring for infants in bathtubs. As we have noted, this speculative theory is contrary to the CPSC's official position that the action of caregivers leaving infants unattended in bath seats or rings, contrary to common sense and clear explicit warnings on the product not to, is unreasonable.¹¹

Risk of Drowning is Greater for Infants in Bathtubs Without Bath Seats

Petitioners contend that an aggregate numerical increase in drownings justifies banning the products. In doing so, they ignore statistical analysis comparing risk associated with and without use of such products in the bathtub. The 66 infant drownings during which bath seats were allegedly involved represent an aggregate over 17 years. This is an average of about 4 per year during such period. This represents only a small percentage of a larger problem since in excess of 50 infants under one year of age are estimated to drown because caregivers fail to watch infants in bathtubs.¹²

¹¹ FN 3-5, 7

¹² The National Center for Health Statistics (NCHS). Public use data tapes. *Compressed Mortality Files: Code I910.4*. Hyattsville, MD: U.S. Department of Health and Human Services

Since the 1970s drowning rates have decreased markedly in most age groups with the exception of toddlers, where rates have remained fairly stable, and infants, where rates may have actually increased.¹³ For the 12-year period from 1983-1994, 1219 infants drowned (2.60/100 000 infants), of which 1036 (85%) were coded as unintentional intent.¹⁴ In contrast to toddlers, who are likely to drown in residential swimming pools, ¹⁵more than 50% of unintentional infant drowning deaths occur in the bathtub.¹⁶

Based on the foregoing, the drowning rate in bathtubs associated with bath seat use is extremely low given the frequent bathing of infants. Petitioners have ignored the greater risk to children in bathtubs without bath seats. Statistically, it seems that children are safer when caregivers use bath seats compared to when they are not in use. The Association and CPSC estimates that approximately one million of such bathing aids are sold annually. CPSC staff has estimated that as many as 1.4 million products are in use with infants while the Association estimates the number now may be closer to 2 million. If the aggregate population of children under 1 year of age is approximately 4 million, the drowning rate in bathtubs for children bathed without the assistance of a bath seat may be more than ten times higher than for children with whom bath seats are used.

In 1994, the CPSC staff considered this risk and concluded that its own review of the data indicated that it cannot be stated with any degree of certainty that caretakers would have stayed in the bathroom if the child had not been in a bath seat/ring. Only a small portion of bathtub

¹³ Brenner RA, Smith GS, Overpeck MD Divergent trends in childhood drowning rates, 1971 through 1988. *JAMA*. 1994; 271:1606-1608 [*Medline*]. Note: Rates have remained relatively stable, despite increases in population for infants under 1 year old.

¹⁴ National Center for Health Statistics. Public Use data tapes. *Compress Mortality Files: 1983-1994*. Hyattsville, MD: US. Department of Health and Human Services

¹⁵ Quan L, Gore EJ, Wentz K, Allen J, Novack AH ten-year study of pediatric drownings and near-drownings in King County, Washington: lessons in injury prevention. *Pediatrics*, 1989; 83:1035-1040 [*Abstract*]

Wintemute GJ, Kraus JF, Teret SP, Wright M. Drowning in childhood and adolescence: a population-based study. *Am J Public Health*. 1987; 77:830-832 [*Medline*]

¹⁶ National Center for Health Statistics. Public Use data tapes. *Compressed Mortality Files: 1983-1994*. Hyattsville, MD: US Department of Health and Human Services.

drownings are known to involve such products. The common pattern with and without such products is that supervision of the victim is interrupted. Beyond that, little information is available on the events surrounding bathtub drownings.¹⁷

Under the circumstances, eliminating the product category from the marketplace will not reduce drownings to unattended children in bathtubs.

¹⁷ Memorandum of C.A. Sedney, EPHF, dated May 3, 1994, citing Memorandum of D. Tinsworth, EPHA, dated March 17, 1994.

Recent Research Does Not Establish That Use of the Products Increases Risk of Drowning

Petitioners cite to a recent study based on an extremely limited database involving 32 bathtub drowning incidents where a bath seat was present. The study found bath seat use resulted in greater water depths in bathtubs. Additionally, Petitioners argue that the study establishes willful decisions to leave infants alone in bathtubs are involved more often when bathing aids were used as opposed to when they are not. Even if taken at face value, such study does not establish that caregivers developed a “false sense of safety” because of use of bath seats. The study’s author admits that the study does not definitively establish that such behavior is attributable to bath seat use, that statements upon which the study was based may not have been truthful, that the determination of which activities were characterized as “willful” as opposed to “impulsive” were subjective, and that the database is too limited to draw “definitive conclusions that use of a bath seat caused tragic behavior.”¹⁸ The Association is aware of at least one case where it was independently determined that a bath seat was not causally responsible for an accidental bathtub drowning, contrary to statements by the caregiver that the product somehow created a false sense of security that she could leave her son alone in the bathtub.¹⁹

The other publication cited, while factually accurate, does not establish a causal connection between the use of bath seats and a higher risk of drowning in bathtubs. The research cited actually notes that although bath seats are involved in drowning deaths, it is not certain that use of these products increases the risk of drowning.²⁰

¹⁸ Discussions with Clay Mann, relating to *“Infant Seat Bathtub Drowning: Who’s to Blame”* as cited in FN 4 to Petition

¹⁹ White, et al. v. Safety 1st, Inc., Massachusetts Superior Court Civil Action No. 97-5748, dated June 2000. In this decision, the Court concluded that, contrary to allegations otherwise, the caregiver “. . . was aware of and appreciated the obvious danger she was incurring by leaving [her son] alone in the bath seat in the bathtub. She had read the warnings on the bath seat and knew her baby could drown if left unattended in the bathtub. No further warning was needed. Therefore [the Company] was not causally responsible for the accident . . .”.

²⁰ See, “The Role of Bathtub Seats and Rings in Infant Drowning Deaths”, Rauchschalbe, Brenner and Smith, Pediatrics, vol. 100, No. 4, October 1997. This study has been confused as representing the position of the CPSC, because one of the authors is a staff

member at the agency. This is not the case, indeed, the CPSC, in a press release citing the study, specifically states “CPSC reminds caregivers that bathtub seats are safe if used properly, which means providing constant adult supervision when young children are in the tub.” (see FN 9). This differs from a bias evidenced by the authors.

A False Sense of Security Results From Repeated Risky Behavior By the Caregiver, Not Use of the Products

Statements made by product users provide a better indicia that caregivers undertake risky behavior in leaving infants alone in bathtubs, because they have previously done it without catastrophe. Caregivers fully understand the warnings on the products and the tragic potential of drowning if they leave infants unattended in a bathtub.²¹

In general, parents report that they would never, under any circumstances, leave a young child alone in the bath. Typically, the parents who are so adamant about not leaving a young child alone in the bath personally know someone who has drowned in water or have read or heard a story about accidents that have occurred because of children being left unattended near water.²²

“You never leave them. I don’t care what’s going on. You take the child out of the tub. Never leave them.”

“I know of a family where the mother ran to the phone and came back and the baby was face down. So I have that in my head constantly....If the phones rings I grab a towel and take her with me.”

“I never do. My brother’s baby drowned so I’m very conscious—not in a tub.”

Reasons typically given for having turned away or for having left the bathroom during bath time are minor and include going for a towel, diaper, sleepwear, or a portable telephone. Some parents do say they have left to prevent their older children from engaging in high risk behavior (e.g., responding to the door bell without an adult) or to prevent an emergency (e.g., removing something from the stove). It is worth noting, however, that parents seem more likely

²¹ See FN 19; see also A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats, CPSC P-93-5839, p. 23.

