



October 8, 2015

Ms. Megan Fairfull  
Consumer Product Safety Directorate  
Healthy Environments and Consumer Safety Branch  
Health Canada  
4908B, 269 Laurier Avenue W.  
Ottawa, Ontario  
K1A 0K9

Dear Ms. Fairfull,

On behalf of the Juvenile Products Manufacturers' Association (JPMA) and our member companies that produce and distribute juvenile products, many of which have a significant economic presence in Canada, we are writing regarding the proposed *Cribs, Cradles and Bassinets Regulations* that were published in the *Canada Gazette, Part I* on July 25, 2015. We hope that these comments will assist Health Canada in effectively implementing regulations in a consistent manner with the US-Canada Regulatory Cooperation Council (RCC) Joint Forward Plan.

The Juvenile Products Manufacturers Association is a national not-for-profit trade organization representing 95% of the prenatal industry including the producers, importers, or distributors of a broad range of childcare articles that provide protection to infants and assistance to their caregivers. JPMA works to advance the interests, growth and well-being of North American prenatal to preschool product manufacturers, importers and distributors marketing under their own brands to consumers. It does so through advocacy, public relations, information sharing, product performance certification and business development assistance conducted with appreciation for the needs of parents, children and retailers. JPMA continues to work with government officials, consumer groups, and industry leaders on programs to education consumers on the safe selection and use of juvenile products.

As Health Canada is aware, JPMA and its members have been active participants in supporting the current progression of the various rules encompassed in this proposal. We believe that the collaborative work among ASTM task groups, the various subcommittees who focus on cribs, cradles and bassinets, as well as the United States Consumer Product Safety Commission (CPSC) and Health Canada staff has resulted in significant advancements in juvenile product safety.

That said, the proposed changes to the CCBR of the *Canada Consumer Product Safety Act*, while conceptually well intended, fall short in the effort to better align Canada's

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safety requirements with those already adopted by the U.S. Consumer Product Safety Commission. Specific comments with respect to the proposed changes are as follows:

#### I. Bassinet Rest Angle and Mattress Flatness Performance Requirements

During discussions with the CPSC regarding the mattress flatness standard, JPMA and its members provided significant comments and concerns regarding their proposed rest angle and mattress flatness performance requirements.<sup>1</sup> To summarize our comments as they pertain to the proposed changes, JPMA asserts that the proposal of a maximum flatness angle of 7 degrees is not in alignment with the current CPSC requirement.

As you can read from our referenced comments, there was much effort and evaluation that led to the CPSC 10 degree requirement. The rationale that an infant might not be able to keep airways clear at 10 degrees is vague and should be supported by facts. Further, Health Canada's proposal that it would "still allow for some flexibility in manufacturing" is vague and unsubstantiated by facts or rationale.

It remains JPMA's position that the 7 degree angle is too severe and would not allow for sufficient variation in the manufacturing process. This change will likely result in fewer products available for purchase by Canadian consumers. Further, it is important to note that the products currently in use are mostly segmented mattresses that are attached along lines which can be folded for easy transport. Because of this fact, we are manufacturing with soft goods – foam and fabric – in addition to metal tubing, plastic and MDF. An overall 7 degree angle from the horizontal position, as drafted, would cause significant compliance and repeatability challenges for a manufacturer and a testing lab.

This standard was thoroughly vetted, discussed and further endorsed by the CPSC before finalization in the NPR. The ASTM subcommittee that worked on this requirement spent considerable time and effort over a period spanning almost 2 years working with the CPSC to come up with a repeatable test that considered both manufacturing variations and would represent the hazards in question at the level of 10 degrees.

In the end the consensus was that 10 degrees represents a considerable margin of safety based on data from incidents and human factors engineering. For Health Canada to take the seemingly arbitrary position that 10 degrees is not good enough and that 7 degrees is better because it is stricter does not seem to be a realistic stance and would not seem to serve the needs of all stakeholders involved.

Further, inclined sleep product should be specifically exempt from the Cribs, cradles and

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<sup>1</sup> <http://www.regulations.gov/#!documentDetail;D=CPSC-2010-0028-0057>

Bassinets regulations as they are in ASTM F2194-13a Standard Consumer Safety Specifications for Bassinets and Cradles.

## II. Maximum height of corner posts and entanglement issues

With the addition of the maximum height of corner posts, we recommend eliminating the entanglement test. Our experience has been that this test is both difficult to perform and has been demonstrated to be unrepeatable by test labs performing the test.

Additionally Section 13 outlines that “No standard crib or portable crib shall be contoured in any way that, or have any projections, attachments or mechanisms above the upper surface of the mattress support that, could result in the occupant’s clothing becoming entangled therewith.” While we have no concerns with the above wording, or with the concept, we believe it should be adjusted in a manner consistent with current ASTM standards.

Since our manufacturers reduced the size of corner posts to be basically flat, this has not been an issue. There have not been any incidents, to our knowledge, with cribs sold both in the USA or Canada. The problem that our manufacturers are facing with the Canadian standard is that it eliminates from sale many cribs that are allowed under the current ASTM standard.

