

## Supporting Statement

### Standard for the Flammability of Mattresses and Mattress Pads (16 CFR Part 1632) And Standard for the Flammability (Open Flame) of Mattresses (16 CFR Part 1633)

#### A. Justification

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

The Standard for the Flammability of Mattresses and Mattress Pads (16 CFR Part 1632) was issued in 1972 and amended in 1984. The standard was issued and amended under section 4 of the Flammable Fabrics Act (FFA) 15 U.S.C. 1193 to reduce the unreasonable risk of burn injuries and deaths from fires associated with mattresses and mattress pads.

The Consumer Product Safety Commission issued in 2007 a flammability standard (16 CFR Part 1633) under the authority of the Flammable Fabrics Act that addresses open flame ignition of mattresses and foundations labeled by the manufacturer for sale together (“mattress sets”), or a mattress labeled by the manufacturer for sale alone. The rule became effective on July 1, 2007 and applies to mattresses and mattress sets manufactured, imported, or renovated on or after that date. The standard sets performance requirements that each mattress set must meet before being introduced into commerce. Mattress sets that comply with the requirements will limit the spread and intensity of a fire, thus reducing the possibility of flashover occurring. These improved mattresses should result in significant reductions in deaths and injuries associated with mattress fires.

16 CFR Part 1633 requires manufacturers to maintain certain records to document compliance with the standard. This includes records concerning prototype testing, pooling and confirmation testing, and quality assurance procedures and any associated testing. The required records must be maintained for as long as mattress sets based on the prototype are in production and must be retained for three years thereafter.

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

16 CFR Part 1632 prescribes a test to assure that a mattress or mattress pad will resist ignition from a smoldering cigarette. To comply with the mattress flammability standard, a manufacturer or importer of mattresses must test each combination of materials and construction methods used in the production of mattresses or mattress pads. Regulations implementing the standard require the manufacturer or importer to maintain records of testing conducted in accordance with the standard for as long as a particular prototype is in production and for a period of three years thereafter. The records must be retained by the manufacturer or importer and made available to a designated officer or employee of the Commission at her or his request. Such requests are generally made during an on-site inspection to assure compliance with the standard. If the records required by the implementing regulations are not maintained, the Commission would be unable to

determine whether manufacturers and importers of mattresses and mattress pads have complied with the standard.

16 CFR Part 1633 prescribes a test method that assures that mattress sets will generate a smaller size fire when ignited by open flame sources. Detailed prototype records, test records and component records must be kept by the mattress industry.

Based on a review of the proposed information collection activities, staff has found that the Privacy Act does not apply because no system of records subject to the Privacy Act will be created.

The purpose of these recordkeeping requirements is to enable manufacturers to keep track of materials, construction methods and testing. Thus, if a manufacturer produced a mattress set that failed to meet the test criteria, he/she should be able to use the records to determine the prototype on which the failing mattress was based, as well as the components and method of construction that were used and the number of units in the production cycle affected. This information would help the manufacturer correct the problem that caused the mattress to fail the test criteria. (See 16 CFR §1633.11, 16 CFR §1632.31(c)).

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

*16 CFR 1632:* Information maintained by the manufacturer or importer must be made available to a designated officer or employee of the Commission during an onsite inspection.

*16 CFR 1633:* 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 CPSC unless specifically requested during compliance related activities.

### *4. Efforts to identify duplication*

In 1984, when the standard and implementing regulations were amended, the record keeping requirements were reviewed for potential duplication by the Commission, by members of the affected industry, and by other interested parties. These records were not kept before being required under the Flammable Fabrics Act.

### *5. Impact on small businesses*

*16 CFR 1632:* The standard and implementing regulations affect many small firms, because most mattress and mattress pad manufacturers are small firms. As stated above, the standard and implementing regulations were amended in 1984 to eliminate requirements for periodic production testing of mattresses and for maintenance of records of production tests. In issuing the amendment, the Commission concluded that the amendment would reduce the costs of testing and recordkeeping for all manufacturers

(including small firms) without decreasing protection to the public from the risk of fires associated with ignition of mattresses and mattress pads from smoldering cigarettes.

*16 CFR 1633*: 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 comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities and identifying impact-reducing alternatives. The staff prepared such an analysis for the proposed rule which the Commission issued on January 13, 2005, 70 FR 2479-2488. For the final rule, the staff prepared a final regulatory flexibility analysis. We estimate that there are 571 establishments (plants) producing conventional mattresses and 100 establishments producing non-conventional mattresses in the U.S., thus a total of 671 firms are affected by this standard. Almost all mattress firms would be considered small businesses using the Small Business Administration definition. This analysis found that the cost of testing, information collection and recordkeeping and quality control/quality assurance programs may be disproportionately higher per mattress set for small businesses. To reduce the impact on small businesses, the Commission eliminated the requirement of keeping physical samples, included in the proposed standard. This reduced the average recordkeeping cost per establishment. The final standard allows two or more establishments (plants within the same firm) or independent firms to “pool” prototypes. This reduces the cost of testing because only one of the pooling firms is required to test three sets with all remaining firms testing one set.

