



Billing Code 6355-01

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2010-0075]

Notice of Availability of Regulatory Flexibility Act Section 610 Review of the Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is announcing the availability of a completed rule review under section 610 of the Regulatory Flexibility Act (RFA) for the safety standards for full-size baby cribs and non-full-size baby cribs (crib standards). This regulatory review concludes that the crib standards should be maintained without change.

ADDRESSES: The completed review is available on the CPSC Web site at: <https://www.cpsc.gov/Research--Statistics/Toys-and-Childrens-Products>. The completed review will also be made available through the Federal eRulemaking Portal at <https://www.regulations.gov>, under Docket No. CPSC-2010-0075, Supporting and Related Materials. Copies may also be obtained from the Consumer Product Safety Commission, Division of the Secretariat, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479; email cpsc-os@cpsc.gov.

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:

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

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 (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) applied without regard to the phrase ‘not owned by the Federal Government’).”

into compliance. The Commission has not expanded the applicability of the crib standards to any additional persons in subsequent revisions to the standards.²

On January 31, 2020, the Commission published notice in the *Federal Register* (85 FR 5587) to announce that the CPSC would review the cribs standards in accordance with the regulatory review provisions of section 610 of the RFA (5 U.S.C. 610) and sought public comment on the rule review. This document announces the availability of completed regulatory review of the crib standards.

The purpose of a rule review under section 610 of the RFA is to determine whether, consistent with the CPSC's statutory obligations, these standards should be maintained without change, rescinded, or modified to minimize any significant impact of the rule on a substantial number of small entities. Section 610 requires agencies to consider five factors in reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities including:

- (1) The continued need for the rule;
- (2) The nature of complaints or comments received concerning the rule from the public;
- (3) The complexity of the rule;
- (4) 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
- (5) The length of time since the rule has been evaluated or the degree to which

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).

technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(b).

The CPSC received four written comments representing the views of the Government of the People’s Republic of China, the Juvenile Products Manufacturers Association (JPMA), and two members of the public.³ CPSC also entered into a contract with Industrial Economics, Inc. (IEc), to obtain information from nine current and former crib manufacturers, of which eight self-identified as small businesses, on the impact of the regulations, and in particular, the burden on small businesses. Staff’s briefing package reviews all of the comments and the IEc report and provides staff’s analysis applying the factors listed in section 610 of the RFA to the crib standards. As explained in the staff’s briefing package, CPSC staff concludes that the crib standards should be retained without any changes. However, staff’s review indicated that some of the crib manufacturers and suppliers experienced difficulties with increased testing costs and testing burdens, as well increased frequency of testing under the testing and certification requirements under 16 CFR part 1107, and component testing requirements under 16 CFR part 1109. On August 24, 2020, the Commission published a notice in the *Federal Register* to announce and seek comment on a rule review for 16 CFR parts 1107 and 1109, that is being conducted in fiscal year 2021 (85 FR 52078) . Accordingly, the issues raised by crib manufacturers on testing and certification under 16 CFR parts 1107 and 1109, will be considered further in that proceeding.

³ The World Trade Organization (WTO), on behalf of China, submitted several duplicates of the same comment.

The staff's briefing package containing the review is available on the CPSC Web site at: <https://www.cpsc.gov/Research--Statistics/Toys-and-Childrens-Products>, www.regulations.gov, and from the Commission's Division of the Secretariat at the location listed in the ADDRESSES section of this notice.

Alberta E. Mills,

Secretary,

Consumer Product Safety Commission.

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