Consumer Federation of America

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U.S. Consumer Product Safety Commission

Hearing

Commission Agenda and Priorities FY 2018 and 2019

I appreciate the opportunity to provide comments to you on the Consumer Product Safety Commission's (CPSC) FY 2018 and 2019 priorities.[1] I am Rachel Weintraub, Legislative Director and General Counsel at Consumer Federation of America (CFA). CFA is a non-profit association of approximately 280 pro-consumer groups that was founded in 1968 to advance the consumer interest through advocacy and education.

The CPSC has been working hard to fulfill its mission to protect the public from unreasonable risks of injury or death associated with the use of consumer products. The CPSC has effectively been implementing the Consumer Product Safety Improvement Act (CPSIA) as well as addressing other hazards. We also believe that the CPSC should be further prioritizing other safety issues as well.

I. CPSIA Implementation

The implementation of the CPSIA has been and should continue to be of the highest priority for the CPSC. The CPSC has been effectively prioritizing CPSIA implementation. The CPSC has promulgated more rules than it ever has in its history and has done so in a relatively short period. The rules are substantively strong and have an important and positive impact on consumers.

Because of the rules promulgated by the CPSC, 16 infant durable products including full-size cribs, non-full-size cribs, infant walkers, play yards, and strollers must now meet new robust mandatory standards. The crib standard which went into effect in June of 2011 is of particular significance as it is the strongest crib standard in the world and offers our nation's infants a safe sleep environment,

[1] U.S. Consumer Product Safety Commission, Public Hearing on Fiscal Years 2018 and 2019 Commission Agenda and Priorities, 82 Fed. Reg. 27045 (June 13, 2017), available at https://www.federalregister.gov/documents/2017/06/13/2017-12069/commission-agenda-and-priorities-notice-of-hearing.

which their parents have a right to expect. For all of these products, third party testing and certification requirements are required.

The CPSC has an additional 10 infant durable product rules to promulgate under section 104, the Danny Keysar Child Product Safety Notification Act. The CPSC is currently working on mandatory standards for booster seats, changing products, folding chairs, gates, high chairs, bath tubs, bouncer seats, inclined sleep products, bumper pads, and stationary activity centers. We urge the CPSC to continue to commit the staff time and resources necessary to prioritize the promulgation of these rules. We are very concerned about CPSC's recent delay of the standards for high chairs and stationary activity centers. The promulgation of mandatory safety standards for rules under section 104 is a critical component of the CPSIA that consumers recognize as necessary to ensure safety when using children's products.

Another high priority for the CPSC should continue to be the consumer incident database- SaferProducts.gov- required by the CPSIA. Last November, CFA along with other consumer groups released an analysis of SaferProducts.gov. The report concluded that the database is a must-visit site for anyone buying products for children, relatives, or friends, which enables government agencies, public safety entities, health care professionals, child service providers, and consumers to both report dangerous products and search the reports that others have submitted. Our report analyzed eight data points, including which manufacturers and which products have the most reports of harm among the roughly 29,000 reports submitted over five years. Key findings show that reports of harm in SaferProducts.gov are concentrated in a few specific manufacturers and product types. Specifically, we found:

- **Many reports of harm are concentrated among ten manufacturers.** Almost 40% of the reports are for products from ten manufacturers, with the rest spread out among 3,802 other manufacturers.

- **Appliances make up a large percentage of reports among the top ten manufacturers.** Of the roughly 11,000 reports referencing one of the top ten manufacturers, 72% involve the "appliances" subcategory. Ranges or ovens of various types make up the vast majority of these reports with "electric ranges or ovens" comprising the largest segment, 34%, of the top ten product types reported.

- **31% of reports document some level of injury.**

- **More than half of the 90 fatalities reported involved children aged 12 or under.**

- **Less than half of the published reports in SaferProducts.gov include manufacturer comments in response.**

We found that SaferProducts.gov is growing, easy to use, and provides helpful information. While a useful resource, we offer a series of recommendations for further improving the database:

- **Increase promotion of the site.** Additional outreach and training is needed to increase submissions by the public and healthcare professionals.

- **Expand the data sources included in SaferProducts.gov.** There are a variety of additional CPSC databases, such as staff in-depth investigations, Medical Examiners and Coroners Alert Project and the National Electronic Injury Surveillance System that would substantially increase the value of SaferProducts.gov if they were interoperable.

- **Release overall reports on data trends.** SaferProducts.gov contains a great deal of useful data, and the CPSC should compile and release an annual report identifying the trends in harm posed by products in the database.

- **Improve data categories and searchability.** Adding more macro-level categories such as "all children's products"—in addition to the existing, micro-level categories—would make analyzing the data much easier. Additionally, a searchable field for the type of harm documented would enable consumers and researchers to better use this valuable resource.

We know that 33,595[2] reports have been posted to SaferProducts.gov and that while already a useful tool, more can be done to make it even more effective.

II. Product Safety Hazards

While the CPSC is working on the following issues currently, we urge the CPSC to prioritize these issues.