Targeted efforts were made to relay and explain information to small businesses. The CPSC Mattress Flammability webpage (<https://www.cpsc.gov/BUSINFO/mattress.aspx>) was created as a portal to convey information to interested entities. A listserve sends periodic updates to those who sign up. In addition, CPSC staff hosted informational seminars which were free of charge and were offered on both the East and West coasts. Links to presentations are also available via CPSC’s Mattress Flammability webpage.

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

The standards require manufacturers to conduct prototype tests of all new mattress and mattress pad designs prior to production. This is the minimum amount of testing needed to demonstrate that a mattress and mattress pad will resist cigarette ignition. Any further reduction in the amount of testing and record keeping required by the standard and regulations could significantly alter the protection afforded by the standards.

Without the paperwork requirements, manufacturers would be unable to track information about mattress manufacturing that would enable them to determine why a mattress was failing, how to correct the problem, and how to limit the scope of a recall if that became necessary.

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*

The first FR notice announcing CPSC's intent to request an extension of approval of information collection requirements was published on MONTH XX, 2013 (FR CITATION).  comments were received.

9. *Decision to provide payment or gift*

Not applicable.

10. *Assurance of Confidentiality*

Any information required to be maintained by the standard and implementing regulations 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*

There are no questions of a sensitive nature.

12. *Estimate of hour burden to respondents*

16 CFR 1632: The staff estimates that there are 671 respondents (571 establishments producing conventional mattresses and 100 establishments producing non-conventional mattresses in the U.S., a total of 671.) It is estimated that each respondent will spend 26 hours for testing and record keeping annually for a total of 17,446 hours (671 firms x 26 hours = 17,446 total hours requested. The hourly compensation for the time required for record keeping is \$61.80 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 9, total compensation of all management, professional, and related occupations in goods-producing industries: <http://www.bls.gov/ncs>). The annualized cost to respondents would be \$1,078,162 (17,446 hours x \$61.80)

16 CFR 1633: The standard requires detailed documentation of prototype identification and testing records, model and prototype specifications, inputs used, name and location of suppliers, and confirmation test records, if establishments choose to pool a prototype. This documentation is in addition to documentation already conducted by mattress manufacturers in their efforts to meet the cigarette standard, 16 CFR 1632. Based on staff estimates, the recordkeeping requirements are expected to require about 4 hours and 44 minutes per establishment, per qualified prototype. Although some larger

manufacturers reportedly are producing mattresses based on more than 100 prototypes, most mattress manufacturers probably base their complying production on 15 to 20 prototypes, according to an industry representative contacted by the staff. Assuming that establishments qualify their production with an average of 20 different qualified prototypes, recordkeeping time is about 94.6 hours (4.73 hours x 20 prototypes) per establishment per year. (Note that pooling among establishments or using a prototype qualification for longer than one year will reduce this estimate.) This translates to an annual recordkeeping time cost to all mattress producers of 63,477 hours (94.6 hours x 671 establishments.)

The hourly compensation for the time required for record keeping is \$61.80 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 9, total compensation of all management, professional, and related occupations in goods-producing industries: <http://www.bls.gov/ncs>). Total estimated costs for recordkeeping are about \$3.9 million (63,477 hours x \$61.80).

Total cost to the 671 firms for both 16 CFR 1632 and 16 CFR 1633 is approximately \$4.9 million.

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

Not applicable.

14. *Estimate of annualized costs to Federal government*

*16 CFR 1632:* The estimated annual cost of the information collection requirements to the Federal government is approximately \$101,890. This sum includes 10 staff months and travel costs expended for examination of the information in records required to be maintained by the standard and enforcement rule. This estimate uses an annual wage of \$84,855 (the equivalent of a GS-12 Step 5 employee) with an additional 30.6 percent added for benefits (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) for total annual compensation \$122,269 per FTE.

*16 CFR 1633:* The estimated annual cost of information collection requirements to the federal government is approximately \$2,939. This represents 50 staff hours. Record review will be performed during compliance inspections conducted to follow-up on consumer complaints and reports of injury which indicate possible violations of the regulations. This estimate uses an average hourly wage of \$40.80 (the equivalent of a GS-12 Step 5 employee) with an additional 30.6 percent added for benefits (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) for total hourly compensation \$58.78.

Total cost to the federal government of the collection is \$104,829.

15. *Program changes or adjustments*

This collection consists of a renewal of OMB control number 3041-0014, as well as the merging of the collection with OMB control number 3041-0133. Both collections cover the same population of firms. The burden estimates have been updated to correspond with industry observations.

16. *Plans for tabulation and publication*

Not applicable; there are no plans to tabulate or publish the information. Because CPSC does not plan to disseminate the data collected, the requirements of the OMB and the CPSC Information Quality Guidelines do not apply.

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

Not applicable.

18. *Exception to the certification statement*

Not applicable.

B. Collection of information does not employ statistical methods.