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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1220

#### [Docket No. CPSC-2019-0025]

##### Safety Standard for Non-Full-Size Baby Cribs

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Direct final rule.

**SUMMARY:** In December 2010, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for non-full-size baby cribs (NFS cribs) 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 play yards 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. On August 1, 2024, ASTM approved a revised voluntary standard, and this direct final rule updates the mandatory standard for NFS cribs 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-2019-0025, 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](mailto: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: [www.regulations.gov](http://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: [www.regulations.gov](http://www.regulations.gov), and insert the docket number, CPSC-2019-0025, 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](mailto: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 products<sup>1</sup> and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” 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.* 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 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, 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).

Additionally, section 104(c) of the CPSIA contains special provisions for rules regarding cribs, including NFS cribs. Sections 104(c)(1) and (2) make the standards the Commission adopts for cribs under section 104(b) of the CPSIA enforceable against a larger class of parties

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<sup>1</sup> Section 104(f)(2)(A) of the CPSIA lists NFS cribs as a durable infant or toddler product. 15 U.S.C. 2056a(f)(2)(A).

than are ordinarily subject to section 104 rules.<sup>2</sup> 15 U.S.C. 2056a(c)(1), (2). However, Congress later limited this expanded application of the crib standards. Section 104(c)(3) of the CPSIA, added in 2011, limits the application of crib rule updates adopted through the section 104 process to manufacturers or importers of cribs, unless the Commission determines that application to any other person described in section 104(c)(2) is “necessary to protect against an unreasonable risk to health or safety.” 15 U.S.C. 2056a(c)(3). The Commission previously updated the NFS cribs rule and did not make this determination in those updates. 83 FR 26206 (June 6, 2018); 84 FR 56684 (Oct. 23, 2019); and 88 FR 13686 (March 6, 2023). The Commission similarly is not making this determination for the current revision to the NFS cribs rule. Accordingly, as specified in CPSIA section 104(c)(3), this direct final rule applies to persons that manufacture or import cribs, but not to the other entities stated in sections 104(c)(1) and (c)(2).

*B. Safety Standards for NFS Cribs*

On December 28, 2010, under section 104 of the CPSIA, the Commission published the first NFS crib rule that incorporated by reference ASTM F406-10a, *Standard Consumer Safety Specification for Non-Full-Size Cribs/Play Yards*, as the mandatory standard, with modifications to the standard to further reduce the risk of injury and exclude sections of ASTM F406-10a that apply to play yards exclusively. 75 FR 81766, at 81780.<sup>3</sup>

Section 1220.1(c)(1) defines a NFS crib as “a bed that is: (i) Designed to provide sleeping accommodations for an infant; (ii) Intended for use in or around the home, for travel, in a child care facility, in a family child care home, in a place of public accommodation affecting commerce and other purposes; (iii) Has an interior length dimension either greater than 139.7 cm (55 in.) or smaller than 126.3 cm (49 3/4 in.), or, an interior width dimension either greater than

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<sup>2</sup> Section 104(c) prohibits the following parties from manufacturing, selling, contracting to sell or resell, leasing, subletting, offering, providing for use, or otherwise placing in the stream of commerce a crib that is not in compliance with a standard promulgated under section 104(b): anyone (1) that manufactures, distributes, or contracts to sell cribs; (2) with an occupation that relates to cribs, including child care; (3) who contracts to sell/resell, lease, sublet, or otherwise place cribs in the stream of commerce; or (4) who owns or operates an inn, hotel, or other establishment that provides temporary lodging. 15 U.S.C. 2056a(c)(2).

<sup>3</sup> Commission regulations for play yards are at 16 CFR part 1221.

77.7 cm (30 5/8 in.) or smaller than 64.3 cm (25 3/8 in.), or both . . . [and] (v) Does not include mesh/net/screen cribs, nonrigidly constructed baby cribs, cradles (both rocker and pendulum types), car beds, baby baskets, and bassinets (also known as junior cribs).” 16 CFR 1220.1(c)(1). The rule further states that NFS cribs include, but are not limited to, portable cribs, crib pens, specialty cribs, undersize cribs, and oversize cribs, as these products are defined in the rule. *Id.* Generally, the NFS cribs rule applies to rigid-sided cribs, while the play yard rule applies to mesh-sided products.

Since the publication of ASTM F406-10a, CPSC has updated the NFS cribs rule three times, adopting ASTM F406-17 in 2018 (83 FR 26206 (June 6, 2018)), ASTM F406-19 in 2019 (84 FR 56684 (Oct. 23, 2019)), and ASTM F406-23 in 2023 (88 FR 13686 (March 6, 2023)). In all cases, CPSC accepted the revised voluntary standard as the mandatory standard for NFS cribs and updated the incorporation by reference in 16 CFR part 1220 to reflect the revised voluntary standard. In all cases, CPSC also maintained the exceptions listed in section 1220.2(b), which lists sections of the voluntary standard that solely apply to play yards.

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 two substantive revisions to the voluntary standard that improve the safety of NFS cribs. One modification clarifies the definitions of “play yard/non-full-size crib dependent accessory” and “full accessory.” The other revision addresses strangulation hazards by revising warning labels to expand the scope of the warning label requirements to all NFS crib accessories and not just those intended to be removed when the NFS crib is occupied. 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 revision improves the safety of NFS baby cribs

and/or play yards. 89 FR 85077. CPSC received one anonymous comment addressing safety in both NFS cribs and play yards, which is discussed below.

Pursuant to CPSIA section 104, the revised voluntary standard will take effect as the new mandatory standard for NFS cribs 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 NFS baby cribs. 15 U.S.C. 2056a(b)(4)(B). 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 NFS cribs because it improves safety. ASTM F406-24 will become the mandatory consumer product safety standard for NFS cribs on April 5, 2025. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1220 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 play yards.<sup>4</sup>

## **II. Description of ASTM F406-24 Related to NFS Cribs**

The ASTM standard for NFS cribs includes performance requirements, test methods, and requirements for marking, labeling, and instructional literature, to address hazards associated with NFS cribs. 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*

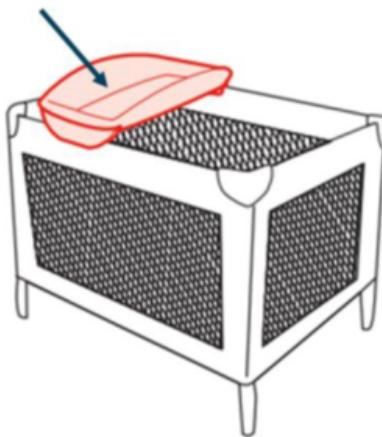
#### *1. NFS Crib Accessories Definitions*

ASTM F406-24 revises the definitions for “play yard/non-full-size crib dependent accessory” and for “full accessory” to improve clarity of the classification of certain types of accessories and the performance requirements to which they are subject. Section 3.1.24 defines a “play yard/non-full-size crib dependent accessory” as being a component such as a bassinet or changing table that attaches to the NFS crib, but the revision now clarifies that a dependent

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

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 confirm the accessory’s relation to a full accessory or that this accessory does not fully cover the top of a NFS crib. Further, the revised definition plainly states that such accessories expose occupants “to gaps or openings that may create an entrapment hazard.” The revised discussion language in section 3.1.24.2 again confirms that this 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-size crib and is therefore classified as a play yard/non-full-size crib dependent accessory.



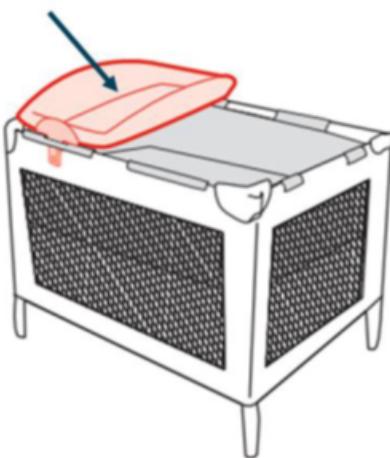
**Figure 1. Play Yard/Non-Full-Size Crib Dependent Accessory<sup>5</sup>**

Section 3.1.11 defines a “full accessory” as any accessory that fully covers the top opening of a NFS crib 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 NFS cribs 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 bassinets, and no longer to the requirements for NFS cribs. These revisions

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<sup>5</sup> 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](http://www.astm.org).

work to clarify the definitions of NFS crib accessories and which category of product an item may fall under. This change does not exclude full accessories that are attached to NFS cribs and that have not yet been, but can be converted, into other products. Figure 2 below shows an example of a changing table that can only be attached to the full bassinet accessory, and therefore, it is also considered a full accessory unlike the changing table in Figure 1 which only attaches directly to the play yard/non-full-size crib. The Commission considers these changes to the accessories definitions as a neutral impact on safety.



**Figure 2. Play Yard/Non-Full-Size Crib Full Accessory<sup>6</sup>**

## 2. *Strangulation Warning Labels*

NFS cribs with attaching accessories present a risk of strangulation in openings between attached accessories and the NFS crib's frame. To reduce this hazard, ASTM F406-24 specifies requirements for warning labels, as defined 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 by explicitly specifying that there is a strangulation hazard, which is more compelling and vivid in describing the hazard and how to

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avoid it. ASTM F406-24 requires that the warning shall state, “STRANGULATION HAZARD Children have STRANGLED when their necks became trapped . . .”

Further, ASTM F406-24 expands the scope of products to which these warning labels apply, to now include all accessories, not just accessories that are intended to be removed from the NFS crib when it is occupied as previously required. As revised, the warning labels now apply 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. Figure 3 provides an example of the new strangulation hazard warning label language requirements:



**Figure 3. Strangulation Hazard Warning Label<sup>7</sup>**

*B. Non-substantive changes in ASTM F406-24*

ASTM F406-24 incorporates numerous other marking, labeling, and instructional literature requirements per the recommendations from ASTM’s Ad Hoc Language Task Group and additional changes to provide clearer and more complete warnings and instructions. 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 numerous warning format issues related to capturing consumer attention, improving readability, and increasing hazard perception and avoidance behavior. The Ad Hoc recommendations have

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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 to provide clearer and more complete safety messaging for the subject products. 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. This omission reduces consistency between products and makes it more difficult for manufacturers to create labels that meet the requirements, and for test labs to verify that the labels meet the requirements.

#### *C. Revision to 16 CFR 1220.2(b)(2)*

As a result of revisions in ASTM F406-24, this direct final rule revises 16 CFR 1220.2(b)(2) from “Do not comply with sections 5.16.2 through 5.16.2.2 of ASTM F406-22” to “Do not comply with section 5.16.2 of ASTM F406-24.” Sections 5.16.2.1 through 5.16.2.2 were removed in F406-24 and, therefore, only section 5.16.2 must be excluded from this rule, as section 5.16.2 solely applies to play yards and not NFS cribs, while the additional sections were already removed from the 2024 version. Therefore, the Commission is revising the section number to reflect the exclusion of the play yard requirement.

#### *D. Public Comments*

The Commission requested public comment on how the revisions to ASTM F406-24 affect the safety of NFS cribs 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 NFS crib. 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 fails to require a duration of time for how long a test force should be applied. The Commission directs staff to work with the ASTM subcommittee to address this concern.

Third, the commenter asserts that it is unclear why full accessories would apply to section 5.15 *Entrapment in Accessories* requirements when there is an occupant access door. As stated in ASTM F406-24, section 5.15 applies to full accessories if the NFS crib has “an occupant access door in the walls of the crib.” This may provide access from outside of the NFS crib into the occupant area underneath the full accessory, thereby exposing a child to an entrapment hazard in openings underneath the full accessory. If there is no occupant access door in the NFS crib walls, there is no such hazard and as a result, full accessories that attach to the NFS crib are not subject to section 5.15. 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 clarifies the difference between the two types of accessories and the testing requirements that apply to each. Manufacturers will be directed to conduct different entrapment testing depending on the type of accessory at issue, and these requirements will not contradict once the accessory is properly classified as a full or dependent accessory. Section 3.1.24 specifies that play yard/non-full-size dependent accessories “can be used with or without a full accessory.” Therefore, if an accessory has the means to mechanically attach either to a full accessory or to the play yard, it is classified as a play yard dependent accessory, and therefore subject to the entrapment requirements.

