

Information Collection Request (ICR)
Safety Standard for Portable Bed Rails (RIN 3041-AB91)
Supporting Statement

A. Justification

1. *Information to be collected and circumstances that make the collection of information necessary*

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314, 122 Stat. 3016 (August 14, 2008), requires the U.S. Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. As directed by this statutory requirement, the Commission is proposing a safety standard for portable bed rails that incorporates by reference the voluntary standard for portable bed rails issued by ASTM International, ASTM F 2085-10a, with some modifications to further reduce the risk of injury associated with portable bed rails. The modifications to ASTM F 2085-10a that are being proposed by the Commission do not involve any collections of information.

Sections 9 and 11 of the voluntary standard ASTM F 2085-10a contain requirements for marking and instructional literature that are disclosure requirements, thus falling within the definition of “collections of information” at 5 C.F.R. § 1320.3(c). Section 9.1.1 of ASTM F 2085-10a requires that the name and the place of business (city, state, mailing address, including zip code, or telephone number) of the manufacturer, importer, distributor, or seller be clearly and legibly marked on each product and its retail package. Section 9.1.2 of ASTM F 2085-10a requires a code mark or other means that identifies the date (month and year at a minimum) of manufacture. Section 11.1 of ASTM F 2085-10a requires instructions to be supplied with the product. Portable bed rails are products that generally require assembly, and products sold without such information would not be able to successfully compete with products supplying this information.

2. *Use and sharing of collected information*

Purchasers and owners of portable bed rails will be provided with essential safety information and will be able to determine how to contact the manufacturer of the bed should there be safety or quality issues. The CPSC will

use the information obtained from the marking and instructional literature to identify products if the firm or its product(s) fail to comply with the provisions of the standard.

3. *Use of information technology (IT) in information collection*

Information technology will not be used in these requirements.

4. *Efforts to identify duplication*

To the extent that firms do not already comply with the voluntary standard, information provided by these requirements is not available through any other agency, organization, or individual.

5. *Impact on small businesses*

Marking and instructional literature activities associated with the standard for portable bed rails may include a number of small firms. However, the statute requiring this action does not contain an exemption for small firms. Further, previous experience has shown a higher level of noncompliance at small firms. However, the length of time required for a firm to respond to the requirements depends on the number of models handled by the firm and the complexity of a firm's day-to-day operations. Consequently, less time will be expended by small firms.

6. *Consequences to federal program or policy activities if collection is not conducted or is conducted less frequently*

Without the marking and instructional literature requirements, the level of noncompliance could increase significantly, resulting in an increase in the number of product-related deaths and injuries. The lack of marking could complicate CPSC efforts to locate and recall noncomplying products and result in an increase in the number of product-related deaths and injuries.

7. *Special circumstances requiring respondents to report information more often than quarterly or to prepare responses in fewer than 30 days*

There are no special circumstances in the proposed rule that would require respondents to report information more frequently.

8. *Consultation outside the agency*

The CPSC consulted several manufacturers to obtain their views on the information collection burden associated with the marking and label requirements. Additionally, the preamble to the proposed rule will discuss the

information collection burden and invite public comment on the CPSC's estimates.

9. *Decision to provide payment or gift*

Not applicable. No payment or gift was provided to respondents.

10. *Assurance of confidentiality*

Confidential records may be exempted from disclosure under 5 U.S.C. 552(b) and the Commission's procedures at 16 C.F.R. 1015.15.

11. *Questions of a sensitive nature*

Not applicable. There are no questions of a sensitive nature.

12. *Estimate of hour burden to respondents*

There are 14 known firms supplying portable bed rails to the United States market. Seven of the 14 firms are known to already produce labels that comply with these sections of the standard, so there would be no additional burden on these firms. The remaining 7 firms are assumed to already use labels on both their products and their packaging, but would need to make some modifications to their existing labels. The estimated time required to make these modifications is about 1 hour per model. Each of these firms supplies an average of 2 different models of portable bed rails; therefore, the estimated burden hours associated with labels is 1 hour x 7 firms x 2 models per firm = 14 annual hours.

Section 11.1 of ASTM F 2085-10a requires instructions to be supplied with the product. This is also a practice that is customary with portable bed rails. These are products that generally require some installation and maintenance instructions, and any products sold without such information would not be able to successfully compete with products that provide this information. This is a practice that is usual and customary with portable bed rails. Therefore, because the CPSC is unaware of portable bed rails that: (a) generally require some installation, but (b) lack any instructions to the user about such installation, there are no burden hours associated with the instruction requirement in section 11.1 because any burden associated with supplying instructions with a portable bed rail would be "usual and customary" and not within the definition of "burden" under OMB's regulations.

13. *Estimate of total annual cost burden to respondents*

The Commission estimates that hourly compensation for the time required to create and update labels is \$28.00 (Bureau of Labor Statistics, September 2010, all workers, goods-producing industries, sales and office, Table 9).

Therefore, the estimated annual cost associated with the Commission-recommended labeling requirements is \$392 (\$28.00 per hour x 14 hours = \$392).

14. *Estimate of annualized costs to the federal government*

The estimated annual cost of the information collection requirements to the federal government is approximately \$4,907, which includes 60 staff hours to examine and evaluate the information as needed for Compliance activities. This is based on a GS-14 level salaried employee. The average hourly wage rate for a mid-level salaried GS-14 employee in the Washington, DC metropolitan area (effective as of January 2011) is \$57.33 (GS-14, step 5). This represents 70.1 percent of total compensation (Bureau of Labor Statistics, September 2009, percentage wages and salaries for all civilian management, professional, and related employees, Table 1). Adding an additional 29.9 percent for benefits brings average hourly compensation for a mid-level salaried GS-14 employee to \$81.78. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$4,907.

15. *Program changes or adjustments*

This is a new information collection request.

16. *Plans for tabulation and publication*

Not applicable.

17. *Rationale for not displaying the expiration date for OMB approval*

Not applicable.

B. *Collection of Information Employing Statistical Methods*

Not applicable.