BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

COMMENT OF SHANNON LOVINS IN RESPONSE
TO THE ADVANCED NOTICE OF PROPOSED RULEMAKING
FOR BUNK BEDS
63 FED. REG. 3280

Introduction

Despite the existence of a voluntary standard within the bunk bed industry since 1978, ANPR for Bunk Beds, 63 Fed. Reg. 3280, 3281 (Consumer Product Safety Commission 1998), and despite a reported ninety percent compliance rate with this voluntary standard, Statement of Honorable Mary Sheila Gall on Vote Not to Issue an ANPR on Bunk Beds, Jan. 14, 1998, available in 1998 WL 5046086 (Jan. 15, 1998), young children have continued to die each year as a result of entrapment in the bunk bed's structure. 63 Fed. Reg. 3281-82. Additionally, within recent years, approximately one-half million bunk beds have been recalled, id. at 3282, by some of the very same manufacturers who tout themselves as complying with the voluntary standard. Telephone Interview with John Preston, Directorate for Engineering Sciences, Consumer Product Safety Commission (Mar. 26, 1998). The continued injuries, coupled with the numerous recalls of noncomplying beds, compels me to applaud the Commission's current steps toward developing a mandatory standard. This comment advocates a mandatory standard in three ways: first, by addressing why the current voluntary standard fails to ensure appropriate safety measures for children; second, by considering the statutory authority for the mandatory standard; and, third, by summarizing why a mandatory standard stands as the better response from the Commission to the persistent problem of child entrapment in a bunk bed's structure, rather a response in which the Commission allows the industry to develop yet another revised version of the voluntary standard.

Why the Current Voluntary Standard Fails

The current inter-industry voluntary standard, the ASTM Standard Consumer Safety Specification for Bunk Beds, ASTM F1427, has failed to adequately protect children from the dangers posed by bunk beds for two main reasons. First, the industry has been developing a standard for the past twenty years, and yet deaths have not decreased. Second, a voluntary standard fails to provide the consumer with the reliable information needed to make a wise purchase and thereby fails to protect children.

The first main reason a voluntary standard is inadequate is that deaths continue to occur at the same rate despite the reported ninety percent rate of compliance with the voluntary standard. 63 Fed. Reg. 3281. This fact alone indicates that a voluntary standard is not preventing deaths. The statistics reflect that approximately ten entrapment deaths have occurred each year in the United States since 1990. Id. The Commission should not assume that this statistic is a false reflection of reality. One can speculate that in the next year, ten more children will die, and ten more states could be affected.[1] One cannot respond to this statistic by suggesting that accidents only occur in nonconforming beds and that the ten-deaths-per-year statistic misrepresents the actual risk. After all, the Commission is aware of at least three deaths

[1] Assuming that each state in which a child dies due to bunk bed entrapment responds the same way in which the state of Oklahoma responded, see, e.g., Henry Gilgoff, Regulating, Bunk Beds: Agency Considers Mandatory Limits, NEWSDAY, Mar. 1, 1998, available in 1998 WL 2660786 (Mar. 1, 1998), bunk bed manufacturers might very well benefit from a federal mandate as opposed to a voluntary standard. Manufacturers have enjoyed the privilege of self-regulation over the past twenty years. However, a few years from now, manufacturers could be faced with various inconsistent state regulations that would mandate more stringent requirements than the safety measures now politely suggested by the voluntary standard. Thus, given both the continued injuries due to bunk beds and the likely tort suits to follow in response, the Commission would arguably be serving not only the children's but also the manufacturers' best interest by changing the voluntary nature of the standard.

that have occurred on conforming beds. Id. at 3282.[2] Thus, the Commission cannot deny that the voluntary standard needs to be stricter.

The second main reason a voluntary standard is inadequate is that its lack of enforcement fails to satisfy the consumer. The number of recalls in recent months coupled with the number of deaths every year reflects the fact that the voluntary standard simply fails to offer adequate protection to children. Of course, I realize that the ten deaths occurring every year involved nonconforming beds. However, that fact offers little comfort when considering the discovery made during the Commission's survey that many manufacturers who advertise beds to the world as being in compliance with the voluntary standard were actually selling products which failed to meet the very unambiguous requirements of the voluntary standard. Telephone Interview with John Preston. Apparently, there are two independent laboratories which, for a fee, offer certificates of compliance with the voluntary standard to

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[2] The Commission should not view these three deaths due to conforming beds as simply freak accidents that will not occur again. In a recent telephone interview with John Preston, I asked him if he thought these three deaths were freak accidents. He answered that perhaps the death of the twenty-two-month-old child that hung himself by his bed was a freak accident. Mr. Preston was speaking of the child who was standing on the lower bunk, stuck his head through an opening in the upper bunk's structure, and lost his balance, slipping off the lower bunk and hanging himself. Id. at 3282. However, when speaking of the other two deaths involving conforming beds, he stated that these deaths were not likely freak accidents. He apparently felt this way because the two other deaths involved similar facts: both deaths involved guardrails which failed to run the entire length of the bed, and both children slipped through the opening, became wedged between the guardrail and the end of the bed, and then became trapped between the bed's structure and the wall. Obviously, since the same scenario has repeated itself once, it can be expected to do so again. Telephone Interview with John Preston. Though I agree with Mr. Preston that the two deaths involving the guardrail were not freak accidents, I am unwilling to take the risk that a child will not again stick his head somewhere where it does not belong as did the twenty-two-month-old child. I am unwilling to take the risk that any of these three accidents are unlikely to occur again.

manufacturers who submit evidence of their compliance to the laboratory.[3] Many of the manufacturers with certificates from these companies were not actually in compliance when the Commission conducted its survey. Id. Further, the briefing package considered by the Commission failed to provide any information about the certifying companies. Id. Apparently, the Commission knows little to nothing about the standards used by the independent companies which issue the certificates of compliance.

Because the Commission discovered in its survey that some of the beds advertised by certificates of compliance actually failed to meet the voluntary standard, that standard, and its whole system of enforcement, fails the consumer. Unfortunately, as long as the industry self-regulates with a voluntary standard, certifying companies will remain unregulated while making a profit and will perhaps enable manufacturers to misrepresent their product. In actuality, in many instances the manufacturer has literally cut corners by installing guardrails at slightly shorter lengths than those required by the voluntary standard.[4] In essence, it appears that the certifying companies have given manufacturers the means by which to deceive consumers. When one considers both the number of recent recalls and the existence of nonconforming beds bearing compliance certificates, one can easily conclude that the manufacturer has indeed been successful in deceiving consumers.

What the Statutes Say

Because of the inadequacy of the voluntary standard, the Commission

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[3] Id. These laboratories are Detroit Testing Laboratory in Warren, Michigan and Diversified Testing Laboratories in Burlington, North Carolina. Id.

[4] Id. Mr. Preston said the degree of deviation from the standard differed. Some beds were less than an inch out of compliance, but some were almost three inches out of compliance.

should issue a mandatory standard, and it has the statutory authority with which to do so. Further, not only does the Commission have the statutory authority with which to mandate a standard, but the legislative history indicates that the Commission also has a duty to mandate a standard.

Though a mandatory standard pertaining to bunk beds for both adults and children could be issued under a combination of the Federal Hazardous Substances Act (FHSA) and the Consumer Protection Safety Act (CPSA), the Commission should issue a single, unambiguous standard under the CPSA. "[B]unk beds intended for the use of adults can be regulated only under the CPSA, while bunk beds intended for the use of children potentially could be regulated under either the FHSA or the CPSA." 63 Fed. Reg. 3283. To avoid any ambiguity over whether the mandatory standard applies in any given situation, and to help simplify the manufacturer's task in making sense of any new obligations, the Commission should mandate a standard under a single Act. A standard pertaining to both adults and children can be issued under a single Act, the CPSA. All the Commission has to do is issue a rule under CPSA section 30(d) that it is in the public interest to regulate. Id. Given the statistics, the Commission should have no real challenges in justifying such a finding.

Additionally, the CPSA provides legislative history indicating the Commission's duty to mandate a standard. Because the industry has a voluntary standard in place, the Commission remains disempowered from mandating a rule unless the Commission finds one of the following: either "'(i)compliance with [the] voluntary . . . standard is not likely to result in the elimination or adequate reduction of"' the risk of entrapment; or, "'(ii) it is unlikely that there will be substantial compliance with [the] voluntary standard."' Id. at

3284 (citation omitted). As to the second prong, the only one which the Commission seriously considered in the ANPR, the legislative history of only the CPSA, and not of the FHSA, helps define the meaning of "substantial compliance." Id. This history states that "[i]n determining whether or not it is likely that there will be substantial compliance with [the] voluntary . . . standard, the Commission should determine whether or not there will be sufficient compliance to eliminate or adequately reduce an unreasonable risk of injury in a timely fashion." Id. (quoting H.R. CONF. REP. NO. 208, 97th Cong., 1st Sess. 873 (1981)). In the ANPR, the 'Commission preliminarily conclude[d] that there currently is not substantial compliance" with the voluntary standard within the bunk bed industry. Id.

I agree with this preliminary conclusion. However, I wonder why the Commission failed to address the first prong, the issue of whether the industry's compliance with the voluntary standard is likely to result in the "elimination or adequate reduction" of the risk of entrapment. I fear the Commission's failure to address this issue reflects both a reluctance to interfere with the industry's discretion and a willingness to allow the industry to again modify the voluntary standard despite the Commission's statutory authority, despite the Commission's duty, to mandate a standard.

