



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Jessica L. Rich, General Counsel
Austin C. Schlick, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs
Jane Rothstein, Attorney, Regulatory Affairs

SUBJECT: ASTM's Notice of a Revised Voluntary Standard for Infant Bath Seats

DATE: September 11, 2024

BALLOT VOTE DUE: September 17, 2024

Section 104(b)(4)(B) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) sets forth a procedure for updating mandatory standards to incorporate by reference, in whole or in part, a voluntary standard for a durable infant or toddler product. 15 U.S.C. § 2056a(b)(4)(B). This procedure applies to the Safety Standard for Infant Bath Seats, at 16 C.F.R. part 1215, which incorporates by reference ASTM F1967-19, *Standard Consumer Safety Specification for Infant Bath Seats*.

On July 8, 2024, ASTM notified the Commission that it had approved and published ASTM F1967-24 as a revised version of this voluntary standard. Under CPSIA section 104(b)(4)(B), revised voluntary standards that the Commission has incorporated by reference into a mandatory standard automatically are considered consumer product safety standards, unless the Commission determines and notifies the voluntary standards organization that the revised voluntary standard "does not improve the safety of the consumer product." 15 U.S.C. § 2056a(b)(4)(B).

As indicated in the attached draft final rule, staff recommends that the Commission allow the revised ASTM standard to become the updated mandatory standard for infant bath seats. Staff recommends that the Commission publish the attached draft direct final rule that revises the reference in CPSC's safety standard to refer to ASTM F1967-24.

Please indicate your vote on the following options:

- I. Accept ASTM F1967-24 as the new mandatory standard for infant bath seats and approve publication of the attached notice in the *Federal Register*, as drafted.

(Signature)

(Date)

U.S. Consumer Product
Safety Commission
4330 East-West Highway
Bethesda, MD 20814

National Product Testing
and Evaluation Center
5 Research Place
Rockville, MD 20850

- II. Accept ASTM F1967-24 as the new mandatory standard for infant bath seats and approve publication of the attached notice in the *Federal Register*, with specified changes.

(Signature)

(Date)

- III. Determine that ASTM F1967-24 does not improve the safety of infant bath seats and direct staff to notify ASTM accordingly.

(Signature)

(Date)

- IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice: Direct Final Rule; Revision to Safety Standard for Infant Bath Seats

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1215

[Docket No. CPSC-2009–0064]

Safety Standard for Infant Bath Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In September 2019, the U.S. Consumer Product Safety Commission (CPSC) published an update to the consumer product safety standard for infant bath seats under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference ASTM F1967–19, *Standard Consumer Safety Specification for Infant Bath Seats*, the voluntary standard for infant bath seats that was in effect at the time. ASTM has now issued a revised standard, ASTM F1967–24. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. Consistent with the CPSIA update process, this direct final rule updates the mandatory standard to incorporate by reference ASTM’s 2024 version of the voluntary standard.

DATES: The rule is effective on January 4, 2025, unless the Commission receives a significant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the Commission receives such a comment, it will publish a document in the *Federal Register*, withdrawing this direct final rule before its effective date.

The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 4, 2025.

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2009-0064, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2009-0064, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Will Cusey, Small Business Ombudsman, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7945 or (888) 531-9070; email: sbo@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be “substantially the same as” the voluntary standard, or it may be “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission’s rules when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2058), effective 180 days after the Commission received notification of the

revision or on a later date specified by the Commission in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for Infant Bath Seats

Under section 104(b)(1) of the CPSIA, the Commission published a mandatory standard for infant bath seats, codified in 16 CFR part 1215, “Safety Standard for Infant Bath Seats.” The rule incorporated by reference the then-current voluntary standard, ASTM F1967–08a, *Standard Consumer Safety Specification for Infant Bath Seats*, with modifications to make the standard more stringent. 75 FR 31691 (June 4, 2010). ASTM F1967 applies to infant bath seats, which it describes as products used in a bath tub, sink, or similar bathing enclosure and that provide support, at a minimum, to the front and back of a seated infant during bathing by a caregiver. The mandatory standard includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children.

