



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

This document has been electronically
approved and signed.

DATE: October 25, 2016

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Mary T. Boyle, General Counsel
Patricia H. Adkins, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel

SUBJECT: Statement of Policy Regarding Crib Bumpers

BALLOT VOTE DUE: Monday, October 31, 2016

Chairman Elliot F. Kaye asks that the Commission consider the attached statement of policy regarding crib bumpers.

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)

CPSC Hotline: 1-800-638-CPSC(2772) * CPSC's Web Site: <http://www.cpsc.gov>

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

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice: Statement of Policy Regarding Crib Bumpers

CONSUMER PRODUCT SAFETY COMMISSION

Statement of Policy Regarding Crib Bumpers

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Statement of Policy.

SUMMARY: After analyzing CPSC staff's 2013 and 2016 briefing packages on crib bumpers, the Commission is issuing this Statement of Policy. The Commission believes that there is a clear risk of injury or death associated with padded crib bumpers and that certain hazard patterns associated with padded crib bumpers are addressable.

Accordingly, on October 19, 2016, the Commission voted to add to its Fiscal Year 2017 Operating Plan a direction to staff to initiate rulemaking under section 104 of the Consumer Product Safety Improvement Act (CPSIA) to create a mandatory consumer product safety standard to address the risk of injury associated with the use of crib bumpers. Through this Statement of Policy, the Commission provides notice of its policy position to consumers, manufacturers, retailers and importers and warns against the sale or use of padded crib bumpers.

DATES: The statement of policy is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: DeWane Ray, Deputy Executive Director for Safety Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301)-504- 7547; email: jray@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Crib bumpers are infant bedding accessories intended to line the sides of an infant's crib. Crib bumpers are commonly made of fabric and fiber fill or foam panels that are intended to be tied to the crib slats and corner posts. Other types of crib bumpers have been marketed as barriers to prevent limb entrapment, such as mesh crib liners, as well as slat covers that wrap around individual crib slats.

ASTM F1917-12 (Standard Consumer Safety Performance Specification for Infant Bedding and Related Accessories), the ASTM voluntary standard that currently covers crib bumpers among other infant bedding products, requires bumpers that are made of fabric and filled with fibrous material, *i.e.* padded bumpers, to pass a test that entails dropping the bumper through a "bumper thickness test fixture" that is a two-inch wide slot. This requirement limits the thickness of a padded crib bumper to approximately two inches or thinner. It is unclear whether this test method has been validated as a means to mitigate the risk of injury associated with these products. The standard also requires warning labels that address a risk of suffocation, sagging, strangulation on ties and removal of the bumper when a child can sit up unaided or can pull to a standing position.

Although the terms "crib bumper," "bumper guard" and "bumper pad" are not defined in ASTM F1917-12, the Commission understands those terms as used in ASTM F1917-12 to mean any products made of any material that are intended to cover the sides of a crib. This understanding includes padded crib bumpers, supported and unsupported vinyl bumper guards, mesh crib liners and vertical crib slat covers.

II. Previous Commission Action

In a petition to the Commission dated May 9, 2012, the Juvenile Products Manufacturers Association (JPMA) requested that the Commission initiate rulemaking to regulate crib bumpers by distinguishing between “hazardous pillow-like” crib bumpers and “non-hazardous traditional” crib bumpers.

On June 18, 2012, the Commission voted unanimously to publish a *Federal Register* notice requesting comments on the petition. The notice was published on June 25, 2012, with a closing date of August 24, 2012, for accepting comments on the petition.

On May 15, 2013, CPSC staff provided the Commission with a briefing package on the petition. In that package, CPSC staff concluded that “[s]ome evidence suggests that crib bumpers may increase the risks present in unsafe sleep settings” and recommended that the Commission grant the petition and direct CPSC staff to initiate rulemaking.

On May 24, 2013, the Commission voted to grant the petition and directed CPSC staff to initiate rulemaking to address the risk of injury associated with the use of crib bumpers and to provide the Commission with a second briefing package that:

- Described the possible regulatory options the Commission could take to address the risk of injury associated with crib bumpers.
- Assessed the effectiveness of any related voluntary consumer product safety standard.
- Assessed whether a more stringent standard would further reduce the risk of injury associated with the product.

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- Explored and, as possible, developed performance requirements and test methods to allow the Commission to identify which types of crib bumpers have characteristics that present safety hazards.
- Assessed whether there are any safety benefits provided by crib bumpers.
- Reviewed representative samples of crib bumpers, including, but not limited to, mesh bumpers and bumpers that individually cover crib slats (also called vertical bumpers).

On September 12, 2016, CPSC staff provided the Commission with a briefing package responding to the May 24, 2013 Record of Commission Action. In the 2016 package, CPSC staff identified 107 fatal and 282 non-fatal incidents that were reported to CPSC from January 1, 1990 to March 31, 2016, in which a crib bumper was present in the sleep environment. Of the fatal incidents, CPSC staff concluded that: in 31 cases, the crib bumper was “incidental” to the fatality because there was “no evidence of bumper contact or involvement”; in five cases, the bumper contact occurred outside a crib; and in 41 cases, entrapment or wedging occurred between the bumper and another object inside the crib. Based on these classifications, CPSC staff concluded: 72 of the reported fatalities were “unlikely to be addressable by Commission action”; nine of the reported fatalities were “likely to be addressable to some degree”; and 26 of the reported fatalities “lacked sufficient details to determine whether the crib bumper contributed to the fatality.” Accordingly, CPSC staff concluded that pursuing the necessary findings for any rulemaking “would likely prove difficult.”