#### *E. 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 NFS cribs improve the safety of NFS cribs. The revised requirements of warning labels to address strangulation hazards now expand the scope to which these warnings apply, mandating that all NFS crib accessories must have compliant warning labels.

### **III. Incorporation by Reference**

Section 1220.2(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 1220. 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](http://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](http://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](http://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](mailto: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 NFS cribs are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products for compliance with 16 CFR part 1220. Products subject to part 1220 also must be compliant with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,<sup>8</sup> the phthalates prohibitions in section 108 of the CPSIA.<sup>9,10,11</sup> 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 (third party laboratories) for testing NFS cribs, and codified the requirement at 16 CFR 1112.15(b)(6).

The modifications to warning labels and accessory definitions for NFS cribs in ASTM F406-24 do not establish new testing requirements. Accordingly, the revisions 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 1220 to have demonstrated competence to test NFS cribs to ASTM F406-24, as incorporated into part 1220. Accordingly, the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the 2024 standard. The existing NOR for the Safety Standard for Non-Full-Size

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<sup>8</sup> 15 U.S.C. 1278a.

<sup>9</sup> 15 U.S.C. 2057c.

<sup>10</sup> 15 U.S.C. 2063(a)(5).

<sup>11</sup> 15 U.S.C. 2056a(d).

Baby Cribs will remain in place, and CPSC-accepted third party labs are expected to update the scope of their accreditations to reflect the revised NFS cribs standard in the normal course of renewing their accreditations.

## **V. Direct Final Rule Process**

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)(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 NFS cribs 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)(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. *Id.* 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 NFS cribs 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 NFS cribs does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1220, 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 NFS cribs. Therefore, ASTM F406-24 automatically will take effect as the new mandatory standard for NFS cribs 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 1220**

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 1220 – SAFETY STANDARD FOR NON-FULL-SIZE BABY CRIBS**

1. Revise the authority citation for part 1220 to read as follows:

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

2. Revise § 1220.2 to read as follows:

### **§ 1220.2 Requirements for non-full-size baby cribs.**

(a) Except as provided in paragraph (b) of this section, each non-full-size baby crib 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: the 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](mailto:cpsc-os@cpsc.gov). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations](http://www.archives.gov/federal-register/cfr/ibr-locations). A free, read-only copy of the standard is available for viewing on the ASTM website at [www.astm.org/READINGLIBRARY/](http://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](http://www.astm.org).

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

- (1) Do not comply with sections 5.6.2 through 5.6.2.4 of ASTM F406-24.
- (2) Do not comply with section 5.16.2 of ASTM F406-24.
- (3) Do not comply with sections 5.19 through 5.19.2.2 of ASTM F406-24.
- (4) Do not comply with section 7, *Performance Requirements for Mesh/Fabric Products*, of ASTM F406-24.
- (5) Do not comply with sections 8.11 through 8.11.2.4 of ASTM F406-24.
- (6) Do not comply with sections 8.12 through 8.12.2.2 of ASTM F406-24.
- (7) Do not comply with sections 8.14 through 8.14.2 of ASTM F406-24.
- (8) Do not comply with sections 8.15 through 8.15.3.3 of ASTM F406-24.
- (9) Do not comply with sections 8.16 through 8.16.3 of ASTM F406-24.
- (10) Do not comply with sections 8.28 through 8.28.3.2 of ASTM F406-24.
- (11) Do not comply with sections 8.29 through 8.29.3 of ASTM F406-24.
- (12) Do not comply with sections 8.30 through 8.30.5 of ASTM F406-24.
- (13) Do not comply with sections 8.31 through 8.31.9 of ASTM F406-24.
- (14) Do not comply with sections 9.3.2 through 9.3.2.4 of ASTM F406-24.

**Alberta E. Mills,**

*Secretary,*

*Consumer Product Safety Commission.*

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