

# INFORMATION COLLECTION REQUEST

## Supporting Statement

### Third Party Testing of Children's Products

RIN: 3041-AC71 & 3041-AC86

#### A. Justification

##### 1. Circumstances Necessitating Information Collection

Section 14 of the Consumer Product Safety Act ("CPSA") requires third party testing of children's products that are subject to an applicable children's product safety rule to ensure compliance with such rule. Based on this testing, manufacturers and private labelers are required to certify compliance of their products to the applicable standards. This information collection request covers:

- the recordkeeping requirements set forth in a final rule on *Testing and Labeling Pertaining to Product Certification* (16 CFR part 1107; the testing rule);
- the recordkeeping and third party disclosure requirements set forth in a final rule on *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification to Meet Testing and Certification Requirements* (16 CFR part 1109; the component part rule); and
- marking, labeling, and instructional literature requirements contained in rules for durable infant and toddler products issued under section 104 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") ("section 104 rules).

Together, these rules implement third party testing, certification, and labeling requirements for children's products as required by sections 14(a)(2) and 14(i)(2)(B) of the CPSA, 15 U.S.C. 2063(a)(2) and (i)(2)(B). A list of children's product safety rules subject to third party testing and certification is set forth in Appendix A.

*Testing Rule:* Section 14(a)(2) of the CPSA requires manufacturers and private labelers of any children's product that is subject to a children's product safety rule to submit samples of the product, or samples that are identical in all material respects to the product, to a third party conformity assessment body accredited by the Consumer Product Safety Commission ("CPSC" or "Commission") to be tested for compliance with such children's product safety rule. Based on that testing, the manufacturer or private labeler must issue a certificate that certifies that such children's product complies with applicable children's product safety rules based on the assessment of a third party conformity assessment body accredited to conduct such tests. 15 U.S.C. 2063(a)(2)(B). This certificate is called a Children's Product Certificate, or CPC. Certificates are required to accompany products or product shipments, and certifiers are required to furnish a copy of certificates to retailers or distributors, as well as to the CPSC and to CBP.

Additionally, section 14(i)(2)(B)(i) of the CPSA requires manufacturers to conduct additional testing of children's products to ensure compliance of continuing production, and thus, the validity of the initial product certification. To ensure continued compliance, the Commission is required, by regulation, to establish protocols and standards for:

- Ensuring that a children's product tested for compliance with a children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts; and
- Safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.

The testing rule establishes requirements for manufacturers for initial third party testing and certification for children's products, testing when there has been a material change in the product, continuing testing (periodic testing), and guarding against undue influence. The final rule on *Representative Samples for Periodic Testing of Children's Products* amended the testing rule to require that representative samples be selected for periodic testing of children's products, and set forth required documentation.

*Component Part Rule:* The component part rule is a companion to the testing rule that is intended to reduce third party testing burdens by providing all parties involved in the required testing and certifying of children's products the flexibility to conduct or rely on testing where it is the easiest and least expensive. Component part suppliers may conduct testing so that test reports can be provided to multiple manufacturers using such component parts. Alternatively, manufacturers who assemble finished products can test component parts as they are received to reduce costs where, for example, the same component part is used in multiple product lines. The component part rule allows for maximum flexibility because a manufacturer (including an importer) who is required to certify consumer products pursuant to 16 CFR part 1110 (finished product certifier) can base such certificate upon one or more of the following: (a) component part testing; (b) component part certification; (c) another party's finished product testing; or (d) another party's finished product certification.

*Section 104 Rules:* Each section 104 rule contains requirements for marking, labeling, and instructional literature that are disclosure requirements. Individual section 104 rules specify that:

- Each product and the shipping container must have a permanent label or marking that identifies the name and address (city, state, and zip code) of the manufacturer, distributor, or seller.
- A permanent code mark or other product identification shall be provided on the infant carrier and its package or shipping container, if multiple packaging is used. The code will identify the date (month and year) of manufacture and permit future identification of any given model.

Products are also required in the standards to provide easy-to-read and understand instructions regarding assembly, maintenance, cleaning, use, and adjustments, where applicable.

