

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

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AGL MN E5 Tower, MN [New]

Tower Municipal Airport, MN
(lat. 47°49'06" N., long. 92°17'30" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tower Municipal Airport, excluding that airspace within Prohibited Area P-205.

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Issued in Fort Worth, TX on November 14, 2008.

Roger M. Trevino,

Acting Manager, Operations Support Group,
ATO Central Service Center.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Options to Address Crib Safety Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Commission is required by section 104 of the Consumer Product Safety Improvement Act of 2008 to examine and assess, in consultation with consumer groups, juvenile product manufacturers, and independent child product engineers and experts, the voluntary standards for, *inter alia*, full size and non-full-size cribs. In particular, the Commission has determined it will examine and assess potential design and durability issues by seeking input and information about hardware systems, other hardware issues, assembly and instructional problems and wood quality/strength issues for full size and non-full-size cribs with stationary or drop-side construction.

This advance notice of proposed rulemaking (ANPR) is being issued to commence the consultative process with stakeholders to examine and assess the effectiveness of the voluntary standards for full size and non-full-size cribs.¹ The Commission solicits written comments concerning the risks of injury associated with full size and non-full-size cribs, possible ways to address these risks,

and the economic impacts of the various regulatory alternatives.

DATES: Comments and submissions in response to this notice must be received by January 26, 2009.

ADDRESSES: Comments should be filed by e-mail to cribsanpr@cpsc.gov. Comments also may be filed by telefacsimile to (301) 504-0127 or mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504-7530. Comments should be captioned ANPR for Options to Address Crib Safety Hazards.

FOR FURTHER INFORMATION CONTACT:

Patricia L. Hackett, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504-7577 or e-mail: phackett@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. Voluntary Standards Activity

CPSC staff has participated in ASTM subcommittee activities on cribs since the standards were first developed. While ASTM has made some revisions in response to our input in the past, several staff recommendations regarding crib hardware that this ANPR addresses (Tab A at <http://www.cpsc.gov/library/foia/foia09/brief/ashaz.pdf>) have been considered by the voluntary standards subcommittee, but as of yet, no additional performance requirements have been agreed upon. More recent staff recommendations have involved assembly issues and strength/quality of wood. (Tab B at <http://www.cpsc.gov/library/foia/foia09/brief/ashaz.pdf>).

2. Compliance Activities

The Office of Compliance staff has opened seven investigative cases pertaining to crib hazards since the initiation of the CPSC early warning system (EWS) in November 2007. Five of these investigations resulted in recalls of over 2.5 million cribs and pertain to such issues as drop-side hardware defects, wood quality issues, and dimensional defects. Investigations that are still pending resolution also pertain to drop-side hardware related problems.

B. Statutory Authority

Section 104(b)(1)(A) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314, August 14, 2008, requires the Commission in consultation with

representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, [to] examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products. Because of the amount of information necessary to address the range of technical issues involved in evaluating the hazards posed by cribs, and the amount of time needed by CPSC staff to evaluate that information prior to the Commission issuing a notice of proposed rulemaking under section 104(b)(1)(B), the Commission is using this ANPR as part of the consultation process.

The issuance of this ANPR for purposes of undertaking the consultative process required by section 104(b)(1)(A), does not begin the rulemaking process for full size and non-full-size cribs mandated by section 104(b)(1)(B) of the CPSIA. That will be done when the Commission determines to do so according to its priorities and resources.

C. The Product

The Commission has issued mandatory standards under the Federal Hazardous Substances Act (FHSA) for both full-size cribs and non-full-size baby cribs (16 CFR 1508 and 1509 respectively). A full-size crib is defined at 16 CFR 1508 as a bed designed to provide sleeping accommodations for an infant and used in the home, with the following interior dimensions: 71 ± 1.6 centimeters (28 ± 5/8 inches) wide by 133 ± 1.6 centimeters (52 3/8 ± 5/8 inches) long.

A non-full-size crib is defined at 16 CFR 1509 with the same wording as a full-size crib, but with dimensions that are either greater or smaller than the ones contained in 16 CFR 1508. The regulation specifically excludes mesh/net/screen cribs, nonrigidly constructed cribs, cradles, car beds, baby baskets, and bassinets.

D. The Risk of Death or Injury

1. Incident Data

Since its inception in November 2007, the CPSC EWS program has led to the evaluation of over 1200 crib incidents and related issues. These include incidents involving hardware systems, assembly errors, wood quality, bedding issues, paint problems, and general design concerns. Since that time, the EWS program has identified many issues with cribs which have led or could lead to entrapment and strangulation. In the last year, CPSC staff has assigned over 250 crib incidents for follow up in-depth

¹ The Commission voted 2-0 to publish the FR notice as drafted.

investigations (IDIs), including nine entrapment deaths and many injuries or near misses, where hardware has been the issue.

