

Information Collection Request (ICR)
Safety Standard for Infant Sleep Products
Supporting Statement
OMB Control #3041-0177

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 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. Although a number of sleep products were specifically mentioned as a durable infant or toddler products in section 104(f)(2), inclined sleep products and the other infant sleep products included in this collection were not. The Commission is proposing a safety standard for infant sleepers incorporating by reference the voluntary standard for infant inclined sleep products issued by ASTM International, ASTM F3118-17a, with significant changes. The modifications include a change of the title and scope and deleting large portions of the standard, including sections 8 and 9, which contain requirements for marking, labeling, and instructional literature. This submission supplants the earlier submission for inclined sleep products, and we have submitted it under the same control number, as the rulemaking has been published as a supplemental proposed rule.

However, products covered by the scope of the proposed safety standard for infant sleep products would need to meet the requirements of the mandatory Safety Standard for Bassinets and Cradles (16 CFR 1218), including its marking, labeling, and instructional requirements. The mandatory Safety Standard for Bassinets and Cradles (16 CFR 1218) incorporates by reference the voluntary standard for bassinets and cradles issued by ASTM International, ASTM F2194-16^{e1}, with no modifications to the marking, labeling, or instructional requirements. Therefore, ASTM F2194-16^{e1} is the relevant standard to refer to for this information collection.

Sections 8 and 9 of ASTM F2194-16^{e1} 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 of ASTM F2194-16^{e1} requires that 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 appear on each bassinet/cradle (and therefore, each infant sleep product) and its retail packaging. Section 8 also requires a code mark or other means on each

product and retail package that indicates the date (month and year as a minimum) of manufacture.

Section 9 of ASTM F2194-16^{e1} requires easy-to-read and understandable instructions to be supplied with bassinets and cradles (and therefore, each infant sleep product). The instructions should include all applicable warning statements, as well as instructions on assembly, adjustment, operating, maintenance, and cleaning, as applicable.

This ICR will be incorporated into the ICR for Third Party Testing of Children's Products (OMB Control No. 3041-0159) the next time it is updated.

2. *Use and sharing of collected information*

The information required in sections 8 and 9 of ASTM F2194-16^{e1} is intended to address safety issues that might arise with the product. The information required in section 8 of ASTM F2194-16^{e1} 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 F2194-16^{e1} is meant to prevent safety problems by providing assembly, adjustment, operating, maintenance, and cleaning information to consumers.

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

Information technology will not be used in these requirements. In the proposed rule, suppliers are required to provide labeling, marking, and instructional literature according to ASTM F2194-16^{e1}. This disclosure is provided with the purchase of the product.

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 standard for infant sleep products is expected to impact small firms. However, the statute requiring this action does not contain an exemption for small firms.

As described in section 12 below, there are 19 firms known currently to be marketing infant sleep products in the United States. Based on U.S. Small Business Administration guidelines, 9 are small (3 small domestic importers and 6 small domestic manufacturers, 2 of which are very small home-based manufacturers).

In regard to the burden associated with sections 8 and 9 of ASTM F2194-16^{e1}, it is expected that the 2 very small home-based manufacturers may need to create warning labels and instructional literature for their infant sleep products, as they may not have already developed

either. The time commitment necessary for these firms could be considerable, as discussed in section 12. For the remaining small firms, even those whose warning labels and/or instructional literature are not in compliance with the voluntary standard, this is unlikely to be the case, as changes to existing labels, markings, and instructional literature do not typically impose a large time requirement.

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 increase significantly, 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. *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 Federal Register (FR) notice for the proposed rule discusses the information collection burden and invites public comment on the CPSC's estimates. Notice 84 FR 60949 was published on November 12, 2019.

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 marking, labeling, and instructional literature is not confidential.

11. *Questions of a sensitive nature*

There are no questions of a sensitive nature.

