

**OMB 83-I SUPPORTING STATEMENT FOR
INFORMATION COLLECTION REQUEST ON
UPHOLSTERED FURNITURE**

A. Justification

1. Information to be collected and circumstances that make the collection of information necessary

The U.S. Consumer Product Safety Commission (CPSC) protects the public against unreasonable risks of injuries associated with consumer products. The Commission is proposing a flammability standard for residential upholstered furniture under the authority of the Flammable Fabrics Act (FFA). This proposed standard would reduce fire-related deaths, injuries and property damage associated with ignitions of upholstered furniture by requiring that upholstery materials meet flammability performance requirements (see attached NPR).

The proposed standard prescribes a test to assure that fabric used in upholstered furniture will resist ignition from a smoldering cigarette. The test method also provides alternative open flame and smoldering tests for barriers that could be placed between the cover fabric and interior filling materials. Under the proposal, manufacturers (including importers) of upholstered furniture would choose one of these two methods to meet the requirements of the standard, and would have to comply with certification and labeling requirements. The proposed regulation that implements the standard requires the manufacturer or importer to maintain records of testing in accordance with the standard for as long as a particular fabric or model of furniture is in production, and for a period of three years thereafter. Records must be made available to CPSC representatives upon request. Such requests are generally made during an onsite inspection to assure compliance with a standard. If the records required are not maintained, the Commission would initiate testing to determine whether manufacturers/importers are in compliance.

2. Use and sharing of collected information and impact on privacy

The proposed required recordkeeping would be used to assure compliance. The records are retained by the firm and made available to a designated officer or employee of the Commission as necessary upon request. Such requests would generally be made during an on-site inspection to assure compliance with the standard. The proposal prescribes tests that would establish compliance with the performance requirements. There are no periodic testing or reporting requirements in the proposed rule. The collected information is not shared with the public. This information collection does not require an IT or other electronic system and does not involve information collection in “identifiable form.” Therefore, no Privacy Impact Analysis is required for this information collection.

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

The collection of information does not require electronic submission of responses. Information must be made available to a designated officer or employee of the Commission during an on-site inspection.

4. Efforts to identify duplication

The recordkeeping requirements were reviewed for potential duplication by CPSC. No duplication of recordkeeping requirements with any other federal rule was identified. The state of California has a regulation in effect for upholstered furniture sold in that state. The California regulation requires record retention similar but not identical to that required under the CPSC proposal. The California records would generally be superseded by records developed and maintained by firms to comply with the CPSC proposal.

5. Impact on small business

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed rules for their potential economic impact on small entities, including small businesses. Section 603 of the RFA calls for agencies to prepare and make available for public comments an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities and identifying impact-reducing alternatives. The staff prepared an analysis for the proposed rule that is summarized in the NPR. Of the nearly 2,000 firms that could be required to develop and maintain records under the proposed rule, over 95% are small businesses. Small firms are projected to account for approximately 33% of U.S. furniture shipments subject to the proposal, or about 10 million units per year.

Manufacturers and importers of furniture and suppliers of component materials generally produce and retain records for a variety of purposes, including but not limited to flammability performance. Compliance verification costs, including labeling and recordkeeping costs, are estimated at an average of about \$0.10 per unit, for large and small firms; the recordkeeping element of this per-unit cost may be about \$0.05. Smaller firms with limited product lines would bear lower total costs than larger firms with broad product lines. For the estimated 10 million units produced or imported by small firms, estimated annual recordkeeping costs may be about \$500,000. Records development costs may be higher in the first year of compliance, when existing products would have to be certified as complying, and lower in subsequent years when records would only be developed for new products. The proposed rule and its recordkeeping requirements would probably not impose a substantial cost burden on small firms.

