

OMB INFORMATION COLLECTION

Supporting Statement

Chronic Hazard Advisory Panel Questionnaire

A. Justification

1. Circumstances Necessitating Information Collection

Section 108(b)(2)(A) of the Consumer Product Safety Improvements Act of 2008 (CPSIA) (Pub. Law 110-314) requires the Consumer Product Safety Commission (CPSC) to “begin the process of appointing a Chronic Hazard Advisory Panel” (CHAP) pursuant to 15 U.S.C. 2077 to “study the effects on children’s health of all phthalates and phthalate alternatives as used in children’s toys and child care articles.” Section 108(b)(2)(B) of the CPSIA specifies what the panel is to examine and requires the panel to complete its examination within 18 months after its appointment. The panel must report to the CPSC no later than 180 days after completing its examination, and, no later than 180 days after receiving the panel’s report, the CPSC must promulgate a final rule to determine whether an interim prohibition on three specific phthalates should remain in effect “in order to ensure a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety” and evaluate the panel’s findings and recommendations and “declare any children’s product containing any phthalates to be a banned hazardous substance” under 15 U.S.C. 2057 “as the Commission determines necessary to protect the health of children.”

The CPSC is requesting emergency processing by the Office of Management and Budget (OMB) under 5 CFR 1320.13 of a new collection of information. The CPSC intends to provide a questionnaire to panel candidates to identify potential conflicts of interest. The new collection of information would be 27 hours.

The questionnaire would ask panel candidates about:

- Employment affiliation, including the candidate’s current position and description of duties, the employer’s name and address, the type of organization (e.g., health care, manufacturing, educational), and consulting work and grants; and
- Financial interests, including companies in which the candidate, the candidate’s spouse, or minor children own or in which he/she is a partner, companies or trusts in which the candidate, the candidate’s spouse, or minor children hold securities that are worth more than \$15,000 or pay more than \$500 per year, and any other information that might relate to questions of compensation from or substantial financial interest in any manufacturer, distributor, or retailer of a consumer product.

The Commission believes that the collection of information is needed before the expiration of time periods established in 5 CFR 1320.10 because selection of the CHAP members obviously must occur before the CHAP can conduct its examinations and

prepare its report, within the timeframes established by the CPSIA, and before the Commission can evaluate the report and promulgate a final rule within the timeframes established by the CPSIA. The CHAP itself is essential to the execution of the Commission's rulemaking function under section 102(b)(3) of the CPSIA. The use of normal clearance procedures would delay and disrupt the start of the CHAP process and, as explained below, cause a delay in the statutory deadlines imposed by the CPSIA. The collection of information collected will relate to the conflict of interest issues needed to analyze the independence of the possible CHAP members on issues such as funding sources for their scientific research.

Pursuant to 15 U.S.C. 2077, the President of the National Academy of Sciences submitted a list of 27 nominees to the Commission. Compliance with the normal clearance procedures in 5 CFR 1320.10 would impair the Commission's ability to act quickly on the nominees and to begin the CHAP process. The Commission also notes that most nominees (19) are in academia, so compliance with the normal clearance procedures could delay the start of the CHAP until the beginning of the next academic year, when the CHAP members who are in academia will face competing demands on their time. This will adversely affect the CHAP's ability to meet its statutory deadlines for conducting its examination and issuing a report. Such a delay would, in turn, affect the Commission's ability to evaluate the CHAP report and to promulgate a final rule based on the CHAP's report.

Moreover, if the CHAP concludes that certain phthalates have potential health effects on children, pregnant women, and others, public harm could continue if rulemaking were delayed. If the Commission concludes, on the basis of the CHAP's report as provided in section 108(b)(3) of the CPSIA, that such rulemaking were necessary to ensure a "reasonable certainty of no harm to children, pregnant women, or other susceptible individuals" (see section 108(b)(3)(A) of the CPSIA), some harm to individuals could result during the period of time corresponding to the amount of time spent following normal clearance procedures.

2. How, by Whom, and for What Purpose Information Used

The CPSC will use the information to identify potential conflicts of interest in panel candidates. Such conflicts of interest may affect an individual's ability to be selected as a panel member.

3. Consideration of Information Technology

The collection of information would occur through a form sent to the CHAP candidates. Given the small number of respondents – there are only 27 candidates – and the limited duration of the CHAP's duties, the CPSC did not develop electronic collection techniques.

4. Efforts to Identify Duplication and Similar Information Already Available

Section 108(b)(2) of the CPSIA directs the Commission to establish the CHAP and focuses the CHAP's work on studying the effect on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles. Therefore, no duplication of data exists.

5. Small Business

The questionnaire does not have a disproportionate impact on small businesses or entities because it would not be sent to them. Consequently, no methods were required to minimize any impact.

6. Consequences of Less Frequent Information Collection and Technical or Legal Obstacles

Failure to provide the information sought by the questionnaire would impair the CPSC's ability to identify potential conflicts of interest and, as a result, adversely affect the CPSC's ability to select panel members.

7. Consistency with the guidelines in 5 CFR 1320.5(d)(2)

The questionnaire is consistent with the guidelines in 5 CFR 1320.5(d)(2).

The questionnaire does not require potential respondents to respond more frequently than the quarterly basis described in 1320.5(d)(2)(i).

8. Consultation Outside the Agency

Given the limited purpose and nature of the questionnaire, no consultation outside the agency was necessary.

9. Payment or Gift to Respondents

The CPSC did not and will not provide any payment or gifts to respondents in connection with the questionnaire.

10. Confidentiality of Information

The information submitted in response to the questionnaire would be subject to the Freedom of Information Act and its exemptions to public disclosure.

11. Sensitive Questions

No questions of a sensitive nature are asked.

12. Estimates of Burden Hours and Explanation

The estimated total reporting burden is 27 hours.

The CPSC estimates the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden

21 CFR Section	No. of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Hours
Questionnaire	27	1	27	1	27
Total					27

There are no capital costs or operating and maintenance costs associated with this collection of information.

The CPSC's estimates are based on the following considerations. Under 15 U.S.C. 2077, the President of the National Academy of Sciences must nominate panel candidates, and each CHAP is to consist of seven members. The President of the National Academy of Sciences nominated 27 individuals, so the potential number of respondents is 27.

The questionnaire would be used only once, so the CPSC estimates the frequency of responses as one. This would result in 27 total annual responses (27 respondents x 1 response per respondent per year = 27 total annual responses).

To estimate the hours per response, the CPSC examined the similar, but more detailed and more comprehensive Confidential Financial Disclosure Report (OGE Form 450) developed by the Office of Government Ethics (OMB No. 3209-006). The public burden information for the OGE 450 form estimates that, on average, one hour is needed to complete the OGE 450. As the questionnaire is less detailed and less comprehensive compared to the OGE 450 form, the CPSC believes the estimated hours per response for the questionnaire will be less than one hour. Nevertheless, the CPSC will adopt the estimate of one hour per response for the questionnaire.

Therefore, the total hours would be 27 hours (27 total annual responses x 1 hour per response = 27 total annual hours).

13. Annual Cost to Respondents

There are no total capital or start-up costs or service costs projected for the questionnaire. The annual reporting cost is estimated to be \$1,481.76. This estimate is based on the estimated total burden hours for responding to the questionnaire (27 hours) multiplied by an estimated wage (for professional workers) of \$54.88 per hour (27 hours x \$54.88 per hour = \$1,481.76).

14. Annual Cost to the Government

The annualized cost to the CPSC is estimated to be \$6,562. This figure is based on the following calculations and assumptions: (a) the employee reviewing the responses to the

questionnaires will be a GS-15 level employee; (b) the hourly wage for a mid-level GS-15 employee in the Washington, DC metropolitan area (effective as of January 2009) is \$65.22 (GS-15, step 5); and (c) a total of 100 hours will be needed to review all the questionnaires. Therefore, the annual cost to the government is \$65.62 per hour x 100 hours = an annualized cost to the CPSC of \$6,562.

15. Changes in Burden

The questionnaire would represent a new collection of information and increase the overall information collection burden for the CPSC by 27 hours.

16. Statistical Reporting

Information collected under this requirement will not be published.

17. Exemption for Display of Expiration Date

The agency does not seek an exemption from displaying the expiration date.

18. Exemption to Certification Statement

N/A.