



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
 4330 EAST WEST HIGHWAY
 BETHESDA, MD 20814

BP - Bed Rails - NPR
 The contents of this document will be
 discussed at the Open Commission
 Meeting on March 23, 2011

This document has been electronically approved & signed.

THIS MATTER IS NOT SCHEDULED FOR A BALLOT VOTE.

A DECISIONAL MEETING FOR THIS MATTER IS SCHEDULED ON: APRIL 6, 2011

TO: The Commission March 16, 2011
 Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel
 Kenneth R. Hinson, Executive Director

FROM: Philip L. Chao, Assistant General Counsel
 Hyun S. Kim, Attorney, OGC

SUBJECT: Portable Bed Rails: Withdrawal of Advance Notice of Proposed Rulemaking

The Office of the General Counsel is providing for Commission consideration the attached draft *Federal Register* notice withdrawing an advance notice of proposed rulemaking that initiated a rulemaking for portable bed rails under the Federal Hazardous Substances Act. The Commission will vote separately on a notice of proposed rulemaking on a safety standard for portable bed rails under section 104(b) of the Consumer Product Safety Improvement Act of 2008.

Please indicate your vote on the following options.

I. Approve publication of the draft notice in the *Federal Register* without change.

 (Signature)

 (Date)

II. Approve publication of the draft notice in the *Federal Register* with changes.
 (Please specify.)

 (Signature)

 (Date)

CPSA Hotline: 1-800-638-CPSC(2772) H CPSA's Web Site: <http://www.cpsc.gov>

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

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment:

Draft *Federal Register* Notice—Portable Bed Rails: Withdrawal of Advance Notice of Proposed Rulemaking

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Portable Bed Rails: Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (“Commission,” “CPSC,” or “we”) is terminating a proceeding initiated for portable bed rails under the Federal Hazardous Substances Act (“FHSA”), which the Commission began with publication of an advance notice of proposed rulemaking (“ANPR”) on October 3, 2000, 65 FR 58968. On August 14, 2008, the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) was enacted. Section 104(b) of the CPSIA requires the Commission to promulgate consumer product safety standards for durable infant or toddler products, which are to be “substantially the same as” applicable voluntary standards (or more stringent requirements if they would further reduce the risk of injury associated with the product). Elsewhere in this issue of the Federal Register, we are proposing a safety standard for portable bed rails in response to section 104(b) of the CPSIA. The proposed portable bed rail standard includes provisions that address the risks of injury identified in the ANPR.

FOR FURTHER INFORMATION CONTACT: Rohit Khanna, Project Manager,
Office of Hazard Identification and Reduction, U.S. Consumer Product Safety

Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7546; rkhanna@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

In the Federal Register of October 3, 2000 (65 FR 58968), we published an advance notice of proposed rulemaking (“ANPR”), which initiated a rulemaking proceeding that could result in a rule banning portable bed rails that present an unreasonable risk of injury under the FHSA. After publication of the ANPR, we worked with the voluntary standards group, ASTM International (formerly known as the American Society for Testing and Materials), which added provisions in its standard for portable bed rails, ASTM F 2085, *Standard Consumer Safety Specification for Portable Bed Rails*, to address entrapment hazards. ASTM subsequently revised its standard to also address the structural integrity of bed rails. The current edition of the standard is ASTM F 2085-10a.

The Consumer Product Safety Improvement Act of 2008 (“CPSIA”, Pub. Law 110-314) was enacted on August 14, 2008. Section 104(b) of the CPSIA requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Elsewhere in this issue of the Federal Register, we are publishing a proposed rule that would establish safety standards for portable bed rails that would incorporate by reference voluntary standard ASTM F 2085-10a, *Standard*

Consumer Safety Specification for Portable Bed Rails, with certain modifications to strengthen the standard, making it more stringent and reducing the risk of injury associated with these products, including provisions that address foam and inflatable bed rail products, and new performance requirements to reduce the likelihood of misassembly and misinstallation of portable bed rails by consumers.

B. Withdrawal of the ANPR

The rulemaking that the Commission is now initiating under section 104(b) of the CPSIA proposes to establish new requirements for portable bed rails that will include the ASTM F 2085-10a, *Standard Consumer Safety Specification for Portable Bed Rails*, with modifications. Accordingly, we are withdrawing the October 3, 2000 ANPR and terminating that rulemaking.

Dated: _____

Todd S. Stevenson, Secretary
U.S. Consumer Product Safety Commission