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Deal or No Deal: The False Choice of the Super Committee

The so-called “Super Committee,” charged with creating a $1.2 trillion deficit reduction plan by Thanksgiving, seems to be stalling. If the committee cannot agree to a deal, or if Congress doesn't approve of the plan that the committee produces, the debt ceiling package that passed in August will trigger almost a trillion dollars in automatic spending cuts to both defense and non-defense spending. Congress as a whole appears to be waffling between voting for a deficit reduction plan that many constituents will find unpalatable or allowing the automatic cuts to proceed, which will also make voters unhappy. However, this problem presents a false choice because there is another option: Congress could vote to select "none of the above."

Though faced with a Nov. 23 deadline, the Super Committee does not appear to be moving closer to agreement on a plan. Reports indicate that the committee is meeting infrequently; that they are cramming in last-minute, small-group meetings during the current House recess; and that some members of Congress are debating an extension of the committee's deadline to approve a deal.

What little headway the committee was making was toward dramatic spending cuts. The committee’s Democrats recently unveiled their starting proposal, to the dismay of the wider

progressive community. According to an analysis by the Center on Budget and Policy Priorities (CBPP), the Democrats' proposal called for $475 billion in cuts to Medicaid and Medicare, $400 billion slashed from discretionary spending, and $1.3 trillion in revenue increases. Combined with almost $900 billion in cuts already put in place by the debt ceiling deal, the new proposal would be a roughly three-to-two ratio of spending cuts to revenue increases.

With this as a starting point, any plan that will likely come from the Super Committee will contain even larger cuts and smaller, if any, revenue increases. The spending cuts in the Republican plan, for instance, are *63 times* greater than the revenue increases it contains, according to an analysis by CBPP.

If a compromise is struck somewhere between the Democrats' and Republicans' opening salvos, the plan approved by the committee would severely underfund the nation's vital health care programs, retirement safety net, and public protections, like food inspections, worker safety enforcement, and consumer protections that benefit all Americans. Insufficient revenue increases will result in balancing the budget on the backs of middle- and low-income families, while the upper-class will continue to benefit from historically low tax rates.

The alternative to a Super Committee plan, as outlined in the debt ceiling deal, is a round of automatic budget cuts. These cuts, which are "triggered" by the failure of the Super Committee to reach a deal, would be split evenly between defense and non-defense spending, with Social Security and Medicaid off the table and Medicare mostly protected. The cuts are drastic, amounting to $831 billion over ten years. Cuts of this magnitude would significantly alter many of the functions of the federal government, scaling back a whole host of government services and further straining an already overburdened federal workforce. Tens of thousands of federal employees would likely be laid off, pushing the unemployment rate even higher, further depressing consumer spending, and possibly setting off another recession.

However, the choice between a bad Super Committee plan and enormous spending cuts is a false one. Congress bound its own hands back in August, and it can unbind them if it wishes. Congress is not forced to choose the lesser of two bad options. The fiscally responsible path would be to choose a third option: undo the debt ceiling deal.

In fact, the entire premise of the Super Committee, that we absolutely must reduce the nation's deficit immediately, is a flawed premise. The nation's long-term debt problems are unrelated to our current deficit issues.

As CBPP has repeatedly pointed out, the current budget deficit has been caused by largely temporary issues, including two wars, multiple rounds of tax cuts for the rich (which are set to expire soon), the recent recession, the 2008 financial collapse, and the government's reaction to the two crises. The forecasts of a larger debt in the long-term, however, are a structural problem related to skyrocketing health care costs.

Drastically cutting spending now is likely to exacerbate current and future economic problems. Delaying crucial investments to maintain public structures like education and infrastructure will

end up costing more down the road. With interest rates so low, now is the time to engage in wisely targeted government spending (infrastructure repairs and maintenance, extended unemployment insurance, etc.), which could boost the money in families' pocketbooks and allow households to increase their economic activity.

Even some congressional Republicans acknowledge that the last thing the nation needs is more cuts to federal spending. In a recent piece in the *Wall Street Journal*, House Armed Services Chairman Buck McKeon (R-CA) warned that the defense cuts from the debt ceiling deal's "trigger" would have "grave economic costs." The trigger's large non-defense discretionary spending cuts would also deliver a large hit to the economy.

