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Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: June 22, 2022

THROUGH: Austin C. Schlick, General Counsel
Mary T. Boyle, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs
David M. DiMatteo, Attorney, Regulatory Affairs

SUBJECT: Notice of Availability and Request for Comment:
Revision to the Voluntary Standard for Infant Bouncer Seats

TIME CRITICAL BALLOT VOTE DUE: Friday, June 24, 2022

Attached is a draft *Federal Register* notice announcing that, on June 21, 2022, the Commission received notification that ASTM F2167-19, *Standard Consumer Safety Specification for Infant Bouncer Seats*, has been revised. The Commission has incorporated by reference ASTM F2167-19 into its mandatory rule on the Safety Standard for Infant Bouncer Seats, 16 CFR part 1229.

Pursuant to section 104(b)(4)(B) of the Consumer Product Safety Improvement Act (CPSIA), if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act, effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. 15 U.S.C. § 2056a(b)(4)(B). Consistent with section 104(b)(4)(B), CPSC staff is assessing the revised voluntary standard for infant bouncer seats to determine its effect on safety.

In the draft notice, CPSC seeks comment on whether the revision improves the safety of the consumer products covered by the standard. To provide sufficient time for CPSC staff to consider any comments received and subsequent Commission consideration within the 90-day statutory time frame, the draft notice provides a relatively brief 14-day public comment period.



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Likewise, to expedite publication of the draft notice in the *Federal Register*, the General Counsel has designated this matter as time critical pursuant to section V of the Commission's Decision Making Procedures.

Please indicate your vote on the following options:

- I. Approve publication of the attached document in the *Federal Register*, as drafted.

(Signature)

(Date)

- II. Approve publication of the attached document in the *Federal Register*, with the specified changes.

(Signature)

(Date)

- III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)

- IV. Take other action specified below.



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(Signature)

(Date)

Attachment: Draft *Federal Register* Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Infant Bouncer Seats

CONSUMER PRODUCT SAFETY COMMISSION

Docket No. CPSC-2015-0028

Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Infant Bouncers Seats

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission’s (Commission or CPSC) mandatory rule, Safety Standard for Infant Bouncer Seats, incorporates by reference ASTM F2167-19, Standard Consumer Safety Specification for Infant Bouncer Seats. The Commission has received notice of a revision to this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of the consumer products covered by the standard.

DATES: Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by Docket No. CPSC-2015-0028, 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 electronic mail (e-mail), 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: Division of the Secretariat, Consumer Product Safety

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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, courier, or you may e-mail 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-2015-0028, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Suad C. Wanna-Nakamura, Project Manager, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2550; email: snakamura@cpsc.gov.

SUPPLEMENTARY INFORMATION:

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” voluntary standards, or may be “more stringent” than voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the

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products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Pursuant to section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission in the *Federal Register*) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard, and therefore, the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, the Commission issued a mandatory safety rule for infant bouncer seats in 2017. The rulemaking created 16 CFR part 1229, which incorporated by reference ASTM F2167-17, Standard Consumer Safety Specification for Infant Bouncer Seats. 82 FR 43470 (Sep. 18, 2017). The mandatory standard included performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children associated with infant bouncer seats. Since promulgation of the final rule, ASTM revised the voluntary standard in May 2019. In September 2019, the Commission revised the mandatory standard to incorporate by reference ASTM F2167-19. 84 FR 46878 (Sep. 6, 2019).

In May 2022, ASTM published a revised version of the incorporated voluntary standard. On June 21, 2022, ASTM notified the Commission that it had approved the revised version of the voluntary standard. CPSC staff is assessing the revised voluntary standard to determine,

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consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of the consumer product covered by the standard. The Commission invites public comment on that question to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F2167-22.¹

The existing voluntary standard and the revised voluntary standard are available for review in several ways. ASTM has provided on its website (<https://www.astm.org/CPSC.htm>), at no cost, a read-only copy of ASTM F2167-22 and a red-lined version that identifies the changes made to ASTM F-2167-19. Likewise, a read-only copy of the existing, incorporated standard is available for viewing, at no cost, on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: 610-832-9585; <https://www.astm.org>. Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email: cpsc-os@cpsc.gov.

Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Because of the short statutory time frame Congress established for the Commission to consider revised voluntary standards under section 104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Dated:

Alberta E. Mills, Secretary
Consumer Product Safety Commission

¹ The Commission voted TBD-TBD to approve this notice.