1. Emerging Hazards

A. Hoverboards

Incidents on hoverboards continue. In March of 2017 there was a tragic fire caused by a hoverboard that resulted in the deaths of two children, a ten-year-old and a-three year-old, as well as a firefighter who was on his way to fight the blaze in Harrisburg, Pennsylvania.[3] Fires due to battery failures and faulty wiring, as well as fall-related injuries have been documented by the media across the country. In January 2016, the CPSC sent out a useful and important statement on hoverboards, warning consumers of potential risks, announcing that the agency is conducting investigations about the growing incidents and providing recommendations for consumers. The CPSC announcement has been relied upon by the many entities who have sought to protect their students or citizens from these hazards, including over 30 colleges and universities.[4] The CPSC issued a statement indicating that an online retailer will allow full refunds for the return of hoverboards and provided a list of manufacturers of hoverboards being actively investigated. The CPSC also urged companies that are continuing to import, manufacture and distribute hoverboards that do not comply with the new voluntary standard, UL 2272, to stop doing so and has indicated that recalls of unsafe products are expected.[5] In July of 2016, just over a year ago, CPSC recalled over 500,000 hoverboards from 10

[2] Data from the Consumer Product Safety Commission as of July 6, 2017.
[3] http://www.philly.com/philly/blogs/real-time/Death-toll-March-2017-Harrisburg-hoverboard-fire-climbs-to-3.html
[4] As of January 9, 2016, more than 30 colleges banned hoverboards. http://college.usatoday.com/2016/01/09/more-than-30-colleges-ban-hoverboards-amid-safety-concerns/
[5] Letter from Acting Director of Office of Compliance and Field Operations to Manufacturers, Importers and Retailers of Self -Balancing Scooters, February 18, 2016, available on the web at http://www.cpsc.gov/Global/Business-and-Manufacturing/Business-Education/SelfbalancingScooterLetter.pdf?epslanguage=en

companies.[6] In December of 2016, CPSC conducted an additional recall,[7] and conducted another in March of 2017.[8] Some of these recalls did not include consumer refunds and some consumers were frustrated by this. We urge the CPSC to do all it can to encourage these recalling firms to do all that they can to get these potentially unsafe products out of homes by reaching out to consumers as effectively as possible.

B. High Powered Magnet Sets

We were alarmed by the Unites States Court of Appeals for the Tenth Circuit decision that struck down the CPSC's high powered magnet set rule that we supported strongly. We are concerned about the consequences of that decision. Already, more rare earth magnets are entering the market, creating hidden hazards that could severely injure or even kill children who swallow more than one magnet. We urge the CPSC to take strong action to ensure that doctors and consumers are educated about these hazards as well as work to reissue the rule.

C. Crumb Rubber

Potential safety concerns have been raised about the crumb rubber from tire scraps that is used in the mats and padding for playground surfacing and synthetic field surfacing. Health risks posed by these materials could include lead exposure and cancer risks. In 2008, CPSC issued a statement indicating that artificial turf made from crumb rubber was "ok to install and ok to play on."[9] CPSC has distanced itself from that release indicating potential uncertainty about the safety of these materials. Consumers are uncertain and concerned.

The state of California's Office of Environmental Health Hazard Assessment is conducting a comprehensive review of crumb rubber and the CPSC is monitoring this work and providing technical assistance. The CPSC is also working with other agencies which have jurisdiction over this product. We applaud the CPSC's recent announcement about its work with the Environmental Protection Agency and the Centers for Disease Control to conduct research on recycled tire crumb rubber.[10] CFA agrees that the uncertainty over the safety of crumb rubber is problematic and looks forward to obtaining more information about the safety of this material. We recommend that the CPSC release an update about the status of this research.

2. Long Standing Hazards

A. Window Coverings

[6] https://www.cpsc.gov/Recalls/2016/self-balancing-scooters-hoverboards-recalled-by-10-firms
[7] https://www.cpsc.gov/Recalls/2016/world-trading-recalls-orbit-self-balancing-scooters-and-hoverboards
[8] https://www.cpsc.gov/Recalls/2017/vecaro-lifestyle-recalls-self-balancing-scooters-hoverboards
[9] Available on CPSC's website at: http://www.cpsc.gov/en/newsroom/news-releases/2008/cpsc-staff-finds-syntheticturf-fields-ok-to-install-ok-to-play-on/.
[10] Chairman Kaye's statement on Federal Research Action Plan on Recycled Tire Crumb, available online at http://www.cpsc.gov/en/About-CPSC/Chairman/Kaye-Biography/Chairman-Kayes-Statements/Statements/Press-Statement-from-US-CPSC-Chairman-Elliot-F-Kaye--Praising-the-Federal-Research-Action-Plan--On-Recycled-Tire-Crumb-Used-On-Playing-Fields-and-Playgrounds/

In May of 2013, CFA, along with Kids In Danger, Consumers Union, Parents for Window Blind Safety and others filed a petition with the CPSC requesting that the CPSC promulgate mandatory standards to make operating cords for window coverings inaccessible.

The CPSC has long recognized window covering cords as a hidden strangulation and asphyxiation hazard to children and continues to identify them on its website as one of the "top five hidden hazards in the home." Due to the documented and persistent hazard that cords on window coverings pose to children, the petition specifically asked the CPSC to prohibit accessible window covering cords when feasible, and require that all cords be made inaccessible through passive guarding devices when prohibiting them is not possible.

