



**United States
CONSUMER PRODUCT SAFETY COMMISSION
4330 East West Highway
Bethesda, MD 20814**

This document has been electronically
approved and signed.

BALLOT VOTE SHEET

DATE: July 29, 2015

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
Patricia H. Adkins, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel
Hyun S. Kim, Attorney

SUBJECT: Petition Requesting Rulemaking on Supplemental Mattresses for Play
Yards with Non-Rigid Sides

BALLOT VOTE DUE: August 4, 2015

The Office of the General Counsel (“OGC”) has docketed as a petition a request for the Commission to initiate rulemaking to ban supplemental mattresses for play yards with non-rigid sides under the Consumer Product Safety Act (CP 15-2). The Office of the Secretary is attaching a copy of the petition. The OGC has prepared the attached draft *Federal Register* notice should the Commission, in its discretion pursuant to Directive No. 0605.0, decide to request comment on the petition.

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)

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; Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards with Non-Rigid Sides

CONSUMER PRODUCT SAFETY COMMISSION

**Petition Requesting Rulemaking on Supplemental Mattresses for Play Yards
With Non-Rigid Sides**

[Docket No. CPSC-2015-_____]

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (“CPSC” or “Commission”) has received a petition requesting a ban on supplemental mattresses for play yards with non-rigid sides, which are currently marketed to be used with non-full-size cribs, play yards, portable cribs, and play pens. The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by **[insert date 60 days after publication in the Federal Register]**.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2015-_____, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way:
mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety
Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone
(301) 504-7923.

Instructions: All submissions received must include the agency name and
docket number for this notice. All comments received may be posted without
change, including any personal identifiers, contact information, or other personal
information provided, to: <http://www.regulations.gov>. Do not submit confidential
business information, trade secret information, or other sensitive or protected
information that you do not want to be available to the public. If furnished at all,
such information should be submitted in writing.

Docket: For access to the docket to read background documents or
comments received, go to: <http://www.regulations.gov>, and insert the docket number,
CPSC-2015-_____, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Rocky Hammond, Office of the
Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda,
MD, 20814; telephone (301) 504-6833, e-mail: rhammond@cpsc.gov.

SUPPLEMENTARY INFORMATION:

On June 16, 2015, Keeping Babies Safe (referred to as “KBS” or “petitioner”),
submitted a petition to the Commission to initiate a rulemaking to ban supplemental
mattresses for play yards with non-rigid sides, which are currently marketed to be used
with non-full-size cribs, play yards, portable cribs, and play pens under the Commission’s
authority under section 8 of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. 2057.

KBS states that these supplemental mattresses should be deemed banned hazardous products because they present an unreasonable risk of injury and death to infants, and that no feasible consumer product safety standard would adequately protect infants from the unreasonable risk of injury and death associated with the product.¹

In support, the petitioner asserts that KBS analyzed the death and injuries associated with supplemental mattresses, based on CPSC incident data. According to KBS, between 2000 and 2013, 15 incidents involving supplemental mattresses occurred in domestic settings and six incidents occurred in a child care setting. The petitioner states that all of the incidents involved a child being wedged between gaps created when a supplemental mattress was added to a play yard or portable crib. The petitioner additionally states that the data indicate that most of the supplemental mattresses involved in deaths exceeded 1½ inches in thickness.

The petitioner also asserts that the current standard (ASTM F406-13, Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards) does not adequately address the risk of injury posed by supplemental mattresses. KBS states that although ASTM F406-13 requires each product to be sold with a mattress provided by the manufacturer with a total thickness not to exceed 1½ inches, and contain warnings never to add a mattress, supplemental mattresses continue to be marketed to consumers for use in portable cribs and play yards. According to the petitioner, modifying the existing language in the current ASTM standard is not adequate to educate consumers about the unreasonable risk of injury that these mattresses pose to consumers. KBS states that, because supplemental mattresses continue to be sold to consumers, the most effective

¹ KBS excludes from its request replacement mattresses offered for sale by manufacturers of play yards who offer mattresses as a replacement part for those mattresses that were originally included with the play yard.

way to address the risk of injury caused by supplemental mattresses is to ban the product so that consumers do not have access to the product.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; email: cpsc-os@cpsc.gov; telephone (301) 504-6833. The petition is also available at <http://www.regulations.gov> under Docket No. CPSC-2015-_____, Supporting and Related Materials.

Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission