

# INFORMATION COLLECTION REQUEST

## Supporting Statement

### General Conformity Certificates for Non-Children's Products 16 CFR Part 1110

#### A. Justification

##### 1. Circumstances Necessitating Information Collection

This information collection request covers the record keeping and third party disclosure requirements associated with the creation, disclosure, and maintenance of certificates of compliance for regulated non-children's products, called General Conformity Certificates (GCCs). Specifically, we provide a burden estimate for: recording test results or other information to support GCCs; creating GCCs; disclosing certificates to retailers or distributors, CPSC, and CBP; and maintaining GCCs and supporting test records for 5 years. Recordkeeping and third party disclosure requirements applicable to children's products are covered by another information collection (Third Party Testing of Children's Products (76 FR 69482 (November 8, 2011))).

Certificate requirements are provided in section 14 of the Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA). Specifically, section 14(a)(1) of the CPSA requires that manufacturers or private labelers of non-children's products that are subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, be certified as compliant based on a test of each product or a reasonable testing program. Section 14(g) of the CPSA requires that each certificate issued must accompany the applicable product or product shipment, be furnished to each distributor or retailer of the product, and be furnished to CPSC, upon request. Additionally, each certificate must identify: the component part or finished product certified; the date of initial certification; scope of products certified; list of rules being certified; the issuer of the certificate; any third party conformity assessment body that performed testing on which the certificate relies; the date and place of manufacture; the date and place of testing; each party's name, full mailing address, telephone number; contact information for the individual responsible for maintaining records of test results; and an attestation of compliance.

The Commission promulgated a direct final rule on "certificates of compliance" on November 18, 2008 (73 FR 68328), which is codified at 16 CFR part 1110 (the existing 1110 rule). The existing 1110 rule implements certificate requirements for all regulated products, as required by sections 14(a) and (g) of the CPSA. The rule tracks certificate requirements as stated in the CPSA, but allows certificates to be provided electronically and limits parties that must issue certificates of compliance. At the time of the direct final rule in 2008, a Paperwork Reduction Act analysis was not conducted.

The Commission is now proposing to amend part 1110 (78 FR 28080 (May 13, 2013)) to: clarify certificate requirements in light of new rules related to testing and certification of consumer products; change the parties responsible for issuing certificates; and implement section 14(g)(4) of the CPSA, which allows the Commission, in consultation with the Commissioner of Customs, to require that certificates for imported products be filed electronically with CBP up to 24 hours before arrival of an imported product. To implement section 14(g)(4) of the CPSA, proposed §1110.13(a)(1) would require certificates for imported regulated finished products to be electronically filed by the importer with United States Customs and Border Patrol (CBP) at the time of filing the CBP entry or at the time of filing the entry and entry summary, if both are filed together.

Because the 2008 direct final rule for part 1110 did not contain a burden analysis, this information collection request covers not only the burden associated with the proposed amendment to part 1110, but also the burden associated with the original rule covering GCC's, as promulgated in 2008.

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

Certifiers of regulated finished non-children's products, meaning manufacturers, private labelers, and importers, are statutorily required to certify non-children's products based on a test of each product or a reasonable testing program. Regulated products, or shipments of regulated products, are required to be accompanied by a certificate. Certificates must be provided to retailers and distributors, and to CPSC upon request. The proposed rule would provide additional detail on the content requirements for certificates, and would require that certificates be electronically filed with CBP for imported products. Requiring certification may enhance compliance with underlying rules by certifiers, and the information on a certificate may be used by retailers, distributors, CPSC, and CBP to monitor compliance with the applicable underlying rules.

## 3. Consideration of Information Technology

Part 1110 allows for certificates to be maintained in electronic form, and to be submitted electronically to CPSC upon request. The proposed amendment would require electronic filing of certificates for imported products with CBP. The proposed rule seeks comment on the form of electronic certificates for filing with CBP (78 FR at 28089).

