



November 27, 2023

Division of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

**Comments of Consumer Reports to the
Consumer Product Safety Commission on the
Notice of Proposed Rulemaking:
“Safety Standard for Nursing Pillows”
Docket No. CPSC-2023-0037**

I. Introduction

Consumer Reports (CR), the independent, non-profit member organization,¹ welcomes the opportunity to submit comments to the Consumer Product Safety Commission (CPSC) regarding the agency’s notice of proposed rulemaking (NPR) to promulgate a consumer product safety standard for nursing pillows.² CR strongly supports the proposed rule, which addresses hazards associated with nursing pillows that put infants at an increased risk of injury or death.

The current marketplace offers a wide array of infant products that are intended, marketed, or designed to help parents and caregivers feed and care for their babies. Unlike some other infant products on the market, nursing pillows provide a clear utility and benefit during breastfeeding or bottle feeding. This includes additional support for nursing parents, including those who have undergone a cesarean section, and caregivers who may have a disability or limitation that makes feeding challenging. Nursing pillows undoubtedly have been an important tool for many parents and caregivers that can help reduce fatigue and promote bonding with the baby.

However, nursing pillows can pose serious safety risks to babies when used improperly for sleep or for lounging. The CPSC is aware of 242 incident reports between January 2010 and

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

² In the voluntary standards development process overseen by ASTM International, these products are known as “infant feeding supports.” Consumer Product Safety Commission (CPSC), “Notice of Proposed Rulemaking: Safety Standard for Nursing Pillows” (Sept. 2023) (online at: www.regulations.gov/docket/CPSC-2023-0037).

December 2022, including 154 incidents involving an infant death. Nearly all of the reported deaths involved babies six months old or younger; in addition, nearly all of the reported deaths involved the use of the nursing pillow for sleep. Upon becoming aware of infant deaths linked to nursing pillows, CR investigated the products' safety hazards, warned consumers about the risks of using nursing pillows for infant sleep, and urged companies and the federal government to take strong action that would improve the safety of nursing pillows.³

Consumer Reports strongly supports the CPSC's sensible proposal, which would require nursing pillows to meet performance requirements that are specially tailored to address known safety hazards. Contrary to what some might argue, it is clear that the CPSC's proposal is not a ban on nursing pillows, but rather a reasonable and necessary step to make nursing pillows safer for parents and caregivers to use for breastfeeding and bottle feeding. As the CPSC works to finalize this safety standard, CR offers several more specific comments below.

II. Performance Requirements

The CPSC's proposed rule appropriately addresses a number of serious hazards that nursing pillows can pose to infants, including suffocation and entrapment. We strongly support all of the proposed requirements that address these hazards, which are likely to bring about safer nursing pillows without compromising their usefulness to parents and caregivers. This proposed safety standard includes requirements that will help prevent foreseeable misuse of nursing pillows for non-feeding activities like sleeping or lounging, including, importantly, by prohibiting infant restraint systems on these products. We share the agency's concern that these restraint systems may falsely signal to parents and caregivers—who may be overwhelmed or sleep-deprived—that their baby is secure and could be left unattended safely on a nursing pillow, when in reality doing so would put the baby at an increased risk of injury.

CR agrees that the proposed firmness requirement and test method are vital to addressing the suffocation hazard posed by many of the nursing pillows available for sale today

CR supports the CPSC's proposed firmness test that builds on the recommendations of the CPSC-commissioned Boise State University report titled "Pillows Product Characterization and Testing" (BSU Report) for how to address the risk of infant suffocation from pillow-like products.⁴ According to the BSU Report, products that lack firmness are more likely to conform around an infant's nose and mouth and to present a suffocation hazard. The CPSC's proposed test method for firmness would likely adequately address the suffocation hazard that many of today's nursing pillows pose and effectively eliminate the possibility that an infant's face would conform to the pillow's surface. Therefore, we support the CPSC's proposal on firmness and agree with

³ CR, "Infant Deaths Prompt Government to Warn Against Using Nursing Pillows for Sleep" (Oct. 7, 2020) (online at: www.consumerreports.org/babies-kids/child-safety/infant-deaths-prompt-government-to-warn-against-using-nursing-pillows-for-sleep-a2771457183); see also CR, "Boppy Loungers and Nursing Pillows Linked to 7 Recent Infant Deaths" (updated Sept. 23, 2021) (online at: www.consumerreports.org/babies-kids/child-safety/boppy-loungers-and-nursing-pillows-linked-to-infant-deaths-a4080750405).

