

## Ballot Vote Sheet

**TO:** The Commission  
Alberta E. Mills, Secretary

**DATE:** February 8, 2023

**THROUGH:** Austin C. Schlick, General Counsel  
Jason K. Levine, Executive Director

**FROM:** Daniel R. Vice, Assistant General Counsel, Regulatory Affairs  
Mary A. House, Attorney, Regulatory Affairs

**SUBJECT:** Notice of Availability and Request for Comment: Revision to the Voluntary Standard  
for Bedside Sleepers

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**TIME CRITICAL BALLOT VOTE DUE:** Friday, February 10, 2023

Attached is a draft *Federal Register* notice announcing that on February 6, 2023, the Commission received notification that ASTM F2906, *Standard Consumer Safety Specification for Bedside Sleepers*,<sup>1</sup> has been revised. In the draft notice, CPSC seeks comment on whether the revised ASTM F2906-23 improves the safety of bedside sleepers.

In 2014, the Commission incorporated by reference ASTM F2906-13 into a mandatory rule establishing a *Safety Standard for Bedside Sleepers*, 16 CFR part 1222, with modifications as stated in 16 CFR § 1222.2(b). 79 *Fed. Reg.* 2,581 (Jan. 15, 2014). ASTM published additional revisions to F2906 in 2022 and 2023. ASTM published ASTM F2906-22 on October 1, 2022, to clarify side-height and attachment requirements for bedside sleepers. However, ASTM discovered an error in ASTM F2906-22 that created an unintended side-height exemption for the side of the product that attaches to an adult bed, for certain products, and so it did not notify the Commission of this revision. On January 1, 2023, ASTM published ASTM F2906-23 to remove this exemption.

Pursuant to section 104(b)(4)(B) of the Consumer Product Safety Improvement Act (CPSIA), if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act, effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission) unless, within 90 days after receiving that notice, the Commission responds to the organization that it

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<sup>1</sup> ASTM F2906 describes bedside sleepers as products intended to provide sleeping space for an infant up to approximately 5 months of age (or when child begins to push up on hands and knees). The standard states that these products are intended to be secured to the side of an adult bed for the purpose of having a baby sleep in close proximity to an adult.

has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. 15 U.S.C. § 2056a(b)(4)(B). Consistent with section 104(b)(4)(B), CPSC staff is assessing the revised voluntary standard for bedside sleepers to determine its effect on safety.

The draft *Federal Register* notice provides a 14-day public comment period to provide sufficient time for CPSC staff's consideration of any comments received and subsequent Commission consideration within the 90-day statutory time frame. Likewise, to expedite publication of the draft notice in the *Federal Register*, the General Counsel has designated this matter as time critical, pursuant to section V of the Commission's Decision Making Procedures.

Please indicate your vote on the following options:

- I. Approve publication of the attached notice in the *Federal Register*, as drafted.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- II. Approve publication of the attached notice in the *Federal Register*, with the specified changes.

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\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- III. Do not approve publication of the attached notice in the *Federal Register*.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- IV. Take other action specified below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft *Federal Register* Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Bedside Sleepers

**CONSUMER PRODUCT SAFETY COMMISSION**

**Docket No. CPSC-2012-0067**

**Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Bedside Sleepers**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** The U.S. Consumer Product Safety Commission's (Commission or CPSC) mandatory rule, Safety Standard for Bedside Sleepers, incorporates by reference ASTM F2906-13, Standard Consumer Safety Specification for Bedside Sleepers. ASTM notified the Commission that it has revised this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of bedside sleepers.

**DATES:** Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit comments, identified by Docket No. CPSC-2012-0067, 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. Do not submit through 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. CPSC typically does not accept comments submitted by electronic mail (e-mail), except as described below.

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*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.

*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>. 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 e-mail them to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*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-2012-0067, into the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Celestine Kish, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2547; email: [ckish@cpsc.gov](mailto:ckish@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” voluntary standards, or may be “more stringent” than voluntary standards, if the Commission determines that more stringent requirements would further reduce

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the risk of injury associated with the products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Pursuant to section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission in the *Federal Register*) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard, and therefore the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, on January 15, 2014, the Commission issued a mandatory safety rule for children's bedside sleepers (79 FR 2589). The rulemaking created 16 CFR part 1222, which incorporates by reference, with modifications, ASTM F2906-13, *Standard Consumer Safety Specification for Bedside Sleepers*. The modifications under section 1222.2(b) require that bedside sleepers be tested to the mandatory Safety Standard for Bassinets and Cradles, codified at 16 CFR part 1218.

ASTM F2906 describes bedside sleepers as products intended to provide sleeping space for an infant up to approximately 5 months of age (or when child begins to push up on hands and knees). The standard states that these products are intended to be secured to the side of an adult bed for the purpose of having a baby sleep in close proximity to an adult. The minimum

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required side-height for beside sleepers generally is the same as bassinets, 7.5 inches. However, for the side of the sleeper that attaches to an adult bed, the minimum side-height is 4 inches. The mandatory standard also includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children associated with children's bedside sleepers.

Since publishing the 2013 version of ASTM F2906, ASTM published revisions in 2022 and 2023. ASTM published ASTM F2906-22 on October 1, 2022, to clarify side-height and attachment requirements for bedside sleepers. However, CPSC understands that ASTM discovered an error in the publication allowing for an unintended side-height exemption for the side of the product that attaches to an adult bed, for certain products, and therefore did not notify the Commission of this revision. On January 1, 2023, ASTM published a revised version of the incorporated voluntary standard, ASTM F2906-23, that removes the unintended exemption. On February 6, 2023, ASTM notified the Commission that it had approved and published ASTM F2906-23. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of consumer products covered by the standard, namely bedside sleepers. The Commission invites public comment on that question, to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F2906-23.<sup>1</sup>

The incorporated voluntary standard and the two revised voluntary standards, ASTM F2906-22 and -23, are available for review in several ways. ASTM has provided on its website (at <https://www.astm.org/CPSC.htm>), at no cost, a read-only copy of both the 2022 and 2023 revisions to ASTM F2906, including red-lined versions that identify the changes made to ASTM

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<sup>1</sup> The Commission voted [TBD] to approve this notice.

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F2906-13 and ASTM F2906-22. Likewise, a read-only copy of the existing, incorporated standard (ASTM F2906-13) is available for viewing, at no cost, on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: 610-832-9585; <https://www.astm.org>.

Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479.

Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Because of the short statutory time frame Congress established for the Commission to consider revised voluntary standards under section 104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Dated:

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Alberta E. Mills, Secretary  
Consumer Product Safety Commission