

SUPPORTING STATEMENT - PART A

Safety Standard for Clothing Storage Units OMB Control Number

1. Need for the Information Collection

The U.S. Consumer Product Safety Commission (Commission or CPSC) has determined preliminarily that there is an unreasonable risk of injury and death, particularly to children, associated with clothing storage units (CSUs) tipping over. To address this risk, the Commission proposes a rule addressing the stability of CSUs. Specifically, the proposed rule would require CSUs to be tested for stability, exceed minimum stability requirements, be marked and labeled with safety information, and bear a hang tag providing performance and technical data about the stability of the CSU. The Commission issues this proposed rule under the authority of the Consumer Product Safety Act (CPSA).

The proposed consumer product safety standard prescribes the safety requirements, including labeling and hang tag requirements, for CSUs. These requirements are intended to reduce or eliminate an unreasonable risk of death or injury to consumers from CSU tip overs. Requirements for marking and labeling, in the form of warning labels, and requirements to provide performance and technical data by labeling, in the form of a hang tag, will provide information to consumers. Warning labels on CSUs will provide warnings to the consumer regarding product use. Hang tags will provide information to the consumer regarding the stability of the unit. These requirements fall within the definition of “collection of information”.

CSUs are “consumer products” that the Commission can regulate under the authority of the CPSA. See 15 U.S.C. 2052(a)(5). Section 7 of the CPSA authorizes the Commission to issue a mandatory consumer product safety standard that consists of performance requirements or requirements that the product be marked with, or accompanied by, warnings or instructions. Section 7 requires the Commission to issue such a standard in accordance with section 9 of the CPSA.

Section 27(e) of the CPSA authorizes the Commission to require, by rule, that manufacturers of consumer products provide to the Commission performance and technical data related to performance and safety as may be required to carry out the purposes of the CPSA, and to give notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of the product, 15 U.S.C. 2076(e). Section 2 of the CPSA provides that one purpose of the CPSA is to “assist consumers in evaluating the comparative safety of consumer products”, 15 U.S.C. 2051(b)(2). Section 14 of the CPSA requires manufacturers, importers, or private labelers

of a consumer product subject to a consumer product safety rule to certify, based on a test of each product or a reasonable testing program, that the product complies with all rules, bans or standards applicable to the product. In the case that a CSU could be considered to be a children's product, certification must be based on testing by an accredited third-party conformity assessment body. The proposed rule for CSUs specifies that a test procedure be used to determine whether a CSU complies with the requirements.

2. Use of the Information

Identification and labeling requirements will provide information to consumers and regulators needed to locate and recall noncomplying products. Identification and labeling requirements include content such as the name and address of the manufacturer. Warning labels will provide information to consumers on hazards and risks associated with product use. Warning label requirements include size, content, format, location, and permanency.

The standard requires that CSU manufacturers, attached to every CSU, provide technical information for consumers on a hang tag at the point of purchase. The information provided on the hang tag would allow consumers to make informed decisions on the comparative stability of CSUs when making a purchase and would provide a competitive incentive for manufactures to improve the stability of CSUs. Specifically, the manufacturer of a CSU would provide a hang tag that explains the stability of the unit. CSU hang tag requirements include content, size, format, attachment, and placement requirements. The hang tag provides a stability rating for the CSU, based on required tests, and explains how the stability rating is determined; it also contains safety information related to the stability of CSUs.

For products that manufacturers certify, manufacturers would issue a general certificate of conformity (GCC). The requirements for the GCC are stated in section 14 of the CPSA. Among other requirements, each certificate must identify the manufacturer or private labeler issuing the certificate and any third-party conformity assessment body, on whose testing the certificate depends, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information of the individual responsible for maintain records of test results. The certificates must be in English. The certificates must be furnished to each distributor or retailer of the product and to CPSC, if requested.

3. Use of Information Technology

The required labeling and hang tags cannot be electronic.