²² A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats, CPSC P-93-5839, p. 19, 21.

to leave their children in the bath for minor reasons than for household emergencies. Incredibly, some incident reports indicate that the caregiver left the infant alone in the bathtub to watch television, cook or perform household chores. Based upon the admissions of caregivers or other witnesses, the mean time lapse that an infant was left in the bathtub was six minutes, with the maximum time being thirty-five minutes. Such behavior is irresponsible.

Often, parents report that several things would make them feel more comfortable leaving a child unattended in the bathtub because there is an older sibling in the bath with the younger child, or because they are still able to see and hear the child even though they have physically left the bathroom.

The key factor in the determination to leave the child unattended in the bathtub appears to simply be that the caregiver has previously done it without accident or tragedy. It is this factor that seems to be the most significant issue. The confidence from a successful experience in leaving an infant alone in the bathtub leads to the likelihood of repeated high-risk behavior. There is no evidence that the product itself leads to this risky behavior. Indeed, the evidence supports a contrary determination. Almost all of the parents surveyed recalled the warnings on the product, packaging or instructions and view it as an important reminder that the consequences of leaving an infant alone in the bathtub could be drowning.²³ This fact undercuts Petitioners' argument that the warnings are not noticed and are ineffective. This might account for the lower drowning rate associated with use of these products, when compared to the higher drowning rate in bathtubs where such products are not present.

III. The Voluntary Standards Adequately Address Performance and Other Requirements

ASTM Voluntary Standard - Infant Bath Seats (F1967-99)

²³ See FN 19; see also A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats, CPSC P-93-5839, p. 23.

The ASTM has developed and implemented a voluntary standard for infant bath seats which codifies many of the practices developed by industry in collaboration with the CPSC and other safety advocacy organizations.²⁴ Based upon its own review of the industry, the Association believes that 100% of infant bath seats currently on the marketplace today are produced and distributed in compliance with the ASTM Standard. The Standard incorporates mandatory federal requirements such as 16 CFR 1303, 16 CFR 1500.48-1500.51 and 16 CFR 1501. Also, the Standard requires products not to scissor, shear or pinch, not to contain openings which are toe or finger entrapments and has performance requirements for stability, loading, use in the tub and function. Most importantly, the Standard codifies the uniform industry practice of producing such products with clear, explicit permanent warnings on the product (and its packaging and instructional literature), as follows:²⁵

WARNING:

Prevent Drowning. ALWAYS keep baby within arm's reach. NOT for use on textured, non-skid surfaces.

This warning or similar warnings have been permanently affixed to the products for many years. The ASTM Standard is constantly subject to review by consumer, industry and government representatives. Indeed, further revisions to the Standard were recently voted upon and are awaiting balloting and publication. Based on the foregoing, the Commission could not now as a matter of law reasonably determine that these products presented a mechanical hazard which is not adequately addressed by an existing voluntary standard.

²⁴ F1967-99, *Standard Consumer Safety Specification for Infant Bath Seats*, American Society for Testing and Materials.

²⁵ ASTM F1967-99, Sections 6,7 and 8;See also: Plastic Buckets Withdrawal of ANPR, FR 13597/June 2, 1995, Effective drowning warnings have previously been a basis for termination of rulemaking.

Petitioners argue, without assessment or regard to the evidence, that the voluntary standard is inadequate to address the risk of drowning associated with bath seats. The problem with this argument is that the risk of drowning is associated with leaving an infant alone in the bathtub, not with use of a bathing aid in the tub. In effect, this is a straw man argument which fails to support itself. We have already reviewed the Commission's clear determination that the drowning hazard does not constitute an unreasonable risk of injury due to the product's manufacture or design. The unreasonable actions of caregivers who leave infants unattended in bathtubs, whether or not a bath seat or ring is used, results in the hazard, with tragic consequences. This behavior itself defies the common sense approach used by 99.999% of the population and is unreasonable. As we have noted, the products themselves performed properly and as intended. It was not the normal or even foreseeable misuse of the product that creates the hazard, but rather the unreasonable behavior of the caregiver. No standard, whether mandatory or voluntary, can address this risk.

With respect to the substantive provisions of F1967-99, it is interesting to note that 7 of the 9 Petitioners evidenced no involvement or interest in participating in the development of any standard (either voluntary or mandatory) for the product category. Two of the 9 Petitioners (the Consumer Federation of America and The Danny Foundation) have participated in the development of the Standard and did not object to its adoption and implementation by ASTM. They have offered no evidence establishing that such standard is inadequate as to performance or warning requirements. Additionally, they cannot establish marketplace non-compliance with its requirements. One must question, then, what is their motivation in seeking a ban of a useful product category, and whether their position is truly representative of the public they claim to serve.

Petitioners' Reference to ASTM Voluntary Standard for Slip-Resistant Bathing Facilities (F46279) is Inapplicable

Petitioners allege that in 1979 (re-approved 1994), ASTM published a standard for slip-resistant bathing facilities.²⁶ In essence, the Standard requires a slip-resistant feature for bathtubs. It was implemented in an effort to prevent fall injuries in bathrooms, which Petitioners

²⁶ F462-79, *Standard Consumer Safety Specification for Slip-Resistant Bathing Facilities*, American Society for Testing and Materials.

acknowledge is a serious injury problem to the general population and to the elderly, disabled, infants and young children. They correctly contend that the infant bath seats contain warnings on their packaging and printed instructions that the products are “not for use on textured, non-skid surfaces.”²⁷ They argue that the bath seats are incompatible with such bathtubs. However, they have not addressed the underlying fact that most bath seats are used on smooth surface tubs and most of the deaths occurred with such tubs. They ignore the fact that most of the nation’s housing stock contains smooth surface tubs to which such bath seats securely adhere. This fact was referenced in the CPSC’s own contracted research study when most respondents reported that their bathtubs were made of porcelain and are extremely slippery.²⁸ Additionally, a predominance of the fatalities(on identified tub surfaces) in which a bath seat was present did not involve tipovers of the product in slip-resistant bathtubs.²⁹ Even if such products were to be misused with such bathtubs, with proper caregiver attention there is no risk of death or serious injury.

CONCLUSION

For all the reasons set forth herein, the Association requests that the U.S. Consumer Product Safety Commission deny the Petition, in accordance with its prior determination of this issue, finding as a matter of law that there is no basis under Section 3(e) of the FHSA, 15 U.S.C. 1262, to determine that infant bath seats present a mechanical hazard. Furthermore, the Association requests the CPSC to actively implement its previous decision to continually and vigorously engage in a public information campaign focusing on the risk taken by parents and other caregivers who leave children unattended in **bathtubs**. Educational efforts must reinforce the need for continuous responsible supervision of infants and children around all bodies of water.³⁰ This approach would provide a significant public service and, when the message is

²⁷ ASTM F1967, Section 6.5

²⁸ A Focus Group Study to Evaluate Consumer Use and Perceptions of Baby Bath Rings/Seats, CPSC P-93-5839.

²⁹ See ASTM F1967 Work Group Summary of Incidents , annexed hereto. This data also indicates that Petitioners ignore the role of abuse and unreasonable behavior in infant drownings.

³⁰ Jenson LR, Williams SD, Thurman DJ, Keller, PA, Submersion Injuries in Children

continually reinforced, might reduce the incidents of infant drowning in bathtubs in the United States. The Association is willing to work to promote this message, in partnership with any interested organization.

Dated: October 20, 2000

Respectfully submitted,
Frederick B. Locker, Esq.
LOCKER GREENBERG & BRAININ, P.C.
Counsel to Juvenile Products
Manufacturers Association, Inc.
420 Fifth Avenue, 26th Fl.
New York, N.Y. 10018
(212) 391-5200

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Younger than 5 Years in Urban Utah. *West J. Med.* 1992; 157:641-644; see also Kemp AM, Mott AM, Silbert JR, Accidents and Child Abuse in Bathtub Submersions. *Arch Dis Child.* 1994; 70:435-438. Consistent with efforts cited in FNs 8 and 10 and contrary to Addendum to Statement of Chairman Ann Brown-Baby Bath Seats and Rings, June 15, 1994.

Incidents sorted on column "Incident Date"

DEATHS

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
830826DAL5118	x	83/8/18	Smooth	Unknown	2 legs stuck through one leg opening	Present	N	16F	6	legs stuck
891129CCCC2074	x	84/8/12	Unknown	3 legs with suction cups	Lying on back - seat upright in tub	Absent	N	9F	5	up/out
851016CBB3004	x	85/9/6	Unknown	Suction cups	Child submerged - seat overturned	Present - head turned	N	7F	Unknown	tipped
880413CBB0292	x	86/11/6	Unknown	Unknown	Out of seat, floating - seat upright and attached	Absent	N	8F	8-9	up/out
900425CCC1386		89/3/16	Textured Smooth but with	Suction cups	Standing at faucet, scalded seat slid on tub	Absent	N	8F	3-4	scald
900305CCN1140	x	90/2/15		Suction cups	Lying face down - seat upright and attached	Absent	N	10F	12	up/out
910315CWE5015	x	91/2/17	Smooth	Unknown	Lying face down - seat upright and attached	Absent	N	8F	10	up/out
930312CCC3272	x	91/3/7	Smooth	Suction cups - 1 missing	Lying face down	Absent	N	9F	8-10	unknown
910429CCN1151	x	91/4/19	Unknown	Unknown	Lying on side with head submerged - seat on side	Absent	N	8F	4-5	tipped
Canada - 5/91		91/5/12	Smooth	Unknown	Submerged under bubbles - seat tipped	Absent	N	7F	9	tipped
C9240012A	o	91/6/12	Ridged	Unknown	Floating head down out of seat	Absent	N	12	10	unknown
920731CCC1532	x	92/2/12	Unknown - laundry sink	4 suction cups - one missing	Slumped over in seat - seat upright	Absent	N	6M	4	seat up
921105CCC3049	x	92/5/29	Unknown	Unknown	Floating in water	Absent	Y - 24 mo.	9F	5	unknown
941104CBB1015	x	92/7/9	Unknown	3 suction cups	Head leaned over; still in seat	Absent	N	5M	Unknown	seat up
921013CCCC1010	x	92/8/10	Smooth	4 suction cups	Toppled, hit head, submerged - caregiver could not respond quickly	Present	N	6F	7	tipped
921130CWE4015	x	92/10/27	Granular	Suction cups - 3 missing	Lying on side, submerged - seat tipped over	Absent	Y - 19 mo.	8F	6	tipped

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
941104CAA2050	x	93/3/10	Unknown	4 suction cups	Seat still attached to tub; found face down	Absent	Y - 23 mo.	8M	6-7	up/out
930928CWW5022	x	93/8/5	Unknown	T-bar style	Lying on side, safety bar unlocked - on life support	Absent	N	6F	6-8	unknown
940426CCC2444		93/10/3	Unknown	Unknown	Lying face down	Absent	N	8M	Unknown	unknown
961129CCC5084	x	93/10/27	Unknown	Suction cups	Tipped over, submerged	Absent	N	6F	9	tipped
940602CNE5147	x	94/5/7	Unknown	Suction cups - 2 missing	Lying pitched forward - seat toppled	Absent	N	9F	4	tipped
950413HBB3087	x	94/6/11	Unknown	4 suction cups	Unknown - floating face down in water; seat upright on mat	Absent	Y - 24 mo.	8M	Tub "filled"	up/out
950918CCC2998	x	94/7/11	Unknown	Suction cups	Still in seat; face in water; seat upright	Absent	Y - 24 mo.	6M	6-8	seat up
950412HEP9017	x	94/7/16	Bottom not flat	3 suction cups	Still in seat; face in water; seat upright	Absent	Y - 27 mo.	7 1/2F	Tub 5/6 full	seat up
940830CBB3723	x	94/8/18	Unknown	4 suction cups but may have been missing	Still in seat; face in water; seat upright	Absent	N	10M	2-3	seat up
950601HAA4050		94/8/26	Unknown	Unknown	down in water; seat still attached to tub	Absent	N	7F	9-10	up/out
941012CAA1008		94/10/10	Unknown	Mult. suction cup mat; 4 leg openings	2 legs stuck through one leg opening	Absent	Y - 9 mo.	9F	6-8	legs stuck
950207HWE7020		95/1/13	Unknown	4 suction cups	Unknown - floating face down in water	Absent	N	7F	3	unknown
960910CCC5610		95/1/29	Unknown	4 suction cups, only 3 present	Unknown - floating face down in water; placed on vinyl mat	Absent	N	6M	6-8	unknown
950308CCN1422		95/2/15	Unknown	Suction cups	Flipped over - found lying on side	Absent	N	7M	Unknown	unknown
950621HCC1144		95/2/28	Unknown	Unknown - broken front leg	Unknown	Absent	Y - 24 mo.	9F	8	unknown
950509HEP9015		95/4/25	Unknown	Unknown	Unknown	Unknown	Unknown	7M	Unknown	unknown
950607CEP9015		95/5/17	Unknown	Unknown	Unknown	Unknown	Unknown	7F	Unknown	unknown
970709CCC3260		95/6/29	Unknown	Unknown - not sure if used by victim	Unknown - floating face down in water	Absent	N	8F	Tub full	unknown
950926CBB2034		95/8/14	Unknown	Unknown	Unknown - floating face down in water	Absent	N	10M	Unknown	unknown

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
950830CBB1943		95/8/21	Unknown	4 suction cups w/ T bar - no damage	Unknown - floating face down in water	Absent	N	8M	6-8	unknown
960603CCCC5215		95/9/6	Unknown	Unknown	Unknown - floating face down in water	Absent	Y - 24 mo.	10M	Unknown	unknown
960719CCCC5365		95/10/3	Unknown	4 legs with suction cups	Tipped over, submerged	Absent	N	9F	Tub full	tipped
960816CCCC5520		95/10/3	Unknown	Unknown but has suction cups	Tipped over, submerged	Absent	Unknown	9F	Tub full	tipped
970418CCCC2121	x	95/10/27	Unknown	Multiple suction cup mat	Unknown - found face down in water; seat still upright in tub	Absent	N	14F	5-6	up/out
960919CCCC5628	x	95/10/30	White enamel	4 suction cups, only 3 present	Toppled over, floating face down	Absent	Y - 24 mo.	10M	10	tipped
970131CCCC5287	x	95/12/7	Unknown	Suction cups	Unknown - floating face down in water	Absent	N	9F	6	unknown
970227CCCC5361	x	96/4/2	Unknown	Unknown	Unknown - floating face down in water	Absent	N	6F	Unknown	unknown
970213CCCC5317	x	96/4/4	Smooth	Multiple suction cup mat	Unknown - floating face down in water	Absent	N	10F	7-8	unknown
960924CCCC5643	x	96/5/18	Unknown	4 suction cups	Tipped over, submerged	Absent	N	12M	8	tipped
960708CCA5323	x	96/7/2	Unknown	4 suction cups, only 2 present	Tipped over, submerged	Absent	N	7F	4	tipped
970626CCCC3238	x	96/9/28	Unknown	No suction cups	Unknown - found under	Absent	N	5M	12	unknown
961213CCCC5141	x	96/10/16	Unknown	Suction cups, 3 vertical posts	Unknown - floating face with manslaughter; no product failure alleged	Absent	Y - 24 mo.	9F	2-3 and	unknown
970418CCCC3103		96/11/12	Unknown	Suction cups	Suction cups	Absent	N	9F	overflowin	Susp.
970611CCCC1300	x	97/3/9	Unknown	Suction cups	Tipped over, submerged	Absent	N	6F	6	tipped
970129CCN0298		97/3/12	Unknown	Suction cups	Unknown - lying on side in seat; face in water;	Absent	N	9M	Tub full	up/out
980217CNE5086	x	97/4/15	Unknown	Suction cups	Still in seat; face in water; seat upright	Absent	Y - 24 mo.	6M	Unknown	seat up
980529CCC0458	o	97/6/21	Unknown	Unknown	Unknown	Absent	Unknown	20F	Unknown	unknown
980116CCCC1997	x	97/7/4	Unknown	Suction cups	2 legs stuck through one leg opening	Absent	N	7F	4-5	legs stuck
980219CCCC3611	x	97/7/13	Unknown	4 suction cups	Unknown - floating face down in water	Absent	N	6F	9-10	unknown
970717CBB2337	x	97/7/15	Unknown	3 suction cups with restraint	Tipped over, submerged	Absent	Y - 24 mo.	8F	8	tipped
980513CCCC5555	x	97/7/19	Unknown	4 suction cups with T bar	Unknown - floating face up in water; seat still attached to tub	Absent	Y - 30 mo.	11F	18-24	up/out

