



January 21, 2025

Division of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Submitted via *www.regulations.gov*

**Comments of Consumer Reports to the
Consumer Product Safety Commission on the
Notice of Proposed Rulemaking:
“Mandatory Toy Safety Standards: Requirements for Neck Floats”
Docket No. CPSC-2024-0039**

Consumer Reports (CR), the independent, non-profit member organization,¹ welcomes the opportunity to submit the following comments to the Consumer Product Safety Commission (CPSC) regarding its notice of proposed rulemaking (NPR) on a safety standard for neck float toys.² We commend CPSC staff for developing performance requirements and improved warning labels for neck floats, and the Commission for issuing this request for comments.

Parents and caregivers should be able to trust that all products for use by infants or children meet strong standards. However, the current toy standard, ASTM F963-23, as incorporated by reference into the Code of Federal Regulations, does not include any performance requirements for neck floats. Accordingly, Consumer Reports supports the CPSC’s proposal to establish a safety standard that would help to reduce the risk of injury or death, and urges the agency to finalize it expeditiously. Due to the severe risks posed by neck floats, we would also support additional action by either the CPSC or Congress that would ban the product category entirely, at a minimum with respect to products designed, intended, or marketed for use by infants. The CPSC could also further consider whether it would be helpful to take action through rulemaking under section 104 of the Consumer Product Safety Improvement Act.

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to more than 5 million members across the United States.

² CPSC, “Notice of Proposed Rulemaking: Mandatory Toy Safety Standards: Requirements for Neck Floats,” 89 Fed. Reg. 91586 (Nov. 20, 2024) (online at: www.regulations.gov/document/CPSC-2024-0039-0002).

Neck floats are marketed to parents and caregivers for use with children and babies as young as newborns as a way to keep their head above the waterline while they float or play in a bathtub or pool. However, infant neck floats pose a severe risk of drowning, and CR safety experts have advised consumers against using them.³

Even under diligent adult supervision, parents have reported concerning close calls in which a baby’s mouth, nose, or head slipped through the opening and into the water when a product was not inflated sufficiently, developed a leak, became slippery with soap or shampoo, or otherwise failed to keep the baby’s head above the waterline for unknown reasons.⁴ From January 2019 through January 2024, CPSC staff identified 115 incidents associated with the use of neck floats. Several neck float incidents led to hospitalization or emergency department treatment, and two incidents resulted in a fatality.⁵ In many non-fatal incidents, drowning appears to have been averted only due to a caregiver taking swift action.⁶

Beyond the hazard patterns identified by CPSC staff, the Food and Drug Administration (FDA) has warned that infant neck floats could also pose a risk of suffocation, strain or injury, particularly in babies with special needs.⁷ The FDA also stated that some baby neck floats were being marketed “for use as a water therapy tool” without the agency’s approval.⁸

According to the U.S. Centers for Disease Control and Prevention (CDC), drowning, which can occur in seconds, is the leading cause of death for children one to four years old.⁹ While a neck float is categorized as an aquatic toy, it is plausible and deeply concerning that due to the product’s resemblance to a life-saving flotation device, parents and caregivers may develop a false sense of security when placing their child in one.

Notably, this may be especially true when using these products in home bathtubs, where reports indicate most neck float incidents have occurred.¹⁰ As CPSC staff explains, parents and caregivers are unlikely to understand how certain environmental variables, such as shallow water and confined spaces, can contribute to the risk of slip-through by enabling a child to twist their head in the product and exert forces that can expand the center opening. They may mistake bathtub environments as providing an increased level of safety and comfort by making the water

³ CR, “Regulators Aim to Crack Down on Infant ‘Neck Floats’ After 2 Deaths and Dozens of Close Calls Reported” (updated: Oct. 24, 2024) (online at: www.consumerreports.org/babies-kids/child-safety/cpsc-aims-to-crack-down-on-infant-neck-floats-a1191991237).

⁴ *Id.*

⁵ *Supra* note 2 at 91588-89.

⁶ *Id.* at 91589.

⁷ FDA, “Do Not Use Baby Neck Floats Due to the Risk of Death or Injury: FDA Safety Communication” (June 28, 2022) (online at: www.fda.gov/medical-devices/safety-communications/do-not-use-baby-neck-floats-due-risk-death-or-injury-fda-safety-communication).

⁸ CR, “Otteroo Baby ‘Neck Floats’ Still for Sale, Despite Serious Injuries and One Infant Death” (updated: Aug. 2, 2023) (online at: www.consumerreports.org/babies-kids/child-safety/otteroo-baby-neck-floats-still-for-sale-despite-risks-a7287314905).

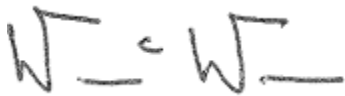
⁹ CDC, “Drowning Prevention” (May 16, 2024) (online at: www.cdc.gov/drowning/about/index.html#:~:text=Drowning%20is%20the%20leading%20cause,Drowning%20is%20preventable).

¹⁰ *Supra* note 2 at 91589.

experience more controllable compared to a pool or underestimate the risk of drowning in shallow water.¹¹ Concerningly, according to agency staff, slip-through incidents have been reported not only in cases where children were actively moving around while using these floats, but also in cases where children were remaining relatively motionless.¹²

Due to the serious concerns these products present, we support the CPSC's proposed rule for neck floats that will help protect children and infants from the risk of injury and death. We also find compelling the CPSC's determination that none of the considered alternatives to the proposed rule would address the serious hazards associated with these products. While we support the CPSC's proposed rule, we also strongly encourage the agency to explore the possibility of banning these concerning products, at a minimum with respect to products designed, intended, or marketed for use by infants. Ultimately, infant neck floats put babies at a severe risk of injury and death, and CR safety experts strongly advise caregivers against using them. To reduce the serious risk of drowning posed by these products, we urge the CPSC to finalize the proposed rule expeditiously and apply an effective date that is as early as possible and not more than the proposed 180-day effective date after the publication of the final rule. Thank you for your consideration of our comments.

Respectfully submitted,



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¹¹ *Supra* note 2 at 91592.

¹² CPSC, Commission Briefing on Notice of Proposed Rulemaking for Infant Neck Floats (Oct. 3, 2024) (online at: www.youtube.com/watch?v=sW3jo7OfuSA, Timestamp: 47:51).