Why a Mandatorv Standard Should Rule

The Commission should not once again allow the industry the familiar opportunity to come up with a modified version of its voluntary standard but should instead impose a mandatory standard. There are at least three reasons in support of a mandatory rule: the commission needs to act; the industry needs an incentive; and, consumers need protection.

First, the Commission concedes that the CPSA's legislative history

provides guidance in interpreting the meaning of what actions by an industry constitute “substantial compliance” with the industry’s voluntary standards. Notably, this legislative history suggests that in interpreting which actions should fall within the category of substantial compliance, one must consider the timeliness of the actions. The industry must comply with the voluntary standard so as to eliminate or reduce any unreasonable risk of injury "in a timely fashion. " Yet, after twenty years of regulation under a voluntary standard, today the industry is still producing beds dangerous enough to result in ten deaths each year in America. If the Commission were to once again allow the industry the self-regulating privilege of developing yet another version of its voluntary standard, the Commission would not only be inviting additional gruesome statistics but would also be shirking its duty to mandate a standard when the industry itself has failed to “timely” develop a standard that adequately reduces the risk of injury.

Second, a mandatory standard provides the financial incentive needed to encourage manufacturers to comply with any standard at all. The immediate problem is, after all, simply one of developing a bunk bed design that will not entrap small children. Almost all, ninety-six percent, of the entrapment victims considered by the Commission were ages three and under. 63 Fed. Reg. 3281. This statistic indicates both that the main high risk group is easily identified and that a mechanical solution could remedy the risk posed to children sleeping in beds having gaps large enough for their torsos but too small for their heads. The simple and obvious fact is that a few extra inches of material added into the manufacture of a bunk bed, be it made of wood or

steel, would virtually eliminate the risk of entrapment in that bed.[5] It takes no mechanical genius to figure out a design of a bunk bed that could prevent the death of a child. Certainly, we have the technology. If a few extra inches of material can save a child's life, why does it take twenty years to require that simple standard? The answer is that a few extra inches of material saved here and there adds up to quite a nice profit after twenty years, a much bigger bottom line than would be had if the industry was having to comply with some mandatory standard. Obviously, the industry has an incentive to literally cut corners and whittle down standards to barely meet minimal requirements in order to maximize profit. Only a mandatory standard could provide the financial incentive needed to encourage the industry to comply with heightened safety standards.

Third, a mandatory standard would allow the Commission to offer stronger protection to consumers by allowing it to yield more power and better

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[5] Of course, some, like the Honorable Mary Sheila Gall, feel that mandating a rule such as this is an inappropriate solution in part because "[p]arents and caregivers must exercise their responsibility by not placing infants and young children in upper bunks. In the 54 incident reports on entrapment deaths identified by the [Commission] staff, all but one of the victims were under four years old." Gall, supra note 2. The Honorable Gall must be willing to blame children for their parents' lack of foresight. However, instead of simply responding to this statistic by suggesting that parents are to blame and that parents need to be more careful, one must consider that a mandatory standard seems much more likely to solve the problem, to reduce the number of deaths, than does any well-intentioned advice to parents. Unlike the Honorable Gall, I cannot fail to see the need for a mandatory standard simply because a parent has a responsibility for his or her child. Of course a parent should try to prevent accidents, for example, by keeping the child who is younger than six years of age off the top bunk and by warning children of all ages appropriately. However, assuming arguendo that the problem of child entrapment in bunk beds could be eliminated by educating parents as to the dangers posed by bunk beds, the mechanical solution stands as the more likely solution to affect a lasting change and a real end to the problem. The bed's design can be changed more simply, easily, and efficiently by mechanical means than can the consumer's parenting skills be changed by any possible means anyone could ever propose.

ensure compliance. With a mandatory standard, all the Commission would have to do is tell the manufacturer of a noncomplying product to stop its production. The manufacturer would then have to either discontinue the product or shut down the whole factory! With a voluntary standard, the Commission is left with only section 15 of the CPSA to address the problem of a manufacturer producing a dangerous product. Of course, admittedly, because of the negative public image a manufacturer would suffer if it refused to comply with the Commission's section 15 request, manufacturers will usually comply. However, section 15 accomplishes needed change on only a case by case basis. Essentially, someone's child must be injured before the section 15 remedy is invoked to address the problem. This "remedy" is less perfect than an outright mandatory standard which would grant needed, preventative, regulatory power to the Commission.

Conclusion

I believe the Commission should mandate a standard more stringent than the current voluntary standard. The Commission should simplify the manufacturers' new obligations as much as possible and mandate this standard under a single Act, the CPSA, covering beds which would sleep both children and adults. Past voluntary standards have proved inadequate; the current voluntary standard proves inadequate; and, one can only assume at this point, after twenty years of trial and error during which many children have died, that any voluntary standard offered in the future will also prove inadequate. Only a mandatory standard will give the Commission the consumer-protecting

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[6] I received all information about both the section 15 remedy and the potential remedy available with the mandatory standard from Mr. John Preston. Telephone Interview with John Preston, Directorate for Engineering Sciences, Consumer Product Safety Commission (Mar. 27, 1998).

power it needs to make sure bunk bed manufacturers finally achieve true compliance with an effective standard.

Respectfully submitted,

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CONSUMER PRODUCT SAFETY COMMISSION
63 FR 3280-01
COMMENT REGARDING BUNK BEDS:
ADVANCED NOTICE OF PROPOSED RULEMAKING
16 CFR CHAPTER II

I. Introduction

I am submitting this comment in response to the advanced notice of proposed rulemaking (ANPRM) published by the Consumer Product Safety Commission (CPSC) on January 22, 1998 regarding bunk bed safety standards. I favor mandatory standards for bunk beds. I have a couple of reasons for this opinion. First, my husband and I are friends with several couples who have large families. We frequently baby-sit for these families and each family uses at least one, sometimes two, bunk beds. If children are continuing to be entrapped in bunk beds, despite voluntary standards that already exist, mandatory standards should be put into place. The standards to protect children from bunk bed entrapment exist in the voluntary standards, but apparently there are some bunk bed manufacturers that are not following the voluntary standards. Based on the background information provided by CPSC in the ANPRM, mandatory standards should be put into place because children can be protected from unreasonable risks of injury and/or death at minimal costs. Additionally, I am a law student at the University of Tennessee College of Law. I have done some brief research on topics that also influence my opinion toward voluntary versus mandatory standards. This research indirectly relates to this ANPRM, but I hope it will help to explain my position.

II. Voluntary versus Mandatory Standards

Voluntary standards are important to the economy of the United States. It saves the government money by eliminating the government cost of developing standards.' Voluntary standards are not only beneficial to the government, but to the industry as well. Frequently, voluntary standards adopted by industry are often more workable and more cost-effective than those promulgated by government agencies because the standards have been developed by the industry with standards-setting organizations.* CPSC is expected to use standards developed by private organizations to the extent possible.[3] Despite the requirement that CPSC prefer voluntary standards to mandatory standards, the CPSC does have the authority to promulgate product safety standards. CPSC can promulgate rules making standards voluntary when the voluntary standards do not adequately reduce the risk of injury addressed and when the voluntary standards are not being substantially complied with.[4] In fact, Congress considered legislative authority (mandatory standards) a necessary alternative to for those products that pose safety hazards for which present law establishes no safety regulation (industry self-regulation)? In the past eight

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'See Office of Management Budget Circular 119, (1993), and 15 U.S.C. $272 (West, Westlaw through all 1997 legislation).

[2]See Kathleen M Sanzo, *Voluntary Standards for Consumer Products,* A.B.A. (1997). There are many concsensus standards-setting organizations in the U.S., such as the American National Standards Institute (ANSI) and American Society for Testing and Materials (ASTM), which substantially facilitate the standard-setting process.

[3]*Id.* at 1.

[4]15 U.S.C. §2056(2) (West, Westlaw through all 1997 legislation).

[5]See H.R. Rep. *No.* 92-l 153, at *23 (1972); see* also R. Rep. *No. 92-835, reprinted in* 1972 U.S.C.C.A.N. 4573, 4579.

years, the average number of deaths due to bunk bed entrapment has been 6.75 per year. This fact, with the evidence that seems to show that there is a substantial noncompliance with the voluntary standards, points toward the necessity of promulgating mandatory standards.

CPSC is correct in trying to determine whether the voluntary standards fully address the hazards posed to consumers. Due to the high rate of deaths each year, I do not think they fully address the hazards. If they *do* fully address the hazards, not enough manufacturers are following the voluntary standards. In some industries voluntary standards may work[6], but they are an unrealistic solution to the problem of bunk bed hazards. Although bunk bed manufactures have introduced product safety hazards into the market, they have failed to voluntarily remedy those hazards. Albeit, there are *voluntary* standards. The idea is that the larger percentage of bunk bed manufacturers will choose to follow these. In this instance, even with the larger percentage of bunk bed manufacturers follow the voluntary standards, the death toll is still too high. Deaths by bunk bed entrapment can only be lowered by requiring all manufacturers to follow a set standard, hence the need for mandatory standards. If mandatory standards are not promulgated, some bunk bed manufacturers will continue to simply ignore voluntary standards. Those manufacturers who ignore the voluntary standards will manufacture bunk beds that may not adequately reduce the risk of entrapment.

This is essentially an instance of a "few bad apples spoiling the whole barrel." The goal

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[6]ISO 14000 is used by many industries to meet environmental standards. However, IS0 14000 industries are also given incentives for following standards. For example, IS0 14000 industries are touted internationally and are not forced to undergo EPA and other environmental audits. However, the only apparant benefit of complying with voluntary bunk bed safety standards is the avoidance of potential lawsuits.

of voluntary standards is to provide a guideline for manufacturers. The percentage of manufacturers who do not follow the voluntary standards is probably influence by economics. Small manufacturers do not think that the design of their bunk beds could cause death or serious injury to a child, or a lawsuit might be brought against them. The bunk bed industry is not a high dollar industry. Unlike automobile manufacturers, they do not weigh the economic costs of selling unsafe bunk beds to the public versus having to defend in lawsuits later.

