



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: April 27, 2022

THROUGH: Austin C. Schlick, General Counsel
Mary T. Boyle, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs
Mary A. House, Attorney, Regulatory Affairs

SUBJECT: Draft *Federal Register* Notice: Petitions Requesting Rulemaking to Amend the Safety Standard for Play Yards to: (1) Require a Minimum Thickness for Play Yard Mattresses, and (2) Standardize the Size of Play Yards and Play Yard Mattresses

BALLOT VOTE DUE: Tuesday, May 3, 2022

On November 29, 2021, Carol Pollack-Nelson, Ph.D, Sarah B. Newens, M.S., and Alan H. Schoem, Esq (collectively "Petitioners"), submitted to the Commission Secretary: (1) a Petition to Require Minimum Thickness for Play Yard Mattresses ("Mattress Thickness Petition"), and (2) a Petition to Standardize the Size of Play Yards and Play Yard Mattresses ("Play Yard Size Petition")(collectively "petitions"). The petitions seek a rulemaking to amend the Commission's regulation, Safety Standard for Play Yards, 16 CFR part 1221, to address the hazard of infants becoming entrapped between the edge of a play yard and the play yard mattress and suffocating ("gap entrapment hazard"). CSPC docketed the Mattress Thickness Petition as petition CP 22-1 and docketed the Play Yard Size Petition as CP 22-2.

The Mattress Thickness Petition requests a rule that would require a minimum play yard mattress thickness of 1.5 inches with a minimal tolerance allowed. Additionally, Petitioners seek a maximum 0.5-inch gap requirement between a play yard mattress and the mesh side of the play yard wall, and to allow a maximum play yard mattress thickness of 3 inches. Petitioners assert that these requirements would reduce the use of soft bedding in play yards by consumers who believe that the floor of a play yard is too hard and uncomfortable for sleep.

The Play Yard Size Petition seeks to "mitigate the risk posed by an undersized mattress in a play yard," by standardizing the size of play yards and play yard mattresses "to one size for each given perimeter shape," meaning "one size for square play yards, one size for rectangular play yards, one size for oval play yards and one size for round play yards." Petitioners assert that standard sizing will reduce suffocation hazards associated with gaps between the mattress and the play yard sides.

As stated in Commission Directive No. D302 and Implementing Procedure 302, the Commission may decide to seek public comments on what action (if any) the Commission should



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take in response to a petition. OGC has drafted the attached notice for publication in the *Federal Register*, inviting comments on the petitions for a period of 60 days, should the Commission, in its discretion, decide to request comments on the petitions.

Please indicate your vote on the following options:

- I. Approve publication of the attached document in the *Federal Register*, as drafted.

(Signature)

(Date)

- II. Approve publication of the attached document in the *Federal Register*, with changes.
(Please specify.)

(Signature)

(Date)

- III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)



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IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice: Petitions Requesting Rulemaking to Amend the Safety Standard for Play Yards to: (1) Require a Minimum Thickness for Play Yard Mattresses, and (2) Standardize the Size of Play Yards and Play Yard Mattresses; Request for Comments.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC-2022-XXXX]

Petitions Requesting Rulemaking to Amend the Safety Standard for Play Yards to: (1) Require a Minimum Thickness for Play Yard Mattresses, and (2) Standardize the Size of Play Yards and Play Yard Mattresses; Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of petitions for rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) received two petitions regarding play yards and play yard mattresses. The Commission invites written comments concerning these petitions.

DATES: Submit comments by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by Docket No. CPSC-2022-XXXX, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (e-mail), except through <https://www.regulations.gov>. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330

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East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. Alternatively, as a temporary option during the COVID-19 pandemic, you can email such submissions to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2022–XXXX, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alberta E. Mills, Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301-504-7479 (office) and 240-863-8938 (work cell); cpsc-os@cpsc.gov.

