

From: Tamara Rubin tamararubin@mac.com
Subject: Re: February 14, 2022 Posting on Certi Pur-US Foam Crib Mattress
Date: February 17, 2022 at 11:16 AM
To: Rick Locker Fbocker@lockerlaw.com
Cc: Tamara Rubin tamararubin@mac.com



Hello Rick!

Thanks for being in touch.

All of the information, including the full test results of my findings are here on this post:
<https://tamararubin.com/2022/02/certipur-us-certified-foam-crib-mattress-from-major-u-s-baby-gear-company-positive-for-1185-ppm-antimony-an-identified-cause-of-both-sids-and-cancer/>

The testing methodology I use is also linked and discussed in that post.

Here is the link again:

<https://tamararubin.com/2016/12/ask-tamara-what-do-you-use-to-test-for-lead/>

After reading those posts carefully please let me know if you have any questions. There is nothing to send you beyond that post, that's all there is.

My testing results (for all of the products I test) are accurate, science-based and replicable.

XRF testing is noted by the CPSC as a valid and appropriate testing method to screen consumer goods for toxic heavy metals. The presence of Antimony in the mattress that I tested (which is fully detailed in the first post linked above) is not in question. The margin of error of the test reported demonstrates that it is above the 1,000 ppm limit for the State of California and I just confirmed with the State of Washington that Antimony is considered to be a component in halogenated flame retardants (meaning that it appears to be part of the State of CA restricted chemicals required to be under 1000 ppm).

I did recently have a similar exchange with Medley Home furniture and the folks at CertiPUR-US and you might find it helpful to read each of the posts in that exchange (for context and as an example of independent lab-testing done by a manufacturer confirming my test results and specifically confirming my test results for CertiPUR certified foam products, thus acknowledging the validity of the testing I do.)

Here is the thread regarding the Medley Home situation... hopefully you will find at least some of it entertaining (these are the posts in the order that I published them):

1. <https://tamararubin.com/2021/12/foam-cushion-inserts-from-popular-non-toxic-los-angeles-based-sofa-brand-test-positive-for-lead-arsenic-this-product-is-marketed-as-lead-free/>
2. <https://tamararubin.com/2022/01/a-brief-update-on-medley-home-furniture-including-a-thinly-veiled-threat-from-the-certipur-us-foam-folks-with-input-from-their-legal-team-and-my-response/>
3. <https://tamararubin.com/2022/01/words-with-friends-the-certipur-us-greenwashing-edition-with-your-host-tamara-rubin-environmental-activist/>
4. <https://tamararubin.com/2022/02/update-letter-from-medley-home-in-response-to-my-findings-of-lead-in-their-certipur-us-foam-certified-cushions/>

I am assuming your client is Graco (the company that makes and sells this mattress) although

I am assuming your client is Graco (the company that makes and sells the mattress), although you did not state that explicitly in your e-mail. Could you please confirm which company is your client?

I have reported this issue to the State of Washington and they responded to me today to let me know that they will be following up with the company (Graco) for an apparent violation of their reporting requirements for Antimony-containing products.

Please understand that I expect Graco was likely not AWARE that their certified non-toxic crib mattresses (at least for the batch identified in my original post- made in Malaysia) contained Antimony. This is more likely an issue of an oversight due to either the company **believing** the certification that went with the foam Or due to a lack of appropriate periodic independent testing done by the manufacturer (and/or the certifying agency.) Unfortunately Incidents like this happen all the time - which is one of the reasons my readers have me periodically test products even though they are certified as non-toxic (by various certification programs and agencies.)

I also followed up with the State of California but have not yet heard back.

I am receiving several additional samples for testing and will be posting those test results on the Lead Safe Mama, LCC website (LeadSafeMama.com / TamaraRubin.com) as soon as they are available.

I am thankful to know (based on your correspondence) that Graco is taking this seriously and has gotten legal counsel involved to help them resolve this issue.

I did hear from several Lead Safe Mama readers that, in communications with Graco representatives, they were told that Graco is not taking responsibility for this and has instead referred customers to Stork Craft (even though this is clearly a Graco branded product.) If your client is, in fact, Graco - you might want to talk to your client about how their customer service reps are responding to this issue. It does not look favorable for Graco to be shifting blame given the branding (and promises of healthfulness) inherent with the marketing related to this product.

I will be publishing the response I received on this issue from the State of Washington and when I have that up I will send you that link as well so that you can have all pieces of this conversation handy.