CPSC has OMB control numbers for the estimated burden in complying with marking and labeling requirements in each section 104 rule. With this renewal, we are moving the marking and labeling burden requirement into the collection of information for Third Party Testing of Children's Products, so that the burden for all children's product testing, certification, recordkeeping, and marking and labeling for section 104 rules are estimated under one OMB control number. CPSC will discontinue use of the existing OMB control numbers currently assigned to individual section 104 rules. The discontinued OMB control numbers are listed in a table in section 4 of this document.

*Recordkeeping Requirements:* The testing rule and the component part rule each have recordkeeping requirements that largely overlap. Section 1107.26 of the testing rule requires each manufacturer or importer of a children's product subject to a children's product safety rule to establish and maintain the following records:

- a copy of the Children's Product Certificate (§ 1107.26(a)(1));
- records of each certification test (§ 1107.26(a)(2));
- records of periodic tests (§ 1107.26(a)(3));
- records documenting the basis for selection of representative samples for periodic testing purposes (§ 1107.26(a)(4));
- records of descriptions of all material changes in product design, manufacturing process, and sourcing of component parts, the certification tests run, and the test values (§ 1107.26(a)(5)); and
- records of undue influence procedures (§ 1107.26(a)(6)).

Section 1109.5(g) of the component part rule requires the creation and maintenance of specific data points, as well as documents that each certifier and testing party must provide, either in hard copy or electronically, to a another party who intends to rely on such documentation to issue a certificate:

- *Identification of the component part or the finished product tested;*
- *Identification of a lot or batch number, or other information sufficient to identify the component parts or finished products to which the testing applies;*
- *Identification of the applicable rules, bans, standards, and regulations for which each component part or finished product was tested;*
- *Identification of the testing method(s) and sampling protocol(s) used;*
- *The date or date range when the component part or finished product was tested;*
- *Test reports that provide the results of each test on a component part or finished product, and the test values, if any;*
- *Component part certificate(s) or finished product certificate(s), if any;*

- Identification of the party that conducted each test (including testing conducted by a manufacturer, testing laboratory, or third party conformity assessment body), and an attestation by the party conducting the testing that all testing of a component part or finished product by that party was performed in compliance with applicable provisions of section 14 of the CPSA, part 1107 of this chapter, or any more specific rules, bans, standards, or regulations;
- Records to support traceability as defined in § 1109.4(m), which includes the identity of all testing parties of a component part of a consumer product or a finished product, including the name and address of each testing party and any party that conducted testing on the component part or finished product. Parties that conduct testing may include a manufacturer, a supplier, a testing laboratory, or a third party conformity assessment body; and
- An attestation by each certifier and testing party that while the component part or finished product was in its custody, it exercised due care to ensure compliance with test result integrity requirements set forth in § 1109.5(b), including that: (1) proper management and control of all raw materials, component parts, subassemblies, and finished products is established and maintained for any factor that could affect the finished product's compliance with all applicable rules; (2) the manufacturing process does not add or result in a prohibited level of a chemical from any source, such as the material hopper, regrind equipment, or other equipment used in the assembly of the finished product; and (3) no action or inaction subsequent to testing and before distribution in commerce has occurred that would affect compliance, including contamination or degradation.

Items that overlap with the testing rule are indicated in italics above. The first five items are data points that are usually included on a test report. Test reports are also required to be maintained under the testing rule. Component part and finished product certificates, the seventh item, are also a requirement in the testing rule. All of these records need to be created and maintained only once to meet the applicable recordkeeping requirements. The only unique records required in the component part rule are the last three bullets, which include two attestations and records that demonstrate who is responsible for having component parts of the product tested.

Unlike the testing rule, the component part rule requires records, or electronic access to records, to be provided to a third party, when that party intends to rely on such records to certify a product. The component part rule does not require that the records actually be physically provided to another party; electronic access to records is sufficient. Under both rules, § 1107.26(b) and § 1109.5(j), records must be maintained for 5 years and must be made available, either in hard copy or electronically, for inspection by the CPSC, upon request.

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

*Testing Rule:* The recordkeeping requirements establish that products are properly third party tested and certified before they enter commerce and have been properly retested for conformity with all applicable rules on a continuing basis, including after a material change in the product's design or manufacturing processes.