SUPPLEMENTARY INFORMATION:

On November 29, 2021, Carol Pollack-Nelson, Ph.D of Independent Safety Consulting, LLC, Sarah B. Newens, M.S. of Safety and Systems Solutions, M.S., and Alan H. Schoem, Esq. (collectively “Petitioners”) submitted two documents to the Commission through the Division of the Secretariat, titled: (1) Petition to Require Minimum Thickness for Play Yard Mattresses (“Mattress Thickness Petition”), and (2) Petition to Standardize the Size of Play Yards and Play Yard Mattresses (“Play Yard Size Petition”) (collectively “petitions”). The petitions seek a

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rulemaking to amend the Commission's regulation, Safety Standard for Play Yards, 16 C.F.R. part 1221, to address the hazard of infants becoming entrapped between the edge of a play yard and the play yard mattress and suffocating ("gap entrapment hazard"). CSPC docketed the Mattress Thickness Petition as petition CP 22-1 and docketed the Play Yard Size Petition as CP 22-2.

The Mattress Thickness Petition states that to reduce consumer perception that a play yard floor is too hard, and the notion that soft bedding should be added for the comfort of an infant, the Commission should require a minimum play yard mattress thickness of 1.5 inches with a minimal tolerance allowed. Additionally, Petitioners seek a maximum 0.5-inch gap requirement between a play yard mattress and the mesh side of the play yard wall, and to allow a maximum play yard mattress thickness of 3 inches.

The Play Yard Size Petition seeks to "mitigate the risk posed by an undersized mattress in a play yard" by standardizing the size of play yards and play yard mattresses "to one size for each given perimeter shape," meaning "one size for square play yards, one size for rectangular play yards, one size for oval play yards and one size for round play yards." Petitioners assert that this change also would reduce hazardous gaps between play yard mattresses and play yard walls.

By this notice, the Commission seeks comments concerning the two petitions. In particular, the Commission seeks comments on the following:

- The Commission considered the gap-entrapment hazard in granting petition CP 15-2, Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards with Non-Rigid Sides, in establishing a Safety Standard for Crib Mattresses, and in continuing to work on play yard mattress requirements with the ASTM F15.18 Subcommittee on Play

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Yards and Non-Full-Size Cribs. What effect would these new petitions have on the Commission's work on this issue?

- Are any of the issues raised in the Mattress Thickness Petition supported, mooted, or rendered superfluous by the continuing work on the gap-entrapment hazard in the ASTM F15.18 Subcommittee on Play Yards and Non-Full-Size Cribs?
- The Commission, by statute, will consider any revised ASTM voluntary standard for play yards if ASTM notifies the Commission of a revised standard. 15 U.S.C. 2056a(b)(4). Based on the new petitions, should the Commission commit additional resources to the gap-entrapment issue, beyond staff's current work on mattress fit and thickness with the ASTM F15.18 Subcommittee on Play Yards and Non-Full-Size Cribs? Why or why not?
- The Commission's rules are typically stated in terms of performance requirements, and/or requirements for labeling and instructions. *See, e.g.*, 15 U.S.C. 2056(a). Is the proposal in the Play Yard Size Petition to limit the sizes of play yards and play yard mattresses consistent with this practice? If not, is the departure justified?
- Can the safety objective identified in the Play Yard Size Petition, *i.e.*, assisting consumers to purchase play yard mattresses that properly fit into a play yard, be addressed by a performance requirement different from that proposed in the Play Yard Size Petition? If so, are there reasons to favor or disfavor the requirement proposed in the Play Yard Size Petition? Does the existing requirement for play yard mattresses in the Safety Standard for Play Yards adequately address this hazard?

The petitions are available at: <http://www.regulations.gov>, under Docket No. CPSC-2022-XXXX, Supporting and Related Materials. Alternatively, interested parties may obtain a copy of the petitions by writing or calling the Division of the Secretariat, Consumer Product Safety

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Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479 or 240-863-8938; cpsc-os@cpsc.gov.

Dated:

Alberta E. Mills, Secretary
Consumer Product Safety Commission

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PETITIONERS

November 29, 2021

Re: Petition to Require Minimum Thickness for Play Yard Mattresses

Petitioners, Carol Pollack-Nelson, Ph.D., Alan H. Schoem, Esq. and Sarah Newens, M.S. (hereinafter "Petitioners"), pursuant to 16 C.F.R. § 1051 Procedure for Petitioning for Rulemaking, request that the U.S. Consumer Product Safety Commission initiate mandatory rulemaking to require a minimum thickness for play yard mattresses. The current standard for play yard mattresses requires a maximum thickness of 1.5" including ½" plywood. With only a maximum thickness specified, some manufacturers provide mattresses thinner than the 1.5" allowance, in some cases with only ½" of filler over the plywood floor.

