



May 27, 2021

The Honorable Robert S. Adler, Acting Chairman
The Honorable Elliot F. Kaye, Commissioner
The Honorable Dana Baiocco, Commissioner
The Honorable Peter A. Feldman, Commissioner
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Acting Chairman Adler and Commissioners Kaye, Baiocco, and Feldman:

Consumer Reports, the independent, non-profit, and nonpartisan organization, strongly supports the draft final rule establishing a Consumer Product Safety Commission (CPSC) safety standard for infant sleep products. We urge you to approve the rule without delay, and vote unanimously to publish it—just as you did in 2019 for the supplemental notice of proposed rulemaking (SNPR) from which this strong final rule directly proceeds.

Unregulated infant sleep products put babies at serious risk. According to an examination of CPSC data and CR's independent reporting, at least 94 infant deaths are associated with inclined sleepers, and at least 23 deaths are associated with unregulated flat sleep products, including in-bed sleepers.¹ There are close to 120 reported deaths in these products, when we know that one death is too many. The Commission must not wait for more.

These and various other infant products intended or marketed for sleep do not align with the American Academy of Pediatrics' safe sleep recommendations, which state that babies should sleep alone, on their backs, on a firm, flat surface that is free of restraints and soft padding. Our country's pediatricians developed these evidence-based guidelines to reduce the risk of sudden infant death and sleep-related suffocation, asphyxia, or entrapment.

Fundamentally, these terrible tragedies are preventable—yet, in today's marketplace, parents and caregivers simply have no reliable way to know which infant products are safe for sleep and which are not. As CPSC staff detailed in the 2019 SNPR that each of you and one former Commissioner voted to publish, the clear solution is for the agency to require all infant sleep products to comply with strong minimum standards that help protect babies from unsafe sleep environments. There should be a clear line between infant products for sleep and infant products not for sleep, and companies should not be able to market their products in ways that can all too easily confuse parents and leave babies at serious risk.

The draft final rule presented to the Commission follows years of CPSC consultation with stakeholders—including medical and consumer groups, juvenile product manufacturers, and independent child product engineers and experts—and years of industry delays. CPSC staff have examined voluntary standards and assessed their effectiveness. They have repeatedly raised

serious concerns with infant sleep products that fail to align with safe sleep recommendations, and with voluntary standards that would not sufficiently reduce the risk of injury associated with the products. Juvenile product manufacturers have resisted solutions that ensure voluntary standards align with expert medical recommendations, even after the agency published its SNPR in November 2019 making clear what safety demands.

In light of the health and safety evidence, as well as unrelenting delays in the voluntary standards development process, CPSC staff is recommending appropriate action as authorized by Section 104 of the Consumer Product Safety Improvement Act. Consistent with the direction of the Commission—which not only voted unanimously to publish the SNPR but also approved the development of this rule as part of the CPSC’s FY 2021 Operating Plan—CPSC staff drafted a final rule covering infant sleep products that are not currently within the scope of another mandatory safety standard.

Staff has reiterated multiple times the importance of all unregulated infant products being covered.² The draft final rule would rightly ensure a minimum level of safety for each product intended or marketed for infant sleep, regardless of its design. It would help keep infants safe while they sleep, and reduce the likelihood infants will be exposed to several known hazards. It would help prevent another crisis of unsafe infant sleep—like the one tied to the Fisher-Price Rock ‘n Play Sleeper and other inclined sleepers—from ever happening again.

The Commission should act now and vote to finalize the draft final rule. It has been more than two years since the recall of the Rock ‘n Play and more than 18 months since the agency released the SNPR and the Mannen Report. Time is of the essence for every Commissioner to vote for the draft final rule’s approval, as further delays would undoubtedly leave even more infants in unsafe sleep environments, at a greater risk of death or injury.

We look forward to working with you toward a safer marketplace for infants, their parents, and all consumers.

Sincerely,



William Wallace
Manager, Safety Policy



Oriene Shin
Policy Counsel

¹ CR, “Government Moves Closer to Stopping the Sale of Dangerous Baby Sleep Products” (May 19, 2021) (online at: www.consumerreports.org/child-safety/cpsc-stopping-sale-of-dangerous-baby-sleep-products-a6728402111).

² See Letter from Celestine Kish, CPSC, to Scott Lewis, Subcommittee Chairman for ASTM Bassinets and Cradles and Richard Rosati, Subcommittee Chairman for ASTM Infant Inclined Sleep Products (Dec. 12, 2019) (online at: www.regulations.gov/document?D=CPSC-2017-0020-0016); see also Letter from Celestine Kish, CPSC, to Rick Rosati, Subcommittee Chairman for ASTM Infant Inclined Sleep Products (July 16, 2020) (online at: www.regulations.gov/document/CPSC-2017-0020-0074); see also draft final rule, pp. 41-45 (May 12, 2021) (online at: www.cpsc.gov/s3fs-public/FinalRuleSafetyStandardforInfantSleepProducts.pdf).