If a handful of manufacturers ignores the standards because they are only "voluntary," then the standards are not working. I suspect the interplay between voluntary standards and compliance is more complex than the cursory treatment I am giving it here. Suffice it to say that most bunk bed manufacturers *must* be ignoring the standards, otherwise we would have lower incidences of deaths. I think the promulgation of mandatory standards would greatly outweigh the cost of charging consumers between 15 and 40 more dollars per bunk bed.

In the background information published with this ANPRM, the CPSC states under the "Cost/Benefit Considerations" section that the cost of bringing bunk beds into conformance is between $15-40. CPSC also states that even if conformance with a mandatory standard is 4 to 23 percent effective in reducing these deaths, the costs and the benefits of such an activity would be about equal. However, I think CPSC is truly allowing for a very conservative scenario. I think the percentage of effectiveness will be far greater than 23 percent in preventing deaths *and* injuries. CPSC discussed only *deaths* per year in their background information. There are doubtless numerous *injuries,* in addition to deaths, that take place because of poor bunk bed design. CPSC did not discuss the impact of these injuries, or the costs the government might incur from hospital or emergency room visits. When you consider both injuries *and* any

unreported deaths, the benefit of mandatory standards increases sharply.

III. Underreporting of Injuries and Deaths: Cost/Benefit Analysis

CPSC's incident data was based on "available data" and used "statistical methodology that examined the extent of overlap between data-reporting sources." What about the unavailable data? Granted, if the data is not available, it is difficult to consider. I am considering it here just to point out that the benefit of mandatory standards will far outweigh any costs.

CPSC is responsible for product and public safety and does maintain databases on reports of serious injuries. Most of these databases are not very accurate, for several reasons.[7] One, the federal government's product-related data bases depend on outside organizations and individuals to report relevant injuries.[8] It is a common fact that all consumers of products, including bunk bed consumers, frequently fail to report injuries.' Two decades ago, Patrick McGuire began studying the relation of product complaints to product failure. He determined the number of persons out of a population of product holders were affected by a product injury and then didn't report it.[10] Working with various manufacturers, it was soon determined that the overwhelming number of customers who have an adverse experience with a product do not report it to the product's manufacture or to any consumer agency.[11] The relation to those reporting to those

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[7]See E. Patrick McGuire, *The Underreporting of Product-Related Injuries,* 5 Prod. Liab. L. & Strategy, (1997).

[8]*Id.* at 16.

[9]*Id.* at 16.

[10]*Id* at 17.

[11]*Id.* at 17.

adversely affected ranged from one in eight to one in fifty.[12]

The reason for the nonreporting varies including extent of injury, the region of the country in which the product was used, and, more recently, the reliance on automated telephone systems.[13] Minor injuries most often did not trigger product safety reports. Neither did near-miss situations where, except for chance, the user might have been seriously injured.[14] A classmate related to me, in discussing this ANPRM, that he had three different injurious events happen to him caused by poor bunk bed design. He said that these injuries were just chalked up by his parents as "boy's antics" and were never reported, although they were caused by poor bunk bed design. Research also shows that consumers on both United States coasts are more likely to complain and report injuries than are users in the South and Midwest? Additionally, the reliance on automated phone systems makes it nearly impossible sometimes to speak with a live person at a company to report a hazard.[16] I would suggest that when faced with an automated phone system, choosing from six different extensions in several different sequences becomes exhausting and that callers quite frequently hang up.

The reason I am relating this study and the anecdote is not to point fingers and say CPSC did not correctly arrive at their incident data. My point is the incident rate for injuries and death caused by bunk bed entrapment is more likely *much* higher than the numbers CPSC is looking at.

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[12] *Id.* at 17.

[13] *Id.* at 17.

[14] *Id.* at 17.

[15] *Id.* at 17.

[16] *Id.* at 17.

The risk of harm caused by bunk bed entrapment will decrease if mandatory standards are promulgated. I suggest that the decrease will be more significant than what CPSC anticipates.

VI. Alternatives

In determining how to best stop hazards posed to consumers of bunk beds, the CPSC has suggested alternatives to mandatory standards. Some of these alternatives include education campaigns, labeling or instructions requirements, and a possible voluntary standard (yet unknown to the CPSC) that would work to reduce injuries and deaths by entrapment. All these alternatives would probably be helpful, but the only way to significantly reduce deaths is to target the *manufacturer* of the hazardous product. Industry manufacturers, the producers of bunk beds, are best able to safeguard consumers against injury.[17] If they can follow voluntary standards and do not, the only choice is to make the voluntary standards mandatory.

If CPSC decides not to promulgate mandatory standards, the result will be more of the same. Education campaigns will not reach everyone and labeling or instructions requirements are not always read. Further, if CPSC decides to keep the voluntary standards and to "beef up" the labeling and instruction requirements, this excludes any illiterate persons from effectively being aware of the danger. Education and labeling requirements are not enough. Education campaigns and labeling requirements are just drops in the bucket and will not cause significant changes. They are merely drops in the bucket, just as the recall process is. They reach some people, but usually not the uneducated or the lower middle-classes. Take the recall process as an

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[17]See Elliot Klayman, *Standard Setting Under the Consumer Product Safety Amendments of 1981 - A Shift in Regulatory Philosophy,* 51 Geo. Wash. L. Rev. 96 (1982).

example. The problem with the recall process is failure to publicize a recall when it is enacted.'* Chances are, if a bunk bed is recalled, most people won't even know about it.[19] Warnings and instructions are important and useful, but are no substitute for design safety.[20] The only solution is adequate, mandatory standards for the specifications of building bunk beds.

Another alternative I have not rnentioned is seeking redress through the judicial system. I do not think this is a sufficient alternative, either. Most importantly, a judicial remedy comes *after* a death or injury has occurred and the goal of CPSC is preventive - effectively making the judicial remedy an ineffective solution.. Further, a parent of an injured child is often hesitant to seek redress for a child's injury because industry points its finger at the child or child's caregiver. Imagine if CPSC decides to retain the voluntary standard and to merely upscale the labeling and instructions requirements. The resounding voice of the bunk bed manufacturers, whenever a death or injury occurs: "Well, we did what we were supposed to. We slapped the label on - sorry you didn't read it. It is not our fault." Anything promulgated by the CPSC needs to act as a preventive measure, not as a cushion to manufacturers against potential lawsuits.

The United States judicial system has indeed played an important role in encouraging manufacturers to reduce risks.[21] Courts have significantly shifted the burden of accidental injury

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[18]See Edward M. Swartz, *Targeting Our Children,* ALI-ABA 45, 49 (1995).

[19]*Id.* at 49.

[20]*Id.* at 49.

[21]Hiroshi Sarumida, *Comparative Institutional Analysis of Product Safety Sytems In The United States and Japan: Alternative Approaches to Create Incentives For Product Safety, 29* Cornell Int'l. L. J. 79 (1996).

prevention from individual consumers to manufacturers.[22] Policy is designed to create strong incentives for manufacturers to promote product safety.[23] The judicial system has thus attempted to function as an incentive creating mechanism to product safety.[24] However, while the judicial system may work on the goal of product safety, the goal CPSC wants to accomplish is to *prevent* deaths. This can be done by promulgating mandatory standards.

VII. Conclusion

In the past 30 years, promoting product safety has been one of our country's primary policy goals. To get to the heart of that goal, we must start at the heart of the problem - manufacturers. The voluntary standards are not adequately reducing the risk of injury. A mandatory standard would result in the elimination or adequate reduction of injury or death caused by bunk bed entrapment. Compliance with the standard will be more substantial if the standard was mandatory because of monetary penalties. Further, the costs manufacturers will have to incur (and ultimately it will be the consumer who will have to incur the cost) is less than $40 to $60 per year. The benefit of even one or two lives outweighs the cost to enhance bunk bed safety, especially taking into account any unreported deaths and injuries caused by bunk bed entrapment. I have also mentioned my opinion that education campaigns, labeling, continued recalls, and legal remedies are not enough in this situation.

In summary, I reiterate my point that this ANPRM is occurring because of a "few bad

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[22] *Id.* at 79.

[23] *Id.* at 79.

[24] *Id.* at 79.

apples." I would guess that most manufacturers and retailers *want* to do whatever they can, within economic feasibility, to make their products safe and to avoid product liability suits. To get a sense of the general feelings that permeate the manufacturers and retailers of bunk beds, I searched through several journals, periodicals, and newspapers concerning manufacturing of furniture and home furnishings. My general sense is that most retailers and industry manufacturers *want* mandatory standards. They want mandatory standards to have a better idea of what they *should* do (sometimes, the *minimum standards* they must meet in order not to be sued). One example I found was rather impressive. A specific retailer creates commercials for bunk beds that "run more like a public service announcement explaining safety features and precautions."[25] Finally, as an advocate for families with children, I must insist that mandatory standards be promulgated for the safety of America's children.

Sincerely submitted,

Nanette J. Francis

[25]Ray Allegrezza, *Bunk bed recall; 5 firms acknowledge potential hazard,* W. Newspaper for the Home Furnishing Network, October 6, 1997 at 2 1.

BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

Docket No. 98-1457

63 Fed. Reg. 3280 (1988)

COMMENTS CONCERNING ANPR FOR BUNK BEDS

In its January 22, 1998 notice, the Consumer Product Safety Commission (CPSC) requests comments concerning the proposed rule which would require bunk beds to conform to certain manufacturing specifications in an effort to reduce the hazard of children becoming trapped in the beds' structure or entrapped between the bed and a wall.[1] The proposed rule would replace the current American Society of Testing and Materials (ASTM) voluntary standard used by certain bunk bed manufacturers, which suggests that all spaces between the guardrail and bed frame and head and foot boards on the top bunk be less than 3.5 inches wide.' This comment will discuss why the proposed rule should be implemented as a mandatory standard for bunk bed manufacturers and also why the rule should be promulgated under the Consumer Product Safety

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[1]Advanced Notice of Proposed Rulemaking, 63 Fed. Reg. 3280 (1998).

[2]"CPSC Votes to Begin Rulemaking to Address Bunk Bed Entrapment", CPSC Release #98-057 (January 14, 1998).

Act. I am a second-year law student at The University of Tennessee who has 3 nieces under the age of 12. Two of them use bunk beds. I understand the need to analyze the costs versus the benefits in many situations where a change in manufacturing requirements could be costly to companies. However, where the history of the product demonstrates non-compliance with alternative programs (such as the voluntary standard here) and an obvious need for regulation (as demonstrated by the number of injuries and deaths suffered by children because the gaps in the beds are too large), overcoming the argument for the benefits of such a rule almost becomes impossible.

Congress created the Consumer Product Safety Commission in 1972 in an effort to "'protect the public against unreasonable risks of injuries and deaths associated with consumer products.'"[3] In an attempt to keep with this charge, the CPSC has worked closely with the American Furniture Manufacturers Association (AFMA) and the Inter-Industry Bunk Bed Committee (IIBBC) to develop a safer bunk bed. However, the number of beds which have been recalled, in conjunction with the voluntary recalls by certain manufacturers, demonstrate that many manufacturers

[3]Consumer Product Safety Commission, "Who We Are - What We Do for You," <http://www.cpsc.gov>.

are not complying with the voluntary standard currently in effect. The CPSC has received reports of 54 children who have died due to entrapment since January 1 990.[4] Further, since November 1994, more than one-half million bunk beds have been recalled by the CPSC for failing to comply with the voluntary standard, resulting in serious hazards to children.[5] These numbers do not include the bunk beds which have been voluntarily recalled by the manufacturers or the number of children who have been injured but have not died due to non-conforming bunk beds.

In analyzing these numbers, the non-compliance problem becomes apparent. Considering approximately 500,000 bunk beds are sold per year for residential use[6], that translates into a recall of close to thirty percent to the number of bunk beds sold in less than four years. Again, that figure does not take into consideration the number of bunk beds which have been pulled by the manufacturers alone and not the CPSC.

When the CPSC has recalled bunk beds, it generally has not encountered much of a fight from the manufacturers affected by the

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[4]CPSC Release #98-057.

[5]CPSC Release #98-057.

[6]ANPR 63 Fed. Reg. 3280 (1998).

recall. In fact, many manufacturers (36 as of September 1997) willingly cooperate and announce the recalls jointly with the CPSC.[7]

The proposed rules would increase the safety of bunk beds for children, but especially for those children under the age of 3. This age group is generally the most prone to entrapment because of the size of the children. I believe that many manufacturers would be hard-pressed to make an argument against any proposal which would decrease the potential of injury or death to young children. Up to this point, since the standards had only been voluntary, most manufacturers who did not comply were never exposed to the public because the public was generally unaware of any voluntary standards. By making the proposed rule a manufacturing requirement, those bunk bed makers who did not comply would run the risk of (1) having fines and possible criminal sanctions levied against them by the government, but perhaps more importantly (2) suffer a public relations disaster which could mean taking a serious hit in their market share.

Further, voluntary standards do not tend to "catch" the smaller bunk bed manufacturers and the importers. These companies can usually slip

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7 "CPSC, Manufacturers, Importers Announce Recall of Wooden and Metal Bunk Beds," CPSC Release #97-193 (Sept. 24, 1997).

through the cracks since there is no enforcement mechanism for non-compliance. However, if the proposed regulations were implemented, these smaller and foreign companies would be subjected to the same standard of manufacturing quality and safety that the larger manufacturers already experience to a certain extent.

The manufacturers could argue that all of them are currently in compliance with the voluntary ASTM standards, but this again fails to address the problem of smaller manufacturers who spring up out of nowhere. These companies are in a position to make beds for a little while and then go out of business. Smaller manufacturers may not be aware of the voluntary standard, whereas a mandatory standard would require some type of compliance sticker or label on the beds. This compliance notice would serve to keep the manufacturers, no matter how big or small, in check at least with themselves if not the entire industry.

Another problem with the smaller manufacturers is that they have no incentive to comply with a voluntary standard. If a recall is issued by the CPSC, chances are the recall will only affect those manufacturers whose models are well-known and sold to a larger market. Most smaller manufacturers service only regional areas, not the entire nation. If the CPSC should decide to "make an example" out of a bunk bed manufacturer

for not complying with voluntary standards (and thus creating a potential public relations disaster for the targeted company), it will more than likely aim for a large, well-known manufacturer with great name recognition and not a small potatoes operation. The rule as currently proposed would not only include the states in enforcing these standards, but it would also penalize retailers and distributors who sold non-conforming bunk beds. This provision would serve to catch the smaller regional manufacturers who might think they are immune from compliance because of their size.

Also, while it is reported that all manufacturers are in compliance, that does not mean that all manufacturers will stay in compliance. Since the bunk bed business is so competitive, a smaller manufacturer who starts making non-conforming beds could undercut part of the business of the larger conforming companies by selling their beds at a reduced rate. This could cut just enough into the larger companies' business that they quit making some or all of their beds in compliance with the voluntary standards.

This mandatory rule should be issued under the Consumer Product Safety Act (CPSA), as opposed to the Federal Hazardous Substances Act (FHSA), since the CPSA would require compliance of bunk beds made for

both children and adults. Implementing a rule which only applied to children and not adults who potentially use the same type of product can be problematic. For instance, there are many adults who are considered "small" by adult standards. The assumption is that the main difference in the structure of the beds would be due to weight differences and structural support, and not for potential entrapment hazards. Making an exception for adults across the board requires acknowledgement that the product is safe for all adults, regardless of size. The danger associated with such a broad generalization is clearly demonstrated by the current problem with airbags in cars that can possibly kill some adults because the airbag was considered safe for an adult of any size. In fact, any adult under 5'5" or who has to sit close to the steering wheel runs a greater risk of being either injured or killed should the airbag deploy.

The same type of problem exists with bunk beds. While it is conceded that many adults do not sleep on bunk beds, a large number of adults in college do use bunk beds in dorm rooms and the like because of space restrictions. Again, not every adult is 5'8" or taller and 150 pounds or heavier. Many of my friends are considered quite small by adult standards: my roommate is barely 5' tall and weighs 95 pounds; my sister-in-law is 4'8". Either of them could easily sleep in a bunk bed made for

adults or children. Not requiring compliance of bunk beds manufactured specifically for adults could easily lead to a problem similar, if not the same, as the one currently faced by bunk bed manufacturers and the CPSC.

In conclusion, the proposed standard is necessary to curb the dangers currently present in non-conforming bunk beds. The CPSC might consider making the rule retroactive by requiring those beds which currently are in the retail pipeline to either be recalled or have parts made to bring them into compliance at no cost to the purchaser or owner. Whenever a rule serves a purpose such as protecting small children from potential death, one is hard-pressed to argue against it. When the rule appears as though it can be implemented without great cost to those affected (as is the case here), the incentive under the cost-benefit analysis is even greater. However, the CPSC should avoid future problems by issuing the standard under the CPSA and not the FHSA so that bunk beds which are sold for adults are included in the compliance group.

Respectfully submitted,

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U.S. Consumer Product Safety Commission

PROPOSED RULES COMMENTARY

CONSUMER PRODUCT SAFETY ACT
16 CFR Chapter II
63 FR 3280-01
[NO, 101-567 AND H.R. 4952]

COMMENT REGARDING BUNK BED MANDATORY STANDARDS
AND
THE ALTERNATIVE COMPLIANCE STANDARDS

This comment will address the proposal to initiate a rulemaking proceeding that could result in a rule mandating bunk bed performance requirements to reduce bodily injury os death. I think that there are two ways to go about structuring this rule. First, I think adopting a mandatory standard instead of a voluntary standard for substantial compliance will better serve manufacturers and the Consumer Product Safety Commission [Hereinafter "CPSC"]. Second, in terms of alternative compliance, improved entrapment supplementary provisions set by the ASTM voluntary standard should be included within a mandatory standard which addresses the number of injuries and deaths associated with bunk beds.

The measurement of substantial compliance is what lies dormant between the use of a voluntary standard and a mandatory standard. In its legislative histosy of the CPSC, Congress noted that in order to determine whether or not it is likely there will be substantial compliance using a voluntary standard, the CPSC

should detexmine whether or not there will be sufficient compliance to eliminate ox adequately reduce an unreasonable risk of injury in a timely fashion, Therefore, compliance is supposed to be measured in terms of the number of complying products rather than in terms of complying manufacturers. (H.R. Conf. Rep. No. 208, 97th Cong.,1st Sess. 873 (1981). [Hereinafter "House Report"]. The House Reports also stated that "adequately reduce" means to reduce the risk "to a sufficient extent that there will be no longer exist an unreasonable risk of injury." Id. Consequently, legislative history suggests that substantial compliance means that there will be sufficient compliance with the voluntary standard to seduce the product's risk to the point that the risk is no longer "unreasonable." Furthermore, factors that axe relevant both to a determination of unreasonable risk and to whether there is substantial compliance axe the severity . of the remaining injuries and the vulnerability of the injured population.

