



CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1221

[Docket No. CPSC-2011-0064]

Safety Standard for Play Yards

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In August 2012, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for play yards pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The Commission's mandatory standard incorporates by reference ASTM F406, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, with modifications that exclude sections of ASTM F406 that apply to non-full-size (NFS) cribs exclusively. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. In September 2024, ASTM published a revised voluntary standard, and this direct final rule updates the mandatory standard for play yards to incorporate by reference the 2024 version of ASTM F406.

DATES: The rule is effective on April 5, 2025, unless the Commission receives a significant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the Commission receives such a comment, it will publish a notice in the *Federal Register*, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 5, 2025.

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2011-0064, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit to this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2011-0064, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Frederick DeGrano, Project Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2711; email: fdegrano@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Background

A. Statutory Authority

Section 104(b) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products¹ and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” applicable voluntary standards, or they may be “more stringent” than the voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Accordingly, mandatory standards may be based, in whole or in part, on a voluntary standard.

Section 104(b)(4)(B) of the CPSIA specifies the process for when a voluntary standards organization revises a standard the Commission has incorporated by reference under section 104(b)(1). 15 U.S.C. 2056a(b)(4)(B). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. To reject a revised standard, the Commission must notify the voluntary standards organization within 90 days of receiving the notice of revision that the Commission has determined that the revised standard does not improve the safety of the consumer product and that CPSC is retaining the existing standard. If the Commission does not take this action, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the *Federal Register*). 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standards for Play Yards

On August 29, 2012, under section 104 of the CPSIA, the Commission published the first play yards rule that incorporated by reference ASTM F406-12a, *Standard Consumer Safety Specification for Non-Full-Size Cribs/Play Yards*, as the mandatory standard, with modifications

¹ Section 104(f)(2)(F) of the CPSIA lists play yards as a durable infant or toddler product. 15 U.S.C. 2056a(f)(2)(F).

that exclude sections of ASTM F406-12a that apply to NFS cribs exclusively. 77 FR 52220, at 52226.²

CPSC regulations define a play yard, also known as a playpen, as “a framed enclosure that includes a floor and has mesh or fabric sided panels primarily intended to provide a play or sleeping environment for children. It may fold for storage or travel.” 16 C.F.R. 1220.1(c)(2).

After the publication of ASTM F406-12a, ASTM published revisions to ASTM F406 in 2013, 2019, and 2022. CPSC updated the play yard rule twice, adopting ASTM F406-13 in 2013 (78 FR 50328 (August 19, 2013)), and adopting ASTM F406-19 in 2019 (84 FR 56684 (October 23, 2019)). For both updates, CPSC accepted the revised voluntary standard as the mandatory standard for play yards and updated the incorporation by reference in 16 CFR part 1221 to reflect the revised voluntary standard. In both cases, CPSC also maintained the exceptions listed in section 1221.2(b), which lists sections of the voluntary standard that solely apply to NFS cribs and therefore are not incorporated in the play yards standard. CPSC declined to update the play yards rule based on the revisions in ASTM F406-22 because the Commission determined that adding performance requirements to allow mattresses greater than 1.5 inches was a reduction in safety.³

On October 7, 2024, ASTM notified the Commission that it had approved and published a newly revised version of the voluntary standard, ASTM F406-24. As explained in section II.A of this preamble, ASTM F406-24 contains four substantive revisions that improve the safety of play yards. One clarifies the definitions of “play yard/non-full-size crib dependent accessory” and “full accessory.” The second addresses strangulation hazards by expanding the scope of the warning label requirements to all play yard accessories and not just those intended to be removed when the play yard is occupied. The third adds a new requirement to limit the length of loops for

² Commission regulations for non-full-size baby cribs are at 16 CFR part 1220.

³ On February 22, 2023, the Commission voted unanimously (4-0) to determine that ASTM F406-22 does not improve the safety of play yards and that the Commission is retaining the existing standard for play yards in 16 CFR part 1221, available at <https://www.cpsc.gov/content/RCA-ASTMs-Notice-of-a-Revised-Voluntary-Standard-for-Play-Yards>.

cords/straps and by specifying a test to measure the perimeter of cord/strap loops for play yards. Lastly, the fourth modifies the warning label requirements pertaining to products that have separate, removable mattresses that are not permanently fixed in place.

Revisions to ASTM F406-24 include changes that remove the requirements, added in ASTM F406-22, for play yard mattresses 1.5 to 2 inches thick and the gap measurement test for play yard mattresses 1.5 to 2 inches thick. Removing these requirements reverts the voluntary standard to the previous requirements in ASTM F406-19 for mattress thickness and realigns the mattress requirements in the voluntary standard with 16 CFR part 1221; both limit play yards' mattress thickness to 1.5 inches. Therefore, these are not considered changes to the 2019 voluntary standard currently incorporated by reference in 16 CFR part 1221, and they have no impact on safety.

Part II.B of this preamble describes non-substantive clarifications in the revised voluntary standard.

On October 25, 2024, the Commission published in the *Federal Register* a Notice of Availability, requesting comment on whether the 2024 revision improves the safety of NFS baby cribs and/or play yards. 89 FR 85077. CPSC received one anonymous comment addressing the safety of play yards (as well as NFS cribs), which is discussed below.

Based on staff's evaluation of ASTM F406-24 and consideration of the comment received, the Commission will allow ASTM F406-24 to become the new consumer product safety standard for play yards because it improves safety. Pursuant to CPSIA section 104, the revised voluntary standard will take effect as the new mandatory standard for play yards on April 5, 2025, unless the Commission specifies a later date in the *Federal Register* or notifies ASTM by January 5, 2025, that it has determined the revision does not improve the safety of play yards. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1221 to incorporate by

reference the applicable provisions of the revised voluntary standard, ASTM F406-24, with modifications that maintain the exclusion of requirements that apply solely to NFS cribs.⁴

II. Description of ASTM F406-24 Related to Play Yards

The ASTM standard for play yards includes performance requirements, test methods, and requirements for marking, labeling, and instructional literature, to address hazards to children associated with play yards. The 2024 revision to the voluntary standard, ASTM F406, includes substantive and non-substantive revisions, as described in sections II.A and B.

A. Substantive changes in ASTM F406-24

1. Play Yard Accessories Definitions

ASTM F406-24 revises the definitions for “play yard/non-full-size crib dependent accessory” and for “full accessory” to clarify the classification of certain types of accessories and the performance requirements to which they are subject. These revisions address ambiguity in the previous definitions, but in the Commission’s assessment they do not change the scope of the accessories to which the definition applies. Section 3.1.24 defines a “play yard/non-full-size crib dependent accessory” as a component, such as a bassinet or changing table, that attaches to the play yard, but the revision now clarifies that a dependent accessory “can be used with or without a full accessory, and does not fully cover the top opening of the play yard/non-full-size crib.” The prior definition did not specifically confirm the dependent accessory’s relation to a full accessory or that this accessory does not fully cover the top of a play yard. The revised discussion language in section 3.1.24.2 again confirms that this dependent accessory “does not fully cover the top opening of the play yard/non-full-size crib.” Figure 1 below provides an example of a changing table accessory that attaches to the top frame of the play yard/non-full-

⁴ On December 17, 2024, the Commission voted (5-0) to publish this direct final rule.

size crib and is therefore classified as a play yard/non-full-size crib dependent accessory.

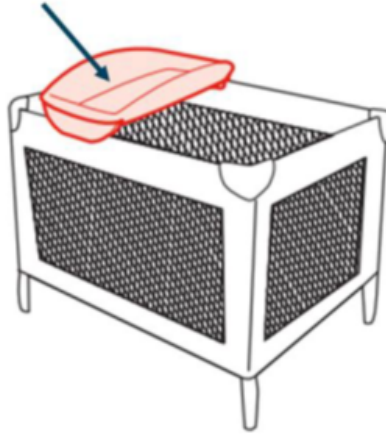


Figure 1. Play Yard/Non-Full-Size Crib Dependent Accessory⁵

Section 3.1.11 defines a “full accessory” as any accessory that fully covers the top opening of a play yard without gaps or openings “that would expose the occupant to an entrapment hazard.” ASTM F406-24 adds section 3.1.11.3 to clarify that play yards that can convert to other products are not considered full accessories. The converted products (*i.e.*, products that convert from play yards to another product, such as a bassinet) are subject to requirements or regulations that apply to the converted-to product’s product category, such as the requirements for bassinet, and not to the requirements for play yards. These revisions clarify the definitions of play yard accessories and which category of product an item may fall under. Figure 2 below shows an example of a changing table that can only be attached to the full bassinet accessory, and therefore, is also considered a full accessory (unlike the changing table in Figure 1, which only attaches directly to the play yard).

⁵ Reprinted, with permission, from ASTM F406-24 *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, copyright ASTM International. A copy of the complete standard may be obtained from www.astm.org.

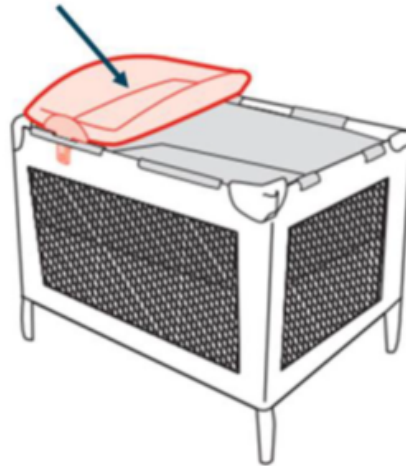


Figure 2. Play Yard/Non-Full-Size Crib Full Accessory⁶

The Commission considers these changes to the accessories' definitions as an improvement in safety because they clarify the requirements of the standard.

2. Strangulation Warning Labels

Play yards with attaching accessories present a risk of strangulation in openings between attached accessories and the play yard's frame. To better warn about this hazard, ASTM F406-24 revises requirements for warning labels in section 9.6.3 of ASTM F406-24. The previous requirement stated that the manufacturer should add a general description of the hazard relevant to the product, including the nonspecific phrase, "[s]tatement describing the hazard." ASTM F406-24 revises the warning label requirement so that labels explicitly specify that there is a strangulation hazard, which ensures a compelling and vivid description of the hazard and how to avoid it. Figure 3 provides an example of the new strangulation hazard warning label language requirements, which improve safety.



⁶ Reprinted, with permission, from ASTM F406-24 *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, copyright ASTM International. A copy of the complete standard may be obtained from www.astm.org.

Figure 3. Strangulation Hazard Warning Label⁷

Further, ASTM F406-24 expands the scope of products to which these warning label requirements apply, to now include all accessories, not just accessories that are intended to be removed from the play yard when it is occupied as previously required in ASTM F406-19. As revised, the warning label requirement now applies to “each play yard/non-full size crib dependent accessory and full accessory.” Therefore, the revision applies to all full accessories and play yard/NFS crib dependent accessories rather than only play yard/NFS crib dependent accessories. The Commission determines that any accessory attached to the top or within the occupant area, regardless of the type of accessory, presents a strangulation hazard when a child is in the occupant area. Therefore, this change in ASTM F406-24 is an improvement in safety.

3. *Length of Cords/Straps*

ASTM F406-24 includes two changes related to the length of cords and straps for play yards: limiting the length of loops for cords/straps and specifying a test to measure the perimeter of cord/strap loops.⁸ These changes were first made in the previous revision, ASTM F406-22, and therefore, are a change to the play yard rule which currently incorporates ASTM F406-19.

The play yard rule currently only limits the free length of cords and straps to address the strangulation hazard posed if the cord or strap, alone, wraps around an infant’s neck. Yet cords or straps, such as those used to secure an infant on top of a changing table accessory, when either connected or entangled together, may form a loop when hanging below the accessory that presents a risk of strangulation around the neck. To reduce this hazard in part, ASTM F406-19 specified requirements for accessories, as defined in sections 3.1.1 and 3.1.4, that have cords or straps that can form a loop. The perimeter length of these cords/straps is limited to no more than 16.3 inches. ASTM F406-22 and F406-24 make this a general requirement so that the cord

⁷ Reprinted, with permission, from ASTM F406-24 *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, copyright ASTM International. A copy of the complete standard may be obtained from www.astm.org.

⁸ ASTM F406-24 defines a “cord” as a length of slender flexible material, including monofilaments, rope, woven and twisted cord, plastic and textile tapes, ribbon, and materials commonly called string. ASTM F406-24 defines a “strap” as a piece of flexible material of which the width is significantly greater than the thickness.

length limit now applies to the whole of in-scope products and not just to the attachment of accessories. The revision limits the maximum permissible perimeter length of a loop such that the standard small head probe, which is based on the head circumference of a 5th percentile 6-month-old child, cannot fit through the loop, thus preventing a strangulation hazard. This change makes all cords or straps, whether attached to the play yard or to an accessory feature, subject to the loop requirement.

ASTM F406-22 (and ASTM F406-24) revisions also clarify and improve the test method in section 8.24.1 to measure the free-hanging length of single cords/straps, now stating: “Using a $\frac{3}{4}$ in. (19 mm) diameter clamping surface (Fig. A1.29), gradually apply a 5 lbf (22 N) force to the end of each cord/strap in its fully-extended configuration.” Testing a strap to “its fully-extended configuration” ensures that a strap with an adjustable length and a sliding buckle is tested to the strap’s maximum length. The update also adds that any hardware attached to the cords/straps, such as buckles, are included in the length measurement. Lastly, the update specifies that if multiple cords/straps attach to the product in the same location, they are treated as separate and measured individually.

The Commission finds that the updates to the cord/strap requirements in ASTM F406-22 (and ASTM F406-24) are an improvement in safety.⁹ The loop requirement that addresses a strangulation risk, which in ASTM F406-19 was applicable only to cords/straps attached to accessories, is now a general requirement that applies to all parts of in-scope products. The changes to the free-length measurement test method also improve safety by including adjustable straps, buckles, and other hardware in the length measurement.

4. *Warning Labels Pertaining to Removable Mattresses*

ASTM F406-24 revises the warning label requirements pertaining to products that have separate, removable mattresses that are not permanently fixed in place. Currently, the play yard

⁹ The Commission previously determined that the same updates to the cord/strap requirements in ASTM F406-22 were an improvement in safety with respect to non-full-size cribs. *Safety Standard for Non-Full-Size Baby Cribs*, 88 FR 13686, at 13689 (March 6, 2023).

rule specifies that the warning shall state: “Use ONLY mattress/pad provided by manufacturer.” ASTM F406-24 updates this language to state: “Use ONLY mattress/pad provided with this product” rather than the “mattress/pad provided by manufacturer.” ASTM F406-24 also adds the option for the warning label to either: (1) instruct the consumer to contact the manufacturer of the product if a replacement mattress is needed; or (2) specify to use only a mattress that specifically identifies the brand and model number of the product.

This change effectively provides manufacturers with the option to either specify that only the manufacturer’s mattresses fabricated for the specific product can be used with the product or allow mattresses made by third-party manufacturers to be used with the product, provided that they comply with the mattress requirements specified in 16 CFR part 1241, *Safety Standard for Crib Mattresses*. Part 1241 requires all after-market mattresses to comply with the relevant performance and labeling requirements for mattresses in ASTM F406. Part 1241 also requires all after-market mattresses to specify on a label the brand(s) and model number(s) of the product(s) in which the mattress is intended to be used. 16 CFR 1241.2 (b)(22)(v). Presently, there is a wide variety of after-market mattresses in the market, which can create uncertainty and confusion with consumers on what can be safely used with their product. This change, in combination with the labeling requirements in part 1241, adds clarity and ensures that the correct mattress is used in the play yard to reduce the risks of hazards associated with infant sleep such as gap entrapment and suffocation.

Reviewing the revision’s effect on safety under CPSIA section 104(b)(4)(B), the Commission finds that the updates to the warning label requirements for removable mattresses in ASTM F406-24 are an improvement in safety. This update provides additional instruction to the consumer to ensure that only the proper mattresses are used with their product, ensuring a safe sleep environment for infants.

B. Non-substantive changes in ASTM F406-24

ASTM F406-24 incorporates numerous other marking, labeling, and instructional literature revisions per the recommendations from ASTM's Ad Hoc Language Task Group. ASTM juvenile products standards have begun adopting "Ad Hoc" recommendations since 2016, to increase the consistency of on-product warning design among juvenile products, and to address warning format issues related to capturing consumer attention, improving readability, and increasing hazard perception and avoidance behavior. The Ad Hoc recommendations have been improved incrementally over the years following publication of ASTM F406-19, warranting corresponding improvements to the standard, which are addressed in ASTM F406-24.

Additional clarifications and minor changes have been made to the marking, labeling, and instructional literature sections. For example, ASTM F406-24 includes in Figures A1.50 to A1.52 example warning labels to assist manufacturers in creating warning labels consistent with the requirements, and to assist test labs to verify the labels meet the requirements. In contrast, ASTM F406-19 does not provide example warning labels. The 2024 addition should improve consistency among products while making it easier for manufacturers to create labels that meet the requirements, and for test labs to verify that the labels meet the requirements.

Although they do not materially change the substantive requirements for play yards, these revisions in ASTM F406-24 do improve safety by providing clearer and more complete safety messaging for the subject products.

C. Revision to 16 CFR 1221.2(b)(5)

As a result of revisions in ASTM F406-24, this direct final rule revises 16 CFR 1221.2(b)(5) from "Instead of complying with section 9.4.2.10 of ASTM F406-19, comply only with the following: (i) 9.4.2.10 For products that have a separate mattress that is not permanently fixed in place: Use ONLY mattress/pad provided by manufacturer" to "Do not comply with 9.5.2.1 of ASTM F406-24." Section 9.5.2.1 of ASTM F406-24 is a requirement that only applies to NFS cribs. In ASTM F406-19, the requirements for both NFS cribs and play yards were written in section 9.4.2.10, and the CPSC mandatory standard for play yards excluded the part of

the requirement that applied only to NFS cribs at 16 CFR 1221.2(b)(5)(i). In ASTM F406-24, the requirements are separated out to include the requirements for NFS cribs in section 9.5.2.1. Therefore, the Commission is revising the section number reference to reflect the exclusion of the NFS crib requirement.

D. Public Comments

The Commission requested public comment on how the revisions to ASTM F406-24 affect the safety of play yards and received one anonymous comment. The commenter first asserts that *Entrapment in Accessories* requirements in section 5.15 of ASTM F406-24 do not address the entrapment hazard present for all openings between accessories or accessories and the play yard. However, section 8.26 of ASTM F406-24 confirms that the entrapment hazard evaluation and testing do apply to all openings. Second, the comment notes that the test procedures in section 8.26 that are intended to evaluate free passage of a small head probe through an exposed opening fail to specify a duration of time for how long a test force should be applied. Although the performance requirements in section 8.26 in ASTM F406-24 do not differ from section 8.26 in ASTM F406-19, the Commission agrees with the commenter that this section deserves further review. The Commission expects CPSC staff to continue to work with the ASTM subcommittee to consider the commenter's concern.

Third, the commenter asserts that it is unclear why section 5.15 *Entrapment in Accessories* requirements would apply to full accessories when there is an occupant access door. As stated in ASTM F406-24, section 5.15 applies to full accessories if the play yard has "an occupant access door in the walls of the play yard." Such an opening may provide access from outside of the play yard into the occupant area underneath the full accessory, thereby exposing a child to an entrapment hazard. If there is no occupant access door in the play yard walls, there is no such hazard, and as a result, the fact that full accessories that attach to the play yard are not subject to section 5.15 does not reduce safety.

Finally, the commenter asserts that the section 5.15 requirements are contradictory regarding which requirements apply to a dependent accessory or to a full accessory, claiming that the different testing requirements for each type of accessory are unclear. ASTM F406-24 directs manufacturers to conduct different entrapment testing depending on the type of accessory at issue. Once an accessory is properly classified as a full or dependent accessory, the applicable section 5.15 requirement would apply. Section 3.1.24, for example, specifies that play yard/non-full-size crib dependent accessories “can be used with or without a full accessory.” Therefore, the fact that an accessory has the means to mechanically attach either to a full accessory or to the play yard causes it to be classified as a play yard dependent accessory, and therefore subject to the section 5.15 requirements for dependent accessories and not any other requirement that may be contradictory.

E. Summary of Assessment of ASTM F406-24

Under CPSIA section 104(b)(4)(B), unless the Commission determines that ASTM’s revision to a voluntary standard that is referenced in a mandatory standard “does not improve the safety of the consumer product covered by the standard,” the revised voluntary standard becomes the new mandatory standard. The Commission concludes that the substantive changes in ASTM F406-24 related to play yards improves the safety of play yards, as do the non-substantive changes addressed in section II.B.

III. Incorporation by Reference

Section 1221.2(a) of the direct final rule incorporates by reference ASTM F406-24. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to

interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR § 51.5(b).

In accordance with the OFR regulations, section II of this preamble summarizes the revised provisions of ASTM F406-24 that the Commission incorporates by reference into 16 CFR part 1221. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F406-24 is available for viewing on ASTM's website at: www.astm.org/CPSC.htm. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: www.astm.org/READINGLIBRARY/. Additionally, interested parties can purchase a copy of ASTM F406-24 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; www.astm.org. Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email: cpsc-os@cpsc.gov.

IV. Testing and Certification

Section 14(a) of the CPSA (15 U.S.C. 2051-2089) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are "consumer product safety

standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Additionally, because play yards are children’s products, a CPSC-accepted third party conformity assessment body must test samples of the products for compliance with 16 CFR part 1221. Products subject to part 1221 also must be compliant with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,¹⁰ and the phthalates prohibitions in section 108 of the CPSIA,¹¹ and 16 CFR 1307.^{12,13} In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (i.e., third party laboratories) for testing play yards, and codified the requirement at 16 CFR 1112.15(b)(7).

The modifications to the straps and cord requirements for play yards in ASTM F406-24 use testing requirements that are substantially the same as existing requirements for cords and straps on accessories and are already required for NFS cribs under 16 CFR part 1220.¹⁴ Accordingly, the new cord/strap requirements do not require that laboratories obtain additional test equipment or new training. The Commission considers third party labs that are currently CPSC-accepted for 16 CFR part 1221 to have demonstrated competence to test play yards to the revised ASTM F406-24, as incorporated into part 1221. Accordingly, the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. The existing NOR for the Safety Standard for Play Yards will remain in place, and CPSC-accepted third party labs are expected to update the scope of their accreditations to reflect the revised play yards standard in the normal course of renewing their accreditations.

V. Direct Final Rule Process

¹⁰ 15 U.S.C. 1278a.

¹¹ 15 U.S.C. 2057c.

¹² 15 U.S.C. 2063(a)(5).

¹³ 15 U.S.C. 2056a(d).

¹⁴ 88 FR 13686.

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(4)(B).

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F406-24 takes effect as the new CPSC standard for play yards, even if the Commission does not issue this rule. Thus, public comments would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(4)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on April 5, 2025. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion challenging “the rule’s underlying premise or approach,” or a claim that the rule “would be ineffective or unacceptable without change.” 60 FR 43108, 43111. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. 5 U.S.C. 601-612. As discussed in section V of this preamble regarding the Direct Final Rule Process, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. The Commission also notes the limited nature of this document, which updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VII. Paperwork Reduction Act

The current mandatory standard for play yards includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501-3521). The revised mandatory standard for play yard does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1221, including obtaining approval and a control number. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

VIII. Environmental Considerations

The Commission’s regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls

within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

IX. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

X. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for play yards. Therefore, ASTM F406-24 automatically will take effect as the new mandatory standard for play yards on April 5, 2025, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notice, the rule will become effective on April 5, 2025.

XI. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission

must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, OIRA has determined that this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1221

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Safety, and Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1221 – SAFETY STANDARD FOR PLAY YARDS

1. Revise the authority citation for part 1221 to read as follows:

Authority: 15 U.S.C. 2056a.

2. Revise § 1221.2 to read as follows:

§ 1221.2 Requirements for play yards.

(a) Except as provided in paragraph (b) of this section, each play yard shall comply with all applicable provisions of ASTM F406-24, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, approved on August 1, 2024. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the U.S. Consumer Product Safety Commission and at the National Archives and Records Administration (NARA). Contact the U.S. Consumer Product Safety Commission at: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, email: cpsc-os@cpsc.gov. For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. A free, read-only copy of the standard is available for viewing on the ASTM website at

<https://www.astm.org/READINGLIBRARY/>. You may also obtain a copy from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959; phone: (610) 832-9585; www.astm.org.

(b) Comply with the ASTM F406-24 standard with the following exclusions:

(1) Do not comply with section 5.17 of ASTM F406-24.

(2) Do not comply with section 5.20 of ASTM F406-24.

(3) Do not comply with section 6, *Performance Requirements for Rigid Sided Products*, of ASTM F406-24.

(4) Do not comply with section 8.1 through 8.10.5 of ASTM F406-24.

(5) Do not comply with section 9.5.2.1 of ASTM F406-24.

(6) Do not comply with section 10.1.1.1 of ASTM F406-24.

Alberta E. Mills,
Secretary,
Consumer Product Safety Commission.

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