*Component Part Rule:* The recordkeeping requirements allow tracking of testing or certification conducted on component parts of consumer products. The parties to which the rule applies include more than just a manufacturer or importer because any person can conduct component part testing, including suppliers and foreign manufacturers. Finished product certifiers (including manufacturers and importers) and component part certifiers must review the records to ensure third party testing is conducted properly and to issue a certificate of compliance. CPSC uses the required documentation to determine whether testing parties and certifiers are performing third party testing responsibilities properly. The required documentation is also used to identify consumer products, components of consumer products, test results, and the parties responsible for testing. Such documentation assists in identifying component parts and finished products that do not comply with the law and to implement an appropriate corrective action.

*Section 104 Rules:* Manufacturers are responsible for compliance with the marking, labeling, and instructional literature requirements in each children's product safety rule, including section 104 rules. Such requirements are intended to aid the manufacturer, importer, CPSC, and consumers in product identification and recall efforts, should a safety defect arise, as well as to inform consumers how to safely assemble and use the relevant consumer product.

## 3. Consideration of Information Technology

The testing and component part rules allow records to be maintained electronically and provided in that form to the Commission, upon request. The component part rule also allows records to be accessed by all parties electronically.

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

*Testing Rule:* The recordkeeping requirements allow a manufacturer to establish that a product was certified properly before it enters commerce and has been retested properly, on a continuing basis, for conformity with all applicable CPSC rules, including testing after a material change in the product's design or manufacturing processes. Consequently, unless manufacturers are relying on component part testing as described below, it is unlikely that the required information is duplicated or already available from other sources.

*Component Part Rule:* Certified products and their component parts, if tested separately, must be traceable to the parties conducting and procuring third party testing. The required documentation is largely the type of information that is already maintained by testing parties and certifiers on test reports. However, the final component part rule requires such information to be provided to, or available to, third parties in the supply chain, such as manufacturers and importers, who intend to rely on such testing or certification to certify the finished product. Multiple parties are not required

to keep duplicate records under the component part rule, which allows a party who conducts testing on component parts to make such testing and certification records available electronically. As long as third parties who rely on these records to certify a product continue to have access to the required records, and can make the records available to the CPSC as required by the rule, they do not need to maintain them separately. It is unlikely that the required information and records are available from other sources.

*Section 104 Rules:* Manufacturers are required by rule to place certain labels and warnings on the product, and certain warnings and instructions must also accompany each product.

Stakeholder Outreach

*Testing and Component Part Rules:* Stakeholders were given an opportunity to comment on the proposed recordkeeping requirements for the testing and component part rules as part of the rulemaking process for parts 1107 and 1109. A notice of proposed rulemaking was published in the *Federal Register* for both rules on May 20, 2010: 75 FR 28336 (testing rule) and 75 FR 28208 (component part rule). The CPSC’s responses to comments appear in the final rules published on November 8, 2011: 76 FR 69482 (testing rule) and 76 FR 69547 (component part rule). Stakeholders were also given an opportunity to comment on recordkeeping requirements in an amendment to the testing rule that requires the selection of representative samples and associated recordkeeping. A notice of proposed rulemaking on this amendment was published in the *Federal Register* on November 8, 2011, 76 FR 69586. The CPSC responded to one comment on the recordkeeping burden in the final rule implementing the representative sample requirement, which was published in the *Federal Register* on December 5, 2012, at 77 FR 72205. Stakeholders were also given the opportunity to comment on reducing third party testing burden associated with the testing of children’s products pursuant to a request for comment issued by the Commission on November 8, 2011 (76 FR 69596).

*Section 104 Rules:* Stakeholders had the opportunity to comment on marking, labeling, and instruction requirements in each section 104 rule. Following is a list of section 104 rules, a citation to the *Federal Register* notice for each final rule, and a citation for any burden renewal (PRA Update):

<b>Discontinued OMB Control Nbr</b>	<b>16 CFR</b>	<b>Standard</b>	<b>Final Rule/PRA Update</b>
3041-0145	1215	Safety Standard for Infant Bath Seats	75 FR 31691 (June 4, 2010); PRA update: 78 FR 73506 (Dec. 6, 2013)
3041-0141	1216	Safety Standard for Infant Walkers	75 FR 35266 (June 21, 2010); PRA Update: 78 FR 40444 (July 5, 2013)
3041-0150	1217	Safety Standard for Toddler Beds	76 FR 78 FR 22019 (April 20, 2011); PRA Update: 79 FR 26417 (May 8, 2014)
3041-0157	1218	Safety Standard for Bassinets and Cradles	78 FR 63019 (Oct 23, 2013)
3041-0147	1219	Safety Standard for Full-Size Baby Cribs	75 FR 81766 (Dec 28, 2010) PRA Update: 79 FR 12185 (March 4, 2014)
3041-0147	1220	Safety Standard for Non-Full-Size Baby Cribs	75 FR 81766 (Dec 28, 2010) PRA Update: 79 FR 12185 (March 4, 2014)
3041-0152	1221	Safety Standard for	78 FR 50328 (Aug. 19, 2013);

