

Information Collection Request

Standards for the Flammability of Children's Sleepwear sizes 0-6X and sizes 7-14 Supporting Statement

OMB Control Number 3041-0027

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 children's sleepwear manufacturers may be 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.

CPSC provides a variety of resources to help both new and experienced small businesses learn about safety requirements that apply to consumer products, including the CPSC Regulatory Robot, small business education videos, and the Small Business Ombudsman. Many of these resources can be accessed online at: <https://www.cpsc.gov/Business--Manufacturing/Small-Business-Resources>. Small firms can reach the Small Business Ombudsman by calling (888) 531-9070.

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 are 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 on May 11, 2022. 0 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.

The U.S. Census of Business reports that in 2018 there were approximately 5,482 domestic firms producing non-jewelry apparel.¹ Of these, 5,477 or 99.9% of these were classified as small businesses according to the Small Business Administration's guidelines. The portion of these firms that manufacture children's apparel is difficult to determine but it should be highly correlated with the proportion of children in the U.S. population. The rule applies to clothing sizes that would typically fit children aged 12 and under. Based on the 2010 Census, children aged of 12 and under were 15.8 percent of the U.S. population. Some of these firms may not manufacture sleep apparel so the firms subject to the rule may be overstated. Therefore, we estimate that there could be as many as 866 ($5,482 \times 0.158$) apparel manufacturers subject to the rule with 865 (866×0.999) being classified as small businesses. Furthermore, using Harmonized Tariff System (HTS) codes for children's sleepwear we found

¹ Based on the following NAICS codes: 315110 - Hosiery and Sock Mills, 315190 - Other Apparel Knitting Mills, 315210 - Cut and Sew Apparel Contractors, 315220 - Men's and Boys' Cut and Sew Apparel Manufacturing, 315240 - Women's Girls' and Infants' Cut and Sew Apparel Manufacturing, 315280 - Other Cut and Sew Apparel Manufacturing, and 315990 - Apparel Accessories and Other Apparel Manufacturing

approximately 3,641 importers that supply children's sleepwear to the U.S. market. Many of the 866 domestic manufacturers, along with many large U.S. retailers, may be among the importers, so this too could be an overstatement of firms subject to the rule. If all 866 U.S. producers and all 3,641 importers introduced new children's sleepwear garments each year, the total number of firms subject to the CPSC recordkeeping requirements each year would be 4,507 (866 + 3,641). This is a likely overestimate of the actual number of firms performing tests and creating records in a given year because not every domestic children's apparel manufacturer will produce sleepwear.

CPSC staff estimates that the 50 largest 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). CPSC staff estimates that the remaining 816 manufacturers and 3,541 importers may each introduce an average of 10 new children's sleepwear items, for a total testing and recordkeeping burden of 130,710 hours (4,357 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 175,710 hours (45,000 + 130,710).

The annual cost to the industry is estimated to be \$12,369,984 based on an hourly wage of \$70.40 x 175,710 hours.²

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 \$60,306. 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 \$68.55 per hour (the equivalent of a GS-14 Step 5 employee) with an additional 31.8 percent added for benefits or \$100.51 per hour x 600 hours.³

² U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," December 2021, Table 4, total compensation for management, professional, and related workers in goods-producing private industries: <http://www.bls.gov/ncs>

³ U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," December 2021, Table 2, percentage of wages and salaries for all civilian management, professional, and related employees.

15. *Program changes or adjustments*

Based on adjustments to agency estimates, the total estimated number of firms subject to the CPSC recordkeeping requirements increased from 4,018 to 4,507. This increase was driven by an increase in the number of importers of children's sleepwear, while the estimated number of domestic manufacturers declined. Accordingly, the total estimated potential annual burden imposed by the standard increased from 161,040 hours to 175,710.

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.