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
990415CCC0429	x	97/9/20	Unknown	Unknown	Unknown - found unresponsive	Absent	Y - 36 mo.	9M	Unknown	unknown
980319CCC1208	o	97/9/30	Unknown	Unknown	Unknown - buoyed up out of seat	Absent	Unknown	7F	Unknown	unknown
980811CCC0643	o	98/3/24	Unknown	6-inch inclined surface	Rolled off - Father charged	Absent	N	8M	Unknown	Susp.
981228CCC6099		98/5/12	Unknown	Unknown	Unknown - Mother charged with abuse/neglect	Absent	N	8M	8.5	Susp.
000112CCC2198	x	98/6/23	Unknown	4 suction cups swivel seat	Sibling held infant under water	Absent	Y -36 & 60 mo.	7F	12	Susp.
990312CCC3214		98/8/11	Slip-resistant mats	3 suction cups, triangular shape, with seatbelt	2-yr. Old sibling fell on top of baby	Absent	Y - 24 mo.	11M	12	Susp.
980826CBB3967		98/8/21	Unknown	4 suction cups	Face down water - seat tipped over	Absent	N	9M	6	tipped
H9880216A		98/8/21	Unknown	Unknown	Seat flipped over - floating in tub	Absent	N	Unknown	7	tipped
990401CCC2372	x	98/10/12	Unknown	Unknown	Unknown - submerged	Absent	Y - 36 mo.	11F	Unknown	unknown
990405CWE7189		98/12/09	Unknown	4 suction cups with T-bar	Sibling pulled baby out of bath seat	Absent	Y - 24 mo.	10M	6-8	Susp.
991026CCN0005	x	99/10/22	Unknown	3 suction cups, triangular shape, with seatbelt	Stumped over, still in upright bathseat, perhaps caused by "numerous medical problems"	Absent	N	24F	Unknown	seat up
000202CCC0355	x	99/12/15	Unknown	4 suction cups, but bottom was separated from top ring	Unknown - found unresponsive	Absent	N	5F	6	unknown
000131CCN0078		00/1/27	Unknown	Blue with suction cups	Leaning backwards, still in upright bathseat, suspicious stories by 15-yr.old babysitter	Absent	Y - 24 mo.	6M	6	Susp.
000707CCC0802	x	00/2/18	Unknown	4 suction cups swivel seat	Found face down	Absent	N	7F	2 1/2	unknown
000608CBB2599	x	00/6/2	Smooth	4 suction cups swivel seat	Lying face down in water in tipped over seat	Absent	N	7M	4-6	tipped
I00660097		00/6/2	Unknown	Unknown	Unknown	Unknown	Unknown	7M	Unknown	unknown
000630CCC2634	x	00/6/8	Smooth, Kitchen Sink	4 suction cups, swivel seat	Found face down in water in tipped over seat	Absent	N	7F	4-5	tipped

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
Notes and legend										
<u>CFA/CPSC list inclusions. but not in the Bath Seat Subcommittee data base</u>										
970116CCC5217		96/8/18			Found submerged					
970320CCN0375		97/1/16			Found face down					
000215CBB2296		99/3/28			Found not breathing		2 siblings			
000612CWE5606		00/4/23			Found upright in seat, not breathing		Yes			
000727CBB2648		00/3/1			Found face down					
<u>CPSC code(C column)</u>										
x	=	match with CFA/CPSC list			unknown = Found in water, seat position unknown					
o	=	taken out of list by CPSC			tipped = Found in water, seat tipped over					
blank	=	not on CFA/CPSC list			up/out = Found out of seat in water, but seat still upright and attached					
					susp. = suspicious circumstances involved(not accidental)					
					seat up = still in seat, seat still upright and attached to tub					
					legs stuck = Legs stuck in opening of seat					
					scald = Seat slid, scalded by hot water from faucet					

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
INJURIES										
941101CCN0379		94/10/24	Unknown	4 suction cups	Pinched and lacerated scrotum Fell through T bar - laceration	Present	Y - 60 mo.	11M	Unknown	Minor l - pinch
960201CEP9001		95/12/19	Unknown	T-bar	Recovered from pneumonia - inhaled water from small cavities Head injury - Fell off countertop, still in bath seat	Present	Unknown	23M	6-8	Minor l - cut
971023CCN0027		97/8/28	Unknown	Unknown	Bruised legs - caught on restraint bar	Unknown	Unknown	7F	Unknown	Minor l - pneumonia
NEISS		99/2/8	N/A	Unknown	Laceration from seat Bumped head - tipped over	Unknown	Unknown	1	None	Minor l - countertop
H993066A		99/3/28	Unknown	Unknown	Pinched finger in toy Cut by sharp edge on seat	Present	N	10	Unknown	Minor l - bruise
I9959077A		99/4/19	Unknown	Unknown		Present	N	6	Unknown	Minor l - cut
990518CCC2462		99/5/9	Unknown	Suction cups		Present	N	6	2-3	Minor l - bump
I9950178A		99/5/28	Unknown	Unknown		Unknown	Unknown	8	Unknown	Minor l - pinch
I9960243A		99/6/22	Unknown	Unknown		Present	Unknown	8	Unknown	Minor l - cut