At least 285 children have been killed or seriously injured by accessible window covering cords between 1996 and 2012, despite six industry attempts at developing adequate voluntary standards. The voluntary standard process, starting from the first standard in 1996 and including the most recent standard in 2012, has failed to eliminate or even significantly reduce the risk of strangulation and asphyxiation by window covering cords to children.

In a tragic twenty-two day period in 2014, four children were strangled to death by cords on a window covering: a 6-year-old girl in Maryland on February 8th; a 3-year-old girl in Texas on February 15th; a 4-year-old boy in Georgia on February 17th; and a 2-year-old boy in Maryland on March 1st. Each of these children died after the cord of a window covering strangled them. In 2014, we know of 9 deaths and in 2015, we are aware of 6 deaths, though that number is likely to increase as additional data is released.[11]

Deaths and injuries can be eliminated by designs that already exist and that are already available in the market.

A strong mandatory standard by the CPSC is necessary to protect children. For almost 20 years, the voluntary standard has failed to address the strangulation threat posed to children. We appreciate that the CPSC has granted the petition we filed with other groups and has moved forward with an Advanced Notice of Proposed Rulemaking. We further urge the CPSC, in light of the history of the voluntary standard and the documented and persistent hazard that cords on window coverings pose to children, to continue to move forward with the mandatory rulemaking process that will effectively address the hazards posed by window covering cords. We urge the CPSC to consider Health Canada's proposed regulation[12] which would restrict the length of accessible window blind cords and the size of loops that can be created by those cords. We also urge the CPSC to implement a market surveillance program to ensure compliance with the most current voluntary standard as well as a consumer education campaign. Time is of the essence as these products pose risks to children every single day.

B. Flame Retardants in Consumer Products

[11] These 2015 deaths occurred in Montana in January, Oregon in February, California in March, Georgia in March, Florida in August and Virginia in August.

[12] http://laws-lois.justice.gc.ca/eng/regulations/SOR-2009-112/

Flame retardants can be found in numerous types of consumer products and are chemicals that have been associated with serious human health problems, including cancer, reduced sperm count, increased time to pregnancy, decreased IQ in children, impaired memory, learning deficits, hyperactivity, hormone disruption and lowered immunity. These chemicals migrate continuously out from everyday household products into the air and onto dust. As a result, 97 percent of U.S. residents have measurable quantities of toxic flame retardants in their blood. Children are especially at-risk because they come into greater contact with household dust than adults do. Studies show that children, whose developing brains and reproductive organs are most vulnerable, have three to five times higher levels of flame retardants than their parents.

The CPSC received a petition from the American Academy of Pediatrics, American Medical Women's Association, Consumer Federation of America, Consumers Union, Green Science Policy Institute, International Association of Fire Fighters, Kids in Danger, Philip J. Landrigan, M.D., M.P.H., League of United Latin American Citizens, Learning Disabilities Association of America, National Hispanic Medical Association, Earth Justice and Worksafe.

The petition urges the CPSC to adopt mandatory standards under the Federal Hazardous Substances Act to protect consumers from the health hazards caused by the use of nonpolymeric, additive form, organohalogen flame retardants in children's products, furniture, mattresses and the casings surrounding electronics.

The CPSC has clear authority under the Federal Hazardous Substances Act to regulate potentially toxic chemicals and there is clear legal precedent for the CPSC to regulate a class of chemicals. There is strong scientific evidence documenting the hazards posed to consumers by these chemicals and we urge the CPSC to take action on this issue soon. We also urge the CPSC to prioritize this issue and to take effective steps to protect consumers from the health hazards posed by flame retardants, while not diminishing fire safety protections.

C. OHV Safety: ATVs and ROVs

(1) All-Terrain Vehicles (ATVs)

According to the most recent data released by the CPSC,[13] at least 97, 200 people were injured seriously enough while riding all-terrain vehicles (ATVs) to require emergency room treatment in 2015. The estimated number of ATV-related fatalities was 674 in 2014, though the 2014 data is not considered complete and the number of fatalities will almost certainly grow as more data is received.

In 2014, ATVs killed at least 58 children younger than 16, accounting for 17 percent of ATV fatalities. Fifty-five percent of children killed were younger than 12 years old. Children under 16 suffered an estimated 26,700 serious injuries in 2015. This represents 28 percent of all injuries.

[13] 2015 Annual Report of ATV-Related Deaths and Injuries Statistics https://www.cpsc.gov/s3fs-public/atv_annualReport2015.pdf in 2016. The estimated number of ATV-related fatalities was 638 in 2013, though the 2013 data is not considered complete and the number of fatalities will almost certainly grow as more data is received.

The CPSC must prioritize the issue of ATV safety. The CPSC's ATV rulemaking was required to be finalized in August of 2012, and we applauded the CPSC for holding an ATV Safety Summit in October of 2012, but that was almost 5 years ago. We urge the CPSC to complete the rulemaking which should include a serious analysis of the safety hazards posed to children by ATVs, the adequacy of existing ATV safety training and training materials, and efforts to ensure that children are not riding ATVs that are too large and powerful for them.

