



## Consumer Federation of America

Office of the Secretary  
Consumer Product Safety Commission  
4330 East West Highway, Room 820  
Bethesda, MD 20814  
VIA - <http://www.regulations.gov>

October 13, 2015

### **Comments of Consumer Federation of America to the Consumer Product Safety Commission Regarding Petition Requesting a Ban on Supplemental Mattresses for Play Yards with Non-Rigid Sides, Docket # - CPSC-2015-0020**

On June 16, 2015, Keeping Babies Safe (referred to as “KBS” or “petitioner”), submitted a petition to the Consumer Product Safety Commission (CPSC) to initiate a rulemaking to ban supplemental mattresses for play yards with non-rigid sides, which are currently marketed to be used with non-full-size cribs, play yards, portable cribs, and play pens. The Commission has the authority to regulate these products under section 8 of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. 2057.

Consumer Federation of America writes in strong support of the petition and urges the CPSC to initiate a rulemaking to ban supplemental mattresses for play yards and other similar products with non-rigid sides.

#### I. Incidents of Death

The petition included an analysis of CPSC fatality data from 2000 through 2013, which documented that at least 15 children died while sleeping on supplemental mattresses. These deaths involved a child being wedged between gaps created when the supplemental mattress was added to the play yard or portable crib. Thus, supplemental mattresses pose an unreasonable risk of injury to children.

#### II. Current Standard Acknowledges Known Hazard but Cannot Adequately Address It

The current standard for Non-Full-Size Baby Cribs/Play Yards (ASTM F406-13) acknowledges the known suffocation hazard posed by additional mattresses in a non-full-size crib or play yard through including a warning label that warns consumers never to use a supplemental mattress. However, the fact that stores sell supplemental mattresses for play yards even though the voluntary standard warns that consumers shouldn't use them confuses parents and contradicts the intent and meaning of the warning label. Significantly,

the sale of supplemental mattresses undermines the strength of the warning labels on play yards.

### III. A Ban of Supplemental Mattresses is Consistent with the Current Standard

The current mandatory standard clearly identifies the risk posed by supplemental mattresses but the existence on store shelves of the product that the standard warns against is problematic. A ban of these products is needed as their use contradicts the required play yard labeling and the current ASTM standard as incorporated into the CPSC's mandatory standard. Further, a ban is consistent with the existing standard because it reaffirms the information conveyed in the warning statement. Only a ban promulgated by the CPSC can adequately resolve the inconsistency between the standard and the market since a standard cannot effectively ban a product. A ban of supplemental mattresses is entirely consistent with the standard and strengthens the standard's unequivocal warning that supplemental mattresses should not be used.

### IV. Stores Sell Supplemental Mattresses for Play Yards and Non-Full-Size Cribs Even Though the Standard Warns that Consumers Shouldn't Use Them.

Supplemental mattresses for play yards and non-full-size cribs are readily available in stores and online even though their availability and sale contradicts the required play yard labeling in the current ASTM standard. Supplemental mattresses are commonly marketed with and sold near soft-sided play yards, creating the belief they can be used together. This creates confusion for consumers and undermines the warning on the play yard. Most retailers have ignored calls for voluntarily not selling supplemental mattresses. Since stores will not voluntarily stop selling these products, a mandatory ban from the CPSC is necessary.

### V. Play Yards are Sold with Minimal Padding for a Reason

The thickness of the mattresses that come with play yards must not exceed 1½ inches to comply with current safety standards designed to avoid suffocation hazards. Thicker mattresses create a suffocation hazard because they create a gap between the mattress pad sides and the side of the portable crib where a baby can suffocate when the baby's head falls into such a gap while lying in the prone position. Supplemental mattresses used in play yards and non-full-size cribs pose significant suffocation risks to children.

### VI. Conclusion

A ban on supplemental mattresses is necessary and consistent with the current mandatory standard. Further, the standard, alone, cannot address the sale of these products. While the standard acknowledges the suffocation hazard posed by supplemental mattresses and warns consumers not to use them, additional changes to the standard cannot impact the availability of these products to consumers. A ban by the CPSC is the only effective mechanism to protect children from this known hazard.

We urge the CPSC to act as quickly as possible to ban these products as their availability in the market place undermines the intent of the warning on the voluntary standard, confusing consumers and putting children at risk every day.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Rachel Weintraub". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Rachel Weintraub  
Legislative Director and General Counsel  
Consumer Federation of America