



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: August 16, 2023

THROUGH: Austin C. Schlick, General Counsel
Jason K. Levine, Executive Director

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

SUBJECT: Implementing Document for Denial of Petitions Requesting Rulemaking on Play Yard
Mattress Thickness and Standardizing Size of Play Yards

BALLOT VOTE DUE: Tuesday, August 22, 2023

On April 4, 2023, the Commission voted (4-0) to deny two petitions submitted by Carol Pollack-Nelson, Ph.D., of Independent Safety Consulting, LLC, Sarah B. Newens, M.S., of Safety and Systems Solutions, LLC, and Alan H. Schoem, Esq. The petitions were: (1) Petition to Require Minimum Thickness for Play Yard Mattresses (Mattress Thickness Petition; CP 22-1), and (2) Petition to Standardize the Size of Play Yards and Play Yard Mattresses (Play Yard Size Petition; CP 22-2). In accordance with 16 C.F.R. § 1051.11, the Office of the General Counsel has drafted for the Commission’s consideration a letter to inform the petitioners of the reasons for the Commission’s denial of the petitions.

Please indicate your vote on the following options:

- I. Approve the letter regarding denial of petitions CP 22-1 and CP 22-2, as drafted.

(Signature)

(Date)

- II. Approve the letter regarding denial of petitions CP 22-1 and CP 22-2, with the following changes.

(Signature)

(Date)

- III. Do not approve the letter regarding denial of petitions CP 22-1 and CP 22-2.

(Signature)

(Date)

- IV. Take other action as specified below.

(Signature)

(Date)

Attachment: Implementing Document for Denial of Petitions Requesting Rulemaking on Play Yard Mattress Thickness and Standardizing Size of Play Yards

**DRAFT****August X, 2023**

TRANSMITTED VIA ELECTRONIC MAIL

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Dear Dr. Pollack-Nelson, Mr. Schoem, and Ms. Newens:

The U.S. Consumer Product Safety Commission (CPSC or Commission) considered two petitions that you submitted on November 29, 2021. The petitions were (1) Petition to Require Minimum Thickness for Play Yard Mattresses (Mattress Thickness Petition; CP 22-1), and (2) Petition to Standardize the Size of Play Yards and Play Yard Mattresses (Play Yard Size Petition; CP 22-2). The Mattress Thickness Petition sought a rulemaking to increase the thickness of play yard mattresses, which the petition stated would address a suffocation hazard by “reduc[ing] the perception by consumers that the play yard floor is too hard and soft bedding should be added.” The Play Yard Size Petition sought a rulemaking to standardize the size of play yards, stating that it would “greatly reduce or eliminate the risk of suffocation incidents due to entrapment in an ill-fitting mattress.”

On April 4, 2023, after consideration of the petitions, comments on the petitions, and the March 29, 2023, Staff Briefing Package entitled “Petitions CP 22-1 & CP 22-2: Petitions Requesting Rulemaking on Play Yard Mattress Thickness and Standardizing Size of Play Yards (Staff Briefing Package),”¹ the Commission voted (4-0) to deny petitions CP 22-1 and CP 22-2.²

Petition CP 22-1

While increasing mattress thickness is unlikely to adequately address the hazard of caregivers adding soft bedding to the sleep environment, it may increase the risk of other hazards such as gap entrapment and suffocation in overly soft mattresses. Incident data demonstrate that play yard mattresses thinner

¹ The Staff Briefing Package is available at: <https://www.cpsc.gov/s3fs-public/Petitions-Requesting-Rulemaking-on-Play-Yard-Mattress-Thickness-and-Standardizing-Size-of-Play-Yards.pdf?VersionId=vKhdKnWefUzDvrajHzgmIYBSPOKDf694>.

² The Record of Commission Action is available at: https://www.cpsc.gov/s3fs-public/RCA-Petition-Requesting-Rulemaking-on-Play-Yard-Mattress-Thickness-and-Standardizing-Size-of-Play-Yards.pdf?VersionId=olV2I3_iDofVnhVHvo0WzRm60pB3wWTe.

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 Safety Commission
 4330 East-West Highway
 Bethesda, MD 20814
[cpsc.gov](https://www.cpsc.gov)

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 5 Research Place
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than 1.5 inches have historically afforded a safe sleep environment for infants. Such mattresses align with recommendations from the American Academy of Pediatrics that infants should have a firm, flat, and level sleep surface. Accordingly, the Commission denied Petition CP 22-1 because increasing mattress thickness is not reasonably necessary to reduce the risk of injury from the addition of soft bedding and may increase the likelihood of other known hazards.

Petition CP 22-2

The Commission addressed hazards associated with poorly fitted after-market play yard mattresses in the crib mattress rule, codified at 16 C.F.R. part 1241, which became effective on August 15, 2022. The crib mattress rule addresses the compatibility of after-market play yard mattresses and play yards by requiring identification and labeling of suitable play yard mattresses, mechanisms to secure the mattress to the play yard floor, and structural integrity requirements to ensure a flat, firm, and safe sleep surface. Additionally, there are not sufficient data to justify specific play yard dimensions based on safety. Because the crib mattress rule addresses the hazards cited in the petition, proposed amendments to standardize the size of play yards are not reasonably necessary to address the cited risk of injury.

Thank you for your interest in consumer safety.

Sincerely,

Alberta E. Mills
Secretary