Fatalities in play yards typically occur when consumers add cushioning (i.e., pillows, cushions, foam, etc.) under a baby in the play yard due to the perception that the play yard floor is too hard and inadequately cushioned. Consumer research conducted by the CPSC found consumers perceive the play yard floor to be too hard and as a result, they add soft bedding under the baby in a play yard (Durable Nursery Product Exposure Survey (DNPES), Westat, 2014; Caregiver Perceptions & Reactions to Product Safety Messages, Fohrs Marsh, 2019).

Background & Data

In the petition, CP-15, petitioner Joyce Davis relayed her family's tragic experience with the death of her 4-month-old son, Garret, in a portable crib with an inadequately sized supplemental mattress. "We were totally unaware of the risk of danger we exposed our son to. We used the supplemental mattress in the play yard because it looked more comfortable than the original mattress; we had done it before with our other children and knew many other parents that had done the same."

Mrs. Davis's effort to make the portable crib more comfortable for her son by using a different mattress than the one provided with the play yard is not uncommon. Incident data has long demonstrated that consumers add soft materials to a play yards and other infant sleep environments for added comfort for their baby. This was discussed in the Staff Briefing Package in response to Petition CP 15-2: "Newens and Balci-Sinha (2017) explain that to make infant sleep environments more comfortable, caregivers commonly use soft bedding and after-market mattresses, instead of, or in addition to, the original

equipment manufacturer (OEM) mattress.” (NPR, 2020, p. 89). The data demonstrate this to be a problem in various sleep environments, including play yards (Newens and Sinha, p. 48).

In reviewing the large set of play yard-related, positional asphyxia incidents to identify those associated with aftermarket mattresses, ESHF staff noted incidents involving infants ranging from 1 to 10 months old that did not involve an aftermarket mattress, but did involve the addition of a mattress-like product, such as foam, pillows, and sofa cushions. In addition, in the online product reviews for aftermarket mattresses that were included with the petition, caregivers expressed concern for infants sleeping on hard surfaces. ESHF staff concluded that extra bedding is used as a way to increase perceived comfort for the infant.

In the more recent analysis of play yard fatalities for the NPR, Harsanyi reached a similar conclusion. His analysis found soft bedding was added to the sleep area in 41 (about 35%) of the deaths. “Where reasons were provided, caregivers typically explained that they used soft bedding to add comfort and warmth” (Harsanyi, 2020, p. 92).

Where reasons were provided, caregivers typically explained that they used soft bedding to add comfort and warmth. Regarding items added for comfort, staff found that caregivers used an after-market mattress (typically 3” or greater) in 16 of the 26 cases involving play yards or non-full-size cribs. In at least 6 of these 16 cases, caregivers used the after-market mattress on top of the OEM mattress, including at least three cases involving full-size crib mattresses used to supplement another mattress in a play yard.

The perception that mattresses are too thin relates to performance requirements for play yard mattresses. The ASTM crib mattress standard, ASTM F2933, requires play yard mattresses to have a *maximum thickness* of 1.5” inches, including up to 1” of filler. However, as we have learned through participation in the ASTM subcommittee, manufacturers typically use less than 1” of filler in order to ensure their products are in compliance. Thus, in actuality, play yards often have ¾” filler or less.

Two studies have been conducted at the request of the CPSC to learn about consumer use of play yards and their perceptions and motivations relating to such use.

A. CPSC Durable Nursery Product Exposure Survey (DNPES) - 2013

Staff’s conclusion that consumers add bedding material to play yards because of the belief that the OEM mattress is too hard and uncomfortable is supported by CPSC’s Durable Nursery Product Exposure Survey (DNPES). This national probability sample was conducted in 2013 of U.S. households with children 5 years of age and younger (Durable Nursery Products Exposure Survey (DNPES): Final Summary Report, 2014; referenced in the Staff Briefing Package, May 10, 2017, p. 5). Survey participants were asked about items added to sleep products under the child. Researchers, found “[a]pproximately 75 percent of play yard users reported placing an item (other than the intended mattress) under the child in a play yard. Items added to play yards included pillows (~26%), blankets or quilts (~62%), and mattress pads (~12%). These findings suggest that consumers commonly add

items to cribs, play yards, and non-full-size cribs for comfort, including soft bedding material” (Harsanyi, 2020, pp. 93-94).

