



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Ann Brown
 Commissioner Mary Sheila Gall
 Commissioner Thomas H. Moore

ITEM:

Advance Notice of Proposed Rulemaking (ANPR) to Address Risks Posed by Certain Portable Bed Rails

DECISION:

The Commission voted unanimously (3-0) to approve a Federal Register notice to issue an advance notice of proposed rulemaking (ANPR) to address risks posed by certain bed rails. Commissioner Gall and Commissioner Moore filed separate statements concerning their respective votes (copies attached).

For the Commission:


Sadye E. Dunn
Secretary

* Ballot vote due September 21, 2000



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**STATEMENT OF THE HONORABLE MARY SHEILA GALL
IN SUPPORT OF ISSUANCE OF AN ADVANCE NOTICE
OF PROPOSED RULEMAKING ON PORTABLE BED RAILS**

September 21, 2000

Today I voted in support of an Advance Notice of Proposed Rulemaking to address the hazards associated with portable bed rails for use by children. Infants placed on beds with these bed rails have become entrapped and suffocated in the space between the bed rail and the mattress. Infants, of course, should *never* be placed on adult beds. While the use of bed rails with infants is a *misuse* of the product, it results from the natural desire on the part of parents to prevent children from rolling out of bed.

I usually oppose mandatory rulemaking while the voluntary standard setting process is in operation, because I believe that it tends to predispose the Commission to a mandatory standard, whereas our governing statutes and my own regulatory philosophy favor voluntary standards. In this case, however, I noted a lack of progress on the part of industry in developing a voluntary standard. Thus, I am today supporting the beginning of rulemaking. The Commission staff first requested that ASTM (the industry's voluntary standards setting organization) develop a provisional standard in February 1998. In May 1999, CPSC staff presented a proposed performance standard for review by the ASTM Working Group. After discussion and some testing of existing products to the proposed standard, the ASTM Bed Rail Subcommittee voted in February 2000 to withdraw a ballot containing the staff proposal. The Subcommittee took this action because it believed that the proposal would receive too many negative votes. One manufacturer did submit an alternative proposal that the staff found unworkable. To date, no other performance requirements have been suggested (although industry has made progress in developing a labeling standard.)

Industry has pointed out correctly that a bed rail designed to eliminate the entrapment hazard for *infants*, for whom the product is *not* intended, may create an entrapment hazard for the older children for whom the product *is* intended.



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**STATEMENT OF THE HONORABLE THOMAS H. MOORE
IN SUPPORT OF ISSUANCE OF AN ADVANCE NOTICE
OF PROPOSED RULEMAKING ON PORTABLE BED RAILS**

September 21, 2000

Today I voted in support of the issuance of an Advance Notice of Proposed Rulemaking to address the risk of injury or death associated with certain portable bed rails. At this stage, I believe that the Commission has been presented with enough evidence that it can reasonably conclude that certain portable bed rails may present an unreasonable risk of injury or death to children particularly infants and pre-toddlers.

As a general rule, manufacturers do not recommend the use of this product for children under two years of age. However, despite the recommendations, it is apparent from the data that this product is being used for infants and pre-toddlers and that this age group is most susceptible to fatalities. Parents are placing their children in adult beds thinking that by using this product they are providing a measure of safety for them. Instead, infants and pre-toddlers placed on beds with certain portable bed rails have become entrapped and have suffocated in the space between the bed rail and the mattress.

Currently, there are no existing Commission regulations or voluntary standards that adequately address the risk of death associated with some of these products. I am also aware that, despite some initial progress, there has been a recent lack of movement on the part of the ASTM Subcommittee charged with looking at this issue. I believe that the Commission staff, with the manufacturers and interested individuals all working together, can produce a performance standard that will lead to designs that achieve that measure of safety for children that, I know, we all desire. Thus, I am today supporting the beginning of this rulemaking.

Moreover, I have identified potential entrapment hazards with the prototype bed rail designed by the CPSC staff to meet their proposed performance standard. I encourage industry to participate actively with CPSC staff to develop an appropriate performance standard.

While a standard for bed rails will serve to protect children from entrapment in bed rails, the Commission needs to educate parents and caregivers about the greater hazard of entrapment between mattresses and walls when infants are placed on adult-sized beds. From January 1, 1990 until the present time, fourteen children under five died from suffocations involving bed rails. By contrast, during that same time period, entrapments between mattresses on adult-sized beds and walls resulted in approximately *271 deaths* of children aged five and under. Rather than pointing out the natural increase in *injuries* that results from increased sales of trendy products such as scooters or trampolines, the Commission needs to do a much better job of educating the public about the risk of *death* from *suffocation* when infants are placed on adult beds.