Instead of cutting spending, either through trigger cuts or through a Super Committee plan, Congress should choose to strengthen those programs that protect the public and the environment from pollution, workers from unsafe workplaces, consumers from foodborne illnesses, and families from the whims of a volatile economy. It's clear that neither the Super Committee nor the trigger will responsibly fund our nation's priorities, and deep cuts risk a double-dip recession.

Administration Identifies Unclassified Information to be Safeguarded

On Nov. 4, the National Archives and Records Administration (NARA) released the initial registry of controlled unclassified information (CUI) categories. When fully implemented, the categories listed in the CUI registry will be the only labels that agencies can use to identify unclassified information that requires safeguarding or dissemination controls.

Better sharing of sensitive information became a national priority when it was discovered that communication failures between agencies contributed to the United States' vulnerability to terrorism and the challenges the nation faced responding to the September 11 attacks effectively and in real time. However, efforts to improve the sharing of important public information have been inhibited by the haphazard proliferation of CUI categories and the lack of standards regarding their meaning and use.

In addition to hindering the critical work of government, the former system of sensitive but unclassified information unduly stymied transparency, as agencies claimed "pseudo-secrecy" with little oversight. For instance, some agencies restricted public access through the use of unjustified labels such as "For Official Use Only (FOUO)." The launch of the CUI registry is the latest step toward addressing those problems as part of the reforms in President Obama's November 2010 executive order on CUI.

Categories in the Registry

The categories of information included in the registry, while unclassified, are deemed to warrant safeguarding – such as storage on a secure server – or conditions on dissemination – such as limitations on information sharing between agencies. The executive order requires each category to be based in statute, regulation, or government-wide policy in order to ensure that controls are reasonable and justified, and the registry lists such authorizations for each category.

The CUI office at NARA developed the registry based on agency submissions of categories currently in use. The submissions were reviewed for appropriate authorizations and standardized with equivalent categories across agencies.

Many of the authorizations referenced by the registry use language about preventing public disclosure: according to NARA, information restricted from public release should be safeguarded at some level, even if a statute or regulation does not require any specific security measures. However, the executive order is clear that CUI status imposes no *additional* restrictions on public access. CUI labels do not indicate how much information can be disclosed, but rather indicate how such information should be managed.

Initial CUI Categories	
Agriculture	Legal
Copyright	Nuclear
Critical Infrastructure	Patent
Export Control	Privacy
Financial	Proprietary
Immigration	Statistical
Intelligence	Tax
Law Enforcement	

The initial registry comprises 15 categories, in addition to their sub-categories, representing the most widely used CUI categories. Each category identifies the type of information to be controlled, such as information related to nuclear materials or to a person's privacy. By thus specifying the reason for control, the new system should reduce overly broad restrictions on information.

For example, the Privacy-Death Certificates subcategory includes a description of the information and cites an authority for the subcategory. The authorizing language states that the Social Security Administration may share death records for statistical and research purposes, "subject to such safeguards as the Commissioner of Social Security determines are necessary or appropriate to protect the information from unauthorized use or disclosure." When the new CUI system is implemented, any user who encounters a document labeled "Privacy-Death Certificates" would be able to view that category's listing, creating a better common understanding of the category and preventing mishandling.

NARA is expected to add additional categories in the coming months as it continues to process agencies' proposals. As the initial focus was on categories that cut across agencies, most of the forthcoming additions to the registry will likely be categories that only apply to single agencies. Agencies may also propose new categories or revisions to existing categories. Once the executive order is fully implemented, agencies will be prohibited from using categories that have not been approved by NARA. Such oversight should standardize the system and limit categories. However, it's unclear to what extent NARA's role as executive agent of the registry would allow it to modify problematic categories being authorized through appropriate channels.

Implementing the New System

Agencies are required to submit their CUI implementation plans to NARA by Dec. 6. After reviewing the plans, NARA will establish phased deadlines to implement the executive order.

That implementation, however, is unlikely to begin soon because several key elements required by the executive order and NARA's implementation guidance have yet to be completed. For instance, NARA has not yet determined how agencies will mark documents or systems containing CUI. Requiring more extensive labeling that precisely indicates the information subject to controls would reduce the risk of overly broad restrictions. However, more extensive labeling also would increase the compliance burden on agencies.

No decision has yet been made on how long each category will be subject to controls. Shorter control periods would reduce the risks that CUI will inhibit government openness, as well as limit agencies' compliance costs. However, agencies are likely to push for lengthier control for sensitive information.