As a result of EWS review, the Office of Compliance staff has opened seven investigative cases pertaining to crib hazards. Five of these investigations resulted in a recall of over 2.5 million cribs and pertain to such issues as drop side hardware defects, wood quality issues, and dimensional defects. Investigations that are still pending resolution also pertain to drop side hardware related problems.

2. Analysis of Incident Data

a. Drop-Side Cribs and Related Hardware Systems

A review of the incident data and follow up investigations seen in the CPSC EWS program have indicated that cribs with drop sides are the type most likely to experience hardware problems. Due to their design, these cribs contain additional moving parts and have more non-rigid joints or connections between components than non-drop-side cribs. Of particular interest are several incidents where the drop side disengaged in one or more corners due to a variety of reasons, including design defects. These disengagements can go undetected by parents or caregivers and can worsen when the baby pushes or leans against the side of the crib.

With some drop-side-crib designs, because of the presence of the drop side, the rest of the crib can often experience more movement or stresses during foreseeable use than the same crib without a drop side. This can result in problems arising in other components on the crib, such as the mattress-support system, or the stationary-side-hardware connections. Thus, hazards seen on other hardware systems on a drop-side crib might be caused or exacerbated by the design and use of the drop-side system. CPSC staff does not believe that there are adequate performance requirements in either the mandatory or ASTM voluntary standards pertaining to the durability of drop-side systems and related hardware.

b. Other Hardware Issues

The CPSC EWS program has also uncovered other hardware issues in cribs experienced on both drop-side cribs and non-drop-side cribs. Although some cribs do not have a drop side, they all have mattress-support systems that typically use hardware to connect to the sides of the crib. CPSC staff has reviewed dozens of incident reports from the EWS program relating to mattress support systems, many of which were on drop-side cribs but some that have failed in non-drop-side cribs.

These failures typically involve hardware issues, though some are wood component problems.

Though not as numerous, CPSC staff has also reviewed incident reports of problems with rigidly connected components, such as a bolted connection or a screw-to-metal insert connection between two stationary sides of the crib. These incidents also span both drop-side cribs and non-drop-side cribs.

Missing, damaged or broken hardware can result in the partial separation of a crib component from the rest of the crib. This can generate gaps that may allow an infant's body to pass through and trap the infant at the head or neck, resulting in strangulation deaths. Infants can also suffocate when their head becomes wedged in the space between the crib frame and the mattress.

CPSC staff does not believe that there are adequate performance requirements in either the mandatory or ASTM voluntary standards pertaining to the durability of other crib hardware systems.

c. Assembly and Instructional Issues

In many incidents, including at least four fatalities, consumer-installed crib components were found to have been installed incorrectly or incompletely. These component installation errors can easily remain undetected by the parents because the crib will still work despite the mis-assembly. CPSC staff's review of various crib assembly instructions shows a varied approach and often inadequate warnings regarding the consequences of a mis-installation. CPSC staff does not believe that there are adequate requirements in either the mandatory or ASTM voluntary standards pertaining to assembly hazards.

d. Wood Quality/Strength

Another serious hazard uncovered by the CPSC EWS program was a quality/strength issue with wood components. There are no performance requirements in either the CPSC mandatory or ASTM voluntary standards for wood quality and integrity. A wood quality problem can result in a fractured or missing slat, creating a gap that can lead to entrapment. CPSC staff does not believe that there are adequate performance requirements in either the mandatory or ASTM voluntary standards pertaining to wood strength or quality.

E. Existing Standards

1. Summary of CPSC Regulatory Activity

The full-size crib regulation, 16 CFR 1508, was published in 1973 and amended in 1982. The regulation for non-full-size cribs, 16 CFR 1509, was

published in 1976 and amended in 1982. Both standards currently contain requirements pertaining to dimensions, spacing of components, hardware, construction and finishing, assembly instructions, cutouts, identifying marks, warning statements, and compliance declarations. In addition, 16 CFR 1509 contains a requirement regarding mattresses.

On December 16, 1996, the Commission published an ANPR pertaining to crib slat disengagement. The basis for the ANPR was the incident data for an 11-year span, which totaled 138 incidents, including 12 deaths due to entrapment. When slats disengage from the crib-side panel, a gap is left between the remaining slats. A child may be able to get his or her body through the space but not his or her head, resulting in entrapment and potentially severe injury or death.

Following the publication of the ANPR, ASTM International (formerly known as the American Society for Testing and Materials) published a revised standard for full-size cribs (ASTM F 1169-99) in July 1999, which included requirements to address crib-slat integrity. Since that time, the rulemaking has remained open and CPSC staff has been monitoring crib incidents, including slat problems and other potential entrapment hazards.

2. Summary of Voluntary Standards Activity

There are several voluntary standards addressing baby cribs. These include, but are not limited to standards issued by the following organizations: ASTM International, Underwriters Laboratories (UL), British Standards Institute (BSI), Health Canada, and the International Organization for Standardization (ISO).

