

[Products Liability Law Daily Wrap Up, TOP STORY—CHILDREN'S PRODUCTS—CPSC updates safety standard for non-full-size baby cribs, \(Jun. 6, 2018\)](#)

Products Liability Law Daily Wrap Up

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The Consumer Product Safety Commission (CPSC) published a direct final rule revising the existing safety standard for non-full-size baby cribs (NFS cribs) to incorporate by reference the most recent version of the applicable ASTM voluntary standard. The rule will become effective on September 10, 2018, unless the agency receives significant adverse input by July 6, 2018. If CPSC receives timely significant adverse comments, then the direct final rule will be withdrawn before its effective date (*CPSC Direct Final Rule*, [83 FR 26206](#), June 6, 2018).

Background. In December 2010, CPSC published a consumer product safety standard for NFS cribs in accordance with section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), also known as the Danny Keysar Child Product Safety Notification Act. The standard incorporated by reference the applicable ASTM voluntary standard, ASTM F406–10a, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*, along with several modifications (75 FR 81766). The CPSIA sets forth a process for updating standards that CPSC has issued under the authority of section 104(b) of the CPSIA, and in March 2018, ASTM officially notified the CPSC that ASTM had published a revised 2017 version of ASTM F406 in a standard approved on December 1, 2017, ASTM F406–17.

ASTM specifically notified CPSC only on the revisions related to the sections covering NFS cribs, but not on the sections related to the requirements for play yards. The CPSC standard for NFS cribs does not apply to play yards, which are mesh or fabric sided products, and the play yard-specific requirements are expressly excluded from the NFS crib standard. The safety standard for play yards is set forth in 16 CFR part 1221. Full-size cribs are addressed in a separate standard that references ASTM F1169–10 (16 CFR part 1219).

Revisions to the ASTM standard ASTM has published nine revisions to ASTM F406 since publication of ASTM F406–10a. ASTM F406–17 incorporates all of the changes in those earlier revisions, with one additional change. Only the revisions that relate to NFS cribs are addressed in this direct final rule; the revisions that impact play yards are omitted. There are several differences between 16 CFR part 1220 (which incorporated by reference ASTM F406–10a) and the revised version of the standard, ASTM F406–17. Some of the revisions found by CPSC to improve the safety of NFS cribs include:

- Section 8.10.1—changed provisions on spindles and slats to require that each foldable and moveable side be tested separately;
- Section 9.4.2.6—changed the language in the required warning from "play yard" to "product";
- Section 5.15—changed *Entrapment in Accessories* to include specifically cantilevered accessories as a type of accessory that must be tested for entrapment;
- Section 8.26—changed *Entrapment Test* to address cantilevered accessories by adding a new method to determine the opening for cantilevered accessories that should be tested for entrapment and by adding requirements to evaluate the small and large head probes used in identified openings; and
- Removal of Section 6.10, which allowed for retightening of screws and bolts during testing.

According to CPSC, most of the revisions clarify the existing standard and will use existing test methods with minor adjustments, with only one new test for cantilevered accessories. This test uses previously established test methods with existing probes, but adds a plumb line between the accessory and the product top rail to

identify areas to be tested for entrapment. Therefore, there is no significant change in the way that third-party conformity assessment bodies test these products for compliance with the NFS crib standard.

Laboratories would begin testing to the new standard when ASTM F406–17 goes into effect, and the existing accreditations that CPSC has accepted for testing to this standard previously would also cover testing to the revised standard. Accordingly, the existing notice of requirements (NOR) for accreditation of third-party conformity assessment bodies for testing NFS cribs (73 FR 62965, October 22, 2008) will remain in place, and CPSC-accepted third-party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation.

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