The delays are not surprising given the difficulty and complexity of designing a new CUI system without the problems of earlier information control regimes. Tight agency budgets have left the NARA office overseeing the CUI system significantly understaffed, which has lengthened the delays.

Families Across the Country Demand Safer Chemical Legislation

On Nov. 10, families across the country will march with strollers to ask their senators to support chemical safety legislation to protect children from chemicals linked to cancer, birth defects, asthma, and other serious illnesses.

There are more than 80,000 chemicals used in commerce in the United States today, and many have not been tested for safety. Scientists have linked exposure to toxic chemicals to a wide array of health risks, such as cancer, learning disabilities, birth defects, and reproductive problems. These chemicals are found in toys, furniture, electronics, cleaning supplies, cosmetics, food containers, and clothing. For instance, nearly 72 percent of crib mattresses contain dangerous chemicals (see related article in today's edition of *The Watcher*). The growing prevalence of chemicals in products, coupled with limited oversight and testing, has led many to call for improvements to our nation's out-of-date chemical protection laws.

Unfortunately, the U.S. Environmental Protection Agency (EPA) faces significant limitations in its authority to test and appropriately regulate the numerous chemicals constantly entering the marketplace. Members of Congress have proposed legislative remedies to bolster EPA’s authority in this area, but the measures have not yet been enacted.

The Stroller Campaign

The family-oriented campaign, known as the "Stroller Brigade", is organized by Safer Chemicals, Healthy Families, a coalition of 280 public health, parent, environmental, and community organizations. It will feature activities such as letter writing, sign making, and parents with strollers walking to their senators' offices to hand-deliver letters supporting safe chemical legislation. Children ages two and up will dress in red capes to ask their senators to "be their heroes" by showing leadership and protecting them from harmful toxic chemicals.

The brigade will be held in the following cities: Long Beach, NY; Newark, DE; Little Rock, AR; Fullerton, CA; Omaha, NE; Providence, RI; Norfolk, VA; Anchorage, AK; and Knoxville, TN. A previous and well attended stroller brigade, held on Aug. 10, took place in 17 states.

Chemical Safety Reform Needed

The EPA does not have sufficient authority to address the continual growth of chemicals in use, making it practically impossible to protect public health and the environment. The Toxic Substances Control Act of 1976 (TSCA), the nation's primary and outdated chemical safety law, quickly proved itself inadequate in regulating chemicals and ensuring products are safe. The law got off to a terrible start by immediately exempting 62,000 chemicals in commerce at the time from any safety review. The law is written in a way that prevents EPA from requiring testing for all but about 200 chemicals. The testing resulted in partial restrictions on the use of five chemicals. In fact, under TSCA, the burden of proof falls on the EPA to prove a chemical poses a health risk, rather than on the chemical companies to prove the safety of their products.

A recent study by the Natural Resources Defense Council (NRDC) found that TSCA's weaknesses have allowed chemical companies to hinder the EPA's attempts to finalize chemical health assessments and delay regulation of chemicals, such as trichloroethylene, or TCE, and formaldehyde, sometimes for decades. The chemical industry has successfully blocked agency action by attacking early drafts of health assessments; forcing new or more reviews; and introducing new industry-funded studies to confuse the process of evidence gathering when assessments are close to final.

Safe Chemicals Act of 2011

Sen. Frank Lautenberg (D-NJ) introduced the Safe Chemicals Act of 2011 (S. 847) in April to increase chemical safety, improve consumer access to information on chemical hazards in products, and protect vulnerable populations, such as low-income communities, children, and pregnant women. The bill would require safety substantiation of chemicals before they are placed in consumer goods, such as baby cribs and household cleaning products.

Specifically, the bill would:

- Require companies to submit minimum safety data for each chemical produced, with the industry bearing the legal burden of proving the chemicals are safe;

- Allow the EPA to prioritize chemicals based on risk into one of three classes – immediate risk management, safety standard determination, and no immediate action. The highest risk class receives the highest priority;
- Enable the EPA to ensure protection of vulnerable populations that may be particularly susceptible to chemical exposures, such as children, developing fetus, or to disproportionately high exposures, such as low-income communities living near toxic facilities; and
- Create an electronic database to provide public chemical safety information, including pre-manufacture notices, safety testing, and agency decisions.