## 4. Efforts to Identify Duplication and Similar Information Already Available

Although section 14 of the CPSA had a certificate requirement before it was amended by the CPSIA, no specific content information was required. Not all underlying rules require certificates, and those that do have a certificate requirement do not require the same information that is now required in section 14(g) of the CPSA. Thus, some of the applicable underlying rules discussed in the burden analysis already have certificate and recordkeeping requirements that have previously been described in an information collection request to OMB, but many do not. Even

where some rules have certificate requirements, such certificate requirements are not uniform and do not meet the minimum certificate content requirements set forth in section 14(g) of the CPSA, as implemented in part 1110. Thus, the certificate requirement in section 14(g) of the CPSA, as implemented in part 1110, may be seen as an additional requirement for rules that require an on-product certificate, such as 16 CFR part 1205, *Safety Standard for Walk-Behind Power Lawn Mowers*. The certificate requirement in part 1110 also may be seen as adding content requirements to the certificates described in rules that already require a certificate, such as 16 CFR part 1204, *Safety Standard for Omnidirectional Citizens Band Base Station Antennas*. For burden analysis purposes, we have attempted to eliminate duplication in our estimates by discussing each underlying rule separately, and by stating what types of activities the analysis is based upon and what information has previously been provided to OMB. This information can be found in the May 13, 2013 *Federal Register* notice for part 1110. (78 FR 28090, 28092-106).

5. Impact on Small Business

Although many small businesses will be required to keep records under this rule, the burden on firms is relatively low on a per product basis; the overall burden from this collection will be proportionally low for small businesses.

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

Certificates are required by statute. Moreover, failure to provide the information required would impair the CPSC's ability to determine whether a manufacturer is complying with the testing and certification requirements of section 14 of the CPSA.

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

The rule governing certificates for regulated products is consistent with the guidelines in 5 CFR §1320.5(d)(2).

8. Agency's Federal Register (FR) Notice and Related information

A direct final rule for certificates of compliance, 16 CFR part 1110, was published in the *Federal Register* on November 18, 2008 (73 FR 68328). A notice of proposed rulemaking (NPR) to amend part 1110 was published in the *Federal Register* on May 13, 2013 (78 FR 28080).

9. Payment or Gift to Respondents

The CPSC did not and will not provide any payment or gifts to respondents.

10. Confidentiality of Information

The information submitted would be subject to the Freedom of Information Act and its

exemptions to public disclosure.

11. Sensitive Questions

Information regarding the manufacture of consumer products, such as the location of manufacturing facilities, including foreign manufacturing facilities, is required to appear on certificates. The Commission is also considering requiring the disclosure of the name of manufacturers, including foreign manufacturers, on a certificate, at least to the CPSC. The proposed rule asks for public comment on whether such information is confidential or trade secret, and how such information could be kept confidential if it were required on a certificate (78 FR at 28090).

12. Estimates of Burden Hours and Explanation

A. *Documenting Test Results and Creating GCCs*

The estimates provided are intended to reflect the recordkeeping burden per product per year. In the collection of information for children's products, we estimated that the recordkeeping burden was about 3 to 5 hours per product, per year, on average. For non-children's products, we generally estimate that the recordkeeping burden to create GCCs and to document testing or other information on which the certificate is based is about 1.5 hours per product per year. This estimate reflects the fact that non-children's products are subject to fewer product safety rules than are children's products. Moreover, although some non-children's products manufacturers use third party testing, non-children's products are not subject to mandatory third party testing, including mandatory third party testing after a material change, and mandatory third party periodic testing. The 1.5 hour per product estimate is consistent with comments that were received in response to the notice of proposed rulemaking for the Testing Rule (16 CFR part 1107). However, where we have information for specific products or rules that deviate from the general estimate, we use the more specific information.

Some regulations for non-children's products already have a certificate requirement, but these rules do not require the same certificate content required by section 14(g) of the CPSA. For rules that already have a certificate requirement based on a testing program, we use estimates of less than 1.5 hours, generally 15 to 30 minutes per product, to create the GCC required by section 14(g) of the CPSA and implemented in part 1110. The reduced burden for these rules reflects the fact that the recordkeeping burden associated with just creating a GCC in the required format should be less than the burden associated with both documenting the results of a reasonable testing program and creating a GCC. However, for each product or rule where no certificate or other recordkeeping requirement is currently in place, or where we have not previously provided an estimate of the recordkeeping burden to OMB, we estimate the burden to document testing or other information on which the certificate is based and to create GCCs to generally be 1.5 hours on average per product. We further note that in many, if not most cases, these records might be prepared several times a year per product. Thus, even if completing the required records for a

single set of tests or preparing one GCC might take only a few minutes, if multiple batches are certified annually, or the product is manufactured at more than one location, then the total burden during the year will be higher.