The voluntary standard has been revised five times since 2010, and the Commission updated part 1215 upon each notice of revision from ASTM: 2012 (77 FR 45242 (July 31, 2012)), 2013 (78 FR 73692 (Dec. 9, 2013)), and 2019 (84 FR 49435 (Sep. 20, 2019)).¹ ASTM F1967–19 is the current mandatory standard incorporated by reference in part 1215.

Most recently, in July 2024, ASTM published another revision to the voluntary standard for infant bath seats, approving ASTM F1967–24. On July 8, 2024, ASTM notified CPSC of the revision. On July 18, 2024, the Commission published a notice of availability of the revised voluntary standard in the *Federal Register* and sought comments on the effect of the revisions. 89 FR 58303. CPSC did not receive any comments.

¹ In 2018 and 2019, ASTM approved two more revisions: ASTM F1967–18 and ASTM F1967–19. ASTM did not notify CPSC of the publication of the 2018 version of the voluntary standard. However, in June 2019 ASTM notified the Commission of the 2019 revision to the voluntary standard for infant bath seats, which included the changes in the 2018 version of the standard.

As discussed below, based on staff's review of ASTM F1967–24, the Commission will allow the revised voluntary standard to become the mandatory standard for infant bath seats because the revised requirements in the voluntary standard improve the safety of infant bath seats overall, and none of the revised requirements reduce safety.² Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F1967–24 will become the mandatory consumer product safety standard for infant bath seats on January 4, 2025. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates part 1215 to incorporate by reference the revised voluntary standard, ASTM F1967–24.

II. Revisions to ASTM F1967

ASTM F1967–24 includes a few substantive additions and revisions, as well as clarifications and editorial revisions.

A. Substantive and Clarifying Revisions

ASTM F1967–24 contains substantive changes to testing requirements in section 7.4.1.2 that clarify the test surface used in the stability test procedure. The revisions clarify that bath seats intended to contact the bottom surface of the bath tub must be tested on both Test Surface #1 and Test Surface #2. As defined in the voluntary standard, Test Surface #1 is any area on the bottom surface of the bath tub where safety tread strips³ are applied; and Test Surface #2 is any area on the bottom surface of the bath tub where safety tread slips are not applied. In general, Test Surface #1 is considered the most onerous testing surface for products utilizing suction cups

² The Commission voted **TBD-TBD** to approve this notice.

³ According to ASTM F1967–24, Safety Tread Strips are defined as commercially available adhesive backed safety tread strips for bath tub use that are rectangular, approximately 0.75 in. wide by 7 in. or greater in length. The corners may be filleted with a radius that does not exceed ½ the width. Safety tread strips are to be applied by the person or the lab that is performing the stability test for infant bath seats.

on the bottom surface for stability because safety tread strips make it more difficult for suction cups to adhere to the surface.

ASTM F1967–19 states that the stability test must be conducted using all relevant surfaces and is not clear that all bath seats that come into contact with the bottom surface of the bath tub must be tested on both Test Surface #1 and Test Surface #2. The language in ASTM F1967–19 implies that the choice of testing surface(s) may be at the discretion of the manufacturer. For example, if the manufacturer’s use instructions for a bath seat state “only for use on smooth surfaces,” application of ASTM F1967–19 could be interpreted so that the bath seat should only be evaluated on Testing Surface #2. Allowing manufacturers to decide which testing surface(s) the product should be evaluated on may lead to some bath seats only being tested on the one surface on which they perform best, while ignoring how the product performs on a more onerous testing surface. Accordingly, requiring all bath seats that come into contact with the bottom surface of the bath tub to use both test surfaces will promote consistency across different test labs and improve the safety of infant bath seats.

In addition, ASTM F1967–24 contains substantive changes to testing requirements in section 7.4.1.1 that relate to specifications for the test platform (*i.e.*, the bath tub on which the infant bath seat is placed for the stability test). ASTM F1967–24 now requires the test platform to be “alcove-style” and no longer requires all surfaces of the tub to be “smooth” or that the side ledge of the tub must have any certain uniform thickness. As indicated above, a smooth surface generally provides the most favorable testing surface for products utilizing suction cups on the bottom surface for stability because rough surfaces make it more difficult for suction cups to adhere to the surface. Because section 7.4.1.2 in ASTM F1967–24 clarifies that testing is necessary on both Test Surface #1 and Test Surface #2, removing “smooth”

from the bath tub description should not impact test results. Also, ASTM F1967–24 updates and removes certain dimension requirements of the test platform in Figure 3 and removes Figures 4 and 5, which had illustrated the side sectional views of the test platform.

ASTM made these revisions because of the current unavailability of the bath tub described and specified in ASTM F1967–19. Staff’s market research identified the most common style of bath tub as an “Alcove” tub, meaning a rectangular tub that is intended to be surrounded by tile or similar waterproof material walls, and a textured or grit floor surface. Bath tubs currently available on the market typically have a textured or grit floor surface to provide slip resistance to the floor; ASTM members and staff report that it is challenging to find a bath tub with a smooth surface. In addition, the most common size of bath tubs available is 60 inches long by 30 inches wide. A similar overall exterior length and width could be discerned from Figure 3 in ASTM F1967–19. However, the bath tub make, and model shown in Figure 3, including the side dimensions in Figures 4 and 5 of ASTM F1967–19, is no longer available, and many of the dimensions are not relevant to testing bath seats available on the market. The revised Figure 3 dimensions in ASTM F1967–24, making clear the overall 60 x 30-inch exterior length and width, reflect current market availability and remove unnecessary dimensions from the test platform. The removal of Figures 4 and 5 in ASTM F1967–24 that display bath tub thickness dimensions is consistent with these revisions to Figure 3 and description of the test platform. However, these changes are neutral to safety because they do not impact the outcome of performance testing.

The proposed dimension and description changes will still allow labs to use the bath tub described by ASTM F1967–19 for infant bath seat evaluations and will not cause any procedural or equipment changes. These changes are being implemented because the bath tub

described by the standard in ASTM F1967–19 no longer exists on the market, which would prevent future labs from meeting the equipment requirements to become International Organization for Standardization (ISO) accredited and CPSC-accepted to perform infant bath seat testing in accordance with part 1215. Because the changes to the test platform will not impact the testing procedure of currently approved labs and will not affect test results for bath seats currently available on the market, CPSC considers these changes to be neutral to safety.

B. Non-Substantive Revisions

ASTM F1967–24 also includes several minor additions and revisions that are editorial and do not alter any substantive requirements in the standard. The revised standard updates certain contact information as well as section and figure numbers to reflect revised sections and figures. ASTM also updated the Rationale section of the standard to provide explanatory information about the 2024 standard revisions. Because these revisions do not change any substantive testing or labeling requirements, they are neutral regarding the safety of infant bath seats.

III. Incorporation by Reference

Section 1215.2 of the direct final rule incorporates by reference ASTM F1967–24. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section II of this preamble summarizes the revisions to ASTM F1967–24 that the Commission incorporates by reference into 16 CFR part

1215. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F1967–24 is available for viewing on ASTM’s website at: <https://www.astm.org/CPSC.htm>. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Additionally, interested parties can purchase a copy of ASTM F1967–24 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; phone: (610) 832-9500; www.astm.org. Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC’s Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504-7479; email: cpsc-os@cpsc.gov.

IV. Certification

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children’s products, on tests of a sufficient number of samples by a CPSC-accepted third party conformity assessment body accredited to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because infant bath seats are children’s products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1215

also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA;⁴ the phthalates prohibitions in section 108 of the CPSIA⁵ and 16 CFR part 1307; the tracking label requirements in section 14(a)(5) of the CPSA;⁶ and the consumer registration form requirements in 16 CFR part 1130. ASTM F1967–24 makes no changes that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing infant bath seats. 75 FR 31688 (June 4, 2010). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing infant bath seats to 16 CFR part 1215. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified in 16 CFR part 1112. The NOR for accreditation of third party labs for testing infant bath seats is codified at 16 CFR 1112.15(b)(2).