If enacted, these provisions would likely benefit agencies, consumers, and businesses. Requiring chemical companies to submit health data before marketing a new chemical gives the EPA a more comprehensive starting point for oversight and frees up resources to pursue restrictions on the most dangerous chemicals. Greater access to information allows consumers to make more informed choices. And while business will have some increased costs associated with providing the new health data and could face additional restrictions on some chemicals, the process should result in increased public trust in their products and protect them from lawsuits.

Among the legislation's changes are several provisions aimed at reducing claims of confidential business information (CBI), which currently allow companies to demand that health and safety information of common chemicals be withheld from the public and medical professionals. The legislation would limit the conditions under which the industry can claim CBI:

- All CBI claims would have to be justified up front;
- EPA would be required to review all CBI claims, and only approved claims would stand;
- Approved claims would expire after no more than five years, except for types of claims for which EPA determines the five-year term would not apply; and
- Workers and local and state government officials would have access to CBI, so long as they protect the information's confidentiality.

Recently, the EPA has taken small steps to limit what TSCA information can be claimed as CBI and to ensure that only legitimate claims are granted such protections. Public interest groups have lauded these actions, as well as the proposed bill's ability to further limit CBI claims. Many of the bill's CBI provisions were recommended in the environmental right-to-know report *An Agenda to Strengthen the Right to Know*, drafted by OMB Watch and endorsed by more than 100 organizations.

Public Reaction

The bill has received widespread support from public interest advocates, medical associations, and business groups across the country. "We need a new law to put commonsense limits on toxic chemicals ... to protect American families," said Andy Igrejas, director of Safer Chemicals, Healthy Families. "The Safe Chemicals Act is a win for both public health and the economy. Smart businesses want to help make reform happen because it's in their financial interest to make safer, healthier products," Igrejas added.

A coalition of nearly 2,500 small businesses from across Maine called on the state's U.S. senators, Susan Collins and Olympia Snowe, both Republicans, to support the Safe Chemicals Act. "No business wants toxic chemicals in the products or packaging on our shelves," said Nate Libby, executive director of the Maine Small Business Coalition. Betsy Lundy, owner of the Center Street Farmhouse in Bangor, ME, says that the bill "allows me to look at the information out there and decide, 'Yes, this is something I personally feel comfortable having in my store and putting my name behind.'"

The Toxic Action Center, a public interest group, and the Main Small Business Coalition recently released a survey on market transparency and product safety; 88 percent of businesses surveyed want policies that ensure full health and safety testing of all chemicals in commerce.

Even chemical groups, such as the American Chemistry Council (ACC), acknowledge that TSCA needs to be updated. In a press statement, the ACC expressed its commitment to modernizing the act but expressed concern "about how [the bill] may impact America's manufacturing base." Cal Dooley, the ACC's president and CEO, said the new legislation "may be legally and technically impossible to meet."

Next Steps

Lautenberg and advocates predict that the Safe Chemicals Act of 2011 will be marked up by the Senate Environment and Public Works Committee by the end of 2011, despite Congress's current partisan divide and chemical industry opposition.

No similar legislation has yet been introduced in the House, and the Energy and Commerce Committee, which would have jurisdiction over chemical reform legislation, has not held any hearings on the subject this year. However, Rep. Fred Upton (R-MI), chair of the Energy and Commerce Committee, did include consideration of TSCA on the committee's agenda.

Anti-Regulatory Attacks Coming in Both the House and Senate

While most Congress watchers have been focusing on the work of the Super Committee, anti-regulatory activists in both the House and the Senate have been working hard to undercut some of the most important safeguards that protect Americans.

On Nov. 3, the Senate rejected S. 1786, the Long-Term Surface Transportation Extension Act of 2011. This bill, which was offered as the Republican alternative to the Democrats' transportation and infrastructure jobs bill, included two sweeping anti-regulatory provisions: the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Time-Out Act.

Both the REINS Act and the Regulatory Time-Out Act would make it more difficult for agencies to fulfill their statutory missions. The REINS Act would flip the existing regulatory process on its head: under current law, Congress may use the Congressional Review Act to halt a rule it opposes; if REINS took effect, Congress would have to approve every major rule issued by any

government agency before the rule could take effect. The Regulatory Time-Out Act would impose a one-year moratorium on new regulatory actions by government agencies, including, for example, safe produce regulations that are required by the Food Safety Modernization Act and should help to protect against contaminants like *Listeria*.