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
NO INJURIES										
911216CWE5014		91/6/11	Smooth	Unknown	No injury, head under water - seat upright and attached	Absent	N	7F	4	up
930415CCC3319		91/6/14	Unknown	Suction cups	No injury - floating on back out of seat - seat upright and attached	Absent	Y - 24 mo.	10F	5	up
911007CCC1022		91/9/26	Smooth	Suction cups	No injury - sibling held head under water	Absent	Y - 36 mo.	11F	9	Susp.
920605CEP9003		92/5/14	Smooth	Unknown	No injury - slid beneath ring	Present	Y - 36 mo.	9F	6	slid
930727CEP9010		93/7/3	Appliques	Unknown	No injury - lying on side, submerged	Absent	N	10F	6	unk
940120CCC1207		93/8/22	Unknown	4 suction cups	No injury - 2 legs stuck through one leg opening while lifting out	Present	N	11M	Unknown	other
970612CCC3211		95/5/28	Unknown	Unknown	No injury - fell over	Absent	Unknown	7F	Unknown	tip
970612CCC3213		95/5/5	Unknown	Unknown	No injury - fell over	Absent	Unknown	7M	Unknown	tip
970122CEP9009		97/1/12	Unknown	Legs with suction cups	No injury - suction cups failed	Absent	Unknown	6F	1-2	tip
971128CCC2133		97/10/1	Unknown	Legs with suction cups	No injury - 1 support leg suction cup loose	Present	Unknown	5F	Unknown	tip
971224CCC2169		97/12/21	Unknown	Multiple suction cup mat	No injury - slipped and stuck	Present	Unknown	7M	4	slid
970721CCC1388		97/3/20	Unknown	3 suction cups	No injury - 2 legs stuck through one leg opening	Present	Unknown	3M	Unknown	slid
970428CBB3114		97/4/22	Unknown	Unknown	No injury - unknown	Present - head	Unknown	8F	6	unk
970729CBB2351		97/6/24	Unknown	Unknown	No injury - unknown	Absent	Unknown	2M	Unknown	unk
980331CCC1245		98/3/23	Unknown	T-bar style	No injury - T bar fell off	Present	Unknown	13F	Unknown	unk
990217CCC2276		99/2/8	Unknown	4 suction cups	No injury - Slipped through leg opening	Present	Y - 24 mo.	8	3.5	slid
19930122A		99/3/1	Unknown	4 suction cups	No injury - Tipped over	Present	Y	12	Unknown	tip
H9940031A		99/3/6	Unknown	Unknown	No injury - Leg caught between seat and restraint bar	Present	Unknown	7	Unknown	other

IDI Number	C	Incident Date	Tub Surface	Product Type	Observation of Position	Location	Sibling Present	Age mo./sex	Water Depth(in.)	Position Code
990413CCCC3293		99/3/6	Unknown	Suction cups	No injury - upper/lower parts of seat detached	Absent	N	8	4-5	other
990527CNE5179		99/5/4	Unknown	Unknown	No injury - legs and 1 arm slipped through opening	Present	N	Unknown	Unknown	slid
NEISS		99/5/17	Unknown	Unknown	No injury - slipped out, submerged	Unknown	Unknown	6	Unknown	slid
H9960109A		99/6/1	Unknown	3 suction cups	No injury - Tipped over	Present	Unknown	7	Unknown	tip
NEISS		99/6/2	Unknown	Unknown	No injury - found face down in 1/2 full tub	Absent	Unknown	7	1/2 full tub	unk
000724		00/6/9	Non-skid	4 suction cups	No injury, resuscitated	Absent	Y - 6 yr.	9M	12	tip
000707CWE6003		00/7/2	Unknown	4 suction cups swivel seat	No injury - legs slid into one opening	Present	N	10F	6	slid

Bath Seat Incident Summary - by Incident Date and Position Code

(bathsumm.xls)

10/22/00

Year	Deaths	Injuries	No Injuries	Position Codes for Deaths Only							
				Unknown	Tipped	Up/out	Susp.	Seat up	Legs stuck	Scald	
83-90	6	-	-		1	3				1	1
91	5	-	3	2	2	1					
92	5	-	1	1	2			2			
93	4	-	2	2	1	1					
94	7	1	-		1	2		3		1	
95	15	1	2	11	3	1					
96	7	-	-	4	2		1				
97	10	1	6	4	2	2		1		1	
98	8	-	1	1	2		5				
99	2	6	8	1				1			
00	5		1	2	2		1				
Totals	74	9	24	28	18	10	7	7	3	1	

Position Code Description

Unknown	Found in water, seat position unknown
Tipped	Found in water, seat tipped over
Up/out	Found out of seat in water, but seat still upright and attached
Susp.	Suspicious circumstances(not accidental)
Seat up	Still in seat, seat still upright and attached to tub
Legs stuck	Legs stuck in opening of seat
Scald	Seat slid, scalded by hot water from faucet

Position Codes

DEATHS

	<u>Number</u>	<u>Caregiver Present</u>
Found in water, seat position unknown	28	
Found in water, seat tipped over	18	2
Found out of seat in water, but seat still upright and attached	10	
Suspicious circumstances(not accidental)	7	
Still in seat, seat still upright and attached to tub	7	
Legs stuck in opening of seat	3	1
Seat slid, scalded by hot water from faucet	1	

TOTALS

74

3

MINOR INJURY

Cut	3	3
Pinch	2	1
Bruise/bump	2	2
Inhaled water	1	1
Fell from countertop	1	

TOTALS

9

7

NO INJURY

Slid through opening(s)	7	6
Seat tipped over	6	3
Seat upright	2	
Unknown	5	2
Other	3	2
Sibling held infant under water	1	

TOTALS

24

13



Standard Consumer Safety Specification for Infant Bath Seats¹

This standard is issued under the fixed designation F 1967, the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ε) indicates an editorial change since the last revision or reapproval.

INTRODUCTION

This consumer safety specification is intended to address certain incidents associated with the use of bath seats, bath rings, and other similar devices.

The U.S. Consumer Product Safety Commission (CPSC) identified drowning incidents which generally involved infants either tipping over, climbing out of, or sliding through the product after being left unattended by their caregiver.

This specification does not address incidents in which bath seats are unreasonably misused, are used in a careless manner that disregards the warnings and instructions that are provided with each product, or those instances where the caregiver leaves the infant unattended in the product.

This consumer safety specification is written within the current state-of-the-art product technology. It is intended that this specification will be updated whenever substantive information becomes available and known to ASTM which necessitates additional requirements or justifies the revision of existing requirements.

1. Scope

1.1 This consumer safety specification establishes performance requirements, test methods, and labelling requirements to promote the safe use of infant bath seats. Products commonly referred as bath rings are also included in the scope of this standard.

1.2 This consumer safety specification is intended to reduce the risk of death and minimize injury to infants resulting from use and reasonably foreseeable abuse of infant bath seats.

1.3 No infant bath seat produced after the approval date of this consumer safety specification shall, either by label or other means, indicate compliance with this specification unless it conforms to all requirements contained herein.

1.4 The following precautionary caveat pertains only to the test methods portion, Section 9, of this consumer safety specification: *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

1.5 The test values and dimensions stated in inch-pound units are to be regarded as standard. SI values in parentheses are given for information only.

2. Referenced Documents

2.1 ASTM Standards.

D 3359 Test Method for Measuring Adhesion by Tape Test²

F 462 Consumer Safety Specification for Slip-Resistant Bathing Facilities³

F 963 Standard Consumer Safety Specification on Toy Safety³

2.2 Federal Regulations:⁴

16 CFR 1303 Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint

16 CFR 1500 Federal Hazardous Substances Act Regulations, including sections:

1500.48 Technical Requirements for Determining a Sharp Point in Toys and Other Articles Intended for Use by Children Under 8 Years of Age

1500.49 Technical Requirements for Determining a Sharp Metal or Glass Edge in Toys and Other Articles Intended for Use by Children Under 8 Years of Age

1500.50 Test Methods for Simulating Use and Abuse of Toys and Other Articles Intended for Use by Children

1500.51 Test Methods for Simulating Use and Abuse of Toys and Other Articles Intended for Use by Children 18 Months of Age or Less

16 CFR 1501 Method for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts

¹ This specification is under the jurisdiction of ASTM Committee F-15 on Consumer Products and is the direct responsibility of Subcommittee F15.20 on Bath Seats.

Current edition approved April 10, 1999. Published June 1999.

² Annual Book of ASTM Standards, Vol 06.01.

³ Annual Book of ASTM Standards, Vol 15.07.

⁴ Code of Federal Regulations, available from U.S. Government Printing Office, Washington, DC 20402.

3. Terminology

3.1 Definitions of Terms Specific to This Standard

3.1.1 *bath seat*—a bath seat, bath ring, or other similar product intended to be placed into a bath tub, sink, or similar bathing enclosure to provide support to a seated infant during bathing by an adult caregiver. The product is intended for use only with an infant who is capable of sitting upright unassisted.