As previously mentioned in this preamble to the direct final rule, the changes to the test platform will not change the way that third party labs test infant bath seats for compliance with the safety standard for infant bath seats. The dimension and description changes to the test platform will still allow labs to use the bath tub described by ASTM F1967–19 for infant bath seat evaluations and will not cause any procedural or equipment changes. Testing laboratories that have demonstrated competence for testing in accordance with ASTM F1967–19 will have

⁴ 15 U.S.C. 1278a.

⁵ 15 U.S.C. 2057c.

⁶ 15 U.S.C. 2063(a)(5).

the competence to test in accordance with the revised standard ASTM F1967–24. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F1967–19 to be capable of testing to ASTM F1967–24 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories’ accreditation to reflect the revised standard in the normal course of renewing their accreditation.

VI. Direct Final Rule Process

On July 18, 2024, the Commission provided notice in the *Federal Register* of the 2024 revision to ASTM F1967 and requested comment on whether the revision improves the safety of infant bath seats covered by the standard. 89 FR 58303. CPSC did not receive any comments. Now, the Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F1967–24 would take effect as the new CPSC standard for infant bath seats in the absence of any action by the Commission. Thus, public comments would not lead to substantive changes to the standard

or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments. CPSC did not receive any adverse comments about the requirements in this update in response to the Notice of Availability published on July 18, 2024.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on January 4, 2025. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion that undermines “the rule’s underlying premise or approach,” or a showing that the rule “would be ineffective or unacceptable without change.” 60 FR 43108, 43111. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section VI of this preamble, the Commission has determined that further notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VIII. Paperwork Reduction Act

The current mandatory standard includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501-3521). The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1215, and the marking, labeling, and instructional literature for infant bath seats are currently approved under OMB Control Number 3041-0159. The revision does not affect the information collection requirements or approval related to the standard.

IX. Environmental Considerations

The Commission’s regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c). This rule falls

within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for infant bath seats. Therefore, ASTM F1967–24 automatically will take effect as the new mandatory standard for infant bath seats on January 4, 2025, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notice, the rule will become effective on January 4, 2025.

XII. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, OIRA has determined that this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects

16 CFR Part 1215

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1215 – SAFETY STANDARD FOR INFANT BATH SEATS

1. The authority citation for part 1215 is revised to read as follows:

Authority: 15 U.S.C. 2056a.

2. Revise § 1215.2 to read as follows:

§ 1215.2 Requirements for infant bath seats.

Each infant bath seat shall comply with all applicable provisions of ASTM F1967–24, Standard Consumer Safety Specification for Infant Bath Seats, approved June 1, 2024. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at <https://www.astm.org/READINGLIBRARY/>. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; www.astm.org. You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Alberta E. Mills,
Secretary,
Consumer Product Safety Commission.



United States
Consumer Product Safety Commission

Memorandum

TO: The Commission
Alberta E. Mills, Secretary

DATE: September 10, 2024

THROUGH: Jessica L. Rich, General Counsel
Austin C. Schlick, Executive Director
DeWane Ray, Deputy Executive Director, Safety Operations

FROM: Duane E. Boniface, Assistant Executive Director,
Office of Hazard Identification and Reduction

Julia Kerns, Project Manager,
Division of Human Factors, Directorate for Engineering
Sciences

Zachary Goldstein, Mechanical Engineer,
Division of Mechanical Engineering, Directorate for Laboratory
Sciences

Jennifer Hum Compliance Officer,
Division of Regulatory Enforcement, Office of Compliance and
Field Operations

SUBJECT: Staff's Draft Proposed Rule to Revise the Safety Standard for
Infant Bath Seats

