

Information Collection Request
Standards for the Flammability of Children's Sleepwear sizes 0-6X and sizes 7-14
Supporting Statement

A. Justification

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

The Standard for the Flammability of Children's Sleepwear, sizes 0-6X was issued in 1971 and became effective on July 29, 1972. The Standard for the Flammability of Children's Sleepwear, Sizes 7-14 was issued in 1974 and became effective on May 1, 1975. Both standards were issued under Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) to reduce the unreasonable risk of burn injuries and deaths associated with children's sleepwear.

The standards, which are substantially similar, establish flammability performance requirements for all children's sleepwear garments and fabric intended for use in such garments. To meet the acceptance criteria of the standard, samples of a fabric or garment must burn slowly and self extinguish once the flame source is removed.

The children's sleepwear flammability standards require manufacturers and importers of children's sleepwear garments and fabrics to perform periodic testing of representative samples to assure that children's sleepwear items meet the performance requirements of the standards. Enforcement rules implementing the sleepwear standards require manufacturers and importers to establish and maintain records of the testing required by the standard for a period of three years.

On May 12, 1983 (48 FR 21310), the Commission issued amendments to reduce the information collection burden imposed on the regulated industry by the standards and enforcement rules. The enforcement rules were amended to allow manufacturers and importers of items subject to the standards to use apparatus or procedures other than those described in the standard for the purpose of performing the pre-market testing required by the standards, provided that the tests utilizing such alternate apparatus and procedures are as stringent as, or more stringent than, tests using the apparatus and procedures described in the standards.

2. Use and sharing of collected information

The required recordkeeping is used to assure compliance with the standards. The records are retained by the firm and made available to a designated officer or employee of the Commission at his or her request. Such

requests are generally made during an on-site inspection to assure compliance with the standards.

If the records required by the enforcement rules were not maintained, the Commission would be unable to determine whether manufacturers and importers of items subject to the children's sleepwear standards are in compliance with the requirements of those standards.

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

As noted in item 1 above, the Commission amended the rules in 1983 to allow use of newly developed test equipment that would enable testing to be performed more quickly and at a lower cost. The Commission began the proceeding to issue these amendments after receiving a request from a manufacturer of children's sleepwear for approval of alternate test apparatus. At the option of the firm, any technology including electronic recordkeeping, to compile and maintain business records may be used to comply with the regulations. Information is not normally submitted to CPSC unless specifically requested during compliance related activities.

4. Efforts to identify duplication

The recordkeeping requirements were reviewed for potential duplication by the Commission, by members of the affected industry, and by other interested parties during the proceedings to develop the enforcement rules for both flammability standards. These proceedings included opportunity for submission of written comments by the affected industry and other interested parties. We are unaware of any duplication of this information.

5. Impact on small business

The standards and enforcement rules affect many small firms, because most children's sleepwear manufacturers are small firms. Several small firms initially expressed concern about the burden imposed by the standards. However, information available to the Commission indicates that only a few of the firms subsequently discontinued the manufacture of children's sleepwear garments because of the burden imposed by the standards or enforcement rules.

Over time, the Commission has looked for ways to reduce the burden without reducing the protection to consumers. In 1989, in accordance with Section 610 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 610), the Commission reviewed all standards issued under the Flammable Fabrics Act, including the children's sleepwear standards. The Commission concluded that no further action was warranted under the provisions of the RFA. A copy of the report accompanied the renewal request submitted in 1989.

In November 1991, the Commission established a project to consider amending the standards. The amendment which would exempt tight fitting garments and garments intended for infants was being considered due to changes in the marketplace and consumer preference. A preliminary review of available data revealed a low risk of injury associated with these garment categories.

In January 1993, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) and invited interested persons to submit written comments on the ANPR. After consideration of comments received, information compiled by the staff and information presented at an oral briefing by the staff, the Commission decided to propose amending the standards. The proposed amendment was published on October 25, 1994. On September 9, 1996 the Commission voted to amend the children's sleepwear standards. The amendments exempt "tight-fitting" sleepwear and all garments sized 9 months and under from the requirements of the sleepwear flammability standards. Technical changes to this amendment were proposed at a later date, and finalized on January 19, 1999 and June 18, 1999.

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

If the amount of testing required by the standards was reduced, the assurance that items from production units meet the performance requirements of the standards would be reduced, and the protection afforded by the standards would be reduced. Each of the children's sleepwear standards contains a sampling plan, which is a schedule for sampling and testing of items subject to the requirements of the standard before those items can be released for sale. The sampling plan in each standard prescribes an amount of testing which has been calculated to provide a high degree of assurance that items from production units which have been sampled and tested with acceptable results will meet the performance requirements of the standard, and will protect children from burn injuries which might otherwise result from accidental ignition of sleepwear.

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

Not applicable. There no circumstances that would require respondents to report information more often than quarterly or to prepare responses in fewer than 30 days.

8. Agency's Federal Register Notice and related information

A notice was published in the Federal Register on April 16, 2009. No comments were received.

9. Decision to provide payment or gift

Not applicable. There are no payments or gifts to respondents.

10. Assurance of confidentiality

Any information required to be maintained by the standards and enforcement rules which the manufacturer or importer claims to be confidential is subject to procedures for withholding confidential information from public disclosure set forth at 16 CFR Part 1015, subpart B.

11. Questions of a sensitive nature

Not applicable. There are no questions of a sensitive nature.

12. Estimate of hour burden to respondents

The Commission staff attempted to estimate the cost to the industry of the testing to comply with the requirements in the standards and enforcement rules. The Commission staff reviewed information collected during past firm inspections and spoke with a representative of the American Apparel and Footwear Manufacturers Association.

A review of American Apparel and Footwear Association (AAFA) and Juvenile Products Manufacturers Association (JPMA) members, combined with earlier research, reveals approximately 62 firms supplying children's sleepwear to the U.S. market.

The AAFA has estimated that to meet the requirements of the two standards, its members perform more than 2,000 tests and each that take three hours per test. Assuming the same holds true for non-member firms, the Commission staff estimates that these standards and implementing regulations will impose an average annual burden of about 6,000 hours on each of those firms (2,000 tests x 3 hours). That burden will result from conducting the testing required by the standards and maintaining records of the results of that testing required by the implementing regulations. The total annual burden imposed by the standard and regulations on all manufacturers and importers of children's sleepwear will be about 372,000 hours (62 firms x 6,000).

13. Estimate of total annual cost burden to respondents

The annual cost to the industry is estimated to be \$20,415,360 based on an hourly wage of \$54.88 (Bureau of Labor Statistics, All workers, goods-producing industries, management, professional and related, September 2008) x 372,000 hours.

14. Estimate of annualized costs to the Federal government

The estimated cost of the information collection requirements to the Federal government is approximately \$41,516.80. This is based on an estimated three staff months for examination of the information in records required to be maintained by the standards and regulations. This estimate uses an average wage rate of \$55.97 per hour (the equivalent of a GS-14 Step 5 employee) with an additional 29.9 percent added for benefits (BLS, September 2008, percentage of total benefits for all civilian management, professional, and related employees) or \$79.84 per hour x 520 hours.

15. Program changes or adjustments

Based on recent experience, CPSC staff have revised their estimates of the number of firms from 53 to 62. In past submission, we reported number of respondents rather than total number of responses. This submission reports total number of respondents is 62 and each respondent may conduct 2,000 tests for a total of 124,000 responses.

16. Plans for tabulation and publication

Collection of information results will not be published.

17. Rationale for not displaying the expiration date for OMB approval

We are not seeking approval to not display the expiration date for OMB approval of the information collection.

18. Exception to the certification statement

There are no exceptions to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. Statistical Methods

The information collection requirements in the standards and enforcement rules do not employ statistical methods.