Given the legislative perspective, if adopting voluntary standard only reduces product's risk to the point that the risk is no longer unreasonable, why not adopt a mandatory standard that is measured by both the number of complying products and complying manufacturers. St appears that regulating complying products already seems to be under control to a degree. Fox example, standards have been set to determine what constitutes a safe bunk bed with the exception of entrapment safety provisions. However, there needs to be just as much of an equal focus on

complying manufacturers as well as complying products. Notes in the comment have already stated that manufacturers do not comply if they know it is a voluntary standard that they have to follow. Because constructing bunk beds is quite easy fox many small companies to do, many small companies axe not associated with industry organizations and axe often unaware of any standard that they have to follow, let alone a voluntary standard. Making compliance mandatory alleviates this problem. I think even the CPSC's staff analysis implies that adopting this type of mandatory standard could eliminate many severe injuries and probable deaths. After all., decreasing and eliminating risk and injuries is what the CPSC is striving to achieve with the bunk bed safety.

In order to implement a mandatory standard that requires measuring substantial compliance through complying products and complying manufacturers, I think the CPSC should at least consider mandatory reporting by manufacturers. Guidelines fox reporting may be drawn from some of the material included in the Regulated Products Handbook. Although the handbook does state that it is not intended to the replace either the CPSA ox the FBSA (Federal Hazardous Substances Act), I think Chapter 5- Reporting Requirements, in the handbook, includes some concrete guidelines that should be a part of the mandatory standard, especially fox complying manufacturers. In my opinion, mandatory reporting serves two goals--both short and long term. The short term goal is keeping manufacturers and the CPSC informed of

hazardous products that have been adequately reduced to the extent that unreasonable risk of injuries axe eliminated. The long term is that manufacturers won't have to woxxy about whether what they axe reporting is worth being examined. Once the mandatory standard is set, all manufacturers will be aware of what standards they must follow and how their products will be categorized. Consequently, the lives of future consumers will be protected.

First, Chapter 5 mentions that the intent of Congress in enacting section 15(b) and section 37 of the CPSA was to encourage widespread reporting of potential product hazards. Although CPSC relies on sources other than company reports to identify substantial product hazards, reporting by companies under section 15 and section 37 provisions is invaluable because firms often learn of product safety problems long before the Commission does. Because some manufacturers have been concerned that some of their competitors may not either be abiding by the voluntary standard ox simply not aware of it, adopting this mandatory standard will inform all manufacturers of their duties; Including small regional manufacturers that periodically enter the marketplace that may not be aware of even a voluntary standard, ox the hazards that axe associated with bunk beds.

Second, violations under the mandatory standard described in the proposed comment axe too vague. The comment already proposes a mandatory standard would allow the Commission to seek penalties fox violations of the mandatory standard. The Commission also

states that publicizing fines fox noncompliance with a mandatory standard would deter other manufacturers from noncomplying beds. I think that violations should be taken two steps further. First, I think failure to xepoxt should be included in the mandatory standard. Chapter 5-Reporting Requirements includes fines for the penalty fox failure to report. It states that any person who commits a prohibited act is subject to civil penalties under section 20 of the Consumer Protection Safety Act (CPSA), including fines up to $125 million fox a series of violations, and criminal penalties under section 21 of the CPSA. These fines axe up to $500,000 or imprisonment not more than year or both. In addition to these penalties, I think the manufacturers who failed to comply should be required to pay some sort of punitive damage award to the families of the victims who may have been seriously injured or even killed by a defective bunk bed. Although paying punitive damages may occur regardless in a civil suit context, I think placing the punitive damages in a mandatory standard under violations will certainly make manufacturers take notice of how serious mandatory compliance is. Fuxthexmoxe, manufacturers should not have a problem with mandatory compliance because there seems to be no cost problem in making the necessary needed changes fox bunk bed safety.

Supplementary entrapment provisions set by the improved voluntary standard as proposed by the ASTM should be included as part of the mandatory standard, The Commission proposes to either upgrade the voluntary standard ox create a mandatory

standard regarding the alternatives in reducing the number of entrapment injuries and deaths associated with bunk beds. The Commission also states that although the Commission currently believes that the ASTM voluntary standard fox bunk beds adequately addresses the most common entrapment hazards associated with these products, the Commission is aware of three entrapment fatalities that occurred in conforming beds.

A mandatory standard could rectify entrapment fatalities. I think once the voluntary standard has been improved, it would be more efficient and practical just to include the improved voluntary standard within the mandatory standard and have it apply to all bunk beds; especially those bunk beds that currently comply with the voluntary standard. Once the mandatory standard is used, it automatically alleviates any question as to whether the improved voluntary standard would have been effective if used solely by itself. Furthermore, future deaths that occur will no longer be analyzed under the voluntary standard that was never fully adequately equipped to handle the new entrapment incidents from the beginning. Choosing to only improve the entrapment supplementary provisions of the voluntary standard does not seem to be congruent with the goal of the CPSA, which is to literally protect and keep consumers safe from defective, ox hazardous products. Instead, putting supplementary entrapment provisions under the mandatory standard allows manufacturers to make future bunk beds that will be free from entrapment injury. The incidents involving the three entrapment deaths should be further

analyzed and rectified so that new provisions explaining precise measurements of articles that axe part of the bunk bed can be included. Fox example, the comment already noted that one entrapment death occurred because guaxdxails did not run the entire length of the bed. Hence, the shortness of the guardrails is one indicator that tells manufacturers what need to be fixed on bunk beds. Incidents like that at least give the CPSC and manufacturers a basis to start from, when it comes to finding solutions fox entrapments between railings and bedroom walls.

In conclusion, I commend the proposal in even suggesting having a mandatory standardi regarding any of the issues that axe presented on bunk beds. I think if the CPSC wants to really prevent future hazards, serious bodily injuries, ox death, a mandatory standard is the best way to go. Sure it may not guarantee success in all future cases, but I am willing to take a chance on the fact that it is better fox the CPSC to be more prepared than not if any future incidents were to arise. Defining the mandatory standards in more detail helps all parties involved: consumer, manufacturer, and the Commission know what is expected of them.

Respectfully submitted,

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Consumer Product Safety Commission
16 CFR Chapter II
63 FR 3280

COMMENT REGARDING THE ADVANCE NOTICE OF PROPOSED RULEMAKING FOR BUNK BEDS

This comment addresses the Consumer Product Safety Commission's (CPSC) proposal to create mandatory bunk bed performance requirements to reduce the risk of entrapment for children. I am a third-year law student at the University of Tennessee College of Law, and I am currently studying Administrative Law. I believe that the CPSC should impose mandatory bunk bed performance requirements for bunk beds in order to reduce the number of injuries and deaths caused by entrapment. This mandatory standard should apply to sellers as well as manufacturers. I would also like to address the fact that a mandatory standard can be issued in this case, even though there is a voluntary standard already in existence.

I. Mandatory Standards

Even though there is currently a voluntary standard for manufacturers of bunk beds, a mandatory standard should be imposed to lessen the risk of injury or death from entrapment of children in bunk beds. The voluntary standard is not effective in preventing injury and death, and the number of deaths due to entrapment has not decreased in recent years despite the existence of the voluntary standard. The three primary reasons that a mandatory standard is preferable to the existing voluntary one are: cost, speed of conformance, and effectiveness.

A. Cost

Making compliance with the safety regulations mandatory will not increase the cost to most of the manufacturers, retailers, and distributors because they already comply with the voluntary regulations. Only those who do not currently comply will be forced to spend more to come into compliance. This is a reasonable cost (approximately $15-40 per bed) (Advance Notice of Proposed Rulemaking, 63 FR 3280, Section F (January 22, 1998)) [hereinafter ANPR] to impose to create compliance with a standard that everyone in the industry should already be aware of and in compliance with. This minimal cost is practically insignificant when the alternative, selling a hazardous and potentially lethal product that is intended for children, is considered. These manufacturers that are not currently in compliance can also pass the costs of compliance on to the consumers.

This minimal cost may also be the best economic choice for those not currently in compliance. It is probably far less expensive for the companies not currently in compliance to make the changes that would be required for a mandatory standard than it would be for them to face tort litigation for building a hazardous product. Cosco, for example, was forced to pay a $750,000 fine in a civil lawsuit because of an unsafe bunk bed. (Robert E. Gordon, "Litigating Bunk Bed Entrapment Cases," Trial, November 1, 1996.) The costs of such damage awards, along with the costs of litigation, will reduce their profit margin considerably and may cause manufacturers to raise their prices anyway to recover their losses.

The frequent recalls under the current voluntary standard are also probably more expensive than compliance would be. Forty-one manufacturers have issued recalls since November of 1994, recalling over half a million beds. (ANPR, Section D). The

combined costs of providing the recall kits for free and of contacting the public are probably greater than the cost of coming into compliance with the standard. The time spent by the companies issuing the recalls, notifying the public, and providing the recall repair kits also cost the companies money. If the manufacturers were forced to comply with a mandatory standard, however, the cost of coming into compliance could easily be transferred to the consumer instead of being carried by the manufacturer.

Another consideration is that the frequent recalls probably have a substantial and negative effect on the public perception of the bunk bed industry, and therefore also on the industry's sales. If the public is continually exposed to recalls and news reports of tragedies, this will surely undercut the consumers' confidence in the safety of bunk beds, and fewer consumers will choose to purchase bunk beds. This trend could cost the industry as a whole a significant amount of money, and affect those manufacturers whose bunk beds are safe and in compliance as well as those who are manufacturing hazardous beds.