12. *Estimate of hour burden to respondents*

Section 8 of ASTM F2194-16^{e1} requires that 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 appear on each product and its retail packaging. Section 8 also requires a code mark or other means on each product and retail package that indicates the date (month and year as a minimum) of manufacture.

Nineteen known entities supply infant sleep products to the U.S. market and may need to modify existing, or create new, labels to comply with ASTM F2194-16^{e1}. CPSC estimates that the time required to make modifications is about 1 hour per model, but the time required to create a label from scratch is about 7 hours per model. Based on an evaluation of supplier product lines, all entities supply an average of one infant sleep product.

Therefore, the estimated burden associated with labels for small home-based manufacturers is $7 \text{ hours per model} \times 6 \text{ entities} \times 1 \text{ models per entity} = 42 \text{ hours}$, the estimated burden associated with labels for other suppliers is $1 \text{ hour per model} \times 13 \text{ entities} \times 1 \text{ model per entity} = 13 \text{ hours}$, and the total estimated burden associated with labels is 55 (42 + 13). CPSC estimates the hourly compensation for the time required to create and update labels is \$34.61 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2019, total compensation for all sales and office workers in goods-producing private industries, series id CMU201G000200000D: <http://www.bls.gov/ncs/>). Therefore, the estimated annual cost associated with the proposed labeling requirements is \$1,904 ($\$34.61 \text{ per hour} \times 55 \text{ hours} = \$1,904$). No operating, maintenance, or capital costs are associated with the collection.

Section 9 of ASTM F2194-16^{e1} requires instructions to be supplied with bassinets and cradles (and therefore, each infant sleep product). Under OMB’s regulations, the time, effort, and financial resources necessary to comply with a collection of information incurred by parties in the “normal course of their activities” are excluded from a burden estimate when an agency demonstrates that the disclosure activities required are “usual and customary.” 5 CFR 1320.3(b)(2). As with the warning labels, the reporting burden of this requirement differs for home-based and non-home-based suppliers. We are not aware of any non-home-based manufacturers or importers that generally require use instructions but lack such instructions.

However, it is believed that home-based infant sleep product manufacturers supplying on a very small scale may provide either no instructions or only limited instructions with their products as part of their “normal course of activities.” Based on information collected for the infant slings rulemaking, CPSC staff tentatively estimates that each home-based entity supplying homemade sleep products might require 50 hours to develop an instruction manual to accompany their products. While the number of home-based suppliers of infant sleep products is likely to vary over time, it appears that at the present time there are approximately 6 home-based suppliers of infant sleep products operating in the U.S. market. Therefore, the costs of designing an instruction manual for these firms could be as high as \$10,383 ($50 \text{ hours per model} \times 6 \text{ entities} \times 1 \text{ model per entity} = 300 \text{ hours} \times \$34.61 \text{ per hour} = \$10,383$). Not all firms would incur these costs every year, but new firms that enter the market would and this may be a fluctuating market. As already noted, the other 13 firms are estimated to have no burden hours associated with section 9 of ASTM F2194-16^{e1}, because any burden associated with supplying instructions with

infant sleep products would be “usual and customary” and not within the definition of “burden” under the OMB’s regulations.

Based on this analysis, the proposed standard for infant sleep products would impose a burden to industry of 355 hours at a cost of \$12,287 annually.

13. *Estimates of Other Total Annual Cost Burden to Respondents or Record Keepers*

There are no costs to respondents beyond those presented in Section A.12. There are no further 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 \$3,992, 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 wage rate for a mid-level salaried GS-12 employee in the Washington, DC metropolitan area (effective as of April 2019) is \$94,520 (GS-12, step 5). This represents 68.3 percent of total compensation (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2019, Table 2, percentage of wages and salaries for all civilian management, professional, and related employees: <http://www.bls.gov/ncs/>). Adding an additional 31.7 percent for benefits brings average annual compensation for a mid-level salaried GS-12 employee to \$138,389 or \$66.53 per hour. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$3,992.

15. *Program changes or adjustments*

This is a new information 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.