Issued in College Park, Georgia, on May 3, 2023.

Lisa E. Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1222

[Docket No. CPSC–2012–0067]

Safety Standard for Bedside Sleepers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In January 2014, the U.S. Consumer Product Safety Commission (CPSC or Commission) published a consumer product safety standard for bedside sleepers pursuant to section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The Commission's mandatory standard incorporated by reference the ASTM voluntary standard that was in effect for bedside sleepers at the time, with modifications to further reduce the risk of injury associated with bedside sleepers. 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 February 6, 2023, ASTM notified CPSC that it had published a revised voluntary standard for bedside sleepers. This direct final rule updates the mandatory standard for bedside sleepers to incorporate by reference ASTM's 2023 version of the voluntary standard for bedside sleepers.

DATES: The rule is effective on August 5, 2023, unless the Commission receives a significant adverse comment by June 8, 2023. If the Commission receives such a comment, it will publish a document 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 August 5, 2023.

ADDRESSES: You can 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. CPSC typically does not accept comments submitted by electronic mail (email), except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

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 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 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–2012–0067, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Will Cusey, Small Business Ombudsman, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7945 or (888) 531–9070; email: *sbo@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Background

A. Statutory Authority [1]

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for those products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be ''substantially the same as'' the voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA also specifies the process for when a voluntary standards organization revises a standard that 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 its revised voluntary standard. Once the Commission receives that notification, the Commission may reject or accept the revised voluntary standard. The Commission may reject the revised standard by responding to the voluntary standards organization, within 90 days of receiving notification, that it has determined that the revised voluntary standard does not improve the safety of the consumer product covered by the standard, and that the Commission is retaining the existing mandatory standard. If the Commission does not take this action to reject the revised voluntary standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (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. Bedside Sleepers

A bedside sleeper is a durable infant or toddler product as defined in section 104(f), and is a type of bassinet. 84 FR 49948–49. Section 5.1 of ASTM F2906 states that bedside sleepers are subject to the requirements in ASTM F2194, *Consumer Safety Specification for Bassinets and Cradles.* Section 3.1.2 of ASTM F2906 defines a bedside sleeper as ''a rigid frame assembly that may be combined with a fabric or mesh assembly, or both, used to function as sides, ends, or floor or a combination thereof, and that is intended to provide a sleeping environment for infants and is secured to an adult bed.''

On January 15, 2014, under section 104 of the CPSIA, the Commission published the bedside sleeper rule codified in 16 CFR part 1222, which incorporates by reference ASTM F2906–13, *Standard Consumer Safety Specification for Bedside Sleepers,* as the mandatory standard, with

[1] On April 28, 2023, the Commission voted (4–0) to publish this direct final rule. This direct final rule is based on information and analysis contained in the April 19, 2023, Staff Briefing Package: ASTM's Notice of a Revised Voluntary Standard for Bedside Sleepers (16 CFR part 1222) (Staff Briefing Package), available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Notice-of-a-Revised-Voluntary-Standard-for-Bedside-Sleepers.pdf?VersionId=slWQp6PbnV.76OOoDX63S_oMPxKX7IGD.*

modifications to the standard to further reduce the risk of injury. 79 FR 2581. The modifications in part 1222 changed references in ASTM F2906–13 from the voluntary standard for bassinets (ASTM F2194) to the mandatory standard for bassinets, codified at 16 CFR part 1218 (78 FR 63034 (Oct. 23, 2013)), because the voluntary and mandatory standards for bassinets were not aligned, and bedside sleepers must meet the requirements of the bassinet standard.[2]

CPSC has not updated the bedside sleeper rule since publishing the final rule in 2014. On February 6, 2023, ASTM notified the Commission that it had approved and published a newly revised version of the voluntary standard, ASTM F2906–23. ASTM also informed CPSC that they had previously published 2019 and 2022 versions of ASTM F2906, but the 2019 version reapproved the 2013 version, so there were no material changes between the 2013 and 2019 versions. As explained below, the 2022 version addressed height requirements for side rails in new bedside sleeper designs. ASTM did not notify CPSC of the 2019 or 2022 revisions.

