



1301 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20004-1707
(202) 662-0600
(202) 393-2072

www.safekids.org

President

Martin R. Eichelberger, M.D.

Executive Director

Heather Paul, Ph. D.

March 15, 2004

Todd Stevenson
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

RE: Notice of Proposed Rulemaking (NPR) for Bath Seats

Dear Mr. Stevenson:

On behalf of the National SAFE KIDS Campaign, I am writing in regard to the Consumer Product Safety Commission's (CPSC) notice of proposed rulemaking for bath seats, as published in the December 29, 2003 issue of the *Federal Register*. The National SAFE KIDS Campaign is in support of a mandatory safety standard for bath seats, as failure of some mechanical features, such as suction cups and leg openings, may have been contributing factors in some deaths and injuries. SAFE KIDS believes that implementation of a bath seat performance standard will go a long way toward eliminating the risk of injury and death associated with the current form of the product. However, SAFE KIDS hopes that the CPSC will reconsider the following suggested additions/changes to the NPR as previously noted in our comment letter dated August 22, 2003.

Suggested Recommendations to the NPR: Warning Label Improvements

➤ **Label Permanence Requirement**

In the proposed rule, there is no additional requirement for ensuring the permanence of the bath seat's label other than the limited requirements contained in the present ASTM standard. SAFE KIDS had recommended that the CPSC include an effective permanence requirement, building upon the ASTM standard, into the mandatory standard. The ASTM standard calls a label permanent if it can withstand a one-time, 20-minute submersion test in water only. Given the high use and environmental exposures for bath seats, SAFE KIDS believes that the label and its inherent safety information must be permanent to continue its communicative value throughout the useful life of the product. Bath seats are used frequently in an environment of warm water and soaps, and as a result, the label should be able to withstand the high use and bath time elements.

Furthermore, the NPR cited an American Baby Group survey indicating, "46 percent of bath seats or rings owned by new or expectant mothers were obtained after being used for an older child or borrowed." (*Federal Register*, page 74879)

A Member Of



www.safekidsworldwide.org

Founded By



As a large number of bath seats are being used repeatedly by different children over a period of several years, a more stringent permanence requirement would make certain that the valuable nature of the label would remain constant over time. In the NPR, the CPSC supports its decision to not include an additional permanence requirement by noting that it is unaware of any consumer complaints or incidents in this area. SAFE KIDS feels that the mere absence of a documented problem is not sufficient enough reason for the CPSC to omit a stronger label permanence requirement. As the CPSC believes a forceful warning label is critically important to alert parents to the potential dangers associated with bath seats, then ensuring the permanence of that safety label should also be a priority. We believe that the present ASTM test does not meet that goal. A long-lasting label tells the parent that no matter the age of the product or its usage history, he/she will always have access to critical safety information.

➤ **Enhanced Conspicuousness Requirement**

In its current form, the CPSC's bath seat rule (§ 1514.5 Marking and Labeling) states that the wording on the warning label should be "in contrasting color to the background on which they are located." SAFE KIDS still believes that this requirement should be improved to better communicate important safety messages. Based on our history monitoring the marketplace for toys' small parts warning labels, we have seen how warning labels can, in some instances, be communicated ineffectively – but yet are still in compliance with federal regulations. For instance, the regulations require that the small parts warning for toys be in a contrasting color to the background. As a result, SAFE KIDS has seen toy labeling packaging in one shade of blue with the warning label in a lighter shade of blue – contrasting, but not necessarily conspicuous. The CPSC bath seat standard, in its present form, would also allow this same marketplace result. SAFE KIDS believes that the bath seat safety labels should be contrasting and conspicuous by requiring the warnings to be in a completely different color from the packaging or the product itself.

➤ **Requirement of Safety Warning on Accompanying Descriptive Materials**

The CPSC's proposed standard does not require the bath seat safety warning to appear on the product's accompanying descriptive materials. SAFE KIDS had recommended that the warning label be conveyed on the product and packaging, and we are pleased that the CPSC will be incorporating the label on both places – including the front and back of the packaging per our suggestion. However, we would like to reiterate the need for the safety warning to appear on all descriptive materials, such as product instructions. This would give the manufacturer another opportunity to convey important safety instructions required for proper use. SAFE KIDS notes that the toy labeling regulations require safety information on all descriptive materials; this requirement should also apply to bath seats. We believe that the ASTM standard regarding "instructional literature" provides excellent guidance if the CPSC decides to add this into the bath seat rule.

We appreciate the CPSC's efforts to make bath seats safer, and we hope that our suggestions are reconsidered for inclusion into the standard. As always, SAFE KIDS looks forward to working with the Consumer Product Safety Commission on this and other issues in the future.

Sincerely,

A handwritten signature in black ink, consisting of a stylized, overlapping 'A' shape followed by a long horizontal line extending to the right.

Alan Korn, J.D.
Director of Public Policy