



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary **DATE:** July 26, 2023

THROUGH: Austin C. Schlick, General Counsel
Jason K. Levine, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs
Mary A. House, Attorney, Regulatory Affairs

SUBJECT: Paperwork Reduction Act Notice: Agency Information Collection Activities; Proposed Collection; Comment Request; Investigation of Smart Toys and Additional Toys Through Child Observations

BALLOT VOTE DUE: Tuesday, August 1, 2023

Consistent with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of the General Counsel is providing for the Commission’s consideration the attached draft *Federal Register* notice requesting public comment on a new proposed collection of information. The proposed collection is associated with the Division of Human Factors’ investigation, through child observations and caregiver questionnaires, of smart toys and additional toys (take-apart vehicles, musical instruments, figurines, plush toys with electronic components, and manipulatives) to consider children’s ability to interact with toys as the manufacturer intended. This investigation will assist staff to update CPSC Staff’s (2020) Age Determination Guidelines. If the draft *Federal Register* notice is approved and published, CPSC staff will consider the responsive comments received before requesting a control number for this collection of information from the Office of Management and Budget (OMB).

Please indicate your vote on the following options:

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

(Signature)

(Date)

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

(Signature)

(Date)

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

(Signature)

(Date)

IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice: Agency Information Collection Activities; Proposed Collection; Comment Request; Investigation of Smart Toys and Additional Toys Through Child Observations

CONSUMER PRODUCT SAFETY COMMISSION

CPSC Docket No. 2023-XXXX

Agency Information Collection Activities; Proposed Collection; Comment Request;

Investigation of Smart Toys and Additional Toys Through Child Observations

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (PRA), the Consumer Product Safety Commission (CPSC or Commission) invites public comment about a request for approval from the Office of Management and Budget (OMB) for a new information collection. The proposed collection is associated with CPSC’s investigation, through child observations and caregiver questionnaires, of smart toys and additional toys (take-apart vehicles, musical instruments, figurines, plush toys with electronic components, and manipulatives) to consider children’s ability to interact with toys as the manufacturer intended and assist in updating CPSC’s age determination guidelines. Before CPSC can collect this information from the public, we must solicit public comment on this proposed collection of information and receive OMB approval. This notice describes the collection of information for which CPSC intends to seek OMB approval.

DATES: Submit written or electronic comments on the collection of information by **[insert date 60 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2023-XXXX, by any of the following methods:

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Electronic Submissions: CPSC encourages you to 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.

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 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>; insert the docket number, CPSC-2023-XXXX, into the “Search” box; and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301)504-7791, or by email to: CGillham@cpsc.gov.

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SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the *Federal Register* providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning the proposed collection of information. In this notice we provide the estimated burden associated with a new information collection for CPSC’s investigation, through child observations and caregiver questionnaires, of smart toys and additional toys to consider children’s ability to interact with toys as the manufacturer intended, to inform CPSC’s age determination guidelines.

Under the PRA, an agency must publish the following information:

- A title for the collection of information;
- A summary of the collection of information;
- A brief description of the need for the information and the proposed use of the information;
- A description of the likely respondents and proposed frequency of response to the collection of information;
- An estimate of the burden that will result from the collection of information; and
- Notice that comments may be submitted to the agency and OMB.

44 U.S.C. 3507(a)(1)(D). In accordance with this requirement, the Commission provides the following information:

Title: Investigation of Smart Toys and Additional Toys Through Child Observations

OMB Control Number: New.

Type of Request: New information collection requirement.

Type of Review Requested: Regular

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Requested Expiration Date of Approval: 1 year from date of approval.

Summary of the Collection of Information: CPSC proposes to conduct individual in-person data collection sessions with up to 60 children aged 2-4 years old and their caregivers, for a total of 120 participants. Caregivers will answer a series of screening questions to determine if the caregiver and child meet the criteria for enrollment in the study. CPSC will enroll in the data collection study children and caregivers who meet the screening criteria and are willing to participate.

Over two in-person sessions, researchers will collect data primarily through direct human observations of children's interactions with toys and caregivers' responses to questionnaires. In each session, researchers will introduce children to 4-5 toys chosen from 6 toy categories (smart toys, take-apart vehicles, musical instruments, figurines, plush toys with electronic components, and manipulatives). The researcher will demonstrate for the child how to use each toy and then document the child's play patterns with the toy, noting the child's ability to interact with each toy as the manufacturer intended. Researchers will use coding checklists to document real-time observations of the child's interactions with the toys, in the form of concrete behaviors across different modalities, such as gross motor (*e.g.*, turns figurines head), fine motor (*e.g.*, slides switch on/off), and behavioral (*e.g.*, feeding an animal, engages in pretend play with one or multiple figurines), which demonstrate the child's ability to use the toy as intended.

Caregivers will respond to researcher questions about the caregiver's perception of their child's ability to interact with the selected toys as intended, potential purchasing decisions for the specific toys, and whether the caregiver would demonstrate how to play with the toys or some of the components as the manufacturer intends. Researchers will record on paper forms their observations of children's interactions and caregiver's responses to questions about the toys.

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Researchers will randomize the presentation order of the toys for each caregiver/child pair to preclude any effects of sequence and control for learning or fatigue that might take place. Also, researchers will use video cameras to record each child's interaction with a toy. Researchers will use the video as a backup reference for real time coding.

Researchers will separate out all personally identifiable information from data collected. Also, researchers will separate out from collected information all identifying information from the initial screening, as well as scheduling. This information will be kept on a secure server in password protected files and discarded by researchers when no longer needed. At the end of each session, researchers will save the video data onto a secure server. Researchers will enter data recorded on the paper forms into a secure database, which also will be kept on a secure server. Researchers will limit access to this information and will summarize all information collected during the sessions using generic categories and summary statistics.

Description of the Need for the Information and Proposed Use of the Information:

Created in 1972, the CPSC is an independent federal regulatory agency with a public health and safety mission to protect the public from unreasonable risks of injury and death from consumer products used in and around the home, in recreation, and in schools. As part of this statutory mandate, CPSC is authorized to conduct research on consumer products and behavior to identify and address product safety hazards, as well as to develop efficient and effective means of bringing about safety improvements. This information collection supports the Commission's strategic goal of safety.

Age-appropriate toys are important for the physical, intellectual, and socioemotional development of children. Age-appropriate toys can help children learn, develop imaginative capacities, and refine motor coordination. However, interacting with toys intended for older

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children poses a potential risk for the child to be seriously or fatally injured. In 2021, an estimated 206,400 toy-related injuries were treated in U.S. hospital emergency rooms.¹ Of the 206,400 toy-related injuries, an estimated 74% happened to children 14 years of age or younger; 69% occurred to children 12 years of age or younger; and 37% happened to children 4 years of age or younger.

To identify a toy's safety hazards, the CPSC Division of Human Factors first determines the intended age group of potential users. CPSC considers age determinations for toys to be of paramount importance because age-grading and labeling can be used to assist consumers in making purchasing decisions, and also serve as the basis for the toy's regulatory requirements and the associated testing parameters. For example, toys intended for children under 8 years of age are required to undergo use and abuse tests based on actual use and misuse by children of that age. Test specifications vary for different age groups (*i.e.*, children 18 months and younger, 19-36 months, and 37-95 months). Toys intended for children younger than 3 years old cannot possess small parts. Additionally, since 2008, CPSC regulations require lead and phthalates limitations for many products intended for children 12 years of age.

CPSC staff consider numerous toy characteristics when determining the intended age, including the physical characteristics of the toy (*e.g.*, size and weight of the toy and its components), the cognitive requirements for using the toy as intended, the fine motor or other physical skills required to use the toy as the manufacturer intended, and the toy's theme and appearance. CPSC's *Age Determination Guidelines: Relating Consumer Product Characteristics to the Skills, Play Behaviors, and Interests of Children (Guidelines)*, available at

¹ Consumer Product Safety Commission: Toy-Related Deaths and Injuries, Calendar Year 2021. November, 2022: Toy-Related Deaths and Injuries, Calendar Year 2021; available at: <https://www.cpsc.gov/Research--Statistics/Toys-and-Childrens-Products>.

