

October 6, 2010

Office of the Secretary  
U.S. Consumer Product Safety Commission  
Room 502  
4330 East-West Highway  
Bethesda, Maryland 20814  
Via: [www.regulations.gov](http://www.regulations.gov)

**Comments of Kids In Danger to the U.S. Consumer Product Safety Commission  
on “Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Notice of Proposed  
Rulemaking; Proposed Rule”**

**Docket No. CPSC-2010-0075**

**Introduction**

Section 104(b) of the Consumer Product Safety Improvement Act (“CPSIA”) provides that the Consumer Product Safety Commission (“Commission”) develop mandatory standards for durable infant and toddler products, including full-size and non-full-size cribs.<sup>1</sup> Section 104(c) of the CPSIA requires that any cribs sold new or used or used in public accommodations meet the standards of the Commission. This will eliminate the sale or lease of dangerous older model cribs that don’t meet current safety standards and prevent their use in child care facilities or hotels.

Through publication of a notice in the *Federal Register*, the Commission has invited comments concerning the proposed standard and the issues above, including the effective date of the standard, both for manufacturers and commercial users.<sup>2</sup>

Kids in Danger (“KID”) is a nonprofit organization dedicated to protecting children by improving children’s product safety. KID was founded by parents whose son was killed in a dangerous portable crib. We have been actively involved in the ASTM International committees developing crib standards and welcome this opportunity to comment on these historic proposed mandatory standards. Since its founding, KID has believed that strong mandatory standards and third party testing before products are sold is the best way to keep children safe.

---

<sup>1</sup> See Consumer Product Safety Improvement Act (CPSIA), Public Law 110-314, Section 104(b).

<sup>2</sup> “Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Notice of Proposed Rulemaking; Proposed Rule,” *Federal Register* Vol. 75, No. 141, July 23, 2010.

## **The need for a strong mandatory standard for full-size and non-full size cribs**

The Commission has very clearly outlined the need for this new mandatory standard in the Federal Register announcement. For too long the voluntary standard setting process for cribs has languished, with no substantive changes to the standard for full-size cribs from 2000 through 2009. It was only after the explosion of crib recalls, starting with Simplicity in 2007 and the passage of CPSIA in 2008 giving the Commission new tools, that the crib manufacturers began to seriously consider changes to the standard which would prevent the faulty designs and inferior materials that had led to dozens of deaths and millions of cribs being recalled. KID applauds the Commission for their role in insisting that the ASTM process address the problems they were seeing in incident reports and recalls and beef up the voluntary standards, F1169 and F406. Now, the re-invigorated standard setting process through ASTM has developed new stronger standards that address the hazards seen in the marketplace and which can be used as the basis of the mandatory standard required by CPSIA. While concerns were raised that the pace of these changes were rapid and intense, the real problem was the previous period of inactivity.

## **The proposed standards and the ASTM 2010 voluntary standards**

KID agrees with the Commission that the current ASTM standards, F1169-10 and F406-10, with the Commission's proposed modifications, will be effective in reducing the risk of injury and death in cribs. The new 2010 ASTM standards, with the Commission's modifications, more accurately reflect the real world use of cribs and ensure they will be safe for use by families, including use by more than one child in succession and by more than one family. However, as many of these tests are newly developed, we urge the Commission to continue to monitor crib incidents and test results to make sure the new mandatory standard will adequately protect children and then recommend changes to ASTM Committee F15-18 as needed.

The Commission came to ASTM International with a list of 14 items to be addressed in the final standard. These were items where the Commission had seen incident data indicating that the current ASTM standard was inadequately addressing the hazard. ASTM Sub-Committee F15-18 has included performance standards and test methods in F1169 and F406 to address most of these items. The remaining hazards are: climbing or falling out of the crib, mattress fit and limb entrapment.

***Climbing Out:*** The ASTM standard has moved up the warning about moving children out of cribs when they have reached 35 inches, 24 months or begin to climb out. Lowering that age recommendation, requiring higher sides, or allowing the use of after-market products such as crib tents all raise additional hazards and are not supported. The Commission should work with other safety and parenting organizations to publicize the need to move a child into a toddler bed or other sleeping arrangement once a baby attempts to climb out of the crib.

***Mattress fit:*** KID has heard directly from parents whose children have been entrapped by an ill-fitting mattress. For safety, KID recommends using a mattress that fits tightly in the crib.

