



Billing Code 6355-01

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1219, 1220

[Docket No. CPSC-2010-0075]

Review of the Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Section 610 review and request for comments.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is conducting a review of the safety standards for full-size baby cribs and non-full-size baby cribs under section 610 of the Regulatory Flexibility Act (RFA). That section requires the CPSC to review, within 10 years after their issuance, mandatory standards that have a significant economic impact on a substantial number of small entities. The CPSC seeks comment to determine whether, consistent with the CPSC's statutory obligations, these standards should be maintained without change or modified to minimize significant impact of the rule on a substantial number of small entities.

DATES: Written comments should be submitted by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2010-0075, 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. CPSC does not accept comments submitted by electronic mail (e-mail), except through

www.regulations.gov. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, 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 electronically confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

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-2010-0075, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Susan Proper, Directorate for Economic Analysis, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7628; email: sproper@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Section 104 of the Consumer Product Safety Improvement Act

On December 28, 2010, the CPSC issued the Safety Standards for Full-Size Baby Cribs (16 CFR part 1219) and Non-Full-Size Baby Cribs (16 CFR part 1220) under section 104(c) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Pub.

L. No. 110-314) (75 FR 81766). Section 104(c) of the CPSIA stated that the crib standards would apply to certain persons (such as those owning or operating child care facilities and places of public accommodation), in addition to persons usually subject to consumer product safety rules.¹ In the initial rule, the Commission determined that both crib standards would have a significant impact on a substantial number of small entities, including manufacturers, importers, small retailers, and child care centers (75 FR 81782-86).

On August 12, 2011, in Pub. L. No. 112-28, Congress amended section 104 and specifically addressed potential revisions of the crib standards, stating that any revision after their initial promulgation “shall apply only to a person that manufactures or imports cribs,” unless the Commission determines that application to any others covered by the initial crib standards is “necessary to protect against an unreasonable risk to health or safety.” If the Commission applies a revised crib standard to additional persons, the statute requires the Commission to provide at least 12 months for those persons to come into compliance. The Commission has not expanded the applicability of the crib standards to any additional persons in subsequent revisions to the standards.²

B. The Crib Standards

The full-size baby crib standard currently incorporates ASTM F1169-19, *Standard Consumer Safety Specification for Full-Size Baby Cribs*, approved on March

¹ Under section 104(c) of the CPSIA, the initial crib standards applied to any person that
(A) Manufactures, distributes in commerce, or contracts to sell cribs;
(B) Based on the person’s occupation, holds itself out as having knowledge of skill peculiar to cribs, including child care facilities and family child care homes;
(C) Is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or
(D) Owns or operates a place of accommodation affecting commerce

²The full-size crib standard was revised on July 31, 2012 (77 FR 45242), December 9, 2013 (78 FR 73692), and July 23, 2019 (84 FR 35293); the non-full-size crib standard was revised on June 6, 2018 (83 FR 26206) and October 23, 2019 (84 FR 56684).

15, 2019, as the mandatory CPSC standard. ASTM F1169-19 specifies performance requirements and test procedures to determine the structural integrity of full-size cribs. It also contains design requirements addressing entanglement on crib corner post extensions, and requirements for warning labels and instructional material.

The non-full-size baby crib standard currently incorporates ASTM F406-17, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, approved on December 1, 2017, as the mandatory CPSC standard. ASTM 406-17 specifies the testing requirements for structural integrity and performance requirements for non-full-size cribs/play yards. It also provides requirements for labeling and instructional material.

C. Review under Section 610 of the Regulatory Flexibility Act

Section 610(a) of the RFA requires agencies to review regulations that have a significant impact on a substantial number of small entities within 10 years of the date of their publication. 5 U.S.C. 610(a). Because the crib standards were promulgated in 2010, the Commission is now commencing its section 610 review. The purpose of the review is to determine whether such rule should be continued without change, or should be amended, consistent with the stated objectives of applicable statutes to minimize any significant impact of the rules on a substantial number of small entities. The RFA lists several factors that the agency shall consider when reviewing rules under section 610.

These factors are:

- The continued need for the rule;
- The nature of complaints or comments received concerning the rule from the public;

- The complexity of the rule;
- The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
- The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

5 U.S.C. 610(b).

The need for the safety standards for full-size baby cribs and non-full-size baby cribs has been established by statutory mandate under section 104 of the CPSIA.

However, the Commission seeks comment to evaluate the other factors and to determine whether the ongoing impact of the rules is significant for a substantial number of small entities. An important step in the review process involves gathering and analyzing information from affected persons about their experience with the rules and any material changes in circumstances since issuance of the rules. The Commission requests written comments on the adequacy or inadequacy of the rules, their small business impacts, and other relevant issues. In addition to the specific questions below, the Commission welcomes comments on any other issues raised by section 610 of the RFA.

Safety and Effectiveness

1. Are there any recent technological developments that would improve the effectiveness of the full-size or non-full-size crib standards? Would any of these potential improvements have an impact on suppliers, and if so, would the impact be different for small suppliers and large suppliers?

2. Are there any sections of the full-size and/or non-full-size crib standards that could be improved without reducing the stringency of the standards or reducing the safety of the resulting cribs? How would these changes affect suppliers, particularly small suppliers? Explain your response, and provide supporting data, if possible.

Costs and Impacts – Suppliers

1. Are there any requirements of the full-size or non-full size crib standards that are especially or unnecessarily costly and/or burdensome, particularly to small suppliers? Which ones? Are any of the requirements disproportionately burdensome for small entities? How might the requirements of either standard be modified to reduce the costs or burdens on small suppliers without reducing the safety provided by the standards or making the standards less stringent? Please explain your response, and provide supporting data.

2. What percent of the time and cost of crib construction does complying with the full-size and/or non-full-size crib standards represent? Do these percentages vary significantly depending on the geographical location, size of firm, or other factors? Which requirements in the full-size or non-full-size crib standards have the greatest impact on cost of production? The lowest impact on cost of production? We are primarily interested in small firms, but understanding how impact varies based on firm size would be helpful. Please explain your response, and provide supporting data, if possible.

3. What modifications did manufacturers or others have to make to full-size and/or non-full-size crib models to comply with the requirements of CPSC's crib standards? What was the cost of these modifications in terms of labor, materials, and research and

development? Are these costs ongoing, or were they one-time expenditures? Please explain, and provide supporting data, if possible. Are the costs comparable for large and small firms?

4. Have any manufacturers or importers entered the market for full-size and/or non-full-size cribs since the standards went into effect? Did the standards present any specific challenges for new entrants, particularly small suppliers?

5. Have any manufacturers or importers reduced the number of models in their full-size and/or non-full-size crib product lines or dropped the product lines entirely because of the requirements of the crib rules? If so, which requirements were the most burdensome, and were they more, less, or equally burdensome for small firms? Why?

6. Did the longer effective date for childcare facilities significantly reduce the impact? Please explain why or why not.

7. Do the full-size and non-full-size crib standards affect any small entities not mentioned in the questions above? If so, what entities are affected and how? Please explain your response, and provide supporting data, if possible.

Recordkeeping and Third Party Testing

1. What percent of the time and cost of complying with the full-size and non-full-size crib standards does testing represent? How much of that testing is conducted by third parties, and how much is additional, internal testing? Do these percentages vary significantly depending on the type of crib, geographical location, size of firm, or other factors? Which requirements in the full-size and non-full-size crib standards have the greatest impact on testing costs? Which requirements have the lowest impact on testing

costs? We are especially interested in any differential impact of the testing requirements on small businesses. Explain your response, and provide supporting data, if possible.

2. Are the recordkeeping requirements associated with third party testing for conforming to the crib standards adequate, inadequate, or overly burdensome? If they are overly burdensome, are they more or less burdensome for small firms? Are there recordkeeping requirements that could be applied to cribs as a product class that would reduce the recordkeeping cost on suppliers, in particular small suppliers, without reducing safety? Please explain your response.

3. How frequently do suppliers submit samples of their full-size and non-full-size cribs to third party conformity assessment bodies for testing to compliance with the full-size or non-full-size crib standards or other crib standards? Do small suppliers submit them more, less, or with equal frequency as large suppliers? How many samples of each model are submitted for testing to maintain certification? Do the number of samples submitted vary depending on the size of the submitting supplier? What is the cost of the testing, and to what extent, if any, does cost vary, based on the size of the submitting firm? Did the cost of testing for conformance with standards (whether third party, internal, or both) increase after the rules became mandatory? If so, by how much, and did that increase vary, based on firm size?

4. To what extent have the third party testing requirements replaced other testing that suppliers, particularly small suppliers, conducted, thereby not imposing any additional burden? Please explain your response.

5. Have suppliers, particularly small suppliers, been able to make use of the flexibilities provided in the component part rule (16 CFR part 1109) to reduce their third party testing

costs (e.g., relying upon third party testing provided by a supplier to certify products or relying on third party testing of a component used in more than one model for certification purposes)? If so, in what way? Can you provide estimates of the cost savings provided by the component part testing rule?

6. Could changes be made in the third party testing procedures or the third party testing rules that would reduce the burden on crib suppliers, particularly small crib suppliers, and still be consistent with assuring compliance with the crib standards? If so, how?

Clarity and Duplication

1. Is there any aspect of the full-size and/or non-full-size crib standards that is unclear, needlessly complex, or duplicative?

2. Do any portions of the standards overlap, duplicate, or conflict with other federal, state, or local government rules?

Outreach and Advocacy

1. Are the requirements in CPSC's full-size and non-full-size crib standards known to firms that manufacture or import cribs for the United States, particularly small firms and firms that build or import cribs infrequently or in small lots? How could the requirements of the standard be communicated more effectively to such firms?

2. Are there any cribs at small child care facilities or places of public accommodation that do not meet the full-size or non-full-size crib standard? What can CPSC do to improve awareness of the standards' requirements among owners of these businesses?

Please explain.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

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