



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MD 20814

STATEMENT OF COMMISSIONER ANNE M. NORTHUP ON THE VOTE  
TO APPROVE THE PROPOSED STANDARDS FOR FULL-SIZE AND  
NON-FULL-SIZE CRIBS UNDER SECTION 104(b) OF THE CPSIA

July 14, 2010

In supporting today's draft proposed rule for cribs, I commend the hours of hard work that have gone into reviewing other standards as well as large amounts of incident data reported to the Commission. I hope that new mandatory standards will provide families with a sense of comfort and confidence in the cribs they purchase.

However, I believe there are also negative consequences that will follow from the issuance of these mandatory standards about which we have an obligation to seek public comment and to alert Congress. Our top priority, as always, should be to make sure parents, families, and institutions such as day care centers have safe cribs—period. But like many other well-intentioned aspects of the Consumer Product Safety Improvement Act (CPSIA), the section of the law pertaining to cribs may create a number of unforeseen consequences for young families and even babies. I intend to articulate these potential consequences not only in this statement but directly to Congress, which has asked this Commission on many occasions to provide feedback on areas of the CPSIA that work and areas that simply do not work.

The Facts: Drop-Side Cribs are Gone

As staff conveyed during today's Commission meeting, if one were to compare two cribs that were made by the same firm, using a similar design, the same wood, and coming from the same factory, the one that has a *drop side* is not as safe because it has more moving parts. As a result of this determination and a number of reported incidents with traditional drop-side cribs, the Commission has released several warnings over the years regarding their use. Recently, the ASTM voluntary standards committee changed the industry's standards (ASTM F 1169-09/ASTM F 406-10) in such a way that companies no longer will be able to make cribs with a traditional drop side. These particular standards were approved by ASTM in December of 2009 for full-size cribs and in June of this year for non-full-size cribs, respectively. Of course, considering the spotlight on the dangers of drop-side cribs in recent years and the expectation of a complete ban, families and institutions have already steered away from these types of cribs and invested in cribs complying with one of the newer voluntary standards.

Retroactivity of Crib Standards

Regardless of the steps that were taken to bring us to a place where traditional drop-side cribs will no longer be made (a place reached largely aside from the CPSIA's mandates), the CPSIA required the Commission to issue a mandatory standard for cribs—not just for new cribs, but for used cribs as well. Such a provision is unlike the mandatory standard requirements for other durable nursery goods, such as toddler

beds, play yards, or cradles. For cribs alone, the Commission's mandatory standard this year ***will make every crib in this country obsolete overnight and unable to be sold***—regardless of whether that crib was ever subject to a recall or ever considered unsafe.

What are the consequences of this provision of the law? First, any young family who has bought a new crib over the past year (not a small investment) will not be able to sell it or donate it to a thrift store after it has been used—even if the crib has fixed sides and is safe. Families often invest in second-hand cribs or hand them down to another family member due to the high cost of new cribs. While the Commission advises consumers not to use any crib that is over ten years old, for example, the fact remains that the safest place for a baby to sleep is in a crib, and the second-hand market for cribs remains a lifesaver for many families.

Unfortunately, once this provision of the law becomes effective, retail stores and thrift stores will no longer be able to sell fixed-side, safe cribs currently in their inventories—a waste not only for those stores but for families in need of affordable cribs later this year or next. Currently, the draft proposed rule includes an effective date of ***six months following the passage of the final rule***. I strongly request comments from retailers, thrift stores and other parties regarding the wisdom of this effective date and whether it provides enough time for retailers to sell down their inventories and for manufacturers to meet the coming spike in demand.

Furthermore, the law goes beyond just a prohibition on the purchase of new cribs. It expressly forbids cribs that do not meet the new mandatory standard from being offered ***for use*** by places of public accommodation. Once the new standard becomes effective, day care centers and hotels across the country will have to begin using brand-new cribs that meet the Commission-approved mandatory standard—even if they bought a crib earlier this year that meets the previous ASTM standard (less than a year old) and is completely safe. My biggest fear is that day care centers, in particular, will be stuck with no other option but to place babies in play yards or on floor mats—even temporarily—since the purchase of so many new cribs will be quite expensive. This result may not only mean that babies will be placed in less-safe sleep environments, but it will also represent a tremendous waste of money for families, day care centers, and taxpayer dollars that help fund many day care centers.

Another consequence of the retroactive effects of the law's provision on cribs that we barely mentioned in today's Commission meeting is that these mandatory standards for cribs ***will again be retroactive every time they are updated in the future***. In other words, once the mandatory standards are modified in the future to respond to changes in the market, new innovations, or new hazards, all the new cribs that meet the Commission standard ***this year*** will become obsolete once again, cannot be resold, and day care centers once again will be forced to buy another set of new cribs. This situation will be disastrous for families and day care centers that depend on the availability of affordable cribs. I am not convinced that Congress intended such a drastic result. On this issue of "rolling" retroactivity, I would request comments from day care centers, hotels and the general public assessing what this will mean to them.

If you are a crib company, at this point you are probably "dancing a jig" because of the various effects of this law. While companies certainly will lose current inventory that does not meet the new standard, they will also reap tremendous financial rewards since ***every family and day care center in the near future will be forced to purchase a brand-new crib***. They will not have access to any safe, used cribs in the resale market for quite a while. Even if they have recently gotten rid of their drop-side cribs, as this Commission has advised for many months, the new, fixed-side cribs they just bought will also be obsolete

and unable to be resold. In fact, they may not ever have access to much of a resale market if the mandatory standards for cribs continue to be modified periodically. Each time the standard is modified in the future, yesterday's crib will become outmoded, unable to be resold by families, and unable even to be used by such places as day care centers and hotels. (This alone provides quite an incentive for crib companies to continue proposing changes to the mandatory standard!)

As always, it is the sectors of the market least able to afford it that are negatively impacted by overregulation. This time, it is young families and many day care centers that will be negatively impacted by this crib rule in ways that are unnecessary to promote safety. We all support issuing the regulations that the CPSIA requires, but when these regulations result in untenable, ludicrous consequences that do more harm than good to American families, we have an obligation to approach Congress and inform them. I am hopeful that Congress would be open to amending the law to address these unforeseen consequences.