The ASTM crib standards for full size and non-full-size cribs are the ones most widely accepted and conformed to in the U.S. In addition, the Juvenile Product Manufacturers Association (JPMA) has a certification program that manufacturers can join to demonstrate and certify that their products meet current applicable ASTM standards. Members in good standing can display a JPMA certification seal on their products as a symbol that they are certified.

The ASTM standard on full-size cribs (ASTM F 1169) was first published in 1988 and the current version was published in 2007. This standard refers to 16 CFR 1508 and includes several additional requirements, including corner-post-extension dimensions, mattress-support-system requirements, and crib-side-performance requirements. The ASTM standard on

non-full-size cribs (ASTM F 1822) was first published in 1997. In 2002, the standard was combined with the play yard standard, and the current version (ASTM F 406) was published in 2008. This standard has many requirements, some pertaining only to play yards, and others that are very similar to what is in ASTM F 1169, pertaining to rigid sided, non-full-size cribs.

F. Solicitation of Information and Comments

CPSC staff is interested in obtaining information and data to help in the possible development of a mandatory regulation. Below, by category, is the information requested:

Product Availability:

- Whether there is a crib design on the market that addresses the drop-side and hardware issues identified in Section D above.
- Whether there is a crib concept or patent that addresses the drop-side and hardware issues identified in Section D above.

Market Information:

- The U.S. market share of drop-side cribs versus other types of cribs.
- The U.S. market share of domestic manufacturers versus foreign manufacturers.
- The distribution of crib sales by manufacturer and/or retail price for both drop-side and other cribs.
- The models and model numbers of cribs and the annual sales figures for each model from the time such product was made available in the marketplace.
- The names and addresses of manufacturers and distributors who make and sell drop-side and other cribs.

Costs of Various Alternatives:

- The costs to manufacturers of redesigning cribs to remove the risk of entrapment and/or the cost of removing these cribs from the market.
- The costs of mandating a testing requirement, a quality control/quality assurance program requirement, a labeling or instructions requirement, and/or recordkeeping requirement (especially for small firms).

- Comparisons of the costs of producing drop-side cribs versus any available substitute products.
- Other information on the potential costs of alternative rules.

Benefits of Various Alternatives:

- Comparisons of the utility to consumers of using drop-side cribs versus any available substitute products.
- The benefits of mandating a testing requirement, a quality control/quality assurance program requirement, a labeling or instructions requirement, and/or recordkeeping requirement.
- Other information on the potential benefits of alternative rules.

Small Business Impacts:

- The likelihood and nature of any significant economic impact of a rule on small entities.
- Alternatives the Commission should consider, as well as the costs and benefits of those alternatives to minimize the burdens or costs to small entities.

Household Data/Information:

- The estimated average expected life of a crib and/or an estimated number of cribs in U.S. households.
- Information or data on the primary reasons consumers purchase and/or use drop-side cribs versus other types of cribs.
- Information concerning consumer use of cribs, specifically, how long they own them, how frequently they use them and for what duration, and product life (in years). Also, information concerning the frequency of resale and/or handing down to other consumers.

Foreign Crib Experience:

- Information concerning the types of cribs used in other countries and how the use pattern may be different from that seen in the U.S.
- Injury and death data pertaining to crib uses outside the U.S.
- Standards used by crib manufacturers that market to non-U.S. markets.

Incident Data:

- Other crib incident data, not already contained in CPSC data bases, regardless of whether the incident was the fault of the consumer, user, manufacturer, distributor, shipper, retailer or assembler.
- Crib parts replacements information. Including parts sold or offered by the manufacturer, as potential safety problems can often be predicted by looking at the pattern of requests for replacement parts for specific crib models or lines.
- Any studies regarding injuries, deaths, or potential injuries associated with drop-sided vs. non-drop-sided cribs.

Other Standards or Testing Requirements:

- Information on other standards not outlined in this ANPR, including test requirements specific to a manufacturer or retailer that should be considered for the mandatory regulation.
- Information concerning experience with crib standards other than the CPSC mandatory regulations and the ASTM standards.

Comments should be filed by e-mail to cribsanpr@cpsc.gov. Comments also may be filed by telefacsimile to (301) 504-0127 or mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission,

4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504-7530. Comments should be captioned "ANPR for Options To Address Crib Safety Hazards." All comments and submissions should be received no later than January 26, 2009.

Dated: November 18, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

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BILLING CODE 6355-01-P

DEPARTMENT OF EDUCATION

34 CFR Part 385

RIN 1820-AB61

[Docket ID ED-2008-OSERS-0010]

Rehabilitation Training

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Rehabilitation Training Program. The amendment is needed to clarify the membership of advisory committees for projects funded under this program.

DATES: We must receive your comments on or before December 26, 2008.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."

• *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about the proposed regulation, address them to Ruth Brannon, U.S. Department of Education, 400 Maryland Avenue, SW., room 5052, Potomac Center Plaza (PCP), Washington, DC 20202-2800.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand