

[Products Liability Law Daily Wrap Up, TOP STORY—BABY PRODUCTS—CPSC proposes safety standard for infant inclined sleep products, \(Apr. 7, 2017\)](#)

Products Liability Law Daily Wrap Up

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A safety standard for infant inclined sleep products was proposed by the Consumer Product Safety Commission (CPSC) pursuant to Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The proposed rule incorporates by reference the most recent voluntary standard developed by ASTM International (formerly the American Society for Testing and Materials), ASTM F3118-17, *Standard Consumer Safety Specification for Inclined Sleep Products*, with a modification to the standard's definition of "accessory." CPSC also proposed to amend the list of notices of requirements (NORs) to include the proposed inclined sleep products standard and to explicitly identify infant inclined sleep products as a durable infant or toddler product subject to CPSC's consumer registration requirements. Comments are due by June 21, 2017 (*CPSC Notice*, [82 FR 16963](#), April 7, 2017).

CPSC is proposing this safety standard under the Danny Keysar Child Product Safety Notification Act, section 104 of the CPSIA, which requires CPSC to promulgate consumer product safety standards for durable infant or toddler products. Initially, inclined sleep products were considered to fall within the scope of the bassinet/cradle standard, but since one rule could not effectively address all such products, CPSC separated out for a separate rulemaking effort infant sleep products with an incline greater than 10 degrees from horizontal. However, because the inclined sleep product standard is an outgrowth of the bassinet/cradle standard, a category that the statutory definition of "durable infant or toddler product" explicitly lists, inclined sleep products could be considered a type of bassinet. Thus, to avoid possible confusion about inclined sleep products being a durable infant or toddler product, CPSC proposed to amend the definition of "durable infant or toddler product" in 16 CFR part 1130 to explicitly include "infant inclined sleep products."

ASTM F3118–17 defines "infant inclined sleep product" as "a free standing product with an inclined sleep surface primarily intended and marketed to provide sleeping accommodations for an infant up to 5 months old or when the infant begins to roll over or pull up on sides, whichever comes first." The ASTM standard also covers newborn inclined sleep products (smaller products intended for newborns up to 3 months old or when a newborn begins to wiggle out of position or turn over in the product or weighs more than 15 lb (6.8 kg), whichever comes first); compact inclined sleep products (a free standing infant or newborn inclined sleep product having a distance of 6.0 inches or less between the underside of the lowest point on the seat bottom and the support surface (floor)); and inclined sleep product accessories (products which are attached to, or supported by, another product with the same suggested age and/or ability levels as the free standing products).

Proposed rule. CPSC's proposed rule incorporates by reference ASTM F3118-17, as most of the requirements of that standard are sufficient to reduce the risk of injury posed by inclined sleep products. However, CPSC concluded that the accessory definition should be modified by removing "rigid frame" from the definition to accommodate a new product that is intended to provide sleeping accommodations for infants or newborns and attaches to or is supported by another product, but does not have a rigid frame.

The infant inclined sleep products standard, if issued as a final rule, will be a children's product safety rule that requires the issuance of an NOR. To meet the requirement that CPSC issue an NOR for the infant inclined sleep products standard, this NPR also proposes to amend 16 CFR part 1112 to include 16 CFR part 1236, *Standard Consumer Safety Specification for Infant Inclined Sleep Products*.

CPSC is proposing an effective date of 12 months after publication of the final rule in the Federal Register for products manufactured or imported on or after that date. Additionally, the agency proposed a 12-month effective date for the amendments to parts 1112 and 1130, and is seeking comments on the proposed effective date, the standard's scope, and the costs of compliance with, and testing to, the proposed inclined sleep products safety standard.

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