Another important cost consideration was raised in the ANPR -- the fact that a mandatory standard would level the playing field between the companies. Some companies will continue to take advantage of the fact that the regulations are voluntary, and will use the small cost savings to lower their prices, making the more hazardous non-complying beds slightly cheaper and giving them a competitive edge. The companies who spend the relatively small amount to come into compliance will have to take that amount out of their profits or sell their beds at a higher price, which would make them less appealing to cost-conscious customers. This might encourage fewer companies to comply with the voluntary standard, and is probably one reason that some companies are

not currently in compliance. It may also encourage cost-conscious consumers to purchase the more dangerous bunk beds, which will put their children at risk of injury or death. These problems can easily be avoided by implementing mandatory standards.

The final cost argument is that it is simply unreasonable to say that it is not worth the minimal cost to the manufacturer to make a safer bunk bed. If the lives are children can be saved, it is worth an extra $15 to $40 per bed, which can be passed on to the consumer in any event. The current voluntary standards are not working and a mandatory standard will be more effective in saving lives and preventing injury. The only argument against the mandatory standard is the unreasonable argument that the value of the life of a child is less than the cost of meeting the standards. Even if a more cynical economic approach is taken and the cost of noncompliance is measured only by the cost to society of the injuries and deaths and not by the abstract value of human life, the ANPR points out that if the measures are only 4-23% effective, the costs will still equal the benefits (ANPR, Section F).

B. Speed of Compliance

A mandatory standard may also be beneficial because it will probably promote faster compliance with both the present standards and any future changes in the regulations. Currently, many companies may see no reason to comply quickly when there is no penalty imposed for not doing so. There is also no incentive to exceed the minimum standards, as there might be if there were mandatory and regularly updated minimum requirements. An example of this is the problem of lower bunk entrapment. The risk of lower bunk entrapment was known, but before the regulations were changed to address the problem of entrapment in the lower bunks, three children were trapped,

and two died. (Mary Ellen Fise, "Kids' Bunk Beds Need a Government Fix," Newsday, July 28, 1995.)

Voluntary standards also raise problems where recalls are concerned. If a problem is found with a manufacturer's bed under the voluntary standard, not only is the company not obligated to change the design of their beds, but also the company does not have to participate in any kind of recall. Under the current voluntary standard, some manufacturers have refused to comply with recalls. While it is possible to legally force a company to comply with a recall, it takes far longer to do so. (Lisa Fine, "Perilous Bunk Beds," The Washington Post, May 16, 1995.) The added time required to force compliance with a voluntary recall could endanger many more lives. A mandatory standard would allow for enforcement of the standards and force companies to comply quickly, as well as forcing them to act quickly in recalling unsafe bunk beds.

C. Effectiveness

Although the voluntary standards have been improved several times over the past seven years, the number of bunk bed deaths has not decreased. All but three of the deaths occurred in bunk beds that did not conform to the voluntary standard. (ANPR, Section B). These are sure signs that the current voluntary standards are not working. If they were, then the death rate would be decreasing as the older, non-conforming beds are phased out. Instead, the death rate is remaining constant in spite of the changing regulations and the voluntary standard.

Voluntary regulations might also leave some manufacturers unsure of what the dangers of not complying are. They might not consider the risk of injury or death if they are not forced to do so. It is quite: possible that many manufacturers will mistakenly

assume that if there were any serious danger to children, then the requirements would be mandatory. This may lead them to underestimate the importance of complying with the voluntary standards.

There is also a problem with manufacturers refusing to comply with the suggested recalls under the voluntary standard. At least five companies did not comply with the November 1994 recall. The recall process takes both time and money, and there is always the risk that a company would rather leave their unsafe product out on the market than address the changes that must be made. As the recent noncompliance shows, the industry cannot be relied upon to conform to the standards voluntarily. This would not be an issue under a mandatory regulation, as the manufacturers would have no choice but to comply. A mandatory standard would also allow for easier identification of those manufacturers or sellers who are not in compliance rather than relying on the manufacturers or sellers to police themselves and come into compliance.

Even when the manufacturers do comply with a recall, however, there is an issue as to the effectiveness of the recall. Many consumers may not be informed of the recall. It is difficult and expensive to reach a majority of purchasers, and relying on press releases is risky and inefficient. Not all consumers check with the CPSC or similar agencies on a regular basis. Even those consumers who carefully research a product before purchasing it may not be aware of future information that comes out after they have made their purchase.

Even in those cases where the customers are informed, however, they may not choose to go to the trouble of obtaining or using the free retrofit kits. Although the companies may be vigilant, they have to rely upon the vigilance of the consumers as well.

The recall method of compliance does nothing but shift the burdens and risks from the companies to the consumers. It is the companies who are in the best position to be aware of the dangers and to prevent injuries or deaths, and they should bear the burden of creating and selling a safe product.

Another significant problem with the effectiveness of the current voluntary standards is that there is a large market for used bunk beds. This is why I believe that the proposed mandatory standard should apply to sellers as well as manufacturers. A mandatory standard that applies to sellers, and not just manufacturers, could curb the resale of older beds that do not comply with the standards and are hazardous, as well as new beds that are not in compliance. If there is a penalty for selling a non-conforming bunk bed, then sellers will demand products from the manufacturers that conform to the mandatory requirements, and will not offer items for resale that no longer comply with the regulations.

II. Substantial Compliance with the Voluntary Standard

I would also like to address the fact that a mandatory standard, as explained in the ANPR, cannot be issued unless there is no "substantial compliance" with the voluntary standard. For the voluntary standard to preclude a mandatory standard there must be "sufficient compliance to eliminate or adequately reduce an unreasonable risk of injury in a timely fashion." In the case at issue, the voluntary standard has clearly not produced "sufficient compliance" to preclude a mandatory standard.

A. "Unreasonable Risk"

Where children's bunk beds are at issue, any risk of entrapment at all is an "unreasonable" risk. It is easy and inexpensive for the manufacturer to avoid creating

unsafe beds, and all of those already in compliance with the voluntary standard have done so. The risk of entrapment is also "unreasonable" because it is almost impossible to prevent children from putting themselves at risk. Almost all manufacturers warn parents to keep any children under six years of age from sleeping on the top bunk. The manufacturers and parents may be as diligent as possible, but the fact remains that an unsupervised two or three-year-old child may be tempted by the top bunk. A parent cannot supervise their child every minute of every day, and so the bunk beds should be made as safe as possible to prevent injuries. Parents may also be unaware of what risks are prevented by bunk beds, and may consider falling to be the only real danger. It is simply impossible to insure that a small child will never find their way into the top bunk, and the bunk beds should therefore be made safer under mandatory regulations to minimize the risk of entrapment.

B. "Risk of Injury"

An important consideration is that the ANPR deals primarily with fatalities, but there are far more *injuries* than fatalities caused by entrapment, and the no "substantial compliance" requirement specifies the "risk of injury," not just the risk of death. Hospital emergency rooms in the United States had treated an estimated 111,000 bunk bed related injuries by 1996. (Robert E. Gordon, "Litigating Bunk Bed Entrapment Cases," Trial, November 1, 1996.) These injuries should be considered along with the fatalities when examining the dangers presented by bunk beds, and I do not think they have been given sufficient consideration in the ANPR. The statistics concerning entrapment deaths are striking and important, but the possibility of injury should not be overlooked.

C. "Timely Fashion"

The "timely fashion" aspect of the requirement is also at issue here. There is no motivation other than an altruistic one for companies to comply with the voluntary standard quickly, if they choose to do so at all. Altruism is not usually an important motivating factor in business considerations. As I discussed earlier, many companies have not participated in recalls, and others refuse to comply with the standards. Even when they do comply, there is no reason for them to do so in a "timely fashion" because there are no penalties for not doing so. Therefore the voluntary standard is insufficient, and a mandatory standard is needed in order to ensure compliance in a "timely fashion."

III. Conclusion

The CPSC should impose mandatory bunk bed performance requirements for bunk beds in order to reduce the number of injuries and deaths caused by entrapment. These mandatory standards should apply to sellers of bunk beds as well as manufacturers. A mandatory standard can be issued in this case, even though there is a voluntary standard already in existence.

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ANPR FOR BUNK BEDS
CONSUMER PRODUCT SAFETY COMMISSION
63 FR 3280-01
FR DOC 98-1457

Comment of Linda Gale Shown Regarding The Need For A Mandatory Performance Standard and The Regulatory Alternatives Discussed in the ANPR

This Comment addresses the Advance Notice of Proposed Rulemaking (ANPR) by the Consumer Product Safety Commission (CPSC), dated January 22, '1998, to mandate bunk bed performance requirements to reduce the hazard of entrapment and to determine possible regulatory alternatives. I believe that the CPSC should proceed with its rulemaking procedure to adopt a final rule under the Consumer Product Safety Act (CPSA) because a final rule is the preferred method to address the risk of injury posed by bunk beds and because the public interest requires a mandatory performance standard.

First, I believe that the CPSC should proceed with issuing a Proposed Notice of Rulemaking. The CPSC has gathered sufficient information to find that voluntary industry standards are not adequate to reduce or eliminate the entrapment risks posed by bunk beds.

Historically, voluntary industry standards have been used to establish performance requirements for bunk beds: Standard

Consumer Safety Specification for Bunk Beds, ASTM F1427-92, last updated in 1996[1]. One of the primary purposes of this ANPR is to begin the process to implement a mandatory performance standard "to address the risk of entrapment associated with bunk beds?