On February 17, 2023, the Commission published in the **Federal Register** a Notice of Availability, requesting comment on whether the revisions to the bedside sleeper voluntary standard improve the safety of bedside sleepers. 88 FR 10304. The public comment period closed on March 3, 2023. CPSC received two comments. One commenter (JPMA) supported updating the mandatory standard to incorporate by reference ASTM F2906–23. The other commenter (a testing laboratory, SGS) alleged existing errors in ASTM F2906 that should be corrected, specifically in section 5.5 on testing of locking and latching devices, and sections 7.2, 7.3, and 7.4, related to marking and labeling. SGS stated that these should be addressed to reduce confusion for test laboratories. This comment relates to material that is in the 2013 ASTM standard that part 1222 currently incorporates by reference, and the 2023 revision does not change. The comment therefore is outside the scope of this assessment of the 2022 and 2023 updates. However, the Commission intends that its staff will work with the ASTM subcommittee for bedside sleepers to address suggested clarifications in a future update.

C. Revisions to the ASTM Bedside Sleeper Standard

As detailed in section II of this preamble, in 2022 and 2023, ASTM revised the height requirements for side rails adjacent to an adult bed, to clarify requirements for newer designs of bedside sleepers that convert from a bassinet into a bedside sleeper. The Commission finds that ASTM F2906–23 improves the safety of bedside sleepers compared to ASTM F2906–13, and will allow this voluntary standard to become the new consumer product safety standard for bedside sleepers 180 days after notification, meaning as of August 5, 2023. However, consistent with the existing part 1222, the Commission will continue to replace ASTM F2906's references to the voluntary standard for bassinets and cradles, ASTM F2194, with references to the mandatory standard for bassinets and cradles, 16 CFR part 1218. While revised § 1222.2(b) of the final rule contains non-substantive editorial changes that simplify how this substitution is codified, the Commission is maintaining references to part 1218 because the voluntary and mandatory standard for bassinets are not aligned and the mandatory standard supersedes the ASTM standard.

II. Revisions to the Voluntary Standard for Bedside Sleepers, ASTM F2906

The ASTM standard for bedside sleepers includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to infants associated with bedside sleepers. Following is a description and assessment of the changes to ASTM F2906 that were made in 2022 and 2023, as reflected in the 2023 version of the voluntary standard.

A. Revisions to the Voluntary Standard Through 2022

Bedside sleepers traditionally had three side rails required to meet the height requirement of a bassinet, 7.5 inches, and one lower side rail required to have at least a 4-inch side height. The side rail with a lower side height was intended to be placed next to the adult bed. Currently, in 16 CFR part 1222, which incorporates by reference ASTM F2906–13, the entire side rail of the bedside sleeper next to the adult bed must have at least a 4-inch side height but also must be no higher than the adult bed mattress height. Sections 5.4 and 5.6 of ASTM F2906.

In 2022, ASTM revised F2906 in response to newer bedside sleeper styles that had come onto the market. Some newer bedside sleepers can convert from a bassinet into a bedside sleeper; one of the side rails can be lowered from 7.5 inches to 4 inches and placed next to the adult bed. In some products, the entire side rail lowers to 4 inches, and in others, a portion of the side rail lowers to 4 inches, and a portion of the side rail remains fixed at 7.5 inches.

One revision in ASTM F2906–22 was intended to clarify that newer bedside sleeper designs with a side rail that can be fully lowered to 4 inches, and a side rail that can be partially lowered to 4 inches (with the remainder of the rail at the 7.5-inch height), are both acceptable under the voluntary standard. ASTM revised section 5.6 of ASTM F2906 regarding the height requirement for lowered and fixed portions of a side rail next to the adult bed. ASTM deleted text that is crossed through and added the underlined text.

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[2] Part 1222 replaces all references to ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles,* with 16 CFR part 1218, Safety Standard for Bassinets and Cradles.

5.6 The bedside sleeper ~~must~~ shall provide a means to be secured to an adult ~~bed and the top~~ bed. The top of any lowered portion of the side rail designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the instructional literature. Any fixed portion or component of the rail that is adjacent to the adult bed is exempt from this requirement.

Thus, ASTM F2906–22 required that each of the 4 side rails of a bedside sleeper meet a side-height requirement: a partial low/lowered side height requirement of 4 inches next to the adult bed and otherwise a fixed side height requirement with a minimum of 7.5 inches.[3] This revision would allow products to have a portion of the side rail at 7.5 inches. In this configuration the fixed-height side rails meet the 7.5-inch side-height requirement, consistent with the Commission's mandatory rule for bassinets. *See* 16 CFR part 1218. The lowered portion of the side rail is also required to be below the adult bed height and secured to, and flush with, the side of the adult bed. CPSC staff assesses that this configuration prevents positional asphyxia hazards due to head/neck entrapment over the lower side rail.