Table A-1 below summarizes the PRA burden estimates by rule for finished non-children's products that require a GCC which is attributable to the requirements of the existing part 1110. The analysis supporting Table A-1 can be found in the May 13, 2013 *Federal Register* notice for part 1110. (78 FR 28090, 28092-106). We estimate that there are 6 million distinct varieties of regulated non-children's products that require certification annually. As Table A-1 demonstrates, we estimate that documenting test results and creating GCCs will require 1,664,615 burden hours. We are estimating that the cost per hour of the recordkeeping burden is \$37.34 an hour, which represents a mixture of professional and administrative staff labor. Accordingly, the estimated cost of documenting test results and creating GCCs is \$ 62,156,724 (1,664,615 burden hours x \$37.34 per hour = \$62,156,724).

#### *B. Furnishing Certificates to Third Parties*

Section 14(g)(3) of the CPSA, as amended by the CPSIA, requires that every certificate required in section 14(a) of the CPSA “accompany the applicable product or shipment of products covered by the same certificate” and that “a copy of the certificate . . . be furnished to each distributor or retailer of the product.” Moreover, manufacturers and private labelers must furnish a copy of the certificate to the Commission upon request.

Part 1110 allows manufacturers, importers, and private labelers flexibility in how to provide certificates to retailers or distributors, and to the CPSC. The proposed rule amending part 1110 maintains this flexibility. Proposed § 1110.9 provides that, except for the certificate that is required to be filed with CBP for imported products in proposed § 1110.13(a)(1), certificates may be provided in hard copy or electronically. Electronic certificates are acceptable if they are identified “prominently on the finished product, shipping carton, or invoice by a unique identifier, and they can be accessed via” the Internet or other electronic means. The proposed rule further states that an electronic certificate must be available, without password protection, on or before the date the finished product is distributed in commerce. In practice, “hard copy” certificates are usually in the form of a paper certificate that physically accompanies each shipment by being placed in a shipping container. Certifiers using electronic certificates often place a Web address to access the certificate on the product, shipping carton, or invoice.

We do not have a strong basis for estimating the average third party reporting burden per product because the requirement to disclose certificates applies to a very diverse group of consumer products and manufacturers. We have not developed the information necessary to estimate the public disclosure burden for different categories of products. Moreover, the reporting burden is most likely related to the number of shipments of the product from the manufacturers, importers, or private labelers to the distributors or retailers, which is information that is not available. For purposes of preparing this initial estimate of the third party reporting burden, we are estimating that

the burden is 15 minutes per product, per year to place a paper copy of the certificate in the shipping carton, or provide a Web address for certificates on the product, carton, or invoice, and to maintain the website.

We estimate that there are 6 million<sup>1</sup> non-children's products for which GCCs are required. Thus, we estimate the total burden hours for third party disclosure of GCCs to be 1.5 million hours (6,000,000 models x .25 hours = 1.5 million burden hours). We are estimating that the cost per hour of the recordkeeping and reporting burden is \$37.34 an hour, which represents a mixture of professional and administrative staff labor. Accordingly, the estimated cost of third party disclosures for GCCs is \$56,010,000 (1,500,000 burden hours x \$37.34 per hour = \$56,010,000).

Thus, as demonstrated in Table A-1, the total burden estimate consistent with the requirements of existing part 1110 for documenting test results, creating GCCs, and providing them to third parties is \$118,166,724.

### *C. Filing Certificates for Imported Products with CBP*

The proposed rule amending part 1110 would require that importers of regulated finished products file the required GCC or CPC electronically with CBP at the time of filing the CBP entry or the time of filing the entry and the entry summary, if both are filed together. The rule does not specify the electronic format for certificates filed with CBP, but we anticipate that importers will be able to file the certificate information in the form of data elements or by filing the certificate in a PDF format through CBP's system of records. The increased time required to file certificates electronically with CBP would be attributable to associating the proper certificates to individual shipments for import, converting certificates to an electronic format, and transmitting the certificates to CBP (or to a customs broker, if the importer does not self-file).

Research of CBP data by CPSC staff found that during 2009, there were 231,094 distinct importers of products categorized in import codes likely to include products under the CPSC's jurisdiction. If we assume that 150,000 of the 231,094 distinct importers of consumer products import products subject to electronic filing of GCCs, and that these firms average 20 shipments with products requiring certificates, the annual number of electronic filings of GCCs with CBP could total 3 million. If these activities require 30 minutes per filing, the estimated annual incremental burden would be approximately \$56 million, using an estimated average employee compensation cost of \$37.34 per hour. (3 million electronic filings x 0.5 hours per filing x \$37.34 per hour).