6. Consequence to Federal program or policy activities if collection is not conducted or is conducted less frequently

If the recordkeeping required by the proposed standard were reduced or eliminated, the level of assurance that production units of upholstered furniture comply with the performance requirements would be reduced, and the level of protection afforded to consumers by the proposed standard could be reduced. If the records required by the proposed standard were not maintained, the Commission would be unable to determine whether manufacturers and importers of upholstered furniture were in compliance.

7. Special circumstances requiring respondents to report information more often than quarterly or to prepare responses in fewer than 30 days

Not applicable.

8. Agency's Federal Register Notice and related information

See Notice of Proposed Rulemaking.

9. Decision to provide payment or gift

There is no payment or gift associated with this collection effort.

10. Assurance of confidentiality

Any information required to be maintained by the Commission's proposed rule that the manufacturer or importer claims to be confidential is subject to procedures for withholding confidential information from public disclosure set forth at 16 C.F.R. Part 1015, Subpart B.

11. Questions of a sensitive nature

Not applicable. The information collection will not include questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, or other matters commonly considered private.

12. Estimate of hour burden to respondents

The proposed rule would require manufacturers (including importers) to develop and maintain records sufficient to demonstrate that each article of upholstered furniture sold in the U.S. complies with the specified performance, certification and labeling requirements. The records must be based on reasonable and representative tests, the extent of which is determined by the firms subject to the proposal. The test record documents must be retained for three years after production of each model of furniture or material ceases. In the case of foreign manufacturers, this documentation will have to be provided to the U.S.-based importer and it is the importer that will be required to maintain the records.

CPSC estimates that about 1,700 manufacturers and importers, and about 100-200 fabric and barrier suppliers, would develop and maintain records under the proposed rule. One record for each certified material would be retained. Manufacturers and importers would retain records for finished articles of furniture to support guaranties of compliance issued to retailers, and material suppliers would retain records to support guaranties of compliance for fabrics and barriers sold to furniture manufacturers.

Burden hours will vary for manufacturers, depending on unit production volumes and product lines offered. CPSC estimates that the average burden for creation and maintenance of records could be about 45 hours. Total burden hours for the estimated 1,800 to 1,900 affected firms would be 81,000 to 85,500.

It should be noted that many manufacturers conduct or sponsor tests and maintain records to conform to existing voluntary guidelines established by the Upholstered Furniture Action Council (UFAC), or to comply with applicable mandatory requirements of an existing California Bureau of Home Furnishings and Thermal Insulation (BHFTI) regulation known as

Technical Bulletin 117. Many firms, therefore, already perform flammability tests and retain records similar to those called for in the proposed CPSC rule.

13. Estimate of total annual cost burden to respondents

As noted in section 12, above, many firms already create and maintain records similar to those called for in the proposed rule. Also, many firms keep other records of product characteristics and shipments that are unrelated to flammability. Based on these circumstances, the proposed CPSC rule would not require additional capital expenditures to establish and maintain systems for maintaining records. Therefore, the total annual cost burden to respondents under the proposed rule would almost exclusively result from the costs associated with the burden hours discussed in section 12. According to *Occupational Employment Statistics* published by the Bureau of Labor Statistics, the mean hourly wage paid by firms involved in furniture manufacturing (May 2006) for “Weighers, Measurers, Checkers, and Samplers, Recordkeeping” is \$14.25. Employee overhead and fringe benefits of perhaps 35 percent could increase the average effective hourly burden cost to about \$19.24 per hour. Based on the estimated burden of 81,000 to 85,000 hours, the estimated total annual cost burden to respondents would be about \$1.6 million.

14. Estimate of annualized costs to the Federal government

The costs to the government include inspections of manufacturers and importers, examinations of records and related agency costs of compliance verification. At an average weighted cost of about \$52.84 per hour, costs are estimated to be about \$126,000 (2,400 staff hours X \$52.84) over the first three years, or an average of \$42,266 per year.

15. Program changes or adjustments

This is a new information collection; therefore, no program changes or adjustments are involved.

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. Collections of Information Employing Statistical Methods

Not applicable.