I think that is important to note that most companies do not approach my work as adversarial but instead see it as a free service. I have provided a free service to Graco by uncovering a problem that they were not previously aware of. I have provided (for free, published on my blog) a reasonable course of action that the company can take to address the issue and repair the relationship with their customers.

The companies who take this approach in response to my findings do far better (in terms of the public perception of the company based on their actions) than the companies who take an adversarial stance. My work is science based. Each statement I write is based in fact and science, if you approach this in this way moving forward we will have a much more productive relationship than if (for example) you attempt to discredit my findings or otherwise bully me (an activist) to take down my writings from my website. The "good guys" always win here - and Graco has an opportunity to be the good guys here - to repair this / correct this issue quickly and efficiently (with their customer's best interest at the forefront of their decision making process.)

Please also note that I have heard from two different readers that their children have had respiratory issues since sleeping on these mattresses (with doctors unable to identify any other

source of the breathing issues). While of course this is purely anecdotal, I think it is an important data point for your client to have given the pathway for Antimony-based health concerns appears to be inhalation.

Additionally, to clarify: in my writing I did not state "that the product presents an acute or chronic hazard to children." I stated that ANTIMONY is known to present health hazards to children (which is true).

In any future correspondence, please feel free to call me Tamara. If you insist on something more formal - it's "Mrs. Rubin" (not Ms. Rubin) :-)

Thank you.

Tamara Rubin

#LeadSafeMama

Owner - Lead Safe Mama, LCC

<http://www.LeadSafeMama.com>

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To support this advocacy work with a contribution, click here:

<https://tamararubin.com/2017/01/chip-in/>

On Feb 17, 2022, at 9:12 AM, Rick Locker <Fbocker@lockerlaw.com> wrote:

Dear Ms. Rubin,

We have been engaged by the manufacturer as independent Product Safety Counsel to review the accuracy and veracity of claims made in the above referenced posting. In doing so we review data in relation to compliance with Statutes and Regulations administered by the U.S. Consumer Product Safety Commission ("CPSC").

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires all testing for children's products subject to a product safety rule to be conducted by an independent third party laboratory that has been accredited by the CPSC. This requirement applies to all testing, including 16 CFR Part 1632 and 1633 flammability testing, for mattresses designed or intended primarily for children twelve and younger. Manufacturers of children's products must also conduct periodic sampling and testing to assure compliance with all applicable safety standards. For children's mattresses, this means that manufacturers must conduct Part 1632 and 1633 sample testing as well as other applicable tests such as phthalates and lead testing at regular intervals. In addition these products are required to meet the requirements of the Federal Hazardous Substances Act (FHSA) to assure no unreasonable exposure to any hazardous substance. The FHSA requirements apply to both chronic and acute hazards. [See 15 USC 1261 (f)(1)(A). These requirements are further defined in CPSC regulations at 16 CFR 1500.39c)(2).

We do note that ordinary XRF screening of non homogeneous polymeric materials is not deemed reliable enough for regulatory purposes and may result in erroneous readings. Therefore, our recommended Toxic Risk Assessment is based upon CPSC developed and scientifically accepted test methodologies to assure no acute or chronic exposure to hazardous substances as required under the FHSA.

For heavy metals, we recommend testing to assess total lead content and soluble

For heavy metals, we recommend testing to assess total lead content and soluble migration of other heavy metals, including Antimony, from a children's product.

For this particular model product our initial investigation indicates that Antimony trioxide and other Flame Retardants are required not to be intentionally added to the product. In addition we have noted that the products have been submitted for testing by independent CPSC accredited laboratories to also meet the heavy metal migration limits established under 16 CFR 1250 for toys (a stringent requirement).

We would appreciate if you would forward your test results, a detailed description of the equipment used to obtain the claimed test result and samples for independent review. Please advise immediately if you can do so. We can arrange delivery, at our expense, to an independent accredited CPSC laboratory if you prefer. We sincerely look forward to your cooperation.

If for some reason you do not wish to do so, it would be advisable to remove your posting or qualify statements used to disclaim any determination or inference that the product presents an acute or chronic hazard to children.

Thank you for your anticipated cooperation. We all have a vested interest in assuring the safety of children's products and that they remain in compliance with stringent U.S. Safety Standards. We are also interested in assuring product safety information is accurate and not misleading.

Sincerely,
Locker Greenberg & Brainin LLP
Frederick Locker
Attorney At Law
tel: [212-391-5200](tel:212-391-5200)