My understanding of the 1990 amendments to the CPSA is that the CPSC should defer any action to address product safety when voluntary industry standards are in existence and approved by the organization that developed them? In addition, the legislative history of the 1981 amendments to the CPSA evidences a congressional preference for voluntary performance standards. However, I believe that the legislative history indicates that the CPSC can begin its rulemaking procedure to issue a final regulation regarding performance standards, labeling, and warning standards when substantial compliance with the voluntary standard by the industry does not eliminate or adequately reduce an unreasonable risk of injury in a timely fashion.[4]

I do not accept the Commissioners' statements that the bunk bed industry's voluntary standard is an ". . .admittedly satisfactory voluntary standard . . ." and there " . . . no question that it [the voluntary standard] is likely to result in the elimination or adequate reduction of the risk of entrapment deaths and injuries . . ."[5]

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[1]63 Fed. Reg. 3281
[2]Id.
"15 U.S.C. 2058 (b)(2)
[4]HR Conf Rep. No. 208, 97th Congress, 1st Sess. 873(1981).
[5]Statements of Commissioner Thomas H. Moore the Honorable Mary Sheila Gall as

For twenty years, the bunk bed industry has manufactured bunk beds without being required to follow mandatory safety performance standards. Voluntary safety guidelines have been developed and revised by industry associations since 1978. These voluntary standards have been adapted over the years to reflect safety recommendations made by CPSC staff. Certainly, the CPSC has shown great patience and a willingness to work with the bunk bed industry to develop and modify standards that address the risks of injury posed by bunk beds.[6]

I concur that voluntary industry standards have many benefits. They can be an efficient means to accomplish goals that are in the industry's best interest as well as in the public's best interest. Since budget constraints must be considered by the CPSC, voluntary industry standards can be a very important mechanism to produce efficient results at very low cost. Further, manufacturer associations are in a strategic position to safeguard consumer interests because of the expertise of their members.

However, the CPSC must recognize that voluntary industry standards can have a significant downside as well. They can sacrifice safety for cost considerations. Often, such standards are a broad

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printed in the M2 Presswire, Thursday, January 15, 1998: U.S. CPSC: CPSC votes to bigin rulemaking to address bunk bed entrapment.

[6]The CPSC denied the petition by the Consumer Federation of America to request mandatory safety regulations of bunk beds after the American Furniture Manufacturers' Association published the "Revised Voluntary Bunk Bed Safty Guidelines." 63 Fed. Reg. 3281.

general agreement of interested parties and may have anti-competitive effects.[7] Moreover, voluntary standards may not provide the important incentive of independent self regulation and can sometimes be used merely to frustrate or further delay the imposition of mandatory standards by the regulatory agency. Also, many manufacturers do not have the motivation to engage in meaningful self-regulation because there is no market mechanism to target non-compliance which puts people at risk of injuries from particular product hazards such as bunk bed entrapment.

The voluntary industry standards are not satisfactory because the data collected by the CPSC supports that an unreasonable risk of injury by bunk bed entrapment exists. The "CPSC received reports of 103 entrapments. . .including 54 that involved deaths and 49 that involved near misses."[8] Ninety six percent of entrapment victims were children age 3 or younger. No assurance exists that all accidents involving bunk bed entrapment have been reported to the CPSC. The severity of the injury (death) and the vulnerability of the population at risk (children) must be considered an unreasonable risk of injury.

Moreover, the CPSC staff has found that the bunk bed industry has not substantially complied with its own voluntary standard." Less than 50% of bunk bed manufacturers belong to the association that has promulgated the voluntary standards. Because

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[7] Am. Soc'y of Mech. Eng. Inc v Hydrolevel Corp., 102 S.Ct. 1935 (1982).
[8] 63 Fed. Reg. 3282
[9] Id.

bunk beds are easy to manufacture, companies go in and out of business perhaps more so than in other industries that require a substantial capital investment. Unsafe bunk beds enter the stream of commerce with relative ease since short lived companies may not be aware of potential risks of bunk bed entrapment or that a voluntary industry standards exists as compliance with the voluntary standard is not regularly monitored. In fact, this is evidenced by recalls of over one half million bunk beds in 1994 by 41 manufacturers and 16,500 bunk beds in 1997 by 5 manufacturers when the CPSC performed a voluntary compliance check.[10] My interpretation of the CPSA is that Congress intended for each individual product to be safe for use by the public, Therefore' substantial compliance must be measured by each bunk bed manufactured and not measured by the number of manufacturers who purport to comply with the standard.[11] Respectfully, the Honorable Gall's interpretation of substantial compliance to be a "minimum of 90% rate, along with the ability of the Compliance staff to pursue recalls of non-complying bunk beds " is incorrect.[12] Based on the results of the compliance checks and the CPSC's estimate of 7-9 million bunk beds currently in existence, the number of potentially non-conforming beds must be considered a

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[10] Id.

[11] 63 Fed. Reg. 3284

[12] Statement of the Honorable Maary Sheila Gall on Vote Not to Issue an ANPr on Bunk Beds January 14, 1998 as printed in the M2 Presswire, Thursday, January 15, 1998: U.S. CPSC: CPSC votes to beging rulemaking to address bunk bed entrapment.

sufficient basis to determine that a serious lack of substantial compliance with the voluntary industry standard exists.

Further, the details of the recall are additional evidence that the industry is not in substantial compliance with the voluntary standard. The 1997 recall involved only 5 manufacturers but involved bunk beds distributed from as far back as 1987.[13] Further, "since 1994, the commissioner and 34 manufacturers and importers have recalled more than 514,500 bunk beds. . ."[14] An error rate of this magnitude is not satisfactory to me as a potential purchaser of bunk beds.

The CPSC must find that a rule regarding performance standards of bunk beds under the CPSA is in the public interest. Product safety is a primary policy goal in the United States. Consumers most often presume that products in the market are safe for their use. Companies who are manufacturing and selling bunk beds that are not in compliance with the voluntary industry standard expose the public, and children in particular, to an unreasonable risk of injury.

Bunk beds are marketed for use by both adults and children, but are used primarily by children. Since bunk beds have an estimated useful life of 13-17 years, many parents will purchase an adult size bunk bed for their child to grow into over the years. This is an economical decision for an average income family looking to provide

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[13] Houston Chronicle, Wednesday., April 9, 1997: hazardous space prompts bed recall.
[14] Id.

for the future needs of a child during her lifespan from toddler to teenager. Therefore, promulgating a rule that targets only one part of the market, i.e., bunk beds exclusively marketed for children, will not adequately reduce the risks. The rule must be promulgated under the CPSA to include the entire market of bunk beds, i.e., those bunk beds marketed to both adults and children.

To issue a rule under the CPSA, the CPSC must find that a rule to regulate performance standards of bunk beds is in the public interest. A mandatory rule is in the public interest because one rule for the manufacturers of all bunk beds will be easier to implement by the industry; one rule will be easier for the CPSC to administer as well as to monitor; and one rule will ensure that a child who sleeps in a bunk bed will be sleeping in one that conforms to a mandatory performance standard, regardless of whether the bunk bed is an adult bunk bed or a child bunk bed.

In addition, I believe that the CPSC must find that the public interest requires issuance of a mandatory performance standard because the bunk bed industry has an affirmative duty to manufacture a safe product. This affirmative duty arises under the Uniform Commercial Code and is further implied by the implementation of a voluntary standard by the industry. This affirmative duty has not been adequately performed with the use of voluntary standards since twenty years of the use of voluntary standards by bunk bed manufacturers has resulted in a continuing unreasonable risk of injury. This is sufficient justification for the CPSC to find that the public interest

requires a mandatory performance standard for bunk beds for the industry to meet its duty to the public of manufacturing a safe product. Therefore, the CPSC should proceed with its rulemaking procedure to adopt a mandatory performance standard to address the risk of bunk bed entrapment and to protect the public interest.

Second, I believe that alternatives to reduce the number of injuries and deaths associated with bunk beds should only be considered in addition to a rnandatory standard. A mandatory standard with monitored compliance is the most effective means of reducing the risks posed by bunk beds. I do not agree that alternatives such as warning labels' education campaigns, or an additional revised voluntary standard will reduce the entrapment risk posed by bunk beds.

Over the past twenty years, consumers have been inundated with warning labels contained on ladders, potting soil, and other ordinary household goods considered to pose a hazard by numerous federal agencies. This wave of warnings generated by the consumer protectionism movement in the 1980's as well as the effects of increased product liability litigation have generated apathy and confusion among consumers regarding warnings. Many people may not read or may simply ignore the warning labels because the consumers intend to use the product for its ordinary purpose. For example, a ladder is used for climbing but common sense indicates the danger of standing on the highest step and over extending. Hence, a bunk bed is used for sleeping and is usually the next bed

used for a child who has outgrown a crib. Parents have a reasonable expectation that the bunk bed is fit to be used for the ordinary purpose of sleeping (safely). A warning label will not meet the parent's expectation of safety. Only a design modification effected through a mandatory performance standard will meet this parental expectation.

I agree with the Honorable Gall's position that parents and caregivers must act responsibly on behalf of their children. However, even with the industry's voluntary warning of dangers to children younger than 6, incidents continue to be reported to the CPSC.[15] Consumer behavior is difficult to modify even with the presence of a warning label.