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<https://www.cpsc.gov/content/2020-Age-Determination-Guidelines>, provide details and examples for each of these characteristics for different age groups. Manufacturers can use the *Guidelines* to generate an intended age during a toy’s design phase. Manufacturers can also use the *Guidelines* to accurately age label a product, which promotes safety by informing consumer purchasing and toy-safety decisions (meaning which toys are appropriate to allow a child to play with).

Although the *Guidelines* include extensive information about a large variety of toys, some toy categories are not well covered in the *Guidelines* because they include toys that are new to the U.S. market since the research that went into the 2020 version of the *Guidelines*. Conversely, while smart toys are discussed in the *Guidelines*, this category of toys evolves rapidly, so the *Guidelines* may not represent what is currently in the market. Other toys such as figurines, interlocking building sets, and musical toys are discussed in the *Guidelines*, though not extensively. This data collection will add to the information about selected toys in six toy categories (smart toys, take-apart vehicles, musical instruments, figurines, plush toys with electronic components, and manipulatives), and enrich CPSC’s understanding regarding the ages of children who are interested in these toys and who possess the skills and cognitive ability to use them as intended. This data collection will provide information to help CPSC determine the developmentally appropriate ages for selected toys. Ultimately, the data collection will inform the various stakeholders who use the information contained in the *Guidelines*.

Affected Public: Children between 2-4 years and their caregivers.

Estimated Number of Respondents: 60 children and 60 caregivers, totaling 120 individuals.

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Frequency: One-time data collection that will take place over two in-person sessions. The first session will last 80 minutes, and the second session will last 80 minutes.

Estimated Total Annual Burden Hours: CPSC plans to pilot test the study with 4 participants (2 caregivers and 2 children) with a maximum time burden of 2.67 hours per person (10.68 hours). CPSC also assumes a 15-minute completion time for the recruitment screener questionnaire to be filled out by a maximum of 100 people, to select 60 adult participants (25 hours).

Once selected for the study, CPSC estimates that the total time for each respondent pair (caregiver/child) to participate in the data collection will likely not be more than 160 minutes. Therefore, each participant has a maximum time burden of 2.67 hours. Data collection duration for each respondent will be 2.67 hours, or a total of 160 hours for 60 respondent pairs. Each respondent pair will not incur any reporting costs from the information collection. The pair also will not incur a record keeping burden or record keeping costs from this information collection. We will assume an hourly wage rate of \$31.54 for each respondent pair (caregiver and child).²

Accordingly, the total burden hours to recruit participants and for selected respondents to participate is 356 hours (recruitment screening time (25 hours), pilot study (10.68 hours), and the main study (2.67 hours x 120 participants)).

The total cost of this collection to the federal government is \$93,345 annually. This represents 6 months of staff time. This amount includes federal employee salaries and benefits. No travel costs are associated with the collection. This estimate uses an annual salary of \$126,949 (the equivalent of a GS-13, Step 5 employee, in the Washington D.C. area in 2023)³ which represents 68.0 percent of the employer costs for employee compensation. The remaining

² https://www.bls.gov/oes/current/oes_va.htm#00-0000.

³ <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB.pdf>.

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32.0 percent of employer costs are added for benefits (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2023, percentage of wages and salaries for all civilian management, professional, and related employees),⁴ for a total annual compensation per FTE of \$186,690.

Estimated Total Annual Burden Cost: \$104,573.24 (Respondents: \$11,228.24 (31.54/hr. x 356 hours) + Federal Government: \$93,345).

Comments: CPSC requests that interested parties submit comments regarding this proposed information collection (see the **ADDRESSES** section at the beginning of this notice).

Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission specifically invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of CPSC’s functions, including whether the information will have practical utility;
- The accuracy of CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information the Commission proposes to collect;
- Ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques when appropriate, and other forms of information technology;
- The estimated burden hours associated with child toy observations and caregiver surveys, including any alternative estimates; and
- The estimated respondent cost other than burden hour cost.

Alberta E. Mills, Secretary
Consumer Product Safety Commission

⁴ https://www.bls.gov/news.release/archives/ecec_06162023.pdf.