However, with no crib mattress standard, sizes of crib mattresses vary widely. For non-full-size cribs, fit should not be an issue since mattresses are sold with the product. In these products, the greater danger is additional padding that can cause a suffocation risk. We support the Commission's recommendation of a crib mattress standard and will work with ASTM and the Commission in its drafting. Once a crib mattress standard, for both full and non-full size cribs, is in place, the Commission can allow non-full-size mattresses for rigid sided cribs to be sold separately to allow for a range of options, which under a mandatory standard, all meet minimum safety requirements. But without such a standard in place, it is too likely that the after-market mattress would not adequately fit the product and might pose additional hazards. KID has heard concerns about the phrase in the standard for non-full size cribs, "use only mattress supplied by the manufacturer" as some families might prefer a natural or other specialty mattress. This is a concern that needs careful consideration, since again; the greater risk is suffocation on ill-fitting or overly plush padding. A solution could be to allow a replacement mattress as "supplied or recommended by the manufacturer." This would make it more likely the replacement mattress was an adequate fit. But for safety, any changes to the standard should take place only after a mattress standard is in place.

***Limb entrapment:*** KID supports the Commission's view that to change in any way the allowable dimensions for slat spacing may lead to unintended hazards.

***Mis-assembly issues:*** KID actively supports the new ASTM requirement that key structural elements can only be assembled in one way or have conspicuous warnings to indicate when it is misassembled. We believe this is an important first step in increasing the likelihood that cribs are correctly assembled. However, the Commission should encourage manufacturers to continue to explore this hazard and develop new and innovative ways to get correct assembly each time. Some options are captive hardware – so it stays with the structural element when disassembled to make correct reassembly more likely; assembly that reduces the use of hardware; and ways to make the product completely unusable when it is misassembled.

KID supports all the Commission proposed changes to the ASTM standards. KID strongly opposes the current language in ASTM F1169 and F406 which allow test labs to retighten screws in between tests. The testing regimen was designed to mimic a lifetime of use for a crib or portable crib. If a screw loosens significantly during a test, the product will fail. However, if the screw loosens only slightly, it would still pass that testing. By allowing retightening during testing, ASTM is changing the likelihood that the testing mimics real life – it is unlikely parents will retighten screws that don't appear to be loose. We support the Commission's proposal to disallow the retightening.

#### **Section 104(c) of the CPSIA and the proposed standards effective date**

Section 104(c) of the CPSIA was intended to ensure that unsafe older model cribs would not remain in the stream of commerce and in child care facilities or be passed along to families unaware of their dangers. By requiring all cribs sold – new or used and those used in public accommodations such as hotels and child care facilities – to meet current standards, older

model unsafe cribs, such as those with drop-side mechanisms, weak side slats, corner posts, cut-outs or other dangerous features would not continue in use. This provision has been in place in many states for years, either as the Infant Crib Safety Act or the Children's Product Safety Act. Now, the CPSIA has extended that protection to the nation.

The Commission, in the Federal Register notice of the proposed mandatory standards, has asked for guidance in the effective date of the standard, in particular because of this unique provision that applies only to cribs. KID believes that manufacturers will have adequate time to bring their products up to the new standard with the customary six month effective date, approximately June 2011. However, we would support an additional six months for child care facilities to allow them to phase in replacement of non-compliant cribs over a longer time period. It should be noted that this requirement does not apply to mesh-sided portable cribs or play yards which many home child care providers use, so they would not be affected by this requirement.

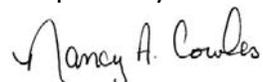
### **Third Party Testing**

While the third party testing of cribs is not a part of these proposed standards, KID urges the Commission not to accept any 'firewalled' laboratories to do the required testing on these products. The crib is the one product intended to be safe enough to leave babies unattended, and as such should meet the highest possible safety standards. Removing the possibility of manufacturer owned, even if fire-walled, laboratories, will ensure the most rigorous testing possible.

### **Conclusion**

KID strongly supports the adoption of these mandatory standards for full-size and non-full-size cribs. We believe these standards, coupled with rigorous third party testing, will provide the market with safe cribs. Section 104(c) of the CPSIA also ensures that these new safety measures will spread more quickly than usual through the stream of commerce, eliminating the sale, resale or use in child care facilities or hotels of any cribs that don't meet the new standards. Because of the unusual nature of this requirement it is imperative that the Commission continue their efforts to reach all affected parties with the new regulations and clear guidance as soon as possible. KID looks forward to helping with these efforts.

Respectfully submitted,



Nancy A. Cowles  
Executive Director  
Kids in Danger  
(312) 595-0649