In March 2014, CFA released a report, "ATVs on Roadways: A Safety Crisis." CFA evaluated laws from all fifty states and the District of Columbia and found that, in spite of warnings from manufacturers, federal agencies, and consumer and safety advocates that ATVs are unsafe on roadways, for several years an increasing number of states have passed laws allowing ATVs on public roads. In April of 2015, we updated the report to include recreational off-highway vehicles (ROVs) and found that all states that allow ATVs on roads also allow ROVs on roads. We lead a coalition that seeks to engage municipalities, counties, states, and other entities that are considering increasing ATVs and ROHVs (collectively OHVs) on road access. This past March, we were aware of 13 proposals to increase OHV on road access. This compares to our usual average of three proposals under consideration.

The design of ATVs makes them incompatible with operation on roads. ATVs have a high center of gravity, and narrow wheel bases, which increase the likelihood of tipping when negotiating turns. The low-pressure knobby tires on ATVs are explicitly designed for off-road use and may not interact properly with road surfaces.

Data from the CPSC and from the National Highway Transportation Safety Administration's (NHTSA) Fatality Analysis Reporting System (FARS) documents that a majority of ATV deaths take place on roads.

- According to the CPSC's data from 2007, as analyzed by the Insurance Institute for Highway Safety, 492 of the 758 deaths for which location was identified, or 65% of ATV fatalities, occurred on roads.
- According to the CPSC's data, ATV on-road deaths have increased more than ATV off road deaths.
- According to NHTSA's FARS database, as analyzed by the Insurance Institute for Highway Safety, 74% of ATV deaths occurring on roads occurred on paved roads.

In spite of the fact that a majority of ATV deaths occur on roads and that ATVs are incompatible with road use, CFA found that:

- 36 states, or 71%, allow ATVs on certain roads under certain conditions.
- Of these 36 states, 23 states, or 64%, have passed laws allowing or expanding ATV access on roads since 2004. Four states passed such laws in 2013 alone and New Mexico became the 36th state to do so in 2016.32 of the 36 states, or 89%, that allow ATVs on roads delegate some or all of the decisions about ATV access to local jurisdictions with authority over those roads.

- While not a complete list, CFA is aware of at least 87 state and local proposals to increase ATV access to roads since 2013.

In July of 2017, we released data compiled by CFA and our coalition partners documenting that between January 1, 2013 and June 27, 2017, there were 2,583 OHV fatalities in the United States. Of those deaths, 442 (17%) are children who are less than 16 years old.[14]

We urge the CPSC and Congress to prioritize this issue, to be a strong voice in opposing the operation of OHVs on roads, and to be a leader in educating consumers about the dangers of on-road OHV use. Additionally, the CPSC could improve ATV death data by including how many deaths occur on private versus public roads.

(2) Recreational Off-Highway Vehicles

ROVs pose hazards to consumers and the CPSC's staff is aware of 335 deaths and 506 injuries related to ROV crashes from January 2003 to April 2013. An analysis of ROV crashes reviewed by the CPSC found that 68% of the crashes involved rollovers and 52% of these rollovers occurred while turning the ROV. Where seat belt use is known for fatal victims, 86% of victims were ejected from an ROV, and 91% of those victims were not wearing a seat belt.

CFA and its partners documented at least 95 fatalities associated with ROVs from January 2015 through December 2015. This compares with 87 fatalities associated with ROVs from January 2015 through December 2015. Both of these numbers may grow as more data becomes available about additional deaths.[15]

The current voluntary standard goes further than it has in the past by addressing vehicle handling requirements and the mandatory driver side seat belt reminder and speed limiter. While we did not oppose the voluntary standard, we believe additional issues should be addressed as well, including an increase of the stability tilt table test angle to 37 degrees (if a trip rail is required, 35 degrees if no trip rail is required), a maximum speed based on requirements for designed use and rider ability, full doors, a focus group tested hang tag design so that consumers will be aware of and understand the tilt table test results, and standard placement and easy access to VIN and PIN numbers and information.

CFA also strongly supports the CPSC's proposed rule for ROVs because it seeks to strengthen the voluntary standard by effectively addressing key issues that pose potential hazards to consumers and we oppose legislative efforts that render CPSC unable to move forward with the rulemaking.

D. Furniture Tip-Overs

According to the CPSC's most recent data, every two weeks, a child dies as a result of a piece of furniture, appliance or television falling on him or her. Further, each year, more than 38,000 children are injured as a result of a piece of furniture, appliance or television tipping over. Between 2000 and

[14] http://consumerfed.org/press_release/cfa-issues-fourth-july-ohv-warning-parents/
[15] CFA Press Release, January 7, 2016, available on the web at http://consumerfed.org/press_release/more-than-500off-highway-vehicle-deaths-in-2015/.

2011, there were 363 tip-over related deaths. Eighty-two percent of those deaths involved children younger than 8 years old.[16] While the ASTM standard for furniture has been modestly strengthened, much more needs to be done to improve the standard. Further, increased efforts are necessary to bring all of the stakeholders together to collectively address this increasingly problematic, multifaceted and dangerous injury pattern. We support the #anchorit campaign that seeks to educate consumers about the need to secure furniture to the wall. Further, while we applaud the recall last year of 29 million IKEA dressers associated with 7 deaths, we are deeply concerned about the inadequacy and ineffectiveness of the recall and urge the CPSC as well as IKEA to do much more to reach out to consumers to encourage them to return the dressers and obtain a refund.

E. Button Cell Batteries

Button cell batteries pose serious and potentially fatal ingestion hazards to children. In January of 2016, a 2-year-old in Oklahoma died after swallowing a button cell battery.[17] According to the National Capital Poison Center, every year more than 3,500 people ingest button batteries.[18]

According to a study released in June of 2012 in the American Academy of Pediatrics Journal,[19] *Pediatrics*, an estimated 65,788 children less than 18 years of age were injured by button cell batteries – serious enough to require emergency room treatment – from 1990 to 2009, averaging 3,289 battery-related emergency room visits each year.

We urge the CPSC and others to continue their work to strengthen the relevant voluntary standards to include a provision to enclose securely all button cell batteries.[20] We understand that progress has been made but that there is more work to do. We also urge the CPSC to work in support of design changes that would eliminate the serious health hazard posed by ingestion. While the CPSC has indicated that they are encouraged by efforts that have resulted in new safety warnings and packaging changes in the United States, we hope that those changes do successfully reduce button cell battery ingestions.

F. Laundry Packets

Highly concentrated single-load liquid laundry detergent packets pose a serious risk of injury to children when the product is placed in their mouths. According to the American Association of Poison Control Centers (AAPC):

> "Some children who have put the product in their mouths have had excessive vomiting, wheezing and gasping. Some get very sleepy.

[16] CPSC Report, Preliminary Evaluation of Anchoring Furniture and Televisions Without Tools, May 2015. Available on the web at: http://www.cpsc.gov//PageFiles/182505/Tipover-Prevention-Project-Anchors-withoutTools.pdf
[17] http://www.nydailynews.com/news/national/oklahoma-2-year-old-dies-ingesting-battery-article-1.2482468
[18] National Poison Center, Swallowed a Button Battery? Battery in the Nose or Ear? http://www.poison.org/battery/
[19] Samantha J. Sharpe, BS, Lynne M. Rochette, PhD, and Gary A. Smith, MD, DrPH, Pediatric Battery-Related Emergency Department Visits in the United States, 1990–2009, Pediatrics, Volume 129, Number 6, June 2012 http://pediatrics.aappublications.org/content/early/2012/05/09/peds.2011-0012
[20] Id.

> Some have had breathing problems serious enough to need a ventilator to help them breathe. There have also been reports of corneal abrasions (scratches to the eyes) when the detergent gets into a child's eyes."[21]

In 2017, thus far, according to the American Association of Poison Control Centers, 5,464[22] children 5 and younger were exposed[23] to laundry packets. In 2016, 11,528 children 5 and younger were exposed to laundry packets.[24] In 2015, there were 12,594 exposures and in 2014 there were 11,714.[25] In 2013, poison centers received reports of 10,395 exposures to highly concentrated packets of laundry detergent by children 5 and younger.[26]

According to a Consumer Reports article from 2017,[27] laundry pods pose risks of death to adults with dementia. Consumer Reports includes CPSC data indicating "8 deaths related to ingesting liquid laundry packets in the U.S. between 2012 and early 2017 that have been reported to the Consumer Product Safety Commission. Two of the cases were young children and six were adults with dementia."[28]

According to a 2016 *Pediatrics* study,[29] child exposures to laundry detergent packets rose 17% from 2013 to 2014. Children exposed to laundry detergent packets were 5 to 23 times more likely to be hospitalized and 8 to 23 times more likely to have a serious medical outcome than children exposed to other detergent types or forms. In addition, the deaths of two children were associated with laundry detergent packets.

Based on two years of data, the National Poison Data System (NPDS) reported that 769 children required hospitalization for injuries that included seizures, vomiting blood, fluid in the lungs, dangerously slow heartbeats, respiratory arrest, gastric burn, and comas, as a result of ingesting the contents of these packets. An analysis of this data published in the November 14, 2014 edition of *Pediatrics*[30] found that in

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[21] Laundry Detergent Packets, American Association of Poison Control Centers, http://www.aapcc.org/alerts/laundry-detergent-packets/

[22] See http://www.aapcc.org/alerts/laundry-detergent-packets/

[23] The American Association of Poison Control Centers defines "exposure" to mean when someone has had contact with the substance in some way; for example, ingested, inhaled, absorbed by the skin or eyes, etc. Not all exposures are poisonings or overdoses. http://www.aapcc.org/alerts/laundry-detergent-packets/

[24] Laundry Detergent Packets, American Association of Poison Control Centers, http://www.aapcc.org/alerts/laundry-detergent-packets/

[25] Laundry Detergent Packets, American Association of Poison Control Centers, http://www.aapcc.org/alerts/laundry-detergent-packets/

[26] American Association of Poison Control Centers http://www.aapcc.org/alerts/laundry-detergent-packets/

[27] http://www.consumerreports.org/laundry-cleaning/liquid-laundry-detergent-pods-pose-lethal-risk/

[28] Ibid.

