

# INFORMATION COLLECTION REQUEST (ICR) SUPPORTING STATEMENT

## Safety Standards for Full-Size Baby Cribs and Non-Full Size Baby Cribs

16 CFR Parts 1219, 1220 and 1500

RIN: 3041-AC57

### 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 United States 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 standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Section 104(c) specifies that the crib standards will cover used as well as new cribs. The crib standards apply to anyone who manufactures, distributes or contracts to sell a crib; to child care facilities, and others holding themselves out to be knowledgeable about cribs; to anyone who leases, sublets or otherwise places a crib in the stream of commerce; and to owners and operators of places of public accommodation affecting commerce. The standards require manufacturers and importers of these products to maintain sales records for a period of six years after the manufacture or importation of the cribs and also contain requirements for marking and instructional literature.

As directed by this statutory requirement, the Commission issued a safety standard for full-size and non-full-size baby cribs that incorporated by reference the voluntary standards for full-size and non-full-size baby cribs issued by ASTM International, ASTM F1169-10 and F406-10a respectively, with some modifications to further reduce the risk of injury associated with full-size and non-full-size baby cribs. On December 9, 2013, the Commission issued a new full-size crib standard as a direct final rule. The new standard incorporates by reference ASTM F1169-13 without modification. The Commission may adopt by reference new versions of the ASTM standards for full-size and non-full-size cribs as direct final rules in the future.

Sections 8 and 9 of the voluntary standard for full-size cribs, ASTM F1169-13, which was issued by the Commission as a mandatory standard, contain requirements for marking, labeling, 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 8.1.2 of ASTM F1169-13 requires:

- the name of the manufacturer, distributor, importer, or seller and place of business (city and state), or a combination thereof; and

- a model number, stock number, catalog number, item number, or other symbol expressed numerically, in code or otherwise, such that only articles of identical construction, composition, and dimensions shall bear identical markings.

Section 9 of ASTM F1169-13 requires full-size cribs to be provided with instructions regarding assembly, maintenance, cleaning, storage, and use, an assembly drawing, a list and description of all parts and tools required for assembly, and a full-size diagram of the required bolts and other fasteners, as well as a variety of warnings. A means of keeping the instructions with the crib is also required. Authorizing Statute: Section 104 of the Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314, 122 Stat. 3016 (August 14, 2008) (CPSIA).

For non-full-size cribs, sections 9 and 10 of the voluntary standard ASTM F406-10a, which was issued by the Commission as a mandatory standard, contain requirements for marking, labeling, 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 of ASTM F406-10a requires:

- the name of the manufacturer, distributor, or seller and either the place of business (city, state, and mailing address, including zip code), or telephone number, or both; and
- a code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

Section 10 of ASTM F406-10a requires non-full-size cribs to be provided with instructions regarding assembly, maintenance, cleaning, storage, and use, as well as a variety of warnings. A means of keeping the instructions with the crib is also required. Authorizing Statute: Section 104 of the Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314, 122 Stat. 3016 (August 14, 2008) (CPSIA).

## *2. Use and sharing of collected information*

The information required in sections 8 and 9 of ASTM F1169-13 and sections 9 and 10 of ASTM F406-10a is intended to address safety issues that might arise with the products. The information required in section 8 of ASTM F1169-13 and section 9 of ASTM F406-10a is intended to help the CPSC and the consumer identify the firm and the product, should a safety issue arise. The instructional literature required by section 9 of ASTM F1169-13 and section 10 of ASTM F406-10a is meant to prevent safety problems by providing assembly, maintenance, and use information to consumers.

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

Information technology will not be used in these requirements. In the rule, manufacturers are required to provide marking, labeling, and instructional literature in accordance with ASTM F1169-13 and F406-10a. This disclosure will accompany the final product at the time of consumer purchase.