The Commission's mandatory standard for infant bath seats is codified in 16 C.F.R. part 1215, "Safety Standard for Infant Bath Seats." The rule currently incorporates by reference ASTM F1967 – 19 *Standard Consumer Safety Specification for Infant Bath Seats*. ASTM approved a revision to the voluntary standard, ASTM F1967 – 24, on June 1, 2024. On July 8, 2024, ASTM notified CPSC of the revision. On July 18, 2024, the Commission provided notice in the *Federal Register* of the availability of the revised standard and sought comments on the effect of the revisions on the safety standard for infant bath seats. 89 Fed. Reg. 58,303. CPSC did not receive any comments.

Staff has reviewed each of the changes to the standard, and as discussed in Section II of the draft Direct Final Rule, assesses that the substantive revisions in F1967 – 24 either improve safety or are neutral for safety compared to the provisions in F1967 – 19 as codified in 16 C.F.R. part 1215, and the non-substantive revisions do not impact the safety

**U.S. Consumer Product
Safety Commission**

4330 East-West Highway
Bethesda, MD 20814

**National Product Testing
& Evaluation Center**

5 Research Place
Rockville, MD 20850

This memorandum was prepared by the CPSC staff. It has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

THIS DOCUMENT HAS NOT BEEN REVIEWED OR
ACCEPTED BY THE COMMISSION

CLEARED FOR RELEASE UNDER CPSC 6(b)(1)

of bath seats. Accordingly, the 2024 revisions improve safety overall, and do not reduce safety in any respect.

As noted, Section II of the preamble of the accompanying draft Direct Final Rule describes in detail the revisions made by F1967 – 24. The substantive revision that improves safety is section 7.4.1.2 *Test Surface Usage*. This section adds new language to require usage of multiple testing surfaces, stating: “Products intended to contact the bottom surface of the adult bath tub shall be tested on both Test Surface #1 and Test Surface #2.” As described in the standard, Test Surface #1 has safety tread strips and Test Surface #2 does not have safety tread strips. In general, the test for adhesion of bath seats is more difficult to meet on the surface simulating a non-treaded bath tub. The 2024 version of the standard makes clear that testing must be done on both surfaces, eliminating ambiguity in the 2019 version. By ensuring that both surfaces are used in testing, this results in a more rigorous test.

Other provisions of the 2024 revision are neutral in their effect on safety. These neutral provisions are made in Section 7.4.1.1 of the revised standard, which removes obsolete language. Specifically, the bath tub test platform identified in ASTM F1967 – 19 is no longer available on the market, thus prohibiting future labs from meeting the equipment requirements to become ISO-accredited and CPSC-accepted to perform infant bath seat testing. The changes to the test platform specifications will allow similarly styled bath tubs to be used for testing. This will not impact testing procedure of currently approved labs and will not affect test results for bath seats currently available on the market. Additionally, the dimensions of the test platform specified in ASTM 1967 – 19 are not relevant to testing bath seats available on the market, so the use of different bath tubs for testing should be immaterial.

In addition, there are minor, non-substantive changes in the 2024 revision, as described in the accompanying draft Federal Register Notice.

Staff therefore concludes that the revisions in ASTM F1967-24 improve the safety of infant bath seats overall. Staff recommends that the Commission allow ASTM F1967-24 to become the mandatory consumer product safety standard for infant bath seats. Staff also recommends that the Commission issue the draft Direct Final Rule to revise the incorporation by reference in 16 CFR part 1215 to reflect the updated standard. Under section 104(b)(4)(B) of the CPSIA, unless the Commission notifies an organization that it has determined that a revised standard does not improve the safety of a consumer product covered by the standard, and that the Commission is retaining the existing standard, the revised voluntary standard will become the mandatory standard, effective 180 days after the date on which an organization notifies the Commission of the revision. Staff recommends allowing ASTM F1967-24 to become the new mandatory standard for infant bath seats effective January 4, 2025.