The second revision in section 8.3.4 of ASTM F2906–22 conformed the instructional literature that accompanies bedside sleepers to the changes in section 5.6. ASTM added the underlined text.

8.3.4 To avoid death from the infant's neck being caught on the top rail on the side that is next to the adult bed, the lowered portion of the top rail must be no higher than the adult bed mattress.

B. 2023 Revisions to the Voluntary Standard

After publication of ASTM F2906–22, the ASTM subcommittee found that the revised section 5.6 exempting fixed side rails could be interpreted as allowing a fixed lower rail side to be above the adult bed mattress, posing a strangulation hazard if the infant's neck is caught on this exposed rail that is less than 7.5 inches high. Accordingly, in ASTM F2960–23, ASTM further revised section 5.6 with the following changes compared to the 2022 version:

5.6 The bedside sleeper shall provide a means to be secured to an adult bed. The ~~top of any lowered portion of the side~~ bedside sleeper rail that is ~~designed to be~~ adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the manufacturer's instructions ~~instructional literature~~ except for any portion of the rail that is 7.5 inches or higher when measured according to the side height requirement found in ASTM F2194. ~~Any fixed portion or component of the rail that is adjacent to the adult bed is exempt from this requirement~~.

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C. Assessment of ASTM F2906–23 Revisions

Section 5.4 of ASTM F2906, which has not changed since 2013, requires the lowered portion of a bedside sleeper side rail adjacent to an adult bed to be no less than 4 inches:

5.4 The bedside sleeper shall have a barrier around the entire perimeter of the occupant retention space. If a bedside sleeper is equipped with a side or end portion which is lower or partially lowers by any means, the height of the side rail in the lowest position shall be no less than 4 in. (10.2 cm) when measured from the top of the uncompressed bedside sleeper mattress to the top of the lowered side rail, when the mattress support is in its highest position.

[3] These requirements are continued in ASTM F2906–23 sections 5.4 and 5.1.1.

Table 1 compares side rail height requirements in section 5.6 of 16 CFR part 1222 (incorporating ASTM F2906–13) with those of the revised ASTM F2906–23.

TABLE 1—SIDE-HEIGHT REQUIREMENTS IN 16 CFR PART 1222 AND ASTM F2906–23

16 CFR part 1222 (incorporating ASTM F2906–13)	ASTM F2906–23
5.6 The bedside sleeper must provide a means to be secured to an adult bed and the top bed rail designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the instructional literature.	5.6 The bedside sleeper shall provide a means to be secured to an adult bed. The bedside sleeper rail that is designed to be adjacent to the adult bed shall be at or below the acceptable adult bed height range specified in the manufacturer's instructions except for any portion of the rail that is 7.5 inches or higher when measured according to the side height requirement found in ASTM F2194.

Based on the analysis in the Staff Briefing Package, the Commission determines that the revisions to the bedside sleeper voluntary standard made in ASTM F2906–23 are an improvement in safety relative to the 2013 version of the standard that is incorporated into the current rule, 16 CFR part 1222, because the revisions clarify the safety requirements for bedside sleeper side rails that use two different side heights for the rail next to the adult bed, allowing portions of the rail to be at an elevated height. This configuration was introduced into the marketplace without side-height provisions in the ASTM F2906–13 standard that specifically address this design feature. ASTM F2906–23 addresses such designs by specifying that the bedside sleeper side rail adjacent to the adult bed does not need to be one continuous rail as long as the side rail meets the height requirements in the revised ASTM F2906–23.

III. Incorporation by Reference

Section 1222.2(a) of the direct final rule incorporates by reference ASTM F2906–23. In accordance with regulations of the Office of the Federal Register (OFR), 1 CFR 51.5(b), section II of this preamble, Revisions to the Voluntary Standard for Bedside Sleepers, ASTM F2906, summarizes the revised provisions of ASTM F2906–23 that the Commission incorporates by reference into 16 CFR part 1222. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F2906–23 is available for viewing on ASTM's website at: *https://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: *https://www.astm.org/READINGLIBRARY/.* Additionally, interested parties can purchase a copy of ASTM F2906–23 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 Consumer Product Safety Act (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 bedside sleepers are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products for compliance with 16 CFR part 1222. Products subject to part 1222 also must be compliant with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[4] the phthalates prohibitions in section 108 of the CPSIA [5] and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,[6] and the consumer registration form requirements in section 104(d) of the CPSIA.[7] 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 labs) for testing bedside sleepers, and codified the requirement at 16 CFR 1112.15(b)(35).