S. 1786 failed 47-53 on a procedural vote, with all Democrats but Sen. Joe Manchin (D-WV) voting against it and all Republicans but Sen. Olympia Snowe (R-ME) voting in favor. This was a significant change from the last time a major anti-regulatory provision was on the floor of the Senate: on June 9, six Democrats and every Republican voted in favor of an anti-regulatory amendment offered by Sens. Snowe and Tom Coburn (R-OK). While this may indicate that more senators are coming to understand the importance of our nation's public protections, caution and vigilance will be needed in the weeks ahead, as more anti-regulatory attacks are expected in the Senate.

On the other side of the Capitol, the House Judiciary Committee was marking up the Regulatory Accountability Act (RAA). The RAA, which is sponsored in the House by Reps. Lamar Smith (R-TX) and Collin Peterson (D-MN) and in the Senate by Sens. Rob Portman (R-OH), Susan Collins (R-ME), and Mark Pryor (D-AR), would fundamentally reorient the regulatory process, requiring agencies to always choose the "least costly" alternative rule.

While such a provision sounds reasonable on its face, experience under the Toxic Substances Control Act (TSCA) has shown that requiring the least costly alternative as the standard essentially forbids agencies from issuing protective rules. In 1991, a federal court found that the U.S. Environmental Protection Agency (EPA) had not adequately analyzed every possible alternative asbestos regulation – even though the agency had spent ten years and millions of dollars considering alternatives and developed a 45,000-page record of their findings. Since that ruling, EPA has not even attempted to regulate chemicals under TSCA because, as the CEO of SC Johnson put it, "Your child has a better chance of becoming a major league baseball player than a chemical has of being regulated [under TSCA]."

Even more concerning, the RAA would run roughshod over many laws that are crucial to protecting the health and safety of Americans. One of these, the Occupational Safety and Health Act, requires that regulations be issued when "reasonably necessary or appropriate to provide safe or healthful employment." Comparable requirements exist in the Clean Air Act, the Clean Water Act, the Mine Safety and Health Act, and at least twenty-one other major statutes. The RAA demands that, "notwithstanding any other provision of law," cost-benefit analysis must always be the first consideration.

At the mark-up in the House Judiciary Committee, Rep. Steve Cohen (D-TN) offered an amendment that would have preserved agencies' focus on public health and safety over costs to regulated industries. This amendment, which reaffirmed the basic goal of the entire regulatory system, failed by one vote. Ultimately, the RAA itself was reported out of the Judiciary Committee on a 16-6 vote, with many Democratic committee members unable to vote because Chairman Smith held the vote hours earlier than promised, at the same time that many Democratic members were meeting with U.S. Supreme Court Justice Elena Kagan.

The RAA came close on the heels of the REINS Act, which was marked up in the same committee on Oct. 25. Both RAA and REINS represent the culmination of the agenda that Majority Leader Eric Cantor (R-VA) announced in August. Over the past several weeks, the House has hewn closely to the Cantor agenda, passing a procession of bills that attack or repeal particular regulations; now, with RAA and REINS ready for floor action, they are preparing to take on the entire regulatory process.

Fortunately, both the Senate and the White House seem to be prepared to protect the public by protecting the process. Not only did the Senate vote down S. 1786, but the Obama administration also issued a strong Statement of Administration Policy, which centered on the bill's anti-regulatory provisions and contained a strong veto threat.

While these are positive indications, they are not cause for much relief. A plethora of "regulatory reform" bills are still pending before the Senate Homeland Security and Governmental Affairs Committee chaired by Sen. Joe Lieberman (I-CT). Considering Senate Republicans' willingness to resort to amendments and procedural maneuvering to push their anti-regulatory agenda, Americans, all of whom benefit from our system of regulatory safeguards, will have to pay close attention to developments on the floor.

Confidence in Crib Safety: Are Regulatory Hoops and Delays Putting Babies at Risk?

Nowhere is safety more important than in children's toys and products. A number of regulatory agencies share responsibility for ensuring that children are not exposed to harmful toxins or dangerous products, but legislative gaps and procedural hoops have delayed needed protections. A new report by Clean and Healthy New York concludes that while some crib mattress manufacturers have made products less toxic, a "significant portion of the crib mattresses in the U.S. market contain one or more chemicals of concern" and may still pose risks to babies.

