



POLICY & ACTION FROM CONSUMER REPORTS

October 13, 2015

U.S. Consumer Product Safety Commission
Office of the Secretary
4330 East West Highway, Room 820
Bethesda, MD 20814

Submitted via email to cpsc-os@cpsc.gov.

**Comments of Consumers Union to the
Consumer Product Safety Commission on the Petition for Rulemaking:
Supplemental Mattresses for Play Yards with Non-Rigid Sides
Docket No. CPSC-2015-0020**

Consumers Union, the public policy and advocacy arm of Consumer Reports,¹ welcomes the opportunity to comment on the petition for rulemaking regarding supplemental mattresses for play yards with non-rigid sides, as referenced in the U.S. Consumer Product Safety Commission (CPSC) *Federal Register* notice on August 11, 2015. We are pleased the agency voted to approve publication of this notice to solicit comments on the risks of injury and death to infants and toddlers from these supplemental mattresses.

In June 2012, Consumers Union applauded CPSC for adopting a mandatory safety standard for play yards, as required by the Consumer Product Safety Improvement Act. In voting to approve the provisions of the voluntary standard ASTM F406-13 as a mandatory standard enforceable by CPSC, the Commission established important rules for infant safety. These included: required testing for stability, entrapment, hinge, and floor strength; latch and lock mechanisms to keep the play yard from folding on a child; and minimum side height requirements. That standard also requires manufacturers to include labeling to warn consumers to “never add a mattress, pillow, comforter or padding. Use only the mattress/pad provided by the manufacturer.” This warning is appropriate given the risk of suffocation and entrapment supplemental padding can present.

¹ Consumers Union is the public policy and advocacy arm of Consumer Reports. Consumers Union is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. It conducts this work in the areas of telecommunications reform, health reform, food and product safety, financial reform, and other areas. Consumer Reports is the world’s largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

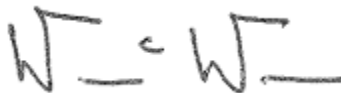
According to an analysis by the petitioning organization Keeping Babies Safe, there have been 15 incidents in domestic settings and six incidents in child care settings between 2000 and 2013 in which a young child became wedged in a gap between a supplemental mattress and the side of a play yard or portable crib, and was placed at risk of injury by suffocation. Currently, to reduce this risk, play yards are sold with minimal padding. A mattress sold with a play yard must be rigid on the bottom side, and not be more than 1.5 inches thick in depth on the top side. Consumers Union is very concerned that, despite this thickness limitation in the current rules for the original mattress, most of the incidents involving deaths, in the judgment of Keeping Babies Safe, occurred with mattresses thicker than 1.5 inches.

The continued sale of supplemental mattresses specifically designed for use in play yards plainly undermines the current mandatory safety standard. These mattresses are readily available at numerous retail outlets, and, in fact, are sometimes marketed in combination with soft-sided play yards—leading to the understandable, but dangerously incorrect belief by some consumers that these products are safe for use together.

In our view, this cannot be addressed through improvements to the warning label. The current warning label already informs consumers of the risk of suffocation from gaps between a mattress and the sides of a play yard. Further altering the language of this warning label would not eliminate the influence of supplemental mattress marketing on consumers' interpretations of what type of use is safe and what is not. Neither, in our judgment, would feasible changes to other provisions of the standard eliminate that influence.

Therefore, because of the unreasonable risk of injury to infants and toddlers from supplemental mattresses for play yards with non-rigid sides, and the inadequacy of any feasible consumer product safety standard to protect these children, Consumers Union urges the Commission to grant the petitioner's request. CPSC should urgently initiate a rulemaking to ban these dangerous products.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. C. Wallace". The signature is stylized with a cursive-like flow.

William C. Wallace
Policy Analyst
Consumers Union