The modified requirements for bedside sleepers in ASTM F2906–23 use testing requirements that are substantially the same as existing requirements for evaluating side rail height compliance. Accordingly, the revisions in ASTM F2906–23 do not require that labs obtain additional test equipment or new training. The Commission considers third party labs that are currently CPSC-accepted for 16 CFR part 1222 to have demonstrated competence to test bedside sleepers to the revised ASTM F2906–23, as incorporated into part 1222. 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 Bedside Sleepers will remain in place, and CPSC-accepted third party labs are expected to update the scope of their accreditations to reflect the revised bedside sleepers 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,

[4] 15 U.S.C. 1278a.

[5] 15 U.S.C. 2057c.

[6] 15 U.S.C. 2063(a)(5).

[7] 15 U.S.C. 2056a(d).

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 F2906–23 would take effect as the new CPSC standard for bedside sleepers in the absence of any action by the Commission. 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. We note that CPSC did not receive any adverse comments about the requirements in this update based on the Notice of Availability, as reviewed in section I.B of this preamble.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on August 5, 2023. 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 that undermines ''the rule's underlying premise or approach'' or a showing 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 a further 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 bedside sleepers 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 bedside sleepers does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1222, including obtaining approval and a control number, which have now been incorporated into the collection for Third Party Testing of Children's Products, Office of Management and Budget (OMB) Control No. 3041–0159. 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 bedside sleepers. Therefore, ASTM F2906–23 automatically will take effect as the new mandatory standard for bedside sleepers on August 5, 2023, 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 notification, the rule will become effective on August 5, 2023.

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 1222

Consumer protection, Imports, Incorporation by reference, Infants and

children, Labeling, Law enforcement, Safety, Toys.

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

PART 1222—SAFETY STANDARD FOR BEDSIDE SLEEPERS

■ 1. Revise the authority citation for part 1222 to read as follows:

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

■ 2. Revise § 1222.2 to read as follows:

§ 1222.2 Requirements for bedside sleepers.

(a) Except as provided in paragraph (b) of this section, each bedside sleeper shall comply with all applicable provisions of ASTM F2906–23, *Standard Consumer Safety Specification for Bedside Sleepers,* approved on January 1, 2023. 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.* 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, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: (610) 832–9585; *www.astm.org.*

(b) Each bedside sleeper shall comply with the ASTM F2906–23 standard except in sections 2.1, 5.1, 5.6, 7.1, and 8.1 of ASTM F2906–23, replace both ''F2194 Consumer Safety Specification for Bassinets and Cradles'' and ''Consumer Specification F2194,'' with ''16 CFR part 1218 Safety Standard for Bassinets and Cradles.''

Pamela J. Stone,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–09772 Filed 5–8–23; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0102; FRL–10369–02–R9]

Air Plan Approval; Bay Area Air Quality Management District; Nonattainment New Source Review; 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state implementation plan (SIP) revision submitted by the State of California addressing the nonattainment new source review (NNSR) requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). This SIP revision addresses the Bay Area Air Quality Management District (BAAQMD or ''District'') portion of the California SIP. This action is being taken pursuant to the Clean Air Act (CAA or ''Act'') and its implementing regulations.

DATES: This rule is effective on June 8, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2022–0102. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3191 or by email at *ting.pochieh@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Proposed Action

On December 23, 2022 (87 FR 78900), the EPA proposed to approve the SIP revision listed in Table 1 of this document, addressing the NNSR requirements for the 2015 ozone NAAQS for the BAAQMD.

TABLE 1—SUBMITTED CERTIFICATION LETTER

District	Adoption date	Submittal date
Bay Area Air Quality Management District (BAAQMD)	9/1/2021	10/6/2021

We proposed approval of the submitted SIP revision because we determined that the 2015 ozone certification submitted by the District fulfills the 40 CFR 51.1314 revision requirement and meets the requirements of CAA section 110 and the minimum SIP requirements of 40 CFR 51.165. Our proposed action contains more information on the SIP revision and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted during the 30-day public comment period. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this certification into the California SIP as proposed.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k);