3.1.2 *locking or latching mechanism*—method of preventing a bath seat from folding or collapsing during use.

3.1.3 *manufacturer's recommended use position(s)*—any position which is presented as a normal, allowable, or acceptable configuration for the use of the product by the manufacturer in any descriptive or instructional literature. This specifically excludes positions which the manufacturer shows in a like manner in its literature to be unacceptable, unsafe or not recommended.

3.1.4 *occupant*—that individual who is in an infant bath seat in one of the manufacturer's recommended use positions.

3.1.5 *principal display panel*—that part of the product's package which is most likely to be displayed, presented, shown or examined under normal or customary conditions of display for retail sale

3.1.6 *stability*—the ability of a bath seat to remain upright in all of the manufacturer's recommended use positions.

3.1.7 *static load*—a vertically downward load applied by weights or other means

4. Calibration and Standardization

4.1 Unless otherwise noted, the bath seat shall be completely assembled in accordance with the manufacturer's instructions.

4.2 The product to be tested shall be in a room with an ambient temperature of $73 \pm 9^{\circ}\text{F}$ ($23 \pm 5^{\circ}\text{C}$) for at least 1 h prior to testing. Testing shall then be conducted within this temperature range.

4.3 All testing required by this specification shall be conducted on the same unit.

5. Performance Requirements

5.1 All decorated surfaces of the product shall comply with the requirements of 16 CFR 1303.

5.2 *Hazardous Sharp Point*—No sharp point as defined in 16 CFR 1500.48 shall be present on the product either before or after the product has been tested in accordance with Section 9.

5.3 *Hazardous Sharp Edge*—No sharp edge as defined in 16 CFR 1500.49 shall be present on the product either before or after the product has been tested in accordance with Section 9.

5.4 *Small Part*—No small part as defined in 16 CFR 1501 shall become detached from the product either before or after the product has been tested in accordance with Section 9.

5.5 *Openings*—Any shaped holes, slots or cracks that exist in the product in any of its manufacturer's recommended use positions and that are accessible to the toes or fingers of the occupant through or recessed, or both, into the surface of any rigid material that admits a 0.210 in. (5.30 mm) diameter rod, shall also admit a 0.375 in. (9.50 mm) diameter rod. Openings that have a minor dimension between 0.210 in. (5.30 mm) and 0.375 in. (9.50 mm) shall be permissible providing the depth is

no greater than the minor dimension of the opening.

5.6 *Requirements for Toys*—Toy accessories attached to, removable from, or sold with bath seats, as well as their means of attachment, must meet applicable requirements of Consumer Safety Specification F 963.

5.7 *Protective Components*—If the child can grasp components between the thumb and forefinger, or teeth, (such as caps, sleeves, or plugs used for protection from sharp edges, points, or entrapment of fingers or toes), or if there is at least a 0.040 in. (1.00 mm) gap between the component and its adjacent parent component when the product is in its manufacturer's recommended use position(s), such component shall not be removed when tested in accordance with 9.1.

5.8 *Stability*—For bath seats whose primary method of stability is contact with the bathing surface and which provide support for an occupant's back and support for the sides or front or both of the occupant, the product shall not allow for any parts of the product to become separated from it, shall not sustain permanent damage and shall not tip over after being tested in accordance with 9.2.

5.9 Restraint System:

5.9.1 Bath seats, when in the manufacturer's recommended use position(s), which provide support for an occupant's back and support for the sides or front, or both, of the occupant's torso must provide a passive crotch restraint and comply with 5.9.1.1. The bath seat shall not include any additional restraint system which requires action on the part of the caregiver to secure the restraint.

5.9.1.1 A passive crotch restraint shall be assembled as part of the bath seat before shipment from the manufacturer or shall be designed such that the bath seat cannot be used without the passive crotch restraint in place. The passive crotch restraint shall be permanently attached to the bath seat.

5.9.2 Bath seats, when in the manufacturer's recommended use position(s), which provide support for an occupant's back only and do not provide support for the sides and/or front of the occupant's torso shall comply with 5.9.2.1.

5.9.2.1 These bath seats are not required to have a restraint. However, if one is provided, it must be either a passive crotch restraint which complies with 5.9.1 or both a waist and crotch restraint in which the crotch restraint shall be designed such that its use is mandatory when the restraint system is in use.

5.10 *Latching or Locking Mechanism*—Any unit that folds shall have a latching or locking device or other provision in the design that will prevent the unit from unintentionally folding when properly placed in the manufacturer's recommended use position(s). During and upon completion of the test in accordance with 9.3.1, the unit shall remain in the manufacturer's recommended use position, and the latching or locking mechanism shall remain engaged and operative after testing. For all single action locking/latching mechanisms, the mechanism shall not release with a minimum force of 10 lbf (45 N) when tested in accordance with 9.3.2. For all double action locking/latching mechanisms, there is no force requirement when tested in accordance with 9.3.2.

5.11 *Scissoring, Shearing, and Pinching*—When in the manufacturer's recommended use position(s), the product shall be designed and constructed to prevent injury to the occupant

from any scissoring, shearing, or pinching when members or components rotate about a common axis or fastening point, slide, pivot, fold or otherwise move relative to one another. Scissoring, shearing, or pinching exists when the edges of the rigid parts admit a probe greater than 0.210 in. (5.3 mm) and less than 0.375 in. (9.5 mm) at any accessible point throughout the range of motion of such parts

5.12 *Static Load*—The product shall not break, become permanently deformed or damaged, or fail to comply with any of the other requirements of this standard when tested in accordance with 9.5.

6. Labeling Requirements

6.1 Each unit of product and its packaging shall be labeled with the safety alert symbol (exclamation mark within an equilateral triangle), the signal word WARNING in all capital letters, as well as the following two sentences:

Prevent drowning. ALWAYS keep baby within arm's reach.

The signal word and all other capital letters shall be in sans serif type face with letters not less than 0.2 in. (5 mm) in height, with all remainder of the text not less than 0.1 in. (2.5 mm) in height. Specified warning(s) on both the product and the package shall be distinctively separated from any other wording or designs and shall appear in the English language at a minimum. They shall also be in a contrasting color to the background on which they are located.

6.2 Specified warning(s) on the product shall be located so that they are visible to the adult caregiver when the product is in the manufacturer's recommended use position(s) and the occupant is in the product.

6.3 Specified warning(s) on the package shall be on the principal display panel.

6.4 Specified warning(s) on the product shall be permanent and readable when tested in accordance with 9.4.

6.5 Products not recommended by the manufacturer to be used on a slip-resistant surface, as defined in Specification F 462, shall also include a warning to this effect on the principal display panel of the package. This warning shall use the signal word WARNING preceded by the safety alert symbol. In addition, if there are other types of surfaces that the manufacturer does not recommend the product to be used on, then additional warnings should be given regarding such surfaces. These warning(s) shall meet the requirements as described in 6.1 for letter height, language, color, and type.

6.6 Under no circumstances shall any manufacturer's warnings or statements indicate that the infant may be left in the product without the caregiver in attendance.

7. Instructional Literature

7.1 All units shall have instructional literature enclosed which explains to the caregiver the proper use of the product. Such literature shall include instructions for assembly, maintenance, cleaning, inspections, limitations of the product, and storage, as well as the manufacturer's recommended use position(s).

7.2 Instructional literature shall also include the warning specified in 6.1 and, in addition, shall emphasize and reinforce the requirement that the parent or adult caregiver should always be present within arm's reach of the infant in the bath

seat, regardless of the circumstances.

7.3 Instructional literature shall also include the warning(s) specified in 6.5 when applicable.

7.4 Instructional literature shall instruct the caregiver to discontinue the use of the product if it becomes damaged, broken, or disassembled.