4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

5. Burden on Small Businesses

The proposed rule would apply to small entities that manufacture or import CSUs. According to Small Business Association guidelines, the majority of firms supplying the market for CSUs would be considered small. Small manufacturers and importers will incur added costs of required warning labels and hang tags with comparative tip ratings. Those manufacturers currently using permanent warning labels in conformance with ASTM F2057-19, should not face significant incremental costs for the replacement labels specified by the proposed rule. The required hang tags showing tip ratings for each CSU would involve some incremental costs, although likely to be minor in relation to other product modifications required for compliance. Testing costs needed to generate the tip ratings will be incurred by small firms to comply with the performance testing requirements of the proposed rule.

To mitigate burden on small businesses, CPSC provides a variety of resources to help both new and experienced small businesses learn about safety requirements that apply to consumer products. These resources include the CPSC Regulatory Robot, small business education videos, and the Small Business Ombudsman. Many of these resources can be accessed online at: <https://www.cpsc.gov/Business--Manufacturing/Business-Education>. Small firms can reach the Small Business Ombudsman directly by calling (888) 531-9070.

6. Less Frequent Collection

Identification and labeling requirements will provide information to consumers and regulators needed to locate and recall noncomplying products. Hang tags provide information to consumers to compare the relative stability of CSUs when making purchasing decisions. Labels and hang tags provide information to consumers for safe CSU use.

If the information is not provided, consequences would include reduced ability for consumers or regulators to identify, locate or recall noncomplying products, a reduced ability for consumers to compare the relative stability of CSUs when making purchasing decisions, and a reduction of information on safe CSU use.

7. Paperwork Reduction Act Guidelines

This collection of information does not require collection to be conducted in a manner inconsistent with the guidelines delineated in 5 CFR 1320.5(d)(2).

8. Consultation and Public Comments

Part A: PUBLIC NOTICE

A 60-Day Federal Register Notice (FR) for the collection published on Thursday, February 3, 2022. The 60-Day FR citation is 87 FR 6246.

CPSC has submitted the information collection requirements of this rule to OMB for review, in accordance with PRA requirements. CPSC requests that interested parties submit comments regarding information collection on:

- Whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility;
- The accuracy of CPSC's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information the Commission proposed to collect;
- Ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology;
- The estimated burden hours associated with labels and hang tags, including any alternative estimates; and
- The estimated respondent cost other than burden hour cost.

The comment period for the FR notice closes on April 19, 2022.

Part B: CONSULTATION

The proposed rule incorporates by reference ASTM F2057-19. During the NPR comment period, a read-only copy of ASTM F2057-19 is available for viewing on ASTM's website at: <https://www.astm.org/CPSC.htm>.

9. Gifts or Payment

No payments or gifts are being offered to respondents as an incentive to participate in the collection.

10. Confidentiality

A Privacy Act Statement is not required for this collection because we are not requesting individuals to furnish personal information for a system of records. A System of Record Notice (SORN) is not required for this collection because records are not retrievable by PII. A Privacy Impact Assessment (PIA) is not required for this collection because PII is not being collected electronically.

11. Sensitive Questions

This collection does not include any questions of a sensitive nature.

12. Respondent Burden and its Labor Costs

Part A: ESTIMATION OF RESPONDENT BURDEN

Respondents include manufacturers and importers of CSUs. Manufacturers and importers will have to comply with the information collection requirements when the CSUs are manufactured or imported.

The two main drivers of hourly burden imposed on firms are labeling and third-party testing. The annual burden from labeling includes: i) the time it will take firms to design and update hang tags and identification labeling, including warning labels; and ii) the hourly burden of physically attaching the labels and hang tags to all CSUs sold domestically. The annual burden for third-party testing is the number of hours required to perform third-party testing and maintain records on a subset of CSUs deemed as for children's use.

CPSC estimates there are 7,000 manufacturers/suppliers of CSUs within the scope of this PRA. CPSC estimates that there are about 35,000 different models of CSUs, or an average of 5 models per manufacturer/supplier. CPSC estimates that it could take an hour for a manufacturer/supplier to design the hang tags and identification labeling, and that the design could be used for a period of five years, or until the CSU is redesigned. At 60 minutes per hangtag design and an average of 5 models per firm, the average annual hourly burden per firm for designing hang tags is 1 hour ($60 \text{ min} \times 5 \text{ models} \div 5 \text{ years}$). Therefore, for 7,000 firms, the total annual burden in the design of labels would be 7,000 hours.

