

### 1. Adequacy of Bath Seat Designs and the Voluntary Standard

*Comment:* Several comments (CH 01–5–3; 5; 6; 7; 8) stated that no standard can adequately address the risk of death and injury associated with bath seats and that ASTM F 1967–01 does not adequately address these issues. Some commenters (CH 01–5–1; 4; 5; 6) specifically pointed out that the size of the leg openings was hazardous.

*Response:* The Commission believes that the proposed leg opening requirement will address incidents that involve entrapment/submersion, and that the proposed stability requirement can adequately address tip-over incidents.

*Comment:* Comment CH 01–5–9 asserted that certain design safety measures can be added to make bath seats safer, including the addition of user-activated restraints, and that ASTM should include these safety measures in the voluntary standard.

*Response:* The Commission agrees that bath seats can be made safer by implementing design safety measures to address the tip-over hazard and the entrapment and submersion hazard. However, a user-activated restraint system that prevents a child from coming out of a seat could make the bath seat impractical for its intended purpose. In addition, the Commission is concerned that caregivers may not use such restraints. As a result, a performance requirement for a restraint system is not a viable approach at this time. The Commission proposes that the coming out hazard be addressed with a forceful warning label to stress the need for constant caregiver attendance.

### 2. Bath Seat Suction Cups and Performance on Slip-Resistant Surfaces

*Comment:* Several commenters (CH 01–5–3; 3a; 5; 6) were concerned about the compatibility of bath seats with slip-resistant surfaces, and they stated that ASTM F 1967–01 is not compatible with slip-resistant surfaces. Three comments (CH 01–5–1; 2; 6) concentrated on the poor performance of suction cups in terms of ability to adhere to surfaces.

*Response:* Current bath seat designs that rely on suction cups for stability will not reliably adhere to non-smooth surfaces such as textured tub surfaces, non-slip abrasive surfaces, or surfaces on which non-slip adhesive treads have been applied. Bath seats that do not rely on suction cups or any kind of surface adhesion for stability should not encounter the same stability problems identified with current bath seats when used on slip-resistant surfaces. The Commission proposes that stability tests

on bath seats be performed on a slip-resistant surface.

The ASTM bath seat voluntary standard does not require testing bath seats on slip-resistant surfaces if the manufacturer's instructions state that the product should only be used on a smooth surface. The Commission is not aware of any current bath seat where the instructions state the product can be used on slip-resistant surfaces.

*Comment:* Comment CH 01–5–2 stated “if the suction works well enough to keep the seat always upright, it will also work to hold the child underwater, even with a parent struggling to free the child, if the child submerges or slips out of the bath seat.”

*Response:* The danger of being unable to free a child in a stable, upright seat is only possible if the child can submerge and become entrapped in the seat. The proposed leg opening requirement should prevent this from occurring.

### 3. A False Sense of Security and Parental Absence

*Comment:* Several comments (CH 01–5–1; 2; 3; 4; 5; 6; 7; 8) asserted that caregivers are more likely to leave a child alone in a bath seat because the child looks safe in one and warning labels are insufficient to prevent this behavior.

*Response:* If consumers believe that a bath seat is safe due to its appearance or features, they may choose to ignore the warning. This phenomenon, called “risk compensation,” can occur with many products, even those not intended to be safety devices, if the user trusts the device to prevent injury. However, strengthening the warning on the product may help combat any appearance of safety in bath seats. For this reason, the warning should be as powerfully worded as possible.

*Comment:* Comment CH–01–5–9 implied the problem is not with bath seat designs, but with the people who leave children unattended. This commenter also states “If the bath seat/ring was ‘designed and manufactured’ to allow the caregiver to place the child in the tub and walk away then I would heartily agree that these articles constitute a “mechanical hazard”. But the fact is, these bath aides were not designed or manufactured to be used in such a way.”

*Response:* As the Commission stated in the ANPR: “Some caregivers may perceive that the product provides a greater degree of safety than it does. Leaving the child alone could be considered a reasonably foreseeable abuse of the product.” 66 FR 39697. Existing bath seats do not appear to be

adequately designed to protect children against the consequences of this foreseeable misuse. In addition, some mechanical failures—e.g., the seat tipping over or children slipping into leg openings—have occurred in the presence of a caregiver.

### 4. Utility Age Range

*Comment:* Comment CH 01–5–8 questioned the age recommendation of 5 to 10 months for bath seats. The commenter suggests that “6 to 8 months is a much more realistic age range for average children to sit securely and to begin to pull up on objects.”

*Response:* The relevant developmental milestones for bath seat use are “sitting unassisted” and “pulling to a standing position.” A significant portion of the population will sit unassisted somewhere between 5 months and 6 months of age, even though the average will fall somewhere just after 6 months. As well, a significant portion of the population will not be able to pull to a stand until sometime after their 9-month birthday. To encompass a reasonable majority of typical users, the Commission believes that bath seat usage will likely occur in the 5- to 10-month age range. However, some users may well achieve the milestones in shorter time spans.

ASTM recently approved a modification to its standard to include an age recommendation for the product of between 5 and 10 months. In addition, the revised standard also requires packaging and instructions wording as follows: “Product is suitable for children able to sit up unassisted. Product is not suitable for children able to pull up to a standing position who may attempt to climb out.” The Commission concurs with this recommendation.

### 5. Bath Seat Incident Rates

*Comment:* Two comments (CH 01–5–1 and 8) stated that the “\* \* \* standard has done nothing to slow the bath seat mortality rate.” and “\* \* \* the standard has failed to reduce the numbers of drowning and near drowning incidents\* \* \*”

*Response:* Because the date of manufacture of the bath seats involved in the incidents is not recorded, the Commission cannot determine if the bath seat was manufactured prior to the effective date of a particular ASTM standard. However, as noted in this NPR, the Commission has concerns about the adequacy of the current voluntary standard in addressing deaths and incidents associated with bath seats.