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Office of the Secretary
U.S. Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, Maryland 20814

**Comments of Nancy A. Cowles, Executive Director, Kids In Danger
To the U.S. Consumer Product Safety Commission on Agenda and Priorities FY 2025 and 2026**

Thank you for the opportunity to submit comments on the U.S. Consumer Product Safety Commission's (CPSC) agenda and priorities for Fiscal Years 2025 and 2026. It is a pleasure to be speaking to a full commission for the first time in many years. Kids In Danger (KID) is dedicated to protecting children by fighting for product safety. Our mission is to save lives by enhancing transparency and accountability through safer product development, better education, and stronger advocacy for children.

Much of our advocacy is directed at the work of the CPSC, either directly or legislatively to strengthen standards, enact bans of dangerous products, improve transparency, provide better information for consumers and to make recalls more effective.

We appreciate how active CPSC has been under Chairman Hoehn-Saric and this commission. The emphasis on safe sleep through standards and enforcement will make a difference in the statistic most resistant to change – that of around 3,400 infants dying each year in sleep environments. The willingness to engage with companies to advocate for a recall but using unilateral warnings and other efforts when that fails has given consumers insights into the vast number of products that should be recalled, but often aren't.

Engaging in participation in voluntary standards setting and encouraging stronger standards has moved the needle in many standards.

We appreciate how much CPSC does with a budget that not only is too low, but changes regularly based on the actions of lawmakers, causing programing to be interrupted or scaled back. KID and other consumer advocates continue to push for a robust budget – the lives saved are well worth it.

Looking forward to Fiscal Year 2025 and even 2026, here are our thoughts on priorities for the agency – and all of us working for safer products:

Safe Sleep

As noted, an intolerable number of infants die while sleeping. The national number of 3,400 can be better appreciated by looking at a smaller area. Researchers at Rush University in Chicago recently released a report on SUID Case Registry for Cook County¹. The report found that from 2020-2021, 99 infants died suddenly and unexpectedly in Cook County, Illinois. Of these, 96 were sleep-related. That is almost one baby a week dying while sleeping. Some were in products sold for sleep, some were sleeping with others in products like adult beds or couches, some had products in the sleep space including other infant products such as nursing pillows, loungers or sleep positioners.

We appreciate all CPSC is doing to reduce these numbers to save each of these babies. From adopting the Infant Sleep Product Rule, enforcing the Safe Sleep for Babies Act, conducting or contracting for research, such as the landmark reports from Dr. Erin Mannen to increased social media, educational tools and outreach, CPSC has made this a priority. We urge you to continue this work in the upcoming fiscal years. Right now, any of us could go to our phone and find an inclined sleeper for sale on the secondhand market and products sold new such as loungers that skirt the line, but are clearly being bought for sleep.

We have seen some recalls, some warnings when a recall wasn't forthcoming, along with work in ASTM committees and on CPSC's own rules. We appreciate the warning from CPSC about weighted sleep products for infants and hope that Amazon's step of stopping sale of these products will help remove them from the market. There are many organizations working on safe sleep through education, advocacy, and support. We must work together to make sure we reach every family with not only the safe sleep message, but the means to carry it out in their own home, and in every child care facility.

Recall Effectiveness

Many recalled sleep products remain in homes and on the secondhand market. Babies have died in these products, even after the recall and reannouncement.

The CPSC should strongly encourage recalling companies to use all tools at their disposal to retrieve recalled products. The first step is to require a commitment to encourage participation in the recall, both in the tone of the recall announcement underscoring the importance of participation and in the remedy that encourages the consumer to take the time to follow through. The tools include social media for every recall, and other measures such as direct notification to consumers and marketing recalls to the same extent as they market products. Additionally, they should work with retailers, marketers, consumer groups and state and local governments to spread information about the recall more widely and to reach more consumers. In KID's work on this issue, we have repeatedly heard of issues between the retailer and the

¹ <https://www.rush.edu/sites/default/files/media-documents/suid-report-20-21.pdf>

recalling company. In the upcoming fiscal years, CPSC should review their recall process to see how that relationship can be made more effective in improving recall responses from consumers.

Additionally, the CPSC should post all recalls on all its social media accounts. KID's annual report on recalled products found that in 2023, the CPSC only posted about 45% of children's product recalls on social media. While that is an improvement from past years, the CPSC is missing an opportunity to reach parents and caregivers with information about recalled products, especially considering that parents of young children tend to get much information about children's products on social media.

KID is concerned as well with the poor record keeping on recalls. Monthly Progress Reports continue to be filed with incomplete or inaccurate information and in some cases never filed at all. We continue to get responses to our FOIA requests that there are no relevant documents in some Corrective Action Plan files. Even on SaferProducts.gov, which includes a place for CPSC to add an associated recall, that is rarely done, so reports for instance on the Fisher-Price Rock 'n Play which has multiple deaths after recalls, does not list the recall in that field, missing an opportunity to reach parents looking at that specific product.

CPSC Unilateral Notifications

The CPSC should continue to issue unilateral notifications to consumers about a hazardous product when the company does not agree to a recall, and make every effort to get dangerous products recalled. However, accessing these notifications on the CPSC page is difficult. For recalls, there is a dedicated tab where recalls are listed, but notifications are only accessible by clicking the "News" tab, and then searching through all different types of news that the CPSC puts out. It would be helpful for consumers to have an easy way to access all the warnings in one place, like recalls. In addition, the warnings offer no remedy for consumers which lessens the likelihood they will heed the warning and let violative companies off the hook except the distance threat of legal action.

Water Beads

CPSC should ban the sale of water beads marketed to children, and the CPSC should recall those involved in injuries and deaths. The CPSC recalled a water bead product for the first time since 2013. The Chuckle & Roar Ultimate Water Beads Activity Kits were recalled in 2023 after an infant death was reported. Death is not the bar for a recall and any water bead products with injuries should be recalled.

Water beads are small super-absorbent polymer crystals that can grow up to 1,500 times their size when placed in liquid. If ingested, inhaled, or inserted in ear canals, water beads absorb bodily fluids and can lead to potentially life-threatening injuries, such as intestinal or bowel obstruction, or lung or ear damage.

Implementation of Recently Enacted Standards

Through implementation of the Consumer Product Safety Improvement Act (CPSIA) and Danny's Law or Section 104, the CPSC has successfully developed strong mandatory standards for dozens of types of durable infant and toddler products. We appreciate the amount of time, energy, research, and knowledge that CPSC staff dedicate to this task. Changes are being considered now for Infant Rockers and Bassinets and new standards proposed for Infant Support Cushions, including Loungers and Nursing Pillows.

KID applauds the CPSC for finalizing rules to protect children. The CPSC Magnet Rule went into effect December 2022. This mandatory federal standard requires loose or separable magnets in certain magnet products to be either too large to swallow, or weak enough to reduce the risk of internal injuries when swallowed. While legal action is pending, it is still in place now and should be enforced.

The Infant Sleep Product Rule mandates that products marketed or intended for infant sleep provide a safe sleep environment for babies up to five months old. The CPSC should also continue to monitor the market as new products, not covered by standards, enter the field. This will require the CPSC to evaluate new products as they enter the marketplace or preferably, develop standards that would apply before new untested products could be sold.

KID applauds the implementation of Reese's Law by the CPSC by approving strong mandatory standards for preventing ingestion hazards due to button cell or coin batteries. These tiny batteries can burn through a child's throat or esophagus in as little as two hours if swallowed. From 2011 through 2021, CPSC is aware of 27 deaths and an estimated 54,300 injuries treated in emergency rooms associated with ingested or inserted button cell or coin batteries.

We also applaud the implementation of the STURDY Act. By voting to approve the ASTM F2057-23 voluntary standard as a mandatory safety standard the CPSC has finalized rules to protect children from clothing storage unit tip-overs.

KID regularly hears from parents who have tragically lost their children due to ingestion hazards, unsafe sleep environments, and furniture tip-overs. We urge the CPSC to implement and enforce these new standards by ensuring consumers and manufacturers are aware of the new safety standards, educating manufacturers about relevant requirements so they properly modify their products, and enforcing the standards by taking appropriate action such as recalls and warnings if unsafe products are unlawfully still found on the marketplace.

SaferProducts.gov

SaferProducts.gov was added to the 2008 Consumer Product Safety Improvement Act as a substitute for repealing Section 6b of the Consumer Product Safety Act which restricts information about potential hazards from reaching consumers. SaferProducts.gov provides a portal to create a public database of reports from sources other than manufacturers that is

exempt from the constraints of 6b. While it is a valuable resource it has yet to fulfill its promise of a wealth of data that could be used to educate consumers, be used in research and most importantly lead to the removal of dangerous products from the marketplace. While we don't have access to the reports that are never included in the published database, we do know it is well under half of the reports that are made. CPSC should work to reduce this gatekeeping to give consumers access to more information and request changes in the underlying law if it is unduly restricting valid information from posting. In addition, CPSC should assure the public that it is following the guidance of the law that there are specific reasons an item might not be posted, but those are the only reasons – CPSC does not have discretion to simply not include all reports that meet the criteria.

Research

CPSC has a wealth of data and experience that can create informative research reports on different types of products, users and risks. The reporting CPSC began in 2021 looking at differences during COVID should be continued as we can now look back at that period and see if any of the changes in risk are permanent or consumer injury patterns have changed in other ways. We encourage CPSC to use their research capacity to strengthen standards, call for additional standards or compliance actions as well as to educate consumers.

Conclusion

The CPSC is vital to the safety of children and all consumers, and we thank you all for your commitment to protecting consumers from harm and thank you for the opportunity to provide comments. We look forward to working with the CPSC addressing these concerns and others that may arise.

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