## III. Restraint system, attached cord length and loops

Inclined sleep product should be specifically exempt from the Cribs, cradles and Bassinets regulations as they are in ASTM F2194-13a Standard Consumer Safety Specifications for Bassinets and Cradles. That said, for Inclined sleep products it is appropriate to have restraints and is consistent with current ASTM and CPSC practice.

## IV. Exposed Threads

The proposal requires all threaded ends to be capped. Currently, nothing on the market has **any** exposed threads present on the outside or inside of a crib.. Where the industry has had challenges in the past, was with exposed treads for the mattress support. To date, those challenges have been addressed. Current industry practice uses bolts to connect the hanger to the spring deck. These bolts are under the mattress and on the inside of the frame. In reality, we believe these parts are in no way accessible to the child.

As Health Canada is aware, the proposed test requires the use of a chain link that is then wrapped out of the slats and then under the mattress to get to the bolt. JPMA asserts that this test methodology, primarily using a ball chain as a determination for compliance,

does not reflect appropriate epidemiological data and would result in testing that will be design restrictive.

Finally, as we look toward further harmonization between the two standards and also within the current regulatory framework, JPMA urges Health Canada to address “Part B: Test Methods Section, Method M12.1 Test Method for Cribs.” On page 55, in ‘Appendix II – Accessibility to an Occupant’, it states that “Coil springs that form part of the mattress support or posture board are not considered to be accessible to the occupant.” The test does not use the same approach to bolts or exposed threads as it does in the mattress support. It would seem that if the coil springs are not accessible, any bolt or other fastener right beside the coil spring would not be accessible either.

#### V. Inclusion of ASTM F2906-13 in Health Canada Standards

Without the adaptation of ASTM F2906-13 into Health Canada standards, Canadian consumers will continue to be deprived of a product category that provide parents with safe and easy access to their infants in the first few months following birth.

JPMA asserts that F2906-13 provides Health Canada with the opportunity to include in their standards a pre-existing CPSC mandatory standard that addresses the intent outlined in this request for comment. Primarily this standard requires:

1. A minimum 4” nest height on the co-sleeping side where the Bedside Sleeper is attached to the parent’s bed. This ensures the infant’s ability to have their own sleeping space while being at the same time being close to their parents. Additionally, the standard requires the bedside sleeper’s lowered rail on the the co-sleeping side to be flush with the top of the parent’s bed mattress.
2. Stringent standards for the attachment system to keep the bedside sleeper product tightly attached to the parents bed.
3. All Bedside Sleeper products must first be tested to the Bassinet & Cradle standard (F2194) prior to being tested to F2906-13.
4. That Bedside Sleeper products which can be converted to a Play Yard, must also be tested to the the Play Yard standard (F406.)

#### VI. Additional Comments:

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As Health Canada is aware, bassinets and cradles are used by children of similar developmental levels. We recommend that the warnings related to the developmental level for bassinets and cradles be the same. Both products should carry this warning, or equivalent:

-Do not use this product for a child who can push up onto hands and knees or who has reached [insert manufacturer's recommended weight limit].

This is consistent with the CPSC regulations and current industry practice.

Additionally, JPMA asserts that the proposed six month transition period is not a sufficient enough time period for our manufacturers to comply with the proposed changes. If the changes occur as drafted, our manufacturers will need appropriate time to adjust their manufacturing processes and testing procedures in order to comply with new regulations. It is **highly likely** that if this rule were to go through as drafted, Canadian consumers will not have the same variety or choice in products for their child as US consumers. This is significantly impacted by the implementation date.

As Health Canada is aware, JPMA manufacturers are currently manufacturing 'fixed side' cribs that comply with ASTM F-1169-13 and the current Canadian Standards. When the new proposed Canadian regulation is finalized, existing inventories might not move through the distribution channel during what we believe to be a relatively short transition. The transition period for fixed side cribs should be a 'manufactured on or after a specific date' implementation. This prevents the costs of retesting or minor modifications being made to pre-existing compliant products.

It is our further belief that Health Canada should adjust pre-existing regulations in section 7a to allow companies selling in Canada to use the name and address of their US company to fulfill the requirement. This rule is sometimes ignored and inconsistently enforced - at best. Open trade treaties, such as NAFTA, allow Canadian exports into the US without requiring a US business presence. Additionally, this would further advance regulations in a consistent manner with the US-Canada Regulatory Cooperation Council (RCC) Joint Forward Plan. We believe US companies should have the same benefit as those based in Canada, thus also allowing for more variety in the marketplace for the Canadian consumer.

Finally, to further harmonize the Canadian standard with the US model, Section 38 should be further modified to allow manufacturers to use their CPSC required heavy metals testing certificate as evidence of compliance with the Canadian standard. This would further align a regulation that currently requires 'double testing' due to the different approved test protocols by the CPSC and Health Canada.

JPMA continues to be supportive of Health Canada's initiative on this matter. We hope that you will take our concerns into account when publishing a final notice. Please do not hesitate to contact me directly if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "M. S. Fellin", enclosed in a thin black rectangular border.

Mark S. Fellin, MPS

Director of Regulatory and Legislative Affairs, JPMA

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