[29] Pediatric Exposures to Laundry and Dishwasher Detergents in the United States: 2013-2014; Gary A. Smith Mallory G. Davis, Marcel J. Casavant, Henry A Spiller, Thiphalak Chounthirath ; OI: 10.1542/peds.2015-4529 Pediatrics 2016;137; originally published online April 25, 2016; Available on the web at: http://pediatrics.aappublications.org/content/pediatrics/137/5/e20154529.full.pdf

[30] Pediatric Exposure to Laundry Detergent Pods, Amanda L. Valdez, Marcel J. Casavant, Henry A. Spiller, Thiphalak Chounthirath, Huiyun Xiang and Gary A. Smith, *Pediatrics*; originally published online November 10, 2014; http://pediatrics.aappublications.org/content/early/2014/11/05/peds.2014-0057

900 NPDS cases, 42% involved packets that were stored within sight or left out, 11% of cases involved temporarily open outer packages, and another 9% of cases involved improperly stored packets.

In a policy statement issued by the AAPCC on laundry packets they stated: "The American Association of Poison Control Centers (AAPCC) supports rigorous safety efforts pertaining to single-load liquid laundry packets (Laundry Packets), e.g., through packaging, labeling, product design, information dissemination, storing, handling and usage education, or otherwise."[31]

While the voluntary standard addresses the packaging container of the packets to some degree, as well as the burst strength and flavor of the packets, and also includes warning labels, more should be done. Our organizations have urged that the voluntary standard not only ensure that the outer packages are child resistant, but also require that the packets are individually wrapped to prevent ingestion or eye injuries and that there be comprehensive requirements for addressing the taste and burst strength of the film covering the packets (based on current European Union (EU) requirements). Multiple layers of safety are needed to protect children from hazards posed by laundry packets – particularly given that a significant number of children have gained access to loose detergent packets, and when they do, injury can be almost immediate. Critically, all relevant data should be reviewed to determine whether the voluntary standard is effectively reducing incidents.

In addition, CFA believes that the most effective way to prevent laundry packet incidents is to require child-resistant packaging to cover liquid detergent packets; address the design and color of the packets, so that they aren't as attractive to children or adults; address the composition of the packets, so that the consequences of exposure are less severe; and ensure the adequacy of the warning labels, to properly inform consumers about the risk.

While the voluntary standard was finalized September of 2015, we appreciate the active role that the CPSC has played in the voluntary standard process and urge the CPSC to continue to prioritize this issue to ensure that the voluntary standard effectively addresses the hazards posed by laundry packets. We further urge the CPSC to carefully monitor the incident data to ensure that incidents are decreasing. If the data indicates that the voluntary standard is not successfully addressing the hazard posed by laundry packets, we urge the CPSC to move forward with an effective mandatory standard.

G. Adult Bed Rails

In May of 2013, CFA, the National Consumer Voice for Quality Long-Term Care (Consumer Voice), bed rail activist Gloria Black, and 60 other organizations[i] filed a petition with the CPSC requesting a ban on or an effective mandatory standard for adult portable bed rails. The petition also requested that the CPSC recall dangerous bed rails and refund consumers.

The CPSC has been aware of deaths and injuries involving bed rails since 1985. In an October 11, 2012 report from the CPSC, "Adult Portable Bed Rail-Related Deaths, Injuries, and Potential Injuries: January 2003 to September 2012," the CPSC documented that in that nine year period there were an estimated 36,900 visits to hospital emergency wards due to incidents related to both portable and non-

[31] AAPCC Position Statement on Single-Load Liquid Laundry Packets
https://aapcc.s3.amazonaws.com/files/library/AAPCC_Laundry_Packet_Position_Statement.pdf

portable bed rails. The CPSC also reported 155 portable bed rail deaths for that same time period. These statistics represent only a fraction of the actual number of alleged bed rail related deaths. According to the CPSC's 2012 report, these deaths and injuries most commonly occur when the victim is "caught, stuck, wedged, or trapped between the mattress/bed and the bed rail, between bed rail bars, between a commode and rail, between the floor and rail, or between the headboard and rail."

While we are engaged in the voluntary standard effort to address this issue, we continue to urge the CPSC to move forward with a ban, an effective mandatory standard, and a recall of and refund for dangerous bed rails as well as a meaningful and effective voluntary standard.

H. Baby Bumpers

We urge the CPSC to take strong action to ban baby bumpers. In 2013, the state of Maryland took strong action to ban baby bumpers. The city of Chicago banned baby bumpers in 2009 and the state of New York is considering the issue. In 2013, the CPSC voted unanimously to grant the petition of the Juvenile Products Manufacturers Association (JPMA) to begin rulemaking to address hazards that may be posed by bumpers. While JPMA had requested codification of an ineffective voluntary standard that simply supports the safety of one type of bumper, the CPSC indicated that it will not merely codify the existing voluntary standard but will go much further. Last November, the CPSC issued a joint statement recommending that parents and caregivers not use crib bumpers. We support this strong statement to consumers and urge the CPSC to take action, consistent with the action taken by Maryland and Chicago to protect infants from hazards posed by bumper pads.

I. Infant Suffocation - Sleep Environment

The Center for Disease Control and Prevention (CDC) analyzed 2000–2009 mortality data from the National Vital Statistics System. CDC found that from 2000 to 2009, the overall annual unintentional injury death rate decreased among all age groups except for newborns and infants younger than 1 year; in this age group, rates increased from 23.1 to 27.7 per 100,000 primarily as a result of an increase in reported suffocations.[32] Suffocations were the second highest cause of death (motor vehicle deaths ranked first). As part of the CPSC's work on safe sleep environments, the CPSC must continue to prioritize this issue, educate consumers about the importance of safe sleep environments and understand why data indicates that suffocations have been increasing for infants.

In addition, CFA supports the petition filed by Keeping Babies Safe regarding supplemental mattresses and urges the CPSC to initiate a rulemaking to ban supplemental mattresses for play yards and other similar products with non-rigid sides.

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.

The current standard for Non-Full-Size Baby Cribs/Play Yards (ASTM F406-13) acknowledges the

[32] CDC, Vital Signs: Unintentional Injury Deaths Among Persons Aged 0–19 Years — United States, 2000–2009 http://www.cdc.gov/mmwr/preview/mmwrhtml/mm61e0416a1.htm?s_cid=mm61e0416a1_w

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.

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 marketplace undermines the intent of the warning on the voluntary standard, confusing consumers and putting children at risk every day.

J. Upholstered Furniture

CPSC should continue to prioritize the completion of the Upholstered Furniture rulemaking. In May of 2008, CFA filed comments in support of the rulemaking along with other consumer and environmental public interest organizations. In that letter, we stated that:

> "We strongly support a smoldering ignition performance standard for fabrics and other upholstery cover materials and urge you to move forward with implementation of this standard. The adoption of this standard will not only result in superior fire safety for consumers, but will also discourage the use of fire retardant chemicals (FRs) in furniture filling materials, which have been associated with serious health impacts to humans, wildlife, and the environment."

In that letter, we also raised concerns about the continued use of halogenated fire retardants even after this rule is promulgated and urged the CPSC to require labels indicating such use. We reaffirm the statements made in our 2008 letter and urge the CPSC to promulgate the final rule which will improve fire safety standards and will not lead to the use of potentially toxic fire retardant chemicals.

K. Low Income Child Safety

In 2013, CFA released a report demonstrating that children from low-income families are at greater risk for unintentional injuries and foodborne illnesses than children from higher-income families. Over two-fifths of children (44%) in the United States, according to the National Center for Children in Poverty, live in low-income families.

The report, *Child Poverty, Unintentional Injuries and Foodborne Illness: Are Low-Income Children at Greater Risk?*, which was based on dozens of academic studies as well as the available (but incomplete) statistical data, also concluded that, to more fully understand these risks, it is essential to begin collecting better data on the relationship of family income to product related unintentional injuries and deaths as well as incidences of foodborne illness.

The report identified the following about unintentional injuries suffered by children:

- Unintentional injuries represent the leading cause of death and injury for children between the ages of one and fourteen. Each year, such injuries are responsible for about 5,000 child deaths, about 5 million child emergency room visits, and millions more unreported injuries.
- These injuries are suffered disproportionately by children from low-income families. In fact, several studies show that income is a better predictor of risk than either race or ethnicity.
- The death rates of several important types of unintentional injuries may be considerably higher for low-income children – at least double for deaths from motor-vehicle accidents, fires, and drownings – than for higher-income children, according to a study that reviewed child deaths reported in Maine.
- Non-fatal injury rates were also much higher for low-income children. One study found the highest rate among low-income children and the lowest rate among high-income children. Another study found that children receiving Medicaid had injury rates double those of the national average.
- Higher injury rates are related both to environmental factors – e.g., more hazardous streets, unsafe playgrounds, older and less safe houses and appliances – and to human factors – e.g., higher incidence of smoking, less income to afford safety precautions, less parental supervision in single-parent families, and less knowledge about product safety and prevention.

We urge the CPSC to consider including information indicating socio-economic status collected through the National Electronic Injury Surveillance System (NEISS). We look forward to working with the CPSC to explore how to better identify the correlation between unintentional injury and socioeconomic status as well as how to reduce deaths and injuries associated with consumer products that impact low-income children.

III. Enforcement

1. Recall Effectiveness

The vast majority of consumers who own a recalled product never find out about the recall. Most recall return rates, if publicized at all, hover around the 30% mark. While there are now requirements for recall registration cards and online mechanisms for a subset of infant durable products, much more must be done to ensure that consumers find out about recalls of products that they own and to ensure that consumers effectively repair or remove the hazardous product from their home. We urge the CPSC to continue to prioritize this issue. We urge the CPSC to work with manufacturers of infant and toddler durable products to maximize awareness about product registration. We applaud the CPSC for providing an opportunity for stakeholders to engage in a dialogue about the factors that are essential to the most well publicized, most effective recalls so that this can be replicated with all recalls. We appreciate the opportunity to discuss more robust approaches to recall communication, the use of incentives and how to use innovative technologies to improve recall effectiveness.

In addition, we support the CPSC's proposed Voluntary Recall Rule and urge the CPSC to finalize this rule which will increase recall effectiveness.

2. Import Surveillance

We applaud the CPSC's current commitment to enforcing its safety mission at the ports of entry to the United States. The CPSC had requested user fees to establish a self-sustaining full-scale Import

Surveillance program. This funding mechanism is similar to that of CBP and FDA. With the profound increase in imported products coming into the United States, the CPSC's efforts at the ports, in cooperation with U.S. Customs and Border Protection, are critical to preventing unsafe products from entering the United States marketplace. We further support the CPSC's efforts to prioritize enforcement at both the ports of entry as well as the United Sates' domestic marketplace to ensure compliance with the CPSIA as well as other mandatory standards and regulations under the purview of the CPSC.

3. Civil and Criminal Penalties

Based on numerous past recalls, we understand that there are numerous civil penalties that are currently pending but have not yet been assessed. In FY 2017, thus far, the CPSC has collected 5 civil penalties, ranging from $3,800,000 to $5,800,000, and no criminal penalties. In 2016, the CPSC has collected 5 civil penalties, ranging from a record $2,000,000 to $15,450,000; and no criminal penalties. In FY 2015, the CPSC collected 10 civil penalties, ranging from $700,000 to $4,300,000 and no criminal penalties. In FY 2014, the CPSC collected 4 civil penalties, ranging from $600,000 to $3,100,000; and no criminal penalties. In FY 2013, the CPSC collected 7 civil penalties, ranging from $400,000 to $3,900,000; and one criminal penalty of $10,000. In FY 2012, the CPSC collected 10 civil penalties, ranging from a consent decree, to monetary penalties ranging from $214,000 to $1,500,000 dollars; and no criminal penalties. In FY 2011, the CPSC collected 14 civil penalties, ranging from a consent decree for a permanent injunction, to monetary penalties ranging from $40,000 to $960,000; and one criminal penalty for $16,000. In FY 2010, the CPSC collected 7 civil penalties, ranging from $25,000 to $2,050,000; and no criminal penalties. In FY 2009, the CPSC collected 37 civil penalties, ranging from $25,000 to $2,300,000; and no criminal penalties.

Civil and criminal penalties serve an important deterrent effect to non-compliance with the laws enforced by the CPSC and we urge the CPSC to prioritize this important element of its enforcement responsibilities and applaud the CPSC for collecting a civil penalty in 2016 that will act as a deterrent to failing to comply with CPSC rules and laws. We urge the CPSC to continue to collect significant penalties when the violations represent problematic disregard for the CPSC's laws.

IV. Conclusion

In conclusion, the CPSC plays a critical role ensuring that consumers are safe from product hazards. We support the CPSC's existing priorities to strengthen its regulatory and enforcement efforts to fulfill its mission to protect consumers from hazards posed by consumer products. We urge the CPSC to consider including the additional priority issues that we outlined in our statement today. We urge the Commission to address these issues as soon as possible as many pose urgent hazards to consumers. We look forward to working with the Commission to address these issues.

[i] These groups include: Georgia Office of the Long-Term Care Ombudsman, Resident Councils of Washington, California Advocates for Nursing Home Reform, Ombudsman Services of San Mateo County, Inc., Delaware Office of the State Long-Term Care Ombudsman, Centralina Area Agency on Aging, Senior Care Cooperative , Regional Long-Term Care

Ombudsman Program – Area Agency on Aging, PSA 3,Barren River Long-Term Care Ombudsman, Council on Aging - Orange County, District 9 Long-Term Care Ombudsman , San Francisco Long-Term Care Ombudsman Program, The Alliance for Better Long Term Care, Maryland Office of the State Long-Term Care Ombudsman, Center for Advocacy for the Rights and Interests of the Elderly (CARIE), Rainbow Connection Community, Michigan Campaign for Quality Care, King George County Social Services, Catherine Hunt Foundation, Inc., ABLE Ombudsman Program, Kansas Advocates for Better Care, Family Council of Ellicott City Health and Rehabilitation Center, NICHE (Nurses Improving Care for Healthsystem Elders), Detroit Area Agency on Aging, Indiana Association of Adult Day Services, Massachusetts Advocates for Nursing Home Reform, Our Mother's Voice, New York City Long Term Care Ombudsman Program, Kentuckians for Nursing Home Reform, Areawide Aging Agency, Ohio Office of the State LTC Ombudsman, Ombudsman Program, Alamo Area Agency on Aging, California Office of the State Long-Term Care Ombudsman, Terence Cardinal Cooke Health Care Center, Long Term Care Community Coalition, Nursing Home Victim Coalition, Inc, PA State LTC Ombudsman Office, NY Office of the State Long Term Care Ombudsman, New Hampshire Office of the Long Term Care Ombudsman, Levin & Perconti, Chicago, Bethany Village Senior Action, Snohomish County Long Term Care Ombudsman Program, DC Coalition on Long Term Care, Legal Assistance Foundation (LAF), Friends of Residents in Long Term Care, Our Mother's Voice (NC Chapter), Advocacy, Inc., California Long-Term Care Ombudsman Association, Montgomery County Long-Term Care Ombudsman Program, Long-Term Care Ombudsman Program, Central Ohio Area Agency on Aging, OWL – The Voice of Older and Midlife Women (national), PHI – Quality Care through Quality Jobs (national), National Association of States United for Aging and Disabilities (national), National Association of State Long-Term Care Ombudsman Programs (national), National Senior Citizens Law Center (national),Service Employees International Union (SEIU) (national), Direct Care Alliance (national), United Spinal Association (national), Center for Medicare Advocacy (national), National Research Center for Women and Families (national)