

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. There are no CPSC or other requirements that duplicate the information collected under the Standards' implementing rules.

### ***5. Impact on small business***

The standards and enforcement rules affect many small firms, because most children's sleepwear manufacturers are small firms. 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 1996, the Commission amended the children's sleepwear standards to exempt "tight-fitting" sleepwear and all garments sized 9 months and under from the requirements of the sleepwear flammability standards. This amendment followed a study indicating a low risk of injury associated with tight-fitting

sleepwear. The Commission subsequently issued technical changes to this amendment in 1999. Suppliers of exempted garments must still perform and maintain records of garment measurements to establish the exemptions. The amendment provided flexibility to industry and reduced the testing burden on industry, including small manufacturers and importers, without adversely affecting safety.

***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 were 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 may 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 Federal Register Notice was published November 25, 2015. 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**

CPSC staff has reviewed information collected during past firm inspections and has developed independent information on the time required to conduct flammability tests and maintain records of such tests. Testing performed by the CPSC Laboratory and by companies subject to the Standards shows that the average time to conduct the required series of tests and create and maintain records of those tests is three hours per garment production unit. Tests are performed and records are established only when new products are introduced into commerce and the test results for similar, existing items are insufficient to establish compliance for those new products.

A review of published industry information indicates that there may be up to approximately 50 domestic companies that manufacture most of the children's sleepwear produced in the U.S. In addition, there may be 500 to 1,000 single proprietorships or other very small domestic producers, each of which may manufacture unique or very small batches of sleepwear garments. Further, Harmonized Tariff System (HTS) data from the U.S. International Trade Commission lists approximately 4,500 importers that supply nightwear products, including children's sleepwear, to the U.S. market. Many of the 50 principal domestic manufacturers, along with many large U.S. retailers, are among the 4,500 importers. If all 1,050 U.S. producers and all 4,500 importers introduced new children's sleepwear garments each year, the total number of firms subject to the CPSC recordkeeping requirements each year would be 5,550 (1,050 + 4,500). This is a likely overestimate of the actual number of firms performing tests and creating records in a given year..

CPSC staff estimates that the 50 principal domestic manufacturers and the 100 largest importers may each introduce an average of 100 new children's sleepwear items annually that are accompanied by new tests and records, for a total of 45,000 hours (150 firms x 100 items x 3 hours). CPS staff estimates that the remaining 1,000 manufacturers and 4,400 importers may each introduce an average of 10 new children's sleepwear items, for a total testing and recordkeeping burden of 162,000 hours (5,400 x 10 items x 3 hours). Therefore, the total estimated potential annual burden imposed by the standard and regulations on all manufacturers and importers of children's sleepwear will be about 207,000 hours (45,000 + 162,000).

The annual cost to the industry is estimated to be \$13,914,540 based on an hourly wage of \$67.22 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2015, Table 9, total compensation for management, professional, and related workers in goods-producing private industries: <http://www.bls.gov/ncs>) x 207,000 hours.

**13. Estimates of other total annual cost burden to respondents or recordkeepers**

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 cost of the information collection requirements to the Federal government is approximately \$51,222. 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 \$58.48 per hour (the equivalent of a GS-14 Step 5 employee) with an additional 31.5 percent added for benefits (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2015, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees) or \$85.37 per hour x 600 hours.

**15. Program changes or adjustments**

Based on recent experience in identifying small firms that may not perform tests and maintain records, CPSC staff revised the estimates of the number of firms from 83 to 5,550. In past submission, we reported numbers of records identified. This submission reports that the total number of respondents is 5,550 and the total number of required records is 69,000 (150 firms x 100 records + 5,400 firms x 10 records).

**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.