Manufacturers will also have to place a hang tag on each CSU sold. In 2018, about 43.6 million CSUs were sold in the United States. CPSC estimates it could take 0.06 minutes (3.6 seconds) for a supplier to attach a hang tag to each of the 43.6 million CSUs sold in the United States annually. Attaching a hang tag to every CSU sold would amount to a total annual burden of 43,600 hours for the entire industry ($0.06 \text{ min} \times 43,600,000 \text{ CSUs}$).

In addition, three types of third-party testing of children's products are required: Certification testing, material change testing, and periodic testing. Requirements state that manufacturers conduct sufficient testing to ensure that they have a high degree of assurance that their children's products comply with all applicable children's product safety rules before such products are introduced into commerce. If a manufacturer conducts periodic testing, it is required to keep records that describe how the samples of periodic testing are selected. The hour burden of recordkeeping requirements will likely vary greatly from product to product, depending on such factors as the complexity of the product and the amount of testing that must be documented. Therefore, estimates of the hour burden of the recordkeeping requirements are somewhat speculative. CPSC estimates that 1 out of 20,000 (0.05 percent) CSUs sold annually, or 21,800 CSUs, are children's products and would be subject to third-party testing, for which 3 hours of recordkeeping and record maintenance will be required. Thus, the total hourly burden of the recordkeeping associated with certification is 65,400 hours ($3 \text{ hours} \times 21,800 \text{ children's CSUs}$).

Table. Estimated Annual Reporting Burden

Burden type	Type of supplier	Total annual responses	Average length of response per year	Annual burden (hours)
Labeling, design and update	Manufacturer or Importer	35,000	12 min.	7,000
Labeling, attachment	Manufacturer, Importer, Retailer	43.6 million	.06 min.	43,600
Third-party recordkeeping, certification	Manufacturers of Children's CSUs	21,800	3 hrs.	65,400
Total Hourly Burden				116,000

Part B: LABOR COST OF RESPONDENT BURDEN

According to the U.S. Bureau of Labor Statistics (BLS), Employer Costs for Employee Compensation, the total compensation cost per hour worked for all private industry workers was \$36.64 (March 2021, Table 4, <https://www.bls.gov/news.release/pdf/ecec.pdf>). Based on this analysis, CPSC staff estimates that the labor cost of respondent burden would impose a cost to industry of approximately \$4,250,240 annually (116,000 hours × \$36.64 per hour).

13. Respondent Costs Other Than Burden Hour Costs

In addition to the labor burden costs addressed above, the hang tag requirement imposes additional annualized costs. These costs include capital costs for cardstock used for each hang tag to be displayed and the wire or string used to attach the hang tag to the CSU.

CPSC estimates the cost of the printed hang tag and wire for attaching the hang tag to the CSU will be about \$0.10. Therefore, the total cost of the materials to industry would be about \$4.36 million per year (\$0.10 × 43.6 million units).

14. Cost to the Federal Government

The estimated annual cost of the information collection requirements to the federal government is approximately \$4,172, which includes 60 staff hours to examine and evaluate the information as needed for Compliance activities. This is based on a GS-12, step 5 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 2021) is \$47.35 (GS-12, step 5). This represents 68.1 percent of total compensation (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," March 2021, Table 2, percentage of wages and salaries for all civilian management, professional, and related employees: <https://www.bls.gov/news.release/ecec.t02.htm>). Adding an additional 31.9 percent for benefits brings average annual compensation for mid-level salaried GS-12 employee to \$69.53 per hour. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$4,172 (\$69.53 per hour × 60 hours = \$4,171.80).

15. Reasons for Change in Burden

This is a new collection with a new associated burden.

16. Publication of Results

Identification and labeling requirements will provide information to consumers and regulators needed to locate and recall noncomplying products. Information collected will be used by consumers and regulators to identify, locate or recall noncomplying products.

17. Non-Display of OMB Expiration Date

We are not seeking approval to omit the display of the expiration date of the OMB approval on the collection instrument.

18. Exceptions to "Certification for Paperwork Reduction Submissions"

We are not requesting any exemptions to the provisions stated in 5 CFR 1320.9.