

New CPSC standards require replacing all cribs in child care programs

by Eric Karolak

Most *Exchange* readers know the U.S. Consumer Product Safety Commission (CPSC) through its product recalls. CPSC is charged with protecting the public from unreasonable risks of injury or death from some 15,000 products, including cribs, toys, and a host of other products used in early childhood and school-age programs. Smart early childhood professionals act on those recalls promptly, working in partnership with the CPSC to keep children safe.

CPSC also issues product safety standards which specify for manufacturers



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and retailers the minimum requirements for a product to be safely designed, manufactured, and sold. Recently, CPSC adopted a new crib safety standard that, in an unusual precedent, will require all cribs in child care and other early learning settings to be replaced with cribs that meet the new standard for safety by the end of 2012.

New crib standards

In December 2010, CPSC approved new mandatory standards for infant cribs. Manufacturers and retailers are prohibited from making or selling non-compliant cribs after June 28, 2011. "What is so important to know about these new rules is that they are broader than what has been mentioned in the press or talked about in the child care community," says Scott Wolfson, Director of the Office of Information and Public Affairs at CPSC. "Yes, the standards prohibit the manufacture or sale of traditional drop-side cribs, but they also strengthen crib slats and mattress supports, improve the quality of hardware, and require more rigorous testing. We truly believe that these improved standards will result in a new generation of safer cribs coming to the market this summer."

Key Dates

June 28, 2011 —

All cribs manufactured or sold after this date must comply with the new standards. Cribs purchased before this date may not be compliant.

December 28, 2012 —

All cribs in use in child care programs and places of public accommodation such as hotels and motels must comply with the new standards.

Additionally, child care centers, family child care homes, and other providers, as well as hotels, will be banned from using non-compliant cribs as of December 28, 2012. This means that all cribs currently in use in these facilities will have to be replaced with compliant ones by that date. "Starting on that day, it will be illegal for a child care center (or other provider) to have a crib, of any style, that does not comply with the new requirements," Wolfson said.

Since cribs were not manufactured to meet the new standard prior to 2011, and because CPSC has ruled that there is no retrofit that will bring older cribs into compliance with the new standard, this

will require the replacement of all cribs in use in child care centers, family child care homes, and other early childhood settings, as well as those in hotels and elsewhere in “the stream of commerce.”

If you cannot wait until June 28, 2011 — the manufacturer’s compliance date — to make your next crib purchase, you’ll need to do some investigating to make sure any crib you buy complies with the new standard. “Child care managers and staff will not be able tell if the crib is compliant simply by looking at the crib,” notes Wolfson. “So, you should ask the retail store or the manufacturer if they have a certificate demonstrating that the crib complies with 16 CFR 1219, the new federal standard for full-size cribs or with 16 CFR 1220, the new federal standard for non-full-size cribs.”

The new crib standards and rules do not require parents to replace non-compliant cribs in their homes or force manufacturers to recall non-compliant cribs. For more information on the new crib standard visit www.cpsc.gov/info/cribs/index.html.

Retroactive consequences

Like most public policy issues, the new crib standard has a history. In 2008, Congress enacted the Consumer Product Safety Improvement Act of 2008 (CPSIA), which required the CPSC to review existing voluntary safety standards for cribs and other products for the infant and juvenile market, and gave it a timeline to issue a mandatory safety standard, having the force of law. So, the CPSC was complying with this Congressional mandate when it took up the issue of crib safety. But the new crib requirements are unique from other rules and standards set by CPSC. “Section 104 of the CPSIA calls for our new crib rules to be applied retroactively to child care centers, hotels, motels, and other places of public accommodation,” according to the CPSC’s Wolfson.

Peter Winick, a Washington, DC, attorney with Latham and Watkins, describes the new crib standard as “truly unprecedented in that it applied to cribs already produced and sold and in use in child care centers. Typically, a CPSC product standard is exclusively prospective in impact: it only applies to products manufactured and sold after the effective date of the standard.” Citing the 2008 law, CPSC included a retro-active requirement only for child care and early learning programs and hotels, in the new standard and rule.

From law to final rule

Once Congress acts, an agency typically has to propose rules and seek public comment before new regulations are put into effect. When CPSC’s new standard and draft proposed rule were made public in July 2010, they caught the eye of many providers, especially since initially CPSC had allowed only six months for child care providers and others to switch to new cribs. “We recognized that the proposed standards would be difficult to implement in a six-month time frame without adversely impacting the ability of many providers to maintain their infant programs,” explained Dr. Elanna Yalow, Executive Vice President of Knowledge Universe, which operates about 1,800 KinderCare, Knowledge Beginnings, and Children’s Creative Learning Centers in 39 states. “We also believed that more time was needed to ensure that all providers were aware of the required changes.” Yalow continues, “By working closely with the Early Care and Education Consortium (ECEC) and our industry partners, we were pleased to play a role in ensuring that we had a unified voice in requesting an extension to allow for a more orderly transition.”

ECEC, the National Head Start Association, and the National Association for Family Child Care worked together to provide CPSC with answers to its call for information about the impact on

programs of the retroactive nature of the proposed rule. The Commission noted this feedback in its Final Rule, which extended the time for programs to replace cribs from six months to two years. “We appreciate the reconsideration by the CPSC Commissioners, says Yalow. “It resulted in an extended timeframe to ensure an adequate supply of new cribs, minimize the disruption in service and, most importantly, ensure the safety and well being of all infants enrolled in early childhood education programs.”

What’s ahead?

“The work we are doing on cribs is part of a larger effort to turn all of the voluntary standards for juvenile products into mandatory standards” required under the Consumer Product Safety Improvement Act of 2008, CPSC’s Wolfson observes. “We have already made this happen for baby bath seats, infant walkers, and cribs and we are now moving to create new federal standards for bed rails, bassinets, play yards, bedside sleepers, strollers, and many more products.” However, only the section of the CPSIA dealing with cribs included language that the CPSC has interpreted to require a retroactive recall. So, when the Commission turns next to develop standards for other infant/juvenile-oriented products that might be widely used in child care and early learning settings, it is likely that those standards will work prospectively like other CPSC standards, and allow providers to replace existing stock as it’s used up.

Federal Funding

For the latest on Congressional work on investments in child care and Head Start, visit www.ececonsortium.org.