**China Blog Series**

**Infant Sleep Products Regulation, Banned Inclined Sleepers for Infants,**

**and Crib Bumpers**

**Slide 1**

The slides used in this presentation are not a comprehensive statement of legal requirements or policy and should not be relied upon for that purpose. You should consult official versions of U.S. statutes and regulations, as well as published CPSC guidance when making decisions that could affect the safety and compliance of products entering U.S. commerce. Note that references are provided at the end of the presentation.

**Slide 2 - Video Greeting**

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Hi, my name is Sylvia Chen, and I want to welcome you to this presentation today.

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As you heard, designing safe products at the outset is critical. CPSC is a U.S. federal government agency charged with protecting the public from unreasonable risks of injury or death associated with the use of consumer products under the agency’s jurisdiction. We have developed this podcast series not only to inform you on regulations, standards, and other safety requirements, but also to emphasize the importance of designing products with safety considerations in mind, and best practices for enhancing safety in a variety of common consumer products.

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Now, let’s get started. Today, we are going to focus our discussion on the Infant Sleep Products Regulation. Specifically, we will discuss the purpose of the regulation, its scope, and its main requirements. Next, we will discuss the ban on inclined sleepers for infants, as well as the ban on crib bumpers. Then we will highlight some important information about consumer registration requirements, children's product certificate requirements, and testing and certification requirements, since these are sometimes misunderstood by suppliers, I’ll conclude by providing you with an overview of some of CPSC’s business resources.

At the conclusion of this presentation, I provide the citations for the requirements for viewers who want to read afterward more about the details.

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The Infant Sleep Products regulation incorporates by reference the Standard Consumer Product Safety for Infant Inclined Sleep Products (ASTM Standard F3118-17a). The regulation includes substantial modifications to that ASTM standard, and so when looking at the requirements for this product type it is important to view both the ASTM standard and the regulation.

Infant sleep products are a category of durable infant or toddler products. The Infant Sleep Products regulation defines an “infant sleep product” as a product marketed or intended to provide a sleeping accommodation for an infant up to 5 months of age, and that is not subject to an existing sleep product rule, such as the rules for bassinets/cradles, cribs (full-size and non-full size), play yards, and bedside sleepers

The Infant Sleep Products regulation requires that sleep surface angles must be 10 degrees or lower.

Products manufactured on or after June 23, 2022 must comply.

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The Infant Sleep Products regulation is intended to address the deaths and incidents associated with infant sleep hazards, including, but not limited to, fall hazards, asphyxiation and suffocation, obstruction of the nose and mouth by bedding, as well as inclined sleep surfaces.

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The regulation includes products that are marketed or intended to provide a place for infants up to five months old to sleep. It is for products that are not already subject to one of the existing regulations for infant sleep.

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You can see examples of infant sleep products listed here on this slide. Many of these products that you might see out in the marketplace could now be included within the Infant Sleep Products regulation. Initially, some firms may think that to comply they can take their infant sleep product and remarket it as a product not intended for a baby to sleep in. However, products with designs that suggests they are intended for infant sleep, including hammock crib accessories, baby boxes, and in-bed sleepers, most compact bassinets and anything marketed as a “bed”, cannot be credibly remarketed as not for infant sleep. Some of these products could be marketed for children over 5 months, depending on the size of the product, but many are too small for a larger child. So, firms selling these products may need to stop selling them, or significantly redesign or reengineer them to come into compliance. Redesigning for compliance would likely need to cover both performance and non-performance (e.g., labeling) requirements.

Please note that infant swings, rockers, bouncers, highchairs, hand-held infant carriers, etc. that are marketed or intended to be a place for infants up to five months old to sleep are also likely subject to the infant sleep products regulation.

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There are several considerations when determining whether a product is within the scope or outside of the scope of the regulation. In conducting a scope determination, CPSC looks at evidence such as the marketing, the advertising, the labelling, the instructions, and the packaging materials to get a sense of the firm’s intent. That's very important. We analyze, for example: How does the manufacturer, importer, distributer, and retailer intend the product to be used, to be viewed, to be understood. That's one piece of it. What is the intrinsic nature or design of the product? How is it engineered? How would the product be used? We analyze both the marketing and the engineered design of the product itself. And then the foreseeable consumer use or misuse of the product. Sometimes manufacturers do not consider misuse scenarios and this analysis can be such a critical piece of the product design stage.