### *D. Maintaining GCCs and Test Records*

The proposed rule amending part 1110 would also require that GCCs for non-children's products and supporting test records be maintained for at least 5 years. Certifiers may maintain the required records on paper or electronically, because the proposed rule would not require any

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<sup>1</sup> This estimate is rounded.

particular medium for records. Storing records electronically is the less expensive option and consequently, we assume for purposes of this analysis that certifiers will choose this option most frequently. However, some certifiers may choose to store paper records, so we also include an estimate of the burden for storing paper records. For purposes of this analysis, we will assume that 90 percent of the required records will be maintained electronically, and 10 percent will be stored as paper records.

#### 1. Estimated Cost of Storing Required Records on Paper

Once a paper record is created and is no longer required for ongoing reporting or disclosure purposes, the record will be likely archived in a warehouse. We reviewed rental prices for a 5' x 5' warehouse space in two parts of the country. We chose the 5' x 5' warehouse space because it was generally the smallest unit available and could be appropriate for a small to medium size company. A large company might require more space but probably could obtain a larger warehouse space at a lower cost per square foot. The low price was \$41/month and the high price was \$80/month, for an estimated average cost to rent a warehouse of about \$60.50 per month. Therefore, the estimated average price of warehouse space for 1 year would be \$726 ( $\$60.50 \times 12$  months).

Records are often stored in standard 10" x 12" x 15" archive boxes, which can be obtained for about \$3.00 each. Our calculations show that it would be possible to get about 80 of these boxes into a 5' x 5' warehouse space and leave sufficient aisles so that each box could be easily accessed if needed. Therefore, the estimated cost of storing one box in a warehouse for 1 year would be \$12.08 ( $\$726$  divided by 80 boxes = 9.08, plus \$3 for the cost of the box).

We assume for this analysis that a GCC for a product and supporting test records require an average of 10 pages. Accordingly, each archive box should be able to hold required records for about 375 products. We estimate that there are 6 million distinct non-children's product varieties that require certification annually (*see* Table B-1). If all GCCs were stored on paper, assuming 6 million GCCs and supporting test records would need to be stored annually, a total of about 16,000 archive boxes would be needed each year (6 million products divided by 375 records per box). For purposes of this analysis, however, we assume that only 10 percent of the 6 million distinct non-children's product varieties will maintain records on paper, or an estimated 600,000 products, requiring 1,600 archive boxes (600,000 products divided by 375 product records per box). The estimated cost of storing one archive box for a year is \$12.08, which includes the cost of the warehouse space (\$9.08) and the cost of the box (\$3.00). Accordingly, the estimated cost of storing 1,600 boxes of records for a year is \$19,320 (1,600 boxes x \$12.08 per box). On the assumption that at any one time, the records associated with 5 years of production or shipments must be maintained, the estimated annual cost of storage for 5 years' worth of records per product is \$96,640 (1,600 boxes x 5 years x \$12.08 per box).

In addition to the cost of storing records, labor or other personnel costs would be incurred to manage the required records stored on paper. Managing records would include the labor time required to box up the records for the current year's production or shipments, label the boxes, move

the boxes to the warehouse, and dispose of records that are more than 5 years old. We estimate that about 20 minutes will be required to box, label, and place into storage the estimated 1,600 boxes containing records for the current year's production or shipments, and about 10 minutes per box to dispose of the estimated 1,600 boxes containing records more than 5 years old, or 800 hours per year in total. We assume that this work will be done mostly by office or administrative workers. In December 2012, the total compensation for sales and office workers in private industry was \$27.12 per hour.<sup>2</sup> Therefore, the estimated total labor cost per year involved in managing required records that are stored on paper would be about \$21,696 (800 hours x \$27.12).

Based on the above analysis, assuming that 10 percent of the estimated 6 million distinct non-children's product varieties that require certification annually are stored in paper format, the estimated total cost would be \$118,336. This estimate includes the cost of warehouse space and the archive boxes (\$96,640), and the labor required to manage and transport the records (\$21,696).

## 2. Estimated Cost of Storing Required Records Electronically

Storing records electronically is much less expensive than storing records in paper format. A 1 terabyte (*i.e.* 1 million megabytes) hard drive can be purchased for about \$100, so the cost per megabyte for electronic storage is about \$0.0001 or about one-hundredth of one cent. If the required records (GCC and supporting test records) for each product was about 1 megabyte, then the estimated total cost of electronically storing the records for 90 percent of the estimated 6 million distinct non-children's product varieties that require certification annually, or 5,400,000 products, would be \$540 annually ( $\$0.0001 \times 5,400,000$  products). Little, if any, additional labor would be required to manage required records stored in an electronic format. Therefore, the total cost of storing the required records electronically is \$540, which is essentially limited to the cost of the space on a hard drive.

