

SUPPORTING STATEMENT - PART A

Safety Standard for Adult Portable Bedrails

OMB Control Number 3041-0192

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 associated with entrapment hazards from adult portable bed rails (APBRs). To address these risks, the Commission proposes a rule under the Consumer Product Safety Act (CPSA) to require that APBRs meet the requirements of the applicable voluntary standard on APBRs, with modifications.

This rulemaking is authorized by the CPSA. 15 U.S.C. 2051-2084. Section 7(a) of the CPSA authorizes the Commission to promulgate a mandatory consumer product safety standard that sets forth performance or labeling requirements for a consumer product, if such requirements are reasonably necessary to prevent or reduce an unreasonable risk of injury. 15 U.S.C. 2056(a). Section 9 of the CPSA specifies the procedure that the Commission must follow to issue a consumer product safety standard under section 7 of the CPSA. In accordance with section 9, the Commission is commencing this rulemaking by issuing an NPR.

The rule would require each APBR to comply with ASTM F3186-17, Standard Specification for Adult Portable Bed Rails and Related Products, with modifications. Sections 9, 10, and 11 of ASTM F3186-17 contain requirements for labels, warnings and instructional literature.

2. Use of the Information

CPSA expects that entities who manufacture or import APBRs to the U.S. market will have a burden associated with this collection of information. Specifically, CPSC expects that all known entities who currently supply APBRs to the U.S. market will need to make modifications to their existing labels, to comply with ASTM 3186-17 labeling and informational requirements.

The rule would also require instructions to be supplied with the product. Under OMB's regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the "normal course of their activities" are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are "usual and customary." APBRs require installation on an existing bed, which implies instructions for proper use, fit and position on a bed, as well as cleaning are necessary. While many APBR entities already

provide some instructional material, CPSC expects all will need to make some modifications to existing material.

3. Use of Information Technology

Though entities may provide additional warnings electronically, the required safety warnings and labeling on APBRs is not electronic. Non-electronic warnings and instructions are required to beneficially address the risk of injuries and death associated with APBRs.

4. Non-duplication

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

5. Burden on Small Businesses

Generally, CPSC considers an impact to be potentially significant if it exceeds 1 percent of firm's gross revenue. Staff identified seven APBR manufacturers that meet SBA size standards for small businesses, and staff identified one possible importer of APBRs from foreign suppliers that would be considered small based on SBA size standards.

This information collection does not impose a significant economic impact on a substantial number of small businesses or entities.

If the rule becomes final 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

Labeling requirements and instructional literature will provide information to consumers needed to safely use the product and sufficient information to regulators should there be a need to locate and recall noncomplying products. If required information is not provided, consequences would include a reduced ability for consumers to safely use the product or regulators to identify, locate or recall noncomplying products.

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 Federal Register Notice (87 FR 67586) for the proposed collection published on Wednesday, November 9, 2022. Interested persons were requested to submit comments regarding information collection by December 9, 2022, to the Office of Information and Regulatory Affairs, OMB. (87 FR 67606). No comments were received.

Part B: CONSULTATION

Since 2013, the CPSC has consulted extensively with organizations during the development of the rule. Also in 2013, ASTM International (ASTM) formed the ASTM F15.70 subcommittee to begin developing a voluntary standard for APBRs and staff participated in the ASTM F15.70 subcommittee to develop the voluntary standard for APBRs. In August 2017, ASTM published the voluntary standard, ASTM F3186-17, Standard Specification for Adult Portable Bed Rails and Related Products.

9. Gifts or Payment

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

10. Confidentiality

No assurances of confidentiality are being offered to respondents participating in the collection.

11. Sensitive Questions

No questions considered sensitive are being asked in this collection.

12. Respondent Burden and its Labor Costs

Staff estimates the burden of this collection of information as follows:

Table – Estimated Annual Reporting Burden

Burden type	Number of responses	Frequency of response	Total annual responses	Hours per response	Total burden hours	Annual cost
Labeling	12	6	72	8	576	\$20,304
Instructional literature	12	6	72	24	1,728	\$60,912
Total Burden	—	—	—	—	2,304	\$81,216

Our estimate is based on the following. There are 12 known entities supplying APBRs to the U.S. market. On average, each entity supplies six APBR models to the market. All 12 entities are assumed to already use labels on both their products and packaging. However, none of the APBR models tested comply with ASTM F3186-17 labeling and information requirements. CPSC therefore expects all entities will need to make modifications to their existing labels. The estimated time required to make these modifications is about eight hours per model. Each entity supplies an average of six different APBR models. Therefore, the estimated burden associated with labels is 576 hours (12 entities × 6 models per entity × 8 hours per model = 576 hours).

We estimate the hourly compensation for the time required to create and update labels is \$35.25 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2022, total compensation for all sales and office workers in goods-producing private industries: www.bls.gov/ncs/.) Therefore, the estimated annual cost to industry associated with the labeling requirements is \$20,304 (\$35.25 per hour × 576 hours).

The rule would also require instructions to be supplied with the product. Under the OMB’s regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the “normal course of their activities” are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are “usual and customary.” APBRs require installation on an existing bed, which implies instructions for proper use, fit, and position on a bed, as well as cleaning are necessary. While many APBR entities already provide some instructional material, CPSC expects all will need to make some modifications to existing material. The estimated time to modify the instructional material is 24 hours per model. Each entity supplies an average of six different APBR models. Therefore, the estimated burden associated with instructional literature is 1,728 hours (12 entities × 6 models per entity × 24 hours per model). We estimate the hourly compensation for the time required to create and update instructional material is \$35.25 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2022), total compensation for all sales and office workers in goods-producing private industries: www.bls.gov/ncs/). Therefore, the estimated annual cost to industry associated with the instructional material requirements is \$60,912 (\$35.25 per hour × 1,728 hours).

Based on this analysis, the proposed standard for APBRs would impose a burden to industry of 2,304 hours, at an estimated cost of \$81,216 annually (\$20,304 + \$60,912). Existing APBR entities would incur these costs in the first year following the rule’s effective date. In subsequent years, costs could be less, depending on the number of new APBR models introduced by existing entities and/or by entities entering the APBR market.

13. Respondent Costs Other Than Burden Hour Costs

There are no operating, maintenance, or capital costs associated with the collection and there are no annualized costs to respondents other than the labor burden costs addressed in Section 12 of this document to complete this collection.

14. Cost to the Federal Government

Part A: LABOR COST TO THE FEDERAL GOVERNMENT

The estimated annual cost of the information collection requirements to the federal government is approximately \$1,719, which includes 24 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 2022) is \$48.78 (GS-12, step 5). This represents 68.1 percent of total compensation (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2022, Table 2, percentage of wages and salaries for all civilian management, professional, and related employees: https://www.bls.gov/news.release/archives/ecec_09202022.pdf). Adding an additional 31.9 percent for benefits brings average annual compensation for mid-level salaried GS-12 employee to \$71.63 per hour. Assuming that approximately 24 hours will be required annually, this results in an annual cost of \$1,719 ($\$71.63 \text{ per hour} \times 24 \text{ hours} = \$1,719.12$).

Part B: OPERATIONAL AND MAINTENANCE COSTS TO THE FEDERAL GOVERNMENT

There are no operating, maintenance, or capital costs to the federal government associated with the collection.

15. Reasons for Change in Burden

There has been no change in burden. This is a new collection with a new associated burden.

16. Publication of Results

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.