



United States Government Accountability Office
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February 4, 2011

The Honorable John D. Rockefeller IV
Chairman
The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Consumer Product Safety Commission: Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Consumer Product Safety Commission (Commission), entitled “Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule.” We received the rule on January 20, 2011. It was published in the *Federal Register* as a final rule on December 28, 2010. 75 Fed. Reg. 81,766.

The final rule adopts new safety standards for full-size baby cribs and non-full-size baby cribs. The Commission adopts, with minor modifications, the voluntary standards developed by ASTM International (formerly known as the American Society for Testing and Materials). The final rule modifies the ASTM standard to remove the requirement to retighten screws and bolts between tests, adds language clarifying how to conduct the slat/spindle test on cribs with folding or movable sides, revises a warning concerning netting or other covers so that it excludes non-full-size cribs, and excludes provisions that apply only to play yards. The final rule will become effective on June 28, 2011, with compliance delayed for child care facilities, family child care homes, and places of public accommodation affecting commerce until December 28, 2012.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the

rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Philip L. Chao
Assistant General Counsel
Consumer Product Safety
Commission

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
CONSUMER PRODUCT SAFETY COMMISSION
ENTITLED
"SAFETY STANDARDS FOR FULL-SIZE BABY CRIBS AND
NON-FULL-SIZE BABY CRIBS; FINAL RULE"

(i) Cost-benefit analysis

The final rule does not include a cost-benefit analysis.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared a final regulatory flexibility analysis in conjunction with the final rule. The Commission determined that the impact on small manufacturers would not be significant for manufacturers that were already compliant with the voluntary standards, and the costs could be significant for the 12 small manufacturers of full-size cribs and 4 small manufacturers of non-full-size cribs who were not currently certified by the Juvenile Product Manufacturers Association (JPMA) or claiming compliance with the voluntary standards. However, the Commission could not estimate the costs, and the costs could be less to the extent products not certified by the JPMA are compliant with the voluntary standard.

The Commission determined that there would not be a significant economic impact on a substantial number of small importers, because even in cases where the existing supplier does not come into compliance, the small importer could offset any lost revenue by importing an alternative product.

The Commission estimated a total one-time cost to child care centers of \$97 million nationwide for replacing all of their full-size cribs, and a one-time cost of \$290 million nationwide for replacing all of their non-full-size cribs. The Commission determined that the impact on child care centers, family child care homes, and places of public accommodation could be significant and provides a 6-month effective date with an additional 18-month compliance period for these entities to meet the standard.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act does not apply to independent regulatory agencies, such as the Consumer Product Safety Commission.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On July 23, 2010, the Commission published a notice of proposed rulemaking in the *Federal Register*. 75 Fed. Reg. 43,308. The Commission received over 50 comments from child care organizations, the JPMA, public interest groups, and individual consumers. The Commission responded to the comments in the final rule. 75 Fed. Reg. 81,766.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements under the Paperwork Reduction Act. In its notice of proposed rulemaking, the Commission described the labeling requirements and requirements for manufacturers and importers of those products to maintain sales records for a period of 6 years after the manufacture or importation of full-size and non-full-size cribs. The Commission estimates that the requirements of the standard for full-size cribs would impose a burden to industry of 443.5 hours at a cost of \$12,263 annually. The Commission estimates that the requirements of the standard for non-full-size cribs would impose a burden to industry of 130 hours at a cost of \$3,594 annually. The Commission has applied to the Office of Management and Budget (OMB) for a control number and plans to publish a notice in the *Federal Register* when the Commission receives approval from OMB.

Statutory authorization for the rule

The final rule is authorized by section 104 of the Consumer Product Safety Improvement Act of 2008, Pub.L. 110–314, 122 Stat. 3016 (2008), as codified at 15 U.S.C. § 2056a.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Executive Order does not apply to independent regulatory agencies, such as the Consumer Product Safety Commission.

Executive Order No. 13,132 (Federalism)

The Executive Order does not apply to independent regulatory agencies, such as the Consumer Product Safety Commission.