To give just one quick example from a while back, before CPSC’s crib regulation came into force in 2011, there was a drop-side crib incident that resulted in an infant’s death, where the consumers put the drop side on backwards. The design error was that it had a possibility that a consumer could put the product on backwards. And so that tragedy was 100 percent avoidable if the product had been designed in a way to prevent that misuse scenario. This is only one example of why it's so important to be thinking about foreseeable misuse of the product, not just what you think of as the likely use. Because many times, misuse scenarios, if they're occurring in a pattern, could result in a situation where the product needs to be recalled or we need to engage in some kind of other corrective action to remove the product from the marketplace.

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In determining the scope, among other things CPSC analyzes the product name, description, instructions, the physical product, and consumer reviews to understand how the product is likely to be used. If we're seeing certain types of themes, the product might be marketed or intended to provide a sleeping accommodation for infants. Here are some examples: products depicting decorations commonly used for very young children, or marketing images depicting sleeping, snoozing, dreaming, or napping. There could be a situation where maybe as a manufacturer you didn't really intend the product to be an infant sleep product, but it is being used by consumers for infant sleep. If you're putting these types of themes on your product, there might be mixed signals being sent to the consumer, where they think that, oh, you're showing this cute bear sleeping, then that's an okay place for me to put a baby down to sleep, when maybe the design of the product is not safe for infant sleep. And so, you don't want consumers putting their babies down to sleep there. It is important to remember that even subtle things like that can make a huge difference in how a product is conceived and understood and whether it's in scope and how consumers are viewing the product.

Even if a product is not marketed for “overnight sleep,” or includes a warning to “NEVER leave baby unattended,” the product may still be considered in-scope of the infant sleep products regulation. It is also important to understand that if “attended” or “supervised” sleep is indicated, then the product would be considered within the scope of the regulation. “Sleep” and “sleeping accommodations” refer broadly to not only extended, unattended sleep, but also and napping, snoozing, and other types of sleep in which a parent may or may not be present, awake, and attentive.

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Next, I want to discuss the Safe Sleep for Babies Act of 2021. This is different from the Infant Sleep Products regulation that we were just talking about. The Infant Sleep Products regulation is a mandatory performance requirement, which as many of you know, requires you to engineer your product and design your product to come into compliance with that regulation – if you want to sell it in the U.S. market.

The Safe Sleep for Babies Act of 2021 is a ban passed by the U.S. Congress and signed by the President. It bans inclined sleepers for infants as well as crib bumpers.

The Safe Sleep for Babies Act of 2021 defines inclined sleepers for infants as products that have an inclined sleep surface greater than 10 degrees that are intended, marketed, or designed to provide sleeping accommodations for an infant up to one year old. Therefore, products within the scope of the Ban on Inclined Sleepers for Infants have a broader age range than in the Infant Sleep Products Regulation. However, while the infant sleep products regulation includes products that have both flat and inclined sleep surfaces, the ban under the Safe Sleep for Babies act applies only to products with sleep surfaces that are inclined more than ten degrees.

The effective date of November 12, 2022, is regardless of the date of manufacture. And so that means any products that are within the scope of this ban cannot be sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States at all after November 2022, regardless, again, of when it was manufactured. This is a big difference between the ban and the Infant Sleep Products regulation or other CPSC regulations, where a date of manufacture is specified.

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This slide shows some examples of banned inclined sleepers for infants. The products you're seeing here would not be allowed to be sold or distributed, or imported into the U.S., regardless of when they were manufactured. As shown, the inclined sleep surface is greater than 10 degrees. Also, these products are intended, marketed, or designed as a sleeping accommodation for an infant up to one year old.

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How do you tell if your product has a sleep surface inclined more than ten degrees?

CPSC staff recommend measuring the maximum seat back/sleep surface angle along the occupant's head to toe axis relative to horizontal using the same test method as described in the [inclined](https://www.cpsc.gov/Business--Manufacturing/Business-Education/Business-Guidance/Infant-Sleep-Products-Business-Guidance-and-Small-Entity-Compliance-Guide) sleep products regulation at the section (1263.2(b)(19)) in [16 CFR shown here on the slide](https://www.ecfr.gov/current/title-16/part-1236). Products with a seat back/sleep surface angle greater than ten degrees are banned if they are intended, marketed, or designed as a sleeping accommodation for an infant up to one year old.

The Commission has not required testing and certification to ensure that products comply with the ban on inclined sleepers for infants. However, the Commission may in the future consider testing, certification, and registration requirements for sleep product sold in the U.S. to ensure compliance with the ban, so it is especially important for firms that make infant sleep products to stay informed about future CPSC publications.

To stay up to date with information on CPSC requirements, we typically recommend that firms sign-up for the CPSC mailing lists applicable to them.  You can sign-up for the ‘Business Education’ mailing list which will include information on many types of products in CPSC’s jurisdiction, not just sleep products. You can also use keywords to sign up for emails about documents published in the Federal Register, which announces U.S. federal regulations from multiple agencies, including those from CPSC. Additional resource links are shown at the end of this presentation.

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Moving on to crib bumpers. In addition to banning inclined sleepers for infants, the Safe Sleep for Babies Act of 2021 also banned padded crib bumpers. Crib bumpers are any material intended to cover the sides of a crib to prevent injury to any crib occupant from impacts against the side of a crib or to prevent partial or complete access to any openings in the sides of a crib to prevent a crib occupant from getting any part of the body entrapped in any opening. This includes ordinary padded crib bumpers, supported and unsupported vinyl bumper guards, as well as vertical crib slat covers. The ban does not include non-padded mesh crib liners. And so, if you produce a non-padded mesh crib liner, your product is not banned under the Safe Sleep for Babies Act, but you do still have to comply with all the other applicable requirements under CPSC's jurisdiction, including testing and certification requirements that apply to all children’s products, such as lead content and lead in surface coatings.

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Now I want to discuss the consumer registration requirements, which are designed to allow consumers to register their product for possible recalls or other safety alerts. Because infant sleep products are considered durable infant or toddler products, they must comply with registration requirements in U.S. law, the same as with other durable infant or toddler products you may make.

The U.S. importer or domestic supplier must provide two methods for consumers to register their product, although this is often accomplished by the manufacturer during packaging. First, a postage-paid form that is attached to the product. The forms are printed on both sides and perforated so that a consumer can easily detach and mail-in the bottom half. Second, CPSC requires an online mechanism for the consumer to register their product. The regulation includes more details on the requirements for online registration. Firms that do not have a website can comply with this requirement by having consumers register through email and setting up the email account to provide an automatic reply to confirm receipt of the consumer's registration information. Those who sell these products only online are still required to have both the postage-paid card and the electronic registration option.

If you are a foreign manufacturer or are an individual seller located outside of the United States, it can be a little bit tricky to understand how to get postage pre-paid or business reply mail with the United States Postal Service. We can help get you in touch with the USPS. There's a whole procedure in place to help you out with that. We're happy to do that.

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CPSC’s regulation for consumer registration of durable infant or toddler products also requires that each product be permanently marked with the manufacturer name, contact information, model name and number, and date of manufacture. For imported products this means the importer’s name, U.S. mailing address, and telephone number, must be permanently marked on the product.

Durable infant or toddler products, including infant sleep products, must also include certain tracking information on the products and packaging. More information on this tracking requirement is available through the resources linked at the end of this presentation.

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Finally, I want to highlight some aspects of a Children Product Certificate. Manufacturers and importers of [children’s products](https://www.cpsc.gov/Business--Manufacturing/Business-Education/childrens-products/) must certify, in a written Children’s Product Certificate – a CPC -- based on test results from a [CPSC-accepted laboratory](https://www.cpsc.gov/cgi-bin/labsearch/), that their children’s products comply with all applicable safety regulations.

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A copy of the certificate must be available to CPSC and Customs *as soon as the product or shipment itself is available for inspection in the United States.*

Electronic Certificatesare acceptable, but must be created no later than time of shipment or first distribution within the United States.