B. Fohrs Marsh Group Focus Groups – May 2019

In May 2019, Fohrs Marsh Group conducted focus group research to learn about consumers’ safe sleep practices involving various infant sleep products, including cribs and play yards. Six in-person focus groups were convened in Baltimore, Maryland, with parents and grandparents of infants ages 2 through 11 months. Participants reported that where and how they place the baby to sleep is often influenced by what is convenient and what is comfortable for their baby. For example, several participants were aware of SIDS, the Alone, Baby on their Back, Crib (ABCs) safe sleep strategy, and the safety in not having any additional items in the sleep environment; however, they still reported adding items to the sleep environment to make the environment more comfortable for their infant—defining comfort by whether the infant sleeps all night or not (p. 16).

Overall, parents and grandparents reported that they perceive the bassinet, playard, and crib to have hard surfaces that are not comfortable for their infant. A parent noted purchasing a memory foam mattress for their infant in order to make the sleep environment more comfortable and to provide their infant with a better sleep experience. Laying a blanket down or purchasing a comfortable mattress for the bassinet or the playard were also commonly reported additions to the sleep environment to make it more comfortable.

The majority of grandparents reported adding products they perceive as comfortable to their infant’s sleep environment. Some grandparents recounted that they add pillows and blankets to the sleep environments when the infant is sleeping, noting the items add comfort and warmth. (Fohrs Marsh, 2019, p. 17).

The inconsistency between participants’ understanding of the safest way to place a baby to sleep and actual safe sleep practices aligns with previously published research findings.

Kennedy et al. (2017) completed interviews and focus groups to further understand the obstacles that caregivers face when adopting AAP recommendations, and found that caregivers do have a general awareness of sleep safety best practices. However, there is still a gap between knowledge and behaviors: non-compliance still occurs, and caregivers remain resistant to follow recommendations (Ahlers-Schmidt, Schunn, Dempsey, & Blackmon, 2014).

When soft bedding (e.g., blankets and pillows) is added to an infants’ sleep space, it presents a risk of suffocation, particularly if the baby is placed to sleep on their side or prone or if they roll to prone position and are too young to clear their nose and mouth. When sofa cushions, pillows, and ill-fitting mattresses are added to a sleep environment, there is the additional risk of suffocation due to gap entrapment. To mitigate these risks, warnings on play yards advise consumers not to add soft bedding and to only replace the mattress pad that came with the play yard with a mattress of the same dimensions. Yet warnings are often overlooked, particularly on products for which use is intuitive.

Focus group participants in the Forhs Marsh study were shown a warning label (see Figure 1 below) similar to one commonly found on a common infant sleep product (Fohrs Marsh, 2019, pp. 23-24). “Nearly all participants indicated that they were aware of the warning label presented in the activity” (Fohrs Marsh, 2019, p. 24). While many participants reported reading a warning label when they see it, others mentioned that they skim or skip the warnings, noting that they are “all the same” or for liability purposes. “Therefore, they tend to gloss over the labels and do not necessarily internalize them” (p. 25).



Figure 1. Warning label

Petitioners’ Request

To reduce the perception by consumers that the play yard floor is too hard and soft bedding should be added, we are petitioning to require a minimum play yard mattress thickness of 1.5 inches with a minimal tolerance allowed; this depth is presently the maximum thickness allowed by the play yard standard. As discussed above, to ensure they do not exceed this thickness, some manufacturer’s mattresses currently on the market are actually thinner than what is permitted perhaps because there is no tolerance allowed. In addition to a minimum thickness of 1.5 inches, we recommend a maximum space allowance of 0.5 inches between the side of the mattress and the mesh side of the play yard. A maximum gap size of 0.5 inches will effectively prevent entrapment between the mattress and the mesh. Further, a 0.5-inch maximum gap size is consistent with the maximum gap proposed by the ASTM Task Group on Play Yard Fit and Thickness. revision to the standard.

This petition also requests the Commission establish a maximum play yard mattress thickness of 3 inches. This is based on the CPSC's data and analysis of that data over a 17-year period. CPSC Staff undertook a review of play yard fatalities reported from Jan 1 2000 to Dec 31, 2016. In that time, there were six cases of head entrapment in an aftermarket mattress that was too small for the play yard, leaving a gap ranging from 2 to 7 inches between the side of the mattress and the play yard wall. The Staff Briefing Package did not identify any entrapment incidents involving well-fitted mattresses (i.e., with gaps of 1 inch or less).

Mattresses measuring 2 to 3 inches thick that properly fits a play yard (i.e., with a gap between the side of the mattress and the mesh side of the play yard no greater than 1 inch) can, and has been, safely used in play yards. Over the last decade, millions of supplemental mattresses with a thickness of 2 to 3 inches have been sold and safely used on play yards. At the same time, we know that thinner mattresses have been associated with deaths due to the addition of soft bedding under the baby as a result of consumers' perceptions that the thin, hard mattress is not comfortable for their baby.

ASTM F406 – 19 seeks to make play yards safer. However, keeping the 1.5" maximum thickness in this standard does not make the product safe and is not effective in protecting infants. As long as consumers perceive play yard mattresses to be too thin and uncomfortable for their infant, they will continue to add soft bedding (e.g., another mattress, pillow, blankets) underneath their baby. No warning can overcome this perception. Rather, the hazard pattern can and should be addressed by a performance requirement that increases the minimum thickness for play yard mattresses to 1.5 inches with a small tolerance added, e.g., ¼ inch or such other tolerance as the Commission determines to be appropriate, so that manufacturers will have flexibility to meet the minimum thickness requirement.

Deaths in play yards can be prevented, but only if changes are made to the standard. With decades of data, we know what presents a hazard and what does not. The time is long overdue for standards to catch up with the data.

Respectfully submitted,

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PETITIONERS

November 29, 2021

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Re: Petition to Standardize the Size of Play Yards and Play Yard Mattresses

Petitioners, Carol Pollack-Nelson, Ph.D., Alan H. Schoem, Esq., and Sarah Newens, M.S. (hereinafter "Petitioners"), pursuant to 16 C.F.R. § 1051 Procedure for Petitioning for Rulemaking, request that the U.S. Consumer Product Safety Commission initiate mandatory rulemaking to standardize the size of play yards and play yard mattresses. The variety of play yard mattresses in the market can, and have, resulted in consumers placing an inappropriately sized mattress into a play yard, resulting in fatality. When a play yard mattress is too small for the play yard and leaves a gap 2 inches or greater, an infant can roll into and become entrapped in this space which can result in suffocation.

Background & Data

On June 16, 2015, the president of Keeping Babies Safe (KBS) petitioned the CPSC, requesting a ban on supplemental mattresses for play yards with non-rigid sides (petition CP 15-2: Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards with Non-Rigid Sides). In the petition, CP-15, the petitioner relayed her family's tragic experience with the death of her 4-month-old son, Garret, in a portable crib with an inadequately sized supplemental mattress. The petitioner stated "We were totally unaware of the risk of danger we exposed our son to. We used the supplemental mattress in the play yard because it looked more comfortable than the original mattress; we had done it before with our other children and knew many other parents that had done the same."

In response to this petition, CPSC Staff reviewed play yard fatalities reported from Jan 1, 2000, to Dec 31, 2016. In the 17-year period studied, they identified 12 reported fatal incidents that likely involved the use of an aftermarket mattress in a non-rigid-sided play yard. CPSC's Health Sciences staff determined that seven of the 12 incidents were entrapments that likely involved use of an aftermarket mattress in a non-rigid-sided play yard; i.e., mesh or fabric-sided play yards. In these seven incidents, the aftermarket mattress was too small for the play yard. "For those 7 incidents associated with a poor fitting mattress, the size of the space between the edge of the mattress and the play yard side varied in width from 2 to 7 inches" (Nakamura, 2017, p. 53).

As the staff recognized in its briefing package transmitted to the Commission September 22, 2021, recommending a final crib mattress rule, the data on play yard fatalities from Jan 2000 through Dec 2016 does not support a ban of all supplemental mattresses. Rather, the data supports a ban of ill-fitting mattresses that create a gap between the side of the mattress and the play yard wall in which the baby's head/face can become entrapped. The Staff Briefing Package did not identify any entrapment incidents involving well-fitted mattresses (i.e., those with gaps of 2 inches or less¹).