7.5 Under no circumstances shall any manufacturer's warnings or statements indicate that the infant may be left in the product without the caregiver in attendance.

8. Producer's Markings

8.1 Each unit of product and its package shall be marked with the name and address (city, state, and zip code) of the manufacturer or distributor.

8.2 A permanent code mark or other product identification shall be provided on the product and its package or shipping container. The code will identify the model number and the date (month and year) of manufacture and permit future identification of any given model. Any upholstery label required by law shall not be used to bear the code mark or identification.

8.3 The manufacturer shall change the model number whenever the product undergoes a significant structural or design modification or a change that affects its conformance to this consumer safety specification.

9. Test Methods

9.1 *Removal of Components:*

9.1.1 If the torque and tension tests are to be conducted on the product, first completely submerge the testable components for 20 min in clear water that is at an initial temperature of 100 to 105°F (37.8 to 40.6°C). Conduct the torque and tension tests within 10 min. after removal from the water.

9.1.2 *Torque Test for Graspable Components:*

9.1.2.1 Using any convenient method to hold the parent component in place, grasp the component to be tested and apply a torque evenly over a period of 5 s in a clockwise direction until either a rotation of 180° is attained or a torque value of 4 lbf·in. (0.4 N·m) has been reached.

9.1.2.2 Maintain the torque value or the 180° rotation for an additional 10 s and then allow the component to return to its original position.

9.1.2.3 Repeat this test using a torque in the counter-clockwise direction.

9.1.3 *Tension Test for Graspable Components*—The same component that has undergone the torque test shall also undergo the following tension test immediately following the torque test:

9.1.3.1 Hold the parent component in place using a suitable device and then grasp the component to be tested and apply a tension force of 15 lbf (67 N) evenly over a period of 5 s in the direction normally associated with the removal of the component. The device used to grasp the component should not compress or expand the component being tested so that it hinders any possible removal.

9.1.3.2 Maintain this force for an additional 10 s.

9.2 *Stability:*

9.2.1 Install the product according to the manufacturer's instructions onto the test surface(s) specified in 9.2.3. If the

manufacturer's instructions state that the product should be used only on a smooth surface, then the test shall be conducted using only the smooth surface. If the manufacturer's instructions allow for use of the product on a slip-resistant surface, then the test must be conducted using both the smooth surface and the slip resistant surface. The tests for stability must be conducted after the test surface has been flooded with water that is at an initial temperature of 100 to 105°F (37.8 to 40.6°C) to a depth of 2 in. (51 mm) above the occupant seating surface, and then the bath seat has been placed in the manufacturer's recommended use position on the surface.

9.2.2 Test Protocol:

9.2.2.1 Attach a 1 by ¼ in. (25 by 6 mm) rigid aluminum flat bar to the inside edge of any vertical member of the bath seat. The length of the flat bar must be such that it extends beyond the uppermost edge or surface of the bath seat by at least as much as the maximum distance *D* (calculated below)

9.2.2.2 Calculate the distance *D* for a tipover force to be applied to the aluminum bar using the following formula:

$$D = (20.4 \text{ in} - H)/2 \quad [(518 \text{ mm} - H)/2] \quad (1)$$

where

H = the height of the uppermost edge of the vertical member above the seating surface or the height of the uppermost horizontal surface (if one is present at that position) above the seating surface, whichever is greater.

9.2.2.3 Apply a force of 17.0 lbf (76.5 N) to the aluminum bar at this distance *D* above the height *H*. Apply the force in a horizontal plane and outward from the center of the bath seat over a period of 5 s. Maintain this force for an additional 10 s. If the bath seat begins to release from the test fixture, continue to maintain this force and its orientation relative to the aluminum bar until the bath seat tips over or the 10 s time limit is attained.

NOTE 1—If necessary to prevent the bath seat from sliding horizontally on the test surface during this test protocol, the bottom edge of the bath seat may be blocked or wedged to prevent such sliding. However, such blocking should in no way interfere or influence the results of this test protocol.

9.2.2.4 At the position of each vertical member of the bath seat, repeat this test protocol, including the recalculation of the distance *D*.

9.2.2.5 Repeat this test protocol with the product in each of the manufacturer's recommended use position(s).

9.2.3 Test Surfaces:

9.2.3.1 Prior to using either test surface, the test surface should be cleaned thoroughly using an alcohol or other solvent based cleaner to remove all foreign material.

9.2.3.2 *Smooth Surface*—A smooth, flat, rigid piece of plexiglass large enough to accommodate the positioning of the bath seat in the manufacturer's recommended use position(s).

9.2.3.3 *Slip Resistant Surface*—Any surface which meets the definition established in Consumer Safety Specification F 462 simulates the bathtub surfaces described therein, and is large enough to accommodate the positioning of the bath seat in the manufacturer's recommended use position(s).

9.3 Latching/Locking Mechanism Integrity:

9.3.1 Resistance to Folding:

9.3.1.1 Erect the bath seat in one of the manufacturer's recommended use position(s) on the smooth surface fixture. Secure the product so that the normal folding motion is not impeded.

9.3.1.2 Apply a force of 45 lbf (200 N) in the direction normally associated with folding the bath seat.

9.3.1.3 Repeat this procedure 5 times within a 2 min period.

9.3.1.4 Submerge the product in enough water to fully cover the latching/locking mechanism.

9.3.1.5 Repeat the testing prescribed above in 9.3.1.1-9.3.1.3.

9.3.1.6 Repeat the testing in both the dry and the submerged conditions for each additional manufacturer's recommended use position.

9.3.2 Release Mechanism Activation:

9.3.2.1 *Products with Single Action Release Mechanism*—With the product in each manufacturer's recommended use position, gradually apply a 10 lbf (45 N) force to the latching or latching mechanism in the direction tending to release it.

9.3.2.2 *Products with Double Action Release Mechanism*—Each double action locking/latching mechanism shall require two distinct and separate actions for release of the mechanism.

9.4 Permanence of Labels and Warnings—To determine the permanence of a label or printing applied to the surface of the product, first completely submerge the label or printed area for 20 min in clear water that is at an initial temperature of 100 to 105°F (37.8 to 40.6°C).

9.4.1 A label attached to the surface of the product shall be considered permanent if, during an attempt to manually remove it without the aid of tools or solvents, it cannot be removed, it tears upon removal or such action damages the surface to which it is attached.

9.4.2 Warnings applied directly onto the surface of the product by hot stamping, heat transfer, printing, etc. will be considered permanent if the printing in the area tested is still legible after being subjected to the test described in Test Method D 3359, Test Method B Crosscut Tape Test, eliminating the parallel cuts.

9.5 Static Load Test:

9.5.1 Install the product according to the manufacturer's instructions onto the smooth surface test fixture.

9.5.2 Flood the surface with water to a depth of 2 in. (51 mm) above the occupant seating surface.

9.5.3 Place a weight of 30 lb (13.6 kg) on the center of the seat and distribute it upon a 6 by 6 in. (150 by 150 mm) wood block ¾ in. (19 mm) thick.

9.5.4 Remove the weight after a time period of 20 min and observe the product for any breakage, deformation, damage, or failure to meet any other requirements of this consumer safety specification.

10. Keywords

10.1 bath ring; bath seat; bath tub; drowning; stability

APPENDIX

(Nonmandatory Information)

X1. RATIONALE

X1.1 *Section 3*—All of the definitions reflect those previously approved in the safety standards for other juvenile products

X1.2 *Section 4*—This section reflects similar wording previously approved in the safety standards for other juvenile products

X1.3 *Sections 5 1-5.5*—These sections reflect wording previously approved in the safety standards for other juvenile products.

X1.4 *Section 5 6*—All toys associated with a bath seat product should meet the toy safety standard.