## *4. Efforts to identify duplication*

Information being disclosed is manufacturer and product specific. 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*

The costs of marking, labeling, and instructional literature associated with the standards for full-size and non-full-size cribs may impact some small firms. However, the statute requiring this action does not contain an exemption for small firms.

As described in section (12) below, there are currently 86 known firms supplying full-size and non-full-size cribs to the U.S. market. Based on the guidelines issued by the U.S. Small Business Administration, 64 of these firms are small; 43 domestic manufacturer and 21 domestic importers. The remaining 22 firms are four large domestic importers, three large domestic manufacturers, one importer whose size could not be determined, and 14 foreign firms.

Given that the mandatory crib standards have been effective since June 2011, it is believed that all of these firms already produce labels that comply with section 8 of ASTM F1169-13 and F406-10a. However, these firms might need to make some modifications to their existing labels in the future. The potential burden on these firms is described in section (12) below.

There are no burden hours associated with the instruction requirement in section 9 of ASTM F1169-13 or F406-10a because any burden associated with supplying instructions with full-size and non-full-size cribs would be “usual and customary” and not within the definition of “burden” under the OMB’s regulations, even if these firms were not already supplying compliant instructions.

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

Without the marking, labeling, and instructional literature requirements, the level of noncompliance and consumer misuse could significantly increase, resulting in an increase in the number of product-related deaths and injuries.

The lack of marking and labeling 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 that will require respondents to produce labels or instructional material more often than quarterly or in fewer than 30 days.

8. *Agency's Federal Register Notice and related information.*

TBD.

9. *Decision to provide payment or gift*

There is no payment or gift provided to respondents.

10. *Assurance of confidentiality*

There is no assurance of confidentiality. The information in the mark, label, and instructional literature is not confidential.

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 78 known firms supplying full-size cribs to the U.S. market and 24 supplying non-full-size cribs. All firms are assumed to already use compliant labels on both their products and their packaging, but they might need to make some modifications to their existing labels in the future. The estimated time required to make these modifications is about one hour per model. Each of the relevant firms supplies approximately 11 different models of full-size cribs and 4 different models of non-full-size cribs; therefore, the estimated burden hours associated with the labels is  $((1 \text{ hour} \times 78 \text{ firms} \times 11 \text{ models per firm}) + (1 \text{ hour} \times 24 \text{ firms} \times 4 \text{ models per firm})) = 954 \text{ annual hours}$ .

Section 9 of ASTM F1169-13 and section 10 of ASTM F406-10a requires instructions to be supplied with the product. This is a practice that is usual and customary with both full-size and non-full-size cribs. 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. Therefore, because the CPSC is unaware of cribs 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 requirements because any burden associated with supplying instructions with cribs would be "usual and customary" and not within the definition of "burden" under OMB's regulations.

We estimate that hourly compensation for the time required to create and update labels is \$27.66 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>). Therefore, the estimated annual

cost associated with the proposed requirements is \$26,388 (\$27.66 per hour x 954 hours = \$26,388).

*13. Estimate of other total annual cost burden to respondents or recordkeepers*

There are no costs to respondents beyond those presented in Section A.12. There are no operating, maintenance, or capital costs associated with the collection.

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

The estimated annual cost of the information collection requirements to the federal government is approximately \$3,527, which includes 60 staff hours to examine and evaluate the information as needed for Compliance activities. This is based on a GS-12 level salaried employee. The average hourly wage rate for a mid-level salaried GS-12 employee in the Washington, DC metropolitan area (effective as of January 2011) is \$40.80 (GS-12, step 5). This represents 69.4 percent of total compensation (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees, <http://www.bls.gov/ncs/>). Adding an additional 30.6 percent for benefits brings average hourly compensation for a mid-range salaried GS-12 employee to \$58.78. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$3,527.

*15. Program changes or adjustments*

Not applicable.

*16. Plans for tabulation and publication*

Not applicable.

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

Not applicable.

*18. Exception to the certification statement*

Not applicable.

**B. Collection of information will not employ statistical methods.**

Not applicable.