III. Hazards Associated with Padded Crib Bumpers

After a thorough review of the underlying incident data and consideration of the information presented in the 2013 and 2016 CPSC staff packages, the Commission disagrees with CPSC staff’s analytical strategy, classifications and conclusions in the 2016 briefing package regarding both the risk of injury associated with padded crib bumpers and the addressability of those risks.

The Commission believes that there is a clear risk of injury or death associated with padded crib bumpers and that certain hazard patterns associated with padded crib bumpers may be addressed through rulemaking under section 104 of the CPSIA. The Commission believes that many of the reported fatalities that CPSC staff classified as “incidental” or otherwise “unlikely to be addressable” in the 2016 briefing package were, in fact, associated with the presence of a padded crib bumper. The Commission believes that there are multiple hazard patterns associated with padded crib bumpers that are addressable.¹

IV. Commission Rulemaking Authority

Under section 104 of the CPSIA, the Commission may issue a standard for durable infant or toddler products that is substantially the same as the voluntary standard or a more stringent standard if the Commission determines that more stringent standards would further reduce the risk of injury associated with a product. The term “durable infant or toddler product” is defined in section 104(f)(1) of the CPSIA as “a durable

¹ Examples of addressable hazard patterns associated with padded crib bumpers present in the incident data include: limited space on the mattress inside of the crib; crib bumpers that cover or otherwise conceal key failure points on the crib; incorrectly installed crib bumpers; the use of crib bumpers with children who are past the recommended age; the use of crib bumpers outside of the crib; and mixed messages about padded objects in a crib. These hazard patterns create, at a minimum, a risk of suffocation, wedging, entrapment or falls.

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product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.” Section 104(f)(2) provides that the term “durable infant or toddler product” includes: full-size cribs and non-full-size cribs; toddler beds; high chairs, booster chairs and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles. The Commission has added six additional products to this list through the Commission’s product registration card rule: children’s folding chairs; changing tables; infant bouncers; infant bath tubs; bed rails; and infant slings. 74 FR 68,668 (Dec. 29, 2009); 16 CFR 1130.2(a)(13-18). In selecting these products, the Commission noted the factors it considered relevant in assessing whether the products were “durable infant or toddler products” within the meaning of section 104. These factors included relevant definitions, similarities to the products listed in section 104(f) of the CPSIA and how products are grouped for ASTM subcommittees. *See* 74 FR 68,668 (Dec. 29, 2009); 74 FR 30,983 (June 29, 2009).

The Commission believes that there is a clear risk of injury or death associated with padded crib bumpers that may be addressed through a rulemaking under section 104 of the CPSIA. The standard set forth in section 104 requires a risk of injury to be *associated with* a product. Based on its own review of the incident data and the information presented in the 2013 and 2016 CPSC staff packages, the Commission believes that many of the reported fatalities that CPSC staff classified as “incidental” or otherwise “not likely to be addressable” in the 2016 briefing package were, in fact, associated with the presence of a padded crib bumper. For example, in 2013, CPSC staff reviewed 76 deaths and concluded that 48 of the 76 deaths were “causally related or

associated with” crib bumpers. In that same report, CPSC staff identified three hazard patterns associated with crib bumpers: (1) wedging between a crib bumper and another object; (2) an infant’s face against the bumper; and (3) strangulations. Based on this data, CPSC staff concluded that crib bumper deaths are “likely an addressable hazard.” *See* Staff Briefing Package on Crib Bumpers Petition (May 15, 2013), Tab F. The Commission also believes that the Commission’s promulgation of a standard that is more stringent than the current ASTM voluntary standard will further reduce the risk of injury associated with this product.

In addition, the Commission believes that padded crib bumpers may properly be defined as “durable infant or toddler products” under section 104(f)(1) of the CPSIA. In determining whether a product is a “durable infant or toddler product” under the CPSIA, the Commission need not rely solely on the existing economic and commercial definition of a “durable” product. Padded crib bumpers are more similar to durable upholstered children’s furnishings such as play yards, bassinets and cradles than non-durable bedding such as sheets and pillowcases. Padded crib bumpers often have piping, appliques, foam or batting that gives them a substantial weight and structure, much like upholstered furniture. In use, a bumper is intended to serve as upholstery for a durable good: the crib. In addition, although the duration of use for padded crib bumpers is limited, they can last for many years if used for multiple children or by multiple families through the second-hand market. In this way, they are very similar to other products listed in section 104(f) of the CPSIA, such as play yards, infant swings and bassinets. Crib bumpers also are very similar in terms of durability and life span to infant slings, which the Commission

voted to add to the product registration card rule in 2009. *See* 74 FR 68,668 (Dec. 29, 2009); 16 CFR 1130.2(a)(18).

Based on the foregoing, on October 19, 2016, the Commission voted to add to its Fiscal Year 2017 Operating Plan a direction to CPSC staff to initiate rulemaking under section 104 of the CPSIA to address the risk of injury or death associated with the use of crib bumpers.

V. Statement of Commission Policy

Through this Statement of Policy, the Commission provides notice of its policy position to consumers, manufacturers, retailers and importers. The Commission believes that there is a clear risk of injury or death associated with padded crib bumpers and that certain hazard patterns associated with padded crib bumpers are addressable through a rulemaking under section 104 of the CPSIA. Accordingly, the Commission strongly warns against the sale or use of padded crib bumpers. Further, the Commission is taking steps to address this hazard through a mandatory consumer product safety standard for crib bumpers promulgated in accordance with the section 104 rulemaking process. The Commission advises parents and caregivers that the best practice for a safe sleep environment for children is to never place soft bedding or other padded objects such as bumpers, pillows, sleep positioners, or cushions in a child's crib, bassinet or play yard.

The Commission notes that this Statement of Policy is not a binding or enforceable rule and would not change any person's rights, duties or obligations under the Consumer Product Safety Act, CPSIA or any other Act administered by the Commission.

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Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission