



UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF COMMISSION MEETING

Decisional Matter: Notice of Proposed Rulemaking: Safety Standard for Infant Support Cushions(Briefing package dated November 8, 2023, OS No. 0265)

November 29, 2023

Chair Alex Hoehn-Saric convened the November 29, 2023 meeting of the U.S. Consumer Product Safety Commission in open session at 10:00 a.m. Commissioners Peter A. Feldman, Richard Trumka Jr., and Mary T. Boyle were in attendance. The Chair made welcoming remarks and summarized the agenda item for the meeting.

Chair Hoehn-Saric introduced the decisional matter before the Commission and introduced staff that was present to address questions from the Commission: Dr. Stefanie Marques, Project Manager and Supervisory Scientist, Office of Hazard Identification and Reduction, and Elisabeth Layton, Attorney, Office of the General Counsel. Also present were Jason Levine, Executive Director, and Austin Schlick, General Counsel.

Chair Hoehn-Saric advised that each Commissioner would have five minutes to ask questions of staff, with multiple rounds as necessary, followed by consideration of amendments. Before the first round of questions, the Chair stated that it is not appropriate to ask questions that address statutory interpretation or legal advice given to the Commission by the Office of the General Counsel in open session.

Chair Hoehn-Saric called for questions for staff. The Chair, Commissioner Trumka, and Commissioner Boyle did not have any questions for staff. Commissioner Feldman asked staff about the existence of evidence to support the likelihood that manufacturers would stockpile non-compliant products before the effective date of the final rule. Mr. Levine responded that staff was not aware of such evidence for the products that would be addressed by this proposed rule.

Hearing no further questions, the Chair excused staff and the Commissioners commenced consideration of the draft proposed rule for a safety standard for infant support cushions, as well as any amendments to the proposed rule.

Chair Hoehn-Saric did not have any amendments and recognized each Commissioner by order of seniority for amendments. Commissioners Feldman and Boyle did not have any amendments. The Chair recognized Commissioner Trumka for an amendment. The Chair advised that Commissioner Trumka could have three minutes to describe his amendment.

Commissioner Trumka explained that his amendment would seek public comment on whether an anti-stockpiling provision should be included in the final rule, and if so, whether such provision should be comparable to the one proposed for the SNPR for portable generators at 88 Fed. Reg. 24,346,24372 (Apr. 20, 2023).

Chair Hoehn-Saric called for a second, and Commissioner Feldman seconded the motion. Chair Hoehn-Saric recognized each Commissioner in order of seniority for questions or comments. The Commissioners discussed their respective positions on the amendment. Hearing no further comments or questions, the Chair moved for a vote on the amendment. The Commission voted (3-1) to adopt the amendment. Chair Hoehn-Saric, Commissioner Feldman, and Commissioner Trumka voted to adopt the amendment. Commissioner Boyle voted to not adopt the amendment. The adopted amendment is attached.

The Chair called for any other amendments and, hearing none, moved for approval of the draft Notice of Proposed Rulemaking (NPR) for a safety standard for infant support cushions, as amended, and publication of the same in the *Federal Register*. The Chair called for a second and Commissioner Feldman seconded the motion. The Commission voted unanimously (4-0) to approve the draft NPR as amended and to publish the same in the *Federal Register*.

Chair Hoehn-Saric stated that each Commissioner would have up to 10 minutes for closing remarks. The Chair provided his closing remarks and then recognized each Commissioner for closing remarks.

There being no other business, Chair Hoehn-Saric adjourned the meeting at 10:11 a.m.

For the Commission:

Alberta E. Mills

Attachments: 1. Commission Adopted Amendment Proposed by Commissioner Trumka
2. Statement by Commissioner Trumka
3. Statement by Commissioner Boyle

Trumka Amendment to Infant Support Cushions NPR

Trumka Amendment (Add Question for Comment):

On OS-42, insert a request for public comment as follows before the sentence that begins “Finally, the Commission requests . . .”:

“The Commission also seeks comment on whether an anti-stockpiling provision should be included and, if so, whether the Commission should include an anti-stockpiling provision comparable to the one proposed in the recent SNPR for portable generators at 88 Fed. Reg. 24,346, 24,372 (Apr. 20, 2023).”



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4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

**STATEMENT OF
COMMISSIONER RICH TRUMKA JR.**

CPSC TACKLES STRING OF INFANT DEATHS IN “SUPPORT CUSHIONS” WITH STRONG NEW, PROPOSED RULE

November 29, 2023

Today, the Commission advanced a strong new, proposed rule to stop a pattern of infant deaths in support cushions. Seventy-nine babies who were placed in these products died from 2010 to 2022.¹ What’s even more concerning is that 34 of those deaths occurred in 2020 and 2021 alone, indicating a quickly growing risk.²

The proposed rule would make these products, firmer, flatter, and thinner. If this rule is finalized, infant support cushions will be less likely to be used for sleep and children will be far more likely to survive in them.

Support cushions on the market, including baby loungers, bottle proppers, and head positioner or wedge pillows, are NOT safe for infant sleep. These products can pose a suffocation risk during sleep due to their plush, pillowy nature.

Parents and caregivers: NEVER put your baby to sleep on a soft, pillowy surface like a support cushion. Only a firm, flat surface is safe for sleep.

¹ Notice of Proposed Rulemaking: Safety Standard for Infant Support Cushions, at page OS-5 (available at: https://www.cpsc.gov/s3fs-public/Briefing-Package-Notice-of-Proposed-Rulemaking-Safety-Standard-for-Infant-Support-Cushions.pdf?VersionId=rA60lesWHddS1.wrK_EvV00xeX75dsFc) (Nov. 2023).

² Id.



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COMMISSIONER MARY T. BOYLE

**Statement of Commissioner Mary T. Boyle on Vote to Advance Proposed Rulemaking on
Infant Support Cushions
November 29, 2023**

Along with my colleagues, I voted today to issue a notice of proposed rulemaking aimed at addressing the serious risks of death and injury associated with infant support cushions, a category that includes infant positioners, infant loungers, and props or cushions used to support an infant, among other products. I am pleased that this package has finally come to the Commission for consideration and that it is moving forward.

In addition to providing information about the suffocation and asphyxiation risks associated with these products, the staff package also demonstrates that the youngest infants are at heightened risk. In this instance, the data revealed that more than 80% of the fatalities associated with the products involved infants three months and younger. In the same vein, the recently approved notice of proposed rulemaking on Infant Rockers showed a similarly concerning pattern in the youngest age cohort.

As our Health Sciences staff clearly states in its memorandum on Infant Cushions:

While all infants younger than 12 months of age are considered at risk of positional asphyxia, infants 2-6 months of age, premature infants, and infants who are born as a set of multiples are particularly vulnerable and are at the highest risk primarily due to physical inability and an immature physiological system that regulates breathing and arousal in the first few months of life.

This is especially concerning given that the Center for Disease Control (CDC) reports a rate of approximately 1 in 10 infants born pre-term in the United States in 2022. In other words, a notable percentage of infants born in the United States fall into the category of highest risk category for positional asphyxia.

As we continue our work on infant products in general, including those for which we already have rules in place, I urge staff and other stakeholders to focus on the youngest age group and those infants with immature physiological systems, so that we can reduce the heightened risk for this most vulnerable population.

I also encourage ongoing efforts to integrate findings from medical research in our safety work. Where the risks are well understood, we should not have to wait for harm to occur, or for incidents to accumulate, before we act on product hazards.

I thank the CPSC staff for their work on this package and look forward to reviewing comments from the public.