The estimated total cost of retaining GCCs and supporting test reports for the estimated 6 million distinct non-children's product varieties that require certification for 5 years, assuming that 90 percent of the records are stored electronically and 10 percent of the records are stored on paper, is \$118,876 annually. Of this, \$118,336 is associated with storing 10 percent of the records on paper and \$540 is associated with storing 90 percent of the records electronically.

Thus, as demonstrated in Table A-2 below, the burden estimate associated with two amendments to part 1110, requiring that GCCs for imported non-children's products be filed with CBP and that GCCs and supporting test records be maintained for five years, is \$56,118,876 annually.

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<sup>2</sup> Bureau of Labor Statistics, "Employer Costs for Employee Compensation, Table 9" (March 2013). Available at <http://www.bls.gov/ncs>.

**Table A-1: Summary of PRA Burden Estimates by Rule for Non-Children’s Products that Require a General Conformity Certificate (GCC) Attributable to Existing 16 CFR 1110 (November 2008) Requirements**

Product Categories	Number of Mfrs.	Number of Models*	Hours per Model	Total Estimated Burden Hours
Architectural Glazing Materials	400	2,400	1.5	3,600
Matchbooks	4	12	1.5	18
Bicycle Helmets	30	165	0.5	83
CB Band Base Station Antennas	5	15	0.5	8
Walk Behind Power Mowers	20	--	130	2,600
Swimming Pool Slides	--	120	1.5	180
Cellulose Insulation	44	--	60	2,640
Cigarette and Multipurpose Lighters	145	6,667	0.25	1,667
Garage Door Openers	21	84	0.5	42
Furniture (paint)	--	125,000	0.5	62,500
Furniture (bunk beds)	--	600	1.5	900
Paints and Coatings	501	41,082	0.5	20,541
ATVs	32	132	1.5	198
Pools and Spas (VGB Act)	12	136	1.5	204
Fireworks Devices	44	115,000	1.0	115,000
Bicycles	150	1,900	1.5	2,850
Clothing and Apparel	1,000s	5,500,000	0.25	1,375,000
Carpets and Rugs	240	24,000	1.5	36,000
Mattresses	671	13,420	0.25	3,355
PPPA	1,000	150,000	0.12	17,500
Refrigerators	19	2,800	1.5	3,420
Candles w/Metal Core Wicks	400	60,000	40	16,000
Refuse Bins	19	358	0.50	179
Lawn Darts	6	6	1.5	9
Artificial Emberizing Materials	14	56	1.5	84
Patching Compounds	35	148	0.25	37
Burden Hours to Document Test Results and Create GCCs				1,664,615
Burden Hours for Third Party Disclosure of GCCs		6,000,000	0.25	1,500,000
Subtotal Burden Hours for GCCs				3,164,615
<b>Estimated Cost: 3,164,615 Burden Hours x \$37.34 per Burden Hour</b>				<b>\$118,166,724</b>

\* Estimated number of distinct product varieties that require certification.

**Table A-2: Summary of PRA Burden Estimates for Non-Children’s**

Products that Require a General Conformity Certificate (GCC)  
 Attributable to the Proposed Amendment to Existing 16 CFR 1110  
 (March 2013) Requirements

Estimated Hourly Cost of Retaining GCCs and Supporting Test Records	\$21,696
Estimated Hourly Cost of Filing GCCs for Imports with CBP	\$56,000,000
<b>GCC Costs Attributable to the Proposed Amendments</b>	<b>\$56,118,876</b>

13. Annual Cost to Respondents

No costs to respondents beyond those presented in Section A.12 are required. Of the annual costs designated for retaining GCC's and Supporting Test Records, \$97,180 is for storage space for physical and electronic records.

14. Annual Cost to the Government

For domestically manufactured products, the proposed rule would not alter existing compliance programs for regulated products. However, the proposed rule would affect compliance programs for imported products, because the proposed rule would require certificates for imported products to be filed electronically with CBP. CBP and CPSC will have upfront costs to adjust computer systems to accept and search on certificate content information. Such costs are difficult to quantify at this time because the format for electronic certificate information is not yet settled. The proposed rule requests comment on acceptable data formats. Staffing levels to utilize electronic certificate information will not be altered for imported products. Rather, existing staff will be able to use certificate content information filed with CBP to more efficiently track and target shipments subject to compliance programs.

15. Changes in Burden

For certification of regulated non-children's products as required by section 14 of the CPSA this represents a new information collection request.

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.

B. Statistical Methods

The information collection requirements do not employ statistical methods.