In addition to incident data, the CPSC also has information about how and why consumers use play yards as they do with regard to adding an aftermarket mattress and soft bedding. One source of data is online reviews of after-market mattresses for play yards. In online reviews, caregivers express concern for infants sleeping on the hard OEM play yard mattress. Their perception that the play yard mattress is hard is likely due to existing requirements for play yard mattresses. The ASTM standard requires play yard mattresses to have a *maximum thickness* of 1.5" inches, including up to 1" of filler. However, as we have learned through participation in the ASTM subcommittee, manufacturers typically use less than 1" of filler in order to ensure their products are in compliance. Thus, in actuality, play yards often have $\frac{3}{4}$ " filler or less.

This explains why parents and caregivers think the play yard floor is so hard and why they seek to add additional cushioning. To make the hard mattress/floor in the play yard more comfortable, some consumers seek out an after-market mattress that is thicker than the original equipment provided by the manufacturer. After-market mattresses are typically between 2" to 4" thick. As previously discussed, in 17 years of fatality data, there are no cases of fatality involving a well-fit after-market mattress.

Ensuring that mattresses fit the play yard is key to their safety. Consumers should not have to measure or have uncertainty about the fit of the replacement mattress. However, if there are a variety of mattress sizes available in the market for a given perimeter shape, consumers may inadvertently purchase the wrong size. This poses a potential entrapment danger.

In addition, if it is difficult for consumers to figure out the appropriate size mattress for their play yard, they may instead opt to place folded blankets, quilts, or pillows under their baby. In fact, two studies commissioned by the CPSC found the majority of study participants add blankets, quilts and pillows under their baby in the play yard in an effort to soften the hard surfaces.²

¹ There is one incident mentioned in the CPSC data that involves a play yard with a 1" gap between the mattress and the side of the play yard. However, it is our understanding that in that case, the IDI does not mention entrapment. Rather, it indicates that the infant was lying face down and states that the infant's face was found against the mesh side; not in the gap.

² 2014 Durable Nursery Product Exposure Survey (DNPES); 2020 Fohrs Marsh Study of Caregiver Perceptions and Reactions to Product Safety Messages.

Clearly the current requirement for play yard mattresses to be thin and with little filler is inducing consumers to add soft bedding or seek out an after-market replacement mattress. Even if the Commission issues a final rule allowing aftermarket mattresses to be 1.5 inches or thicker, with so many different dimensions of play yards and mattresses, there still is a risk that consumers inadvertently will use the wrong size mattress in their play yard. To make this process easier and safer, we are petitioning the Commission to issue a mandatory standard standardizing the sizes of play yards to one size per perimeter shape, i.e., one size for square play yards, one size for rectangular play yards, one size for oval play yards and one size for round play yards.

A Precedent for Standardizing Infant Sleep Spaces - Standardization of Crib Mattresses

A precedent for standardizing infant sleep spaces into one size was established in the original Requirements for Full-Size Baby Cribs published in the Federal Register of November 21, 1973, 38 Fed. Reg. 32,129. In that regulation, when asked by a commenter to specify only “maximum values for the interior dimensions [of cribs]” the Commission rejected that comment concluding that

setting minimum interior dimensions is necessary to provide uniformity of size for consumers who must purchase accessories, including properly fitting mattresses, which contribute to the crib’s safety aspects.

38 Fed. Reg. 32,129 (November 21, 1973).

Accordingly, the Commission established one interior dimension for full-size baby cribs at 16 CFR § 1508.3(a), now 16 CFR § 1219.(c)(iii).

The identical rationale applies to play yards.

Deaths in play yards can be prevented if the Commission changes the play yard standard to require a uniform interior dimension as it did in 1973 for full-size cribs.

Petitioners’ Request

To mitigate the risk posed by an undersized mattress in a play yard, we are petitioning the Commission to initiate rulemaking to standardize the size of play yards and play yard mattresses to one size for each given perimeter shape. Such standardization would necessitate play yard mattresses being sized appropriately to fit a standardized play yard with a maximum gap of 1/2-inch (or such other dimension the Commission determines to be appropriate).

Standardizing the size of play yards and their mattresses would allow consumers to purchase properly fitting after-market mattresses without requiring them to precisely measure the interior dimensions of their play yard. This action should greatly reduce or eliminate the risk of suffocation incidents due to entrapment in an ill-fitting mattress. It also should mitigate the need for consumers to add cushions, pillows, soft bedding and the like to overcome the perceived discomfort of the mattress pad currently supplied with play yards.

Respectfully submitted,

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