Toxic Crib Mattresses

The report, *The Mattress Matters: Protecting Babies from Toxic Chemicals While They Sleep*, found that a majority of mattress models still contain at least one chemical of concern. Furthermore, the amount of disclosure that companies provide on the materials used to make the crib mattresses varies, making it difficult in many cases to know whether the product is safe.

Polyvinyl chloride (PVC) products are often found on mattresses and are usually made using additives called phthalates. The U.S. Environmental Protection Agency (EPA) has expressed concern "about phthalates because of their toxicity and the evidence of pervasive human and environmental exposure to these chemicals." The European Union has already acted and is currently phasing out a number of phthalates under its Registration, Evaluation, Authorization & Restriction of Chemical substances (REACH) program.

Based on these hazards, EPA developed a proposed rule in 2010 to add phthalates, bisphenol A (BPA) – found in baby bottles, the lining of food and beverage containers, and hard plastics – and other chemicals to a Chemicals of Concern List under the Toxic Substances Control Act (TSCA). This is the first time EPA used its authority under TSCA to create a list of chemicals that "present or may present an unreasonable risk of injury to human health or the environment." While not a substitute for the comprehensive TSCA reform that safety advocates and policymakers are calling for, the proposed rule received praise from public health and environmental organizations. However, the action has been stalled since EPA submitted the proposed rule to the Office of Information and Regulatory Affairs (OIRA) for review on May 12, 2010. OIRA has yet to release the rule for public comment after exceeding the authorized 90-day review period by more than a year.

In a Sept. 9 letter to OIRA Administrator Cass Sunstein, Sens. Frank Lautenberg (D-NJ) and Sheldon Whitehouse (D-RI) asked OIRA to conclude review of the proposed chemicals of concern rule and "allow EPA to propose the rule." The senators urged Sunstein to end the delay, which scientists and public safety advocates have criticized as inexcusable.

Listing phthalates on the chemicals of concern list may not provide the robust regulation needed to fully protect babies from all levels of exposure, but it would provide parents and caregivers with information to help them make safer choices. It could also increase public demand for less toxic products and push more manufacturers to voluntarily avoid using chemicals of concern in crib mattresses. The *Mattress Matters* report confirmed that many companies have responded to public demand for safer products but found that only a small percentage of manufacturers making "green claims" actually avoid using all of the dangerous chemicals identified in the report.

The Dispute over Crib Bumper Pads

Since the 2008 passage of the Consumer Product Safety Improvement Act, the Consumer Product Safety Commission (CPSC) has followed its congressional mandate to increase safety standards for children's toys and products, taking a number of actions to improve the safety of baby cribs and sleep products. In September 2010, the CPSC and U.S. Food and Drug Administration issued a joint warning against using infant sleep positioners because of the suffocation risk the pose. In June, crib safety standards issued in 2010 became effective, including rules that stop the manufacture and sale of dangerous, traditional drop-side cribs and require more rigorous safety testing. Unfortunately, despite warning cries from physicians and safety groups, the CPSC has yet to regulate or issue official warnings to parents of the dangers of bumper pads that wrap around the sides of cribs.

The American Academy of Pediatrics urged parents not to use bumpers after research conducted in 2007 by pediatrician Bradley Thach concluded that 27 infant deaths were attributed to bumper pads from 1985 to 2005. The city of Chicago banned the sale of crib bumpers in September, and Maryland proposed a similar state-wide ban a few weeks later. The Juvenile Product Manufacturers Association (JPMA), however, says there is not yet sufficient research to develop industry standards for bumpers.

In March, CPSC Chairman Inez Tenenbaum said that the commission is "currently taking a 'fresh look' into the safety of crib bumpers," with "[a]dditional staff reviewing more than 50 deaths in which a bumper is cited in the case file." Tenenbaum cautioned that the lack of evidence of a causal connection between properly used crib bumpers and suffocation, along with outdated information, make the issue especially challenging. However, she did commit to assembling a panel of outside experts to conduct a peer review of the CPSC staff's analysis. Notably, she said that CPSC's previous position that there is no scientific link between bumpers and suffocation should not be presented as the commission's current position until the "fresh look" is completed.

Unfortunately, the warnings about the dangers of crib bumpers came too late for some parents. "If I had heard one negative thing about a bumper, I wouldn't have used one," said Laura Maxwell, whose infant son suffocated after his face became wedged between the mattress and bumper pad. Some parents like Maxwell are demanding that CPSC take greater action. "If [bumpers] were taken off the shelf in 2009, my son would still be here," she said.

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