Therefore, I do not believe that an education campaign will reduce the hazard of bunk bed entrapment. Even if parents are informed about the hazards of bunk bed entrapment via warning labels or industry advertising, parents cannot be expected to monitor their children while they sleep in an unsafe bunk bed or while the children are in the same room with an unsafe bunk bed. That is impractical and absurd. Education campaigns are effectively used when the goal is to modify consumer behavior such as in the case of eating right to prevent heart disease; quitting smoking to prevent cancer and heart disease; and wearing a seatbelt to reduce the hazards of automobile accidents, etc. If the CSPC tried to change the behavior of purchasers of bunk beds to deter purchases of bunk beds

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[15]The Kansas City Star, Wednesday, October 15, 1997: Buk beds that could trap a young child are being recalled.

for small children because of entrapment risks, I am certain that the bunk bed industry would object. Moreover, this would impact consumer confidence and beg the question of why the CPSC, a regulatory agency, is not regulating when they are fully informed of the risk of death by entrapment. Again, education campaigns will not transform the hazard of bunk bed entrapment into an acceptable risk assumed by an informed purchaser--only a design modification effected through a mandatory performance standard will do that.

It is my opinion that an additional revised voluntary industry standards simply will not solve the risk of unsafe bunk beds History has proven that the bunk bed industry will not substantially comply with its own voluntary standard in such a manner that risks are adequately reduced or eliminated. Cost is not a feasible reason for non-compliance because the estimated cost of implementing a mandatory CPSC standard (which should be more expensive than a voluntary standard) is only $15-40 per bed.[16] That is a low cost in comparison to the "costs to society of bunk bed entrapment deaths of $174-346."[17]

In conclusion, I believe that the CPSC should proceed with a rulemaking procedure and issue a mandatory performance standard addressing the risks of bunk bed entrapment, This is a very important proposed rulemaking because it affects the rights of children to be safe while they are sleeping in a bunk bed. I believe that a mandatory

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[16] 63 Fed. Reg. 3283.
[17] Id.

performance standard is the most effective means to reduce the number of injuries and deaths associated with bunk beds. This would allow the CPSC to assure substantial compliance through monitoring and would make a difference in the safety of bunk beds. Furthermore, I do not believe that regulatory alternatives such as warning labels, education campaigns, and an additional revised voluntary industry standard will be effective in addressing the unreasonable risks of injury associated with bunk beds that are manufactured without a mandatory performance standard.

The CPSC should exercise its statutory authority given to it by Congress to protect the public and proceed with its rulemaking process to issue a mandatory performance standard that will eliminate or adequately reduce the risk of injury posed by bunk bed entrapment.

Respectfully submitted,

Linda Gale Shown

Ack card sent 3/20/98 CH98-1-283 307 3/26/98

February 20, 1998

To:
Commissioner Mary Sheila Gall
CPSC
Washington, DC 20207-30001

From:
Joan Fradella
5 10 SE Atlantic Drive
Lantana, FL 33462

COMMENT REGARDING MARY SHEILA GALL'S STATEMENT ON VOTE NOT TO ISSUE AN ANPR ON BUNK BEDS

Ms. Gall,

I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take. If even one child's death is caused by nonconformance to the voluntary standard, that should be sufficient to tell us as an educated society that the voluntary nature of the standard is not good enough. There were in fact 54 deaths and over 100,000 injuries from 1990 to 1995. This is obviously overwhelming evidence that mandatory standards must be passed to save this nation's precious children.

I would like to respond to some portions of your Statement on your vote not to issue an ANPR.

You state that "90% rate of compliance" is one reason you voted no. If non-compliance of a voluntary standard were to result in nothing more serious than a bruise, I would agree with you. However, with bunk beds, non-compliance allows the industry to produce products that already have and will continue to result in child deaths.

YOU state that "parents and caregivers must exercise their responsibility by not placing infants and young children in upper bunks". Most parents and caregivers do not intentionally put children into potential danger. But store salesman, who are out for a commission, and manufacturers do not give out information to purchasers of bunk beds, despite the age of the children the consumer is shopping with and for. Consumers who know nothing about the standards and past incidents trust them when they say the furniture is safe.

You state that "most of the deaths occurred in homemade beds, institutional beds, altered beds or those manufactured prior to the current voluntary standard addressing entrapment". The El Rancho bed that took my nephew's life did not fall into any of these categories.

You state that "the Commission staff is unable to identify today even one manufacturer, distributor, or retailer known to be out of compliance with the voluntary standard". This may be true, but today is the operative word. When will the next "Mom and Pop" enterprise come out of the garage? Without a mandatory standard, will their products be in compliance? I don't know, and neither do you. The day before my nephew died, you could have made the same statement. We see how false and costly it turned out to be.

You state that "the past examples of non-compliance the staff has encountered appear to be manufacturers who are either unaware of the voluntary standard or unaware of its safety aspects". Since parents need to exercise care, it is inexcusable for manufacturers to be unaware of the standard or its safety aspects. How else can parents have all the information they need? Since you and the Commission are supposed to protect me as a consumer, it is beyond belief that you would accept that manufacturers are allowed to be unaware.

In this nation, we are currently trying to institute programs to help families in crisis, so parents don't kill their own children. We are passing gun control laws to protect children from the guns they continue to find in their own homes. We must also do something to help the children who are in danger from their own furniture. Allowing an average of ten entrapment deaths each year is unacceptable.

Commissioner Gall, I hope you will consider my points as you continue in the ANPR steps. Please feel free to write or call me to discuss any points.

Sincerely,

Joan Fradella

Joan Fradella
(561) 588-0076

cc: Ann Brown, Thomas H. Moore, Henry Gilgoff, Don Oldenburg

March 2, 1998

Congressman Leonard Sullivan
1263 2 ValVerde Drive
Oklahoma City, OK 73 142

Dear Sir,

My sister-in-law informed me that you are pushing for legislation regarding Bunk Bed safety. I am asking my own Congressman, Clay Shaw to become involved in this matter. Please send a copy of the current proposed legislation to myself as well as to him. The addresses are below. I feel the legislation should address designers, raw material suppliers, manufacturers, wholesalers, dealers, distributors, and retailers. It should also apply to all juvenile products. I have also attached a copy of my response to Commissioner Gall's statements on why she voted not to make the standards mandatory.

Through my own contacts as a parent, and Toastmaster speeches, I have tried to increase public awareness of the unknown entrapment danger of bunk beds. I was determined that no other child. should be in danger from his own bed. It has obviously not been enough, since there have been more deaths since that of my nephew in 1994.

I cannot tell you how much I appreciate what you are doing. If there is anything I can do to help, please let me know.

Sincerely,

Joan Fradella

Joan Fradella
5 10 SE Atlantic Drive
Lantana, FL 33462
Home: 561-588-0076
Office: 561-912-6052
Fax: 561-912-6093

CC: E. Clay Shaw
222 Lakeview Av.
#162
West Palm Beach, FL 33401

Date: February 20, 1998

From: Joan Fradella
5 10 SE Atlantic Drive
Lantana, FL 33462

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioners,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

If even one child's death is caused by nonconformance to the voluntary standard, that should be sufficient to tell us as an educated society that the voluntary nature of the standard is not good enough. There were in fact 54 deaths and over 100,000 injuries from 1990 to 1995. This is obviously overwhelming evidence that mandatory standards must be passed to save this nation's precious children.

I have a personal stake in this,and am willing to co-me to the District if necessary to see this through. I fought along with this Commission to recall the El Rancho bunk bed that took the life of my nephew Nicholas. I was impressed with the CPSC then, and I hope for success in the mandatory rule making process. Please call me if there is anything else I can do.

Sincerely,

Joan Fradella

Joan Fradella
(561) 588-0076

Date: February 20, 1998

From: Shrusta Hussain
4760 NE 27th Ave
Ft. Lauderdale, FL. 33308

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

If even one child's death is caused by nonconformance to the voluntary standard, that should be sufficient to tell us as an educated society that the voluntary nature of the standard is not good enough. There were in fact 45 deaths and over 100,000 injuries from 1990 to 1995. This is obviously overwhelming evidence that mandatory standards must be passed to save this nation's precious children.

Sincerely,

Shrusta Hussain

Date: 2/20/98

From: Todd E. Fine
10749 Cleary Blvd #204
Plantation, FL 33324

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

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Sincerely,

Date: 3/26/98

From: Lindsay Daugh
1301 N.W. 21 St.
Ft Laud. FL.

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

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Sincerely,

Lindsay Daugh

Date: 2-20-98

From: Mary B. Stone

3681 W. Hillsboro Blvd.

E101

Coconut Creek, FL 33073

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

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Sincerely,

Mary B. Stone

Date: 2/20/98

From: Danielle M LoCurto
10749 Cleary Blvd, #204
Plantation, FL 33324

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

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Sincerely,

Date: _____

From: JAMIE FINE
PO BOX 16211
PLANTATION, FL 33318

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

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Sincerely,

Date: 02/24/98

From: Cheryle B. Robinson
1691 N.W. 1 CT
Boynton, Beach Fl.
33435

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

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Sincerely,

Cheryle B. Robinson

Date: 2/25/98

From: ANDREW PAISLEY

3663 NW 122nd TERRACE

SUNRISE FL. 33323

561-912-6044

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

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Sincerely,

Andrew Paisley

Date: 2/25/98

From: Bonni Horowitz d/b/a Sensomatic
6500 Congress Ave.
Boca Raton, FL
33487

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3 000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

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Sincerely,

Bonni Horowitz

Date: 02/24/98

From: Gertrude Sullivan
2014 E 6th Ave
Bayview Beach
Fla 32435

To: Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-3000 1

COMMENT REGARDING ANPR ON BUNK BEDS

Commissioner,

I am writing in regard to the advanced notice of rule making pertaining to bunk beds. I truly feel that going forward with the mandatory standard in the design and construction of bunk beds is the only correct action to take.

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Sincerely,

Gertrude Sullivan