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The elements required in a CPC include:

1. Identification of the product covered by this certificate: Describe the product(s) covered by this certification in enough detail to match the certificate to each product it covers and no others.
2. Citation to each CPSC children’s product safety regulation to which this product is being certified: The certificate must identify separately each children’s product safety regulation that is applicable to the children’s product.
3. Identification of the importer or domestic manufacturer certifying compliance of the product: Provide the name, full mailing address, and telephone number of the importer or U.S. domestic manufacturer certifying the product.
4. Contact information for the individual maintaining records of test results: Provide the name, full mailing address, e-mail address, and telephone number of the person maintaining test records in support of the certification.
5. Date and place where this product was manufactured: For the date(s) when the product was manufactured, provide at least the month and year. For the place of manufacture, provide at least the city, state (if applicable), and country (or administrative area) where the product was manufactured or finally assembled. If the same manufacturer operates more than one location in the same city, provide the street address of the factory.
6. Provide the date(s) and place when the product was tested for compliance with the consumer product safety regulations(s) cited above: Provide the location(s) of the testing and the date(s) of the test(s) or test report(s) on which certification is being based.
7. Identify any third party, CPSC-accepted laboratory on whose testing the certificate depends: Provide the name, full mailing address, and telephone number of the laboratory. Registered [small batch manufacturers](https://www.cpsc.gov/smallbatch) who are not required to third party test their product to certain children’s product safety requirements must include the registration number provided by CPSC in this section of the CPC. (Products manufactured by registered [*small batch manufacturers*](https://www.cpsc.gov/smallbatch) must still comply with all applicable safety regulations.).

The CPC and supporting test reports must be in English.   It is important to keep in mind that the manufacturer and/or the importer, in most scenarios, is the one that must be issuing this document. CPSC looks for the responsible U.S. party, whether that's an importer or a domestic manufacturer, and this party must issue this document. Sometimes the legally responsible companies ask a testing lab, or non-US manufacturer, to issue the CPC document for them and although a lab may prepare the document, they cannot issue it. That’s for the legally responsible company to do.

Another key point is that you must have the correct citations of the regulations for the infant sleep product. Sometimes you may be unsure of the correct citation. If you're not sure of what the correct citation is for your lead testing, we can tell you what the correct citation would be if you share all the appropriate information with us.

For more details on product registration and Children’s Product Certificates, please also refer **to our Podcast #5: Durable Infant or Toddler Products Requirements.**

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Third-party testing and certification are required for infant sleep products. On CPSC’s website, you can locate third-party testing laboratories that are CPSC-accepted for evaluating products for conformity to federal safety regulations. Additional information and demonstrations on finding third-party testing laboratories that are CPSC-accepted are found in other podcasts in this series.

Inclined Sleepers for Infants are banned, and so even if you have them tested by a third-party laboratory it is unlawful to sell, offer for sale, manufacture for sale, distribute in commerce, or export these products for the U.S. market. As mentioned earlier, you should note that although CPSC has not instituted a testing and certification program for the banned inclined sleepers for infants; CPSC may consider testing, certification, and registration requirements for similar items in the future.

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We hope you found this presentation useful. If you have any questions on the presentation, please do not hesitate to submit your questions in English or Chinese to the mailbox mentioned earlier: [CPSCinChina@cpsc.gov](mailto:CPSCinChina@cpsc.gov). This mailbox is routinely monitored.

**Slide 24**

We also wish to remind viewers that CPSC has many technical documents and resources available in Chinese. The conclusion of this presentation provides many links to resources viewers may find useful.

**Slides 25-26**

As one example, we have developed this blog series not only to inform you on regulations, standards, and other safety requirements, but also to emphasize the importance of designing products with safety considerations in mind and using best practices for enhancing safety in a variety of common consumer products.

The presentations include English and Chinese slide decks, and Chinese narration to make this important safety information as accessible as possible.

**Slides 27-32**

We also encourage viewers to be sure to check out these specific links for resources related to infant sleep products, our Chinese language resources shown on these slides, and CPSC’s Regulatory Robot, available in English, Chinese, and several other languages. The Regulatory Robot is an automated tool that can greatly facilitate identifying safety requirements for many products. Companies have found this tool to be extremely helpful.

Thank you for downloading this presentation.