⁴ Mannen, E.M., Davis, W., Goldrod, S., Lujan, T., Siddicky, S.F., Whitaker, B., & Carroll, J. (2022). *Pillows Product Characterization and Testing*. Prepared for the U.S. CPSC under contract no. 61320620D0002, task order no. 61320621F1015 (online at: www.cpsc.gov/content/Pillows-Product-Characterization-and-Testing).

the agency’s assessment that a requirement for airflow characteristics comparable to mesh crib liners is unnecessary.

In addition, CR appreciates the CPSC’s careful consideration of possibly including an angular requirement in the standard—so that nursing pillows would feature sharper corners, rather than cylindrical sides—as introduced in the BSU Report. While we understand CPSC staff’s concerns about potential unintended consequences, we join the American Academy of Pediatrics in supporting the inclusion of an angular requirement in the nursing pillows standard.⁵ Firmer nursing pillows having sharper corners would help signal to parents and caregivers that these products are unsuitable for uses other than feeding.

CR supports the proposed infant containment requirement to address the entrapment hazard and help prevent suffocation

CR supports the CPSC’s proposed requirement and test method for infant containment that would require nursing pillow openings to be of a size that is more appropriate for the adult, and would limit the amount of lateral support for young infants who might be placed within the nursing pillow opening. This proposed requirement would reduce the likelihood of a baby’s head becoming entrapped in the nursing pillow’s opening or stuck against the inner part of the pillow without the ability to move their head away. A wider opening may also keep parents from using the pillow for sleeping or lounging, or otherwise to prop the infant in place, which would assist in reducing the risk of suffocation and entrapment.

While CR supports the proposed requirement for caregiver attachment systems, we urge the CPSC to also review the different attachment systems for potential limitations

CR agrees with the agency’s proposed requirement for a caregiver attachment system, if incorporated into a nursing pillow’s design, to withstand a minimum static load of 20 pounds. This requirement would help address the potential risk for infant falls if the system intended to secure the product to the caregiver fails. However, not all attachment systems include clasps or buckles, but instead rely on the parent or caregiver’s ability to wrap and tie the nursing pillow around their body. For such attachment systems, the proposed rule does not provide clear instructions on how these buckle- or clasp-free systems should be evaluated, or whether, alternatively, they are prohibited. Therefore, we recommend the CPSC provide clearer language on this subject in the final rule.

CR supports the proposed warning and instructional requirements that would help prevent unsafe sleep practices

CR supports CPSC’s proposed warning and instructional requirements, especially the requirement that warning labels must be conspicuous and permanent on these products. At the same time, we stress that warning labels and instructions are not a substitute for safe product design. Rather, warning labels and instructions should supplement the proposed rule’s

⁵ American Academy of Pediatrics, “Comment: AAP CPSC Nursing Pillows NPRM Letter Final” (Nov. 21, 2023) (online at: www.regulations.gov/comment/CPSC-2023-0037-0425).

requirements and tests and reinforce the message that these products are not safe for any duration of infant sleep.

III. Effective Date

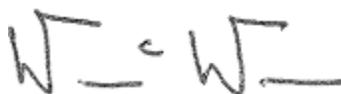
The CPSC should finalize the proposed rule expeditiously and apply an effective date that is as early as possible and not more than the proposed 180 days after the publication of the final rule. As durable infant products, many of the nursing pillows that are currently available for sale and do not meet the CPSC's proposed standard will likely remain in homes or be sold on secondary markets well after the implementation of the rule. As such, the CPSC should follow the approach it took in 2010 for its final rule on cribs,⁶ and make it unlawful as of the effective date to sell, lease, or otherwise distribute nursing pillows that do not meet the new CPSC standard, regardless of the date on which the product was manufactured.

IV. Conclusion

Health and safety are paramount when evaluating the potential benefits and risks of any consumer products, especially those for infants and children. All too often, we have seen devastating consequences when there is confusion around how to use an infant or children's product safely. In the case of nursing pillows, companies and regulators must do all they can to address known or foreseeable hazards and help send a clear message to parents and caregivers on which products are safe for feeding, which are safe for sleep, and which are safe for awake time. The CPSC's proposed nursing pillow standard would go a long way toward delivering this message.

Thank you for your consideration of our comments. We look forward to continuing to work with the CPSC, consumers, and all stakeholders to address the hazards associated with nursing pillows, protect infants, and ensure these products can be used safely and effectively by parents and caregivers in the future.

Respectfully submitted,



William Wallace
Associate Director, Safety Policy



Oriene Shin
Policy Counsel

⁶ CPSC, "Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule," 75 Fed. Reg. 81766 et seq. (Dec. 28, 2010) (online at: www.govinfo.gov/content/pkg/FR-2010-12-28/pdf/2010-32178.pdf).