



United States
Consumer Product Safety Commission

Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: December 7, 2022

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 Non-Full-Size Baby Cribs and Play Yards

TIME CRITICAL BALLOT VOTE DUE: 5:00pm, Friday, December 09, 2022

Attached is a draft *Federal Register* notice, announcing that on December 5, 2022, the Commission received notification that the voluntary standard, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, ASTM F406, has been revised. Two Commission rules incorporate by reference applicable provisions of ASTM F406: (1) Safety Standard for Non-Full-Size Baby Cribs, codified at 16 CFR part 1220, and (2) Safety Standard for Play Yards, codified at 16 CFR part 1221.

Pursuant to section 104(b)(4)(B) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a mandatory consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard shall then be considered 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 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 to determine its effect on the safety of non-full-size baby cribs and play yards.

In the draft notice, CPSC seeks comment from the public on whether the revision improves the safety of the consumer products covered by the standard. To provide sufficient time for CPSC staff's consideration of any comments received and subsequent Commission consideration within the 90-day statutory time frame, the draft notice provides a 14-day public comment period. 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.

U.S. Consumer Product
Safety Commission
4330 East-West Highway
Bethesda, MD 20814
cpsc.gov

National Product Testing
& Evaluation Center
5 Research Place
Rockville, MD 20850

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.

(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 Non-Full-Size Baby Cribs and Play Yards

DRAFT**Billing Code 6355-01-P****CONSUMER PRODUCT SAFETY COMMISSION****Docket No. CPSC–2019–0025****Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Non-Full-Size Baby Cribs and Play Yards****AGENCY:** Consumer Product Safety Commission.**ACTION:** Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) has two mandatory rules that incorporate by reference applicable provisions of ASTM F406-19, Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards. These mandatory rules are: (1) Safety Standard for Non-Full-Size Baby Cribs, and (2) Safety Standard for Play Yards. The Commission received notice from ASTM International that it has revised ASTM F406-19. CPSC seeks comment on whether the revised voluntary standard, ASTM F406-22, improves the safety of the consumer products covered by the standard.

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-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 electronic mail (e-mail), except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

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Mail/hand delivery/courier/confidential Written Submissions: 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 e-mail 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 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. 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-2019-0025, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Fred 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:

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 may be based, in whole or in part, on a voluntary

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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, the Commission issued two mandatory safety rules that incorporate by reference applicable provisions of ASTM F406: Safety Standard for Non-Full-Size Baby Cribs, codified at 16 CFR part 1220 (75 FR 81787, Dec. 28, 2010), and Safety Standard for Play Yards, codified at 16 CFR part 1221 (77 FR 52228, Aug. 29, 2012). These mandatory standards include performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children. After the Commission's promulgation of these final rules, ASTM published several revisions to ASTM F406 that the Commission allowed to take effect, most recently in 2019. 84 FR 56684 (Oct. 23, 2019).

On December 5, 2022, ASTM notified the Commission that it had approved and published another revised version of the voluntary standard, ASTM F406-22. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the

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CPSIA, its effect on the safety of non-full-size baby cribs subject to 16 CFR part 1220, and, separately, the safety of play yards subject to 16 CFR part 1221. The Commission invites public comment on those questions to inform staff's assessment and subsequent Commission consideration of the revisions in ASTM F406-22. The Commission particularly seeks comment on the impact of ASTM F406-22's revisions regarding mattress thickness, gap measurement, and the length of loops for cords/straps.¹

A read-only copy of a redline demonstrating revisions to ASTM F406 is available for review on ASTM's website (<https://www.astm.org/CPSC.htm>), at no cost. Likewise, a read-only copy of the existing, incorporated standard, ASTM F406-19, 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 may 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; email: cpsc-os@cpsc.gov.

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:

Alberta E. Mills, Secretary
Consumer Product Safety Commission

¹ The Commission voted [TO BE FILLED IN].