



441 G St. N.W.
Washington, DC 20548

B-334879

June 8, 2023

The Honorable Maria Cantwell
Chair
The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Consumer Product Safety Commission: Safety Standard for Clothing Storage Units*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Consumer Product Safety Commission (CPSC) entitled "Safety Standard for Clothing Storage Units" (CPSC-2017-0044).¹ We received the rule on December 16, 2022. It was published in the *Federal Register* as a final rule on November 25, 2022. 87 Fed. Reg. 72598. The effective date is May 24, 2023.

¹ GAO received this major rule on December 16, 2022. When assessing compliance with the 60-day delay, we reviewed the *Congressional Record* to see if the rule had been received by both houses of Congress. The *Congressional Record* showed the House of Representatives received the rule on December 23, 2022. 168 Cong. Rec. H10540 (daily ed. Dec. 30, 2022). The *Record* did not indicate whether the Senate received the rule. We reached out to the agency to seek documentation of receipt by the Senate. Email from Senior Attorney, GAO, to Assistant General Counsel, CPSC, *Subject: RE: Congressional Review Act - Safety Standard for Clothing Storage* (Mar. 30, 2023). The agency stated it did not have the requested documentation but did submit the rule to the Senate. Email from Assistant General Counsel, CPSC, to Senior Attorney, GAO, *Subject: RE: Congressional Review Act - Safety Standard for Clothing Storage* (Mar. 30, 2023). Based on this information, we held this report until we could confirm Senate receipt. On May 4, 2023, CPSC published a new final rule in the *Federal Register*. 88 Fed. Reg. 28403. In this rule, CPSC stated a new final rule was required under the STURDY Act because a voluntary standard had been adopted by industry. In the new final rule, CPSC stayed the original rule so that it would not take effect. *Id.* at 28406. Because the original rule will not take effect, we determined holding this report was no longer necessary. We are issuing this report nevertheless to fulfill our reporting responsibility with regard to the original rule.

According to CPSC, the final rule requires clothing storage units to be tested for stability, exceed minimum stability requirements, bear labels containing safety and identification information, and display a hang tag providing performance and technical data about the stability of the clothing storage unit. CPSC stated it issued the final rule because it determined that there is an unreasonable risk of injury and death, particularly to children, associated with clothing storage units tipping over.

Enclosed is our assessment of CPSC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Daniel R. Vice
Assistant General Counsel
Regulatory Affairs
Consumer Product Safety Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
CONSUMER PRODUCT SAFETY COMMISSION
ENTITLED
“SAFETY STANDARD FOR CLOTHING STORAGE UNITS”
(CPSC-2017-0044)

(i) Cost-benefit analysis

The Consumer Product Safety Commission (CPSC) estimated the total annual benefits of the final rule to be \$307.17 million. CPSC further estimated the annual costs of the final rule to be \$250.9 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

CPSC performed a Final Regulatory Flexibility Analysis. The Analysis discussed: (1) a statement of the need for and objectives of the rule; (2) significant issues raised by commenters; (3) a response to comments filed by the Chief Counsel for Advocacy of the U.S. Small Business Administration; (4) a description and estimate of the number of small entities to which the rule will apply; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule; and (6) steps the agency has taken to minimize the significant economic impact on small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

As an independent regulatory commission, CPSC is not subject to the requirements of the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On February 3, 2022, CPSC issued a proposed rule. 87 Fed. Reg. 6246. CPSC received 66 written comments on the proposed rule and 8 oral comments at the public hearing. CPSC responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

CPSC determined the final rule contained information collection requirements (ICRs) subject to the Act. The ICRs are associated with Office of Management and Budget (OMB) Control Number 3041-0191, and CPSC estimated the annual burden hours to be 22,825.

Statutory authorization for the rule

CPSC promulgated the final rule pursuant to sections 2051, 2056, 2058, 2063, and 2076 of title 15, United States Code, as well as Public Law 110-314.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory commission, CPSC is not subject to the requirements of the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory commission, CPSC is not subject to the requirements of the Order.