X1.5 *Section 5 7*—These are commonly accepted requirements for all graspable components on any children's product.

X1.6 *Section 5.8*—This requirement is based on the need to determine the ability of the bath seat to remain stable and not tip over during use, which would allow the infant to become submerged or trapped. Criteria for testing only bath seats with back support and support for either the sides and/or the front of the occupant arises from the need to attach the test fixture to the product, and also from the assumptions that if no supports are provided, then there is virtually no tipover potential, and that the caregiver must be present with the infant at all times.

X1.7 *Section 5 9 1*—This requirement is based on the need for the bath seat to prevent the infant from sliding through the sides or front of the product. This does not apply to bath seats that provide only a back support for the infant. Also, this precludes bath seats with a passive crotch restraint from also having any additional restraint system due to the potential for allowing this additional restraint to give a false sense of security to the caregiver.

X1.8 *Section 5.9.1 1*—This wording was adopted from ASTM F 404, Consumer Safety Specification on High Chairs, to prevent the caregiver from electing not to use the passive crotch restraint and require that it be permanently attached.

X1.9 *Sections 5 10-5.12*—These sections reflect wording previously approved in the safety standards for other juvenile products.

X1.10 *Section 6*—This section reflects similar wording that has been previously approved in the safety standards for other juvenile products. It is also essential to emphasize that caregivers should *never* leave the infant unattended while using these products, since this is the primary cause of incidents while these products are in use.

X1.11 *Section 7*—This section reflects similar wording previously approved in safety standards for other juvenile products.

X1.12 *Section 8*—This section reflects wording previously approved in safety standards for other juvenile products.

X1.13 *Section 9.1*—This section reflects standard testing methodology for any graspable components. The submersion for 20 min in warm water was determined to be the most representative condition for conducting this test.

X1.14 *Section 9.2*—The initial reference for this test method was ASTM F 977, Consumer Safety Performance Specification for Infant Walkers. However, a fundamental difference between the bath seat and the walker is that in the bath seat, the infant is in a sitting position without their legs being extended vertically to use for standing or pushing. Using anthropometric data for a 12 to 15 month old infant, the maximum crown to rump length is 20.4 in. (518 mm). The 95th percentile weight for this same age group is 27.8 lb (12.6 kg). Sixty percent of the weight of the infant was used for the force calculation. Fifty percent of the difference between the crown to rump length and the height of the bath seat was used as the location for this force to be applied.

X1.15 *Section 9.3*—This section reflects wording previously approved in safety standards for other juvenile products.

X1.16 *Section 9.4*—This section reflects wording previously approved in safety standards for other juvenile products.

X1.17 *Section 9.5*—This section reflects wording previously approved in safety standards for other juvenile products.

The American Society for Testing and Materials takes no position respecting the validity of any patent rights asserted in connection with any item mentioned in this standard. Users of this standard are expressly advised that determination of the validity of any such patent rights, and the risk of infringement of such rights, are entirely their own responsibility.

This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

Stevenson, Todd A.

From: Rick Locker [fblocker@lockerlaw.com]
Sent: Monday, October 23, 2000 4:22 PM
To: cpsc-os@cpsc.gov
Subject: FW:JPMA COMMENTS IN OPPOSITION TO PETITION HP00-4



Bathsort.xls



bathsumm.xls



F1967.pdf



JPMA Comments re
Petition to B...

Enclosed please find the Juvenile

Products Manufacturers Association (JPMA) comments in opposition to Petition HP00-4. These comments are being filed electronically pursuant to the Commission's solicitation of Comments concerning the Petition, set forth in the Federal Register/ Vol. 65, No. 163, Page 50968/ August 22, 2000.

October 18, 2000

10725 SW 3rd Street Apt. #2
Miami, FL 33174

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VADK
OFFICE OF THE SECRETARY
2000 OCT 25 A 9:30

Sadye E. Dunn
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207
telephone (301) 504-0800

Ms. Dunn,

After having read and reviewed Petition HP 00-4 requesting the Consumer Product Safety Commission to ban bath seats and bath rings used for bathing infants in bath tubs, I have decided to support the petition. In our research, we came across different statistics presented by both manufacturers and consumer groups. The information presented was alarming. The problem with baby bath seats is that children can step out of the seats into the water and become submerged. The suction cups on the bottom of the seat can detach from the tub, causing the baby to tip over and become trapped underwater by the seat.

According to Safety First, the product is manufactured for convenience and as bathing aids to parents with small children. Unfortunately parents take it as the perfect tool for "safe" bathing." Once the parent has tried the product and left their child alone for one minute, the parent will continue to follow the same risky behavior pattern for a longer period of time despite the warning label found outside the box and on the product itself. The warning label is written in minuscule letters outside the box and in the instruction booklet that accompanies the product. The product itself has the warning but the words are engraved in the product's color making it difficult to see.

The parents that have had success with the product either reuse the seat or ring for their second and third child or give it away to a relative to use. The wear and tear resistance on this product is minimal further increasing the risk that a child might get injured when using this product. The Consumer Product Safety Commission itself sent out a checklist that must be used when buying or using a second-hand baby bath seat or ring found in "Tips for Your Baby's Safety." It cautions about the suction cups securely fastened to the product and whether it attaches itself correctly to the tub.

There are new designs of baby bath seats that look more and more like car seats. This new designs give parents a false sense of security since they are bigger and more expensive than the earlier designs. Due to the size and "security" parents feel they ignore how high the water

level in the bathtub might get. Filling the tub with more water than is really needed since there is no mark on the product itself given by the manufacturer to aide the parent. This too gives the parent security in leaving their child unattended even for a few seconds. Infants and toddlers are not able to protect themselves from drowning, even in a few inches of water. Because a child's head is the heaviest part of its body, he or she can easily tip over into the overfilled bathtub. The bath seat will make the body weigh even more since they are strap into it and not allow the child to get out. Their lungs get filled with water and unable to scream for help. If the parent does not hear anything they assume the child is OK and continue to do whatever it is they are doing instead of returning to supervise the child.

We are asking for baby bath seat and rings manufacturers to further improve the faulty product design. Create more stability for the seat and improve the quality of the suction cups to increase stability and safety. Baby seats are in the market because they satisfied the minimum level of safety standards, which seemed to not have been enough. It only takes a few minutes to look at the statistics being presented by consumer groups of the number of children that have had untimely and unwanted deaths that could have been avoided. Because the powers exist under the Consumer Protection Act as an enforcement authority to suspend the sale of Baby Bath Seats due to faulty design and lack of the manufacturers efforts to correct the problem. Despite the concrete evidence suggesting the product to be unsafe for public use, baby bath seats are still in use and sold despite the higher risk of babies drowning than by not using the product. The information, which denounces the baby bath seats from being defected, has not been disseminated for others who purchase the product are aware of the dangers associated of it. The U.S. Consumer Product Safety Commission (CPSC) promoted baby safety in September by placing special emphasis on keeping babies safe throughout the year. Now is the chance to show that you mean what you say. Baby bath seats have hidden hazards that can seduce caregivers into dangerous behavior because they believe their babies are safe when they are not.

CPSC stated that "baby safety must be a shared responsibility. Like the three sides that support a triangle, government, consumers, and the manufacturers of baby products must work together for the safety of babies." By removing the product of the market you will be achieving this goal.

Sincerely,



Scarlette Carballo

scarba01@fiu.edu

Student, Florida International University

~~Stevenson, Todd A.~~

Page 1 of 1

ban bath seats 65-

From: Mary Biggart [squirtus@netins.net]

Sent: Tuesday, October 24, 2000 6:15 PM

To: cpac-os@cpac.gov

Please ban the Safety First Bath seat, to prevent more senseless deaths of infants! Thanks, Mary Biggart