

Information Collection Request (ICR)
Standard for the Surface Flammability of Carpets and Rugs
Supporting Statement for Paperwork Reduction Act Submission

A. Justification

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

The Standard for the Surface Flammability of Carpets and Rugs (FF 1–70), 16 CFR part 1630, and the Standard for the Surface Flammability of Small Carpets and Rugs (FF 2–70), 16 CFR part 1631, were issued under section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) in 1970. The standards cover any type of finished product made in whole or in part of fabric or related material and intended for use as a floor covering in homes, offices, or other places of assembly or accommodation. The standards establish an acceptable level of flammability performance. Items must meet the requirements of the standards prior to distribution in commerce, and firms must issue a “General Certificate of Conformity” (GCC) or “Children’s Product Certificate” (CPC), certifying that the products meet all applicable product safety regulations. The GCC and CPC requirements are additional requirements imposed by the Consumer Product Safety Improvement Act of 2008 (CPSIA), 15 U.S.C. § 2063(g). The CPSIA also imposes a third party testing requirement for all consumer products, including carpets and rugs, subject to a consumer product safety rule or similar rule, ban, standard or regulation under any other Act enforced by the Commission, that are primarily intended for children 12 years of age or younger. Every manufacturer (including an importer) or a private labeler of a children’s carpet or rug must have its product tested for compliance to 16 CFR parts 1630 and 1631 and other applicable product safety rules by an accredited, CPSC-accepted third party laboratory.

In addition to the standards, certain enforcement rules (16 CFR § 1630.31 and 16 CFR §§ 1631.31–32) have been issued under section 5 of the FFA (15 U.S.C. 1194) to address reasonable and representative tests and the recordkeeping requirement. These rules specify the frequency of testing necessary to support the issuance of a guaranty of compliance under the Act and the types of records that must be maintained to document this activity. Beginning in 2013, firms also must employ reasonable and representative testing programs in accordance with the CPSIA.

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

The required recordkeeping is used to ensure compliance with provisions of the regulations that relate to the issuance of a guaranty of compliance. The records are retained by the responsible firm and made available to a designated officer or employee of the Commission, upon request. Such requests are generally made during an inspection to ensure compliance with the regulation.

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

At the option of the firm, any technology, including electronic recordkeeping, to compile and maintain business records may be used to comply with the regulation. Information is not normally submitted to the CPSC, unless specifically requested during compliance-related activities.

4. *Efforts to identify duplication*

The recordkeeping requirements were reviewed for potential duplication by the issuing agency (Federal Trade Commission), by members of the affected industry, and other interested parties during the proceedings to promulgate the regulations. No duplication was identified.

5. *Impact on small businesses*

Not applicable.

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

In the past, the Commission has looked for ways to reduce the burden of the information collection 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 of the standards issued under the FFA, including the carpet and rug 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.

Staff is currently uncertain about the consequences of reducing the testing and recordkeeping burden under these standards. Product testing is the only way to ensure that a new carpet or rug meets the requirements of the standards; and subsequent periodic testing is the only way to ensure continued compliance. Previously, testing was required only if a firm elected to issue a guaranty of compliance; however, with the enactment of the CPSIA, general purpose carpets and rugs must be tested in order for a firm to issue a GCC. A variance in pile density and/or chemical composition of the carpet backing may cause an inadvertent failure in a carpet style previously found to comply with the standards. Due to the relatively unsophisticated equipment and methods of construction used in the carpet industry, variances are not uncommon. For children's products there is no ability for reduced testing because of the mandated reasonable and representative testing for the purpose of continued compliance. There are some exceptions for small businesses.

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

Respondents generally will not have to report information more often than quarterly or to prepare responses in fewer than 30 days. However, if during the course of an investigation, CPSC staff requires information to assess compliance, a firm may be asked to respond more quickly and to provide information more frequently.

8. *Agency Federal Register Notice and related information*

A *Federal Register* notice was published on June 8, 2012 (77 FR 34027) with comments due August 7, 2012. No comments were received.

9. *Decision to provide payment or gift*

Not applicable.

10. *Assurance of confidentiality*

Any information required to be maintained by the standards and enforcement rules that 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*

There are no questions of a sensitive nature.

12. *Estimate of hour burden to respondents*

The Commission estimates that 120 firms are subject to the information collection requirements of the enforcement rules because the firms have elected to issue a guaranty of compliance with the FFA, or they are required to certify compliance of products intended for children under the CPSA (as amended by the CPSIA). The number of tests that a firm issuing a guaranty of compliance would be required to perform each year varies, depending upon the number of carpet styles and the annual volume of production. Staff estimates that the average firm issuing a continuing guarantee under the FFA is required to conduct a maximum of 200 tests per year. The actual number of tests required by a given firm may vary from one to 200, depending upon the number of carpet styles and the annual production volume. For purposes of estimating burden, we have used the midpoint, 100 tests per year. The time required to conduct each test is estimated to be 2.5 hours, including the time required to establish and maintain the test records. We estimate the total annualized cost/burden to respondents could be as high as 12,000 tests per year (120 firms x 100 tests), at 2.5 hours per test, or 30,000 hours.

The total annualized costs to all respondents for the hour burden for collection of information is estimated to be as high as \$1,837,200, using a mean hourly employer cost-per-hour-worked of \$61.24 (Bureau of Labor Statistics: Total compensation rates for

management, professional, and related occupations in private goods-producing industries, December 2011) (30,000 hours x \$61.24).

13. *Estimate of other total annual cost burden to respondents*

There are no costs to respondents beyond those presented in Section A.12. There are no operating, maintenance, or capital costs associated with the collection.

14. *Estimate of annualized costs to the Federal government*

The estimated annual cost of the information and collection requirements to the Federal government is approximately \$38,678. This sum includes 3 staff months (520 hours) expended for examination of the information in records required to be maintained by the enforcement rules. This estimate uses an average wage rate of \$57.13 per hour (the equivalent of a GS-14 Step 5 employee) with an additional 30.2 percent for benefits (BLS, Percentage of total compensation comprised by benefits for all civilian management, professional, and related employees, December 2011) or \$74.38 per hour x 520 hours.

15. *Program changes or adjustments*

The CPSIA added testing and recordkeeping requirements to this standard.

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 certifications statement*

Not applicable.

B. Statistical Methods

The reporting requirements do not employ statistical methods.