		Play Yards	PRA Update: 80 FR 59139 (Oct. 1, 2015)
3041-0160	1222	Safety Standard for Bedside Sleepers	79 FR 2581 (Jan. 15, 2014)
3041-0155	1223	Safety Standard for Infant Swings	77 FR 66703 (Nov 7, 2012) PRA Update: 80 FR 60885 (Oct. 8, 2015)
3041-0149	1224	Safety Standard for Portable Bed Rails	77 FR 12182 (Feb 29, 2012) PRA Update: 80 FR 33248 (June 11, 2015)
3041-0158	1225	Safety Standard for Hand-Held Infant Carriers	78 FR 73415 (Dec 6, 2013)
3041-0162	1226	Safety Standard for Soft Infant and Toddler Carriers	79 FR 17422 (March 28, 2014)
3041-0164	1227	Safety Standard for Carriages and Strollers	79 FR 13208 (Mar 10, 2014)
3041-0166	1230	Safety Standard for Frame Child Carriers	80 FR 11113 (Mar 2, 2015)

## 5. Impact on Small Business

*Testing and Component Part Rules:* Although many small businesses are required to keep records for children’s product testing and certification, small businesses have the flexibility to establish and maintain records required by the testing rule and the component part rule in any manner or format that suits their needs. Moreover, documentation in the component part rule largely overlaps recordkeeping required in the testing rule. Although in some instances multiple parties may keep copies of the same records, they are not required to do so. Access to the same records electronically is allowed by the component part rule. Finally, using component part testing is voluntary. To the extent that small businesses do not achieve a cost savings by conducting component part testing, they are not required to use it in certifying children’s products.

*Section 104 Rules:* The impact on small businesses for the marking, labeling and instructions required are addressed in each section 104 rule. Generally, marking, labeling, and instruction requirements have not been found to significantly impact small businesses.

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

*Testing Rule:* 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 and the requirements of the testing rule.

*Component Part Rule:* Without appropriate recordkeeping, allowance of component part testing could lead to degradation in compliance of finished products. Accordingly, the component part rule requires documentation sufficient to demonstrate the component part’s compliance with the standards tested, and that enable component parts to be traced back to the party that had them tested, and to the third party laboratory that conducted the tests. Any less documentation and recordkeeping would not achieve this purpose, and would impede CPSC’s ability to investigate compliance violations and enforce testing and certification rules for children’s products.

*Section 104 Rules:* Stakeholders, consumers, and the government rely on product marking, labeling, and instructions to inform about safe use and assembly of products and to identify products for recall.

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

The testing and component part rules are consistent with the guidelines in 5 CFR § 1320.5(d)(2).

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

*Testing Rule:* A notice of proposed rulemaking (NPR) was published in the *Federal Register* on May 20, 2010 (75 FR 28336). A final rule was published in the *Federal Register* on November 8, 2011 (76 FR 69482). The preamble to the final rule summarizes and responds to comments pertaining to the Paperwork Reduction Act that were submitted in response to the proposed rule. See 76 FR at 69538-40. The testing rule was amended to require the selection of representative samples for periodic testing of children's products, including an associated recordkeeping requirement. An NPR for this amendment was published in the *Federal Register* on November 8, 2011 (76 FR 69586). The CPSC responded to one comment on the recordkeeping burden in the final rule implementing the representative sample requirement, which was published in the *Federal Register* on December 5, 2012 at 77 FR 72205.

*Component Part Rule:* An NPR was published in the *Federal Register* on May 20, 2010 (75 FR 28362). A final rule was published in the *Federal Register* on November 8, 2011 (76 FR 69546). The preamble to the final rule summarizes and responds to comments pertaining to the Paperwork Reduction Act that were submitted in response to the proposed rule. See 76 FR at 69578.

*Section 104 Rules:* A list of section 104 rules and related *Federal Register* notices appears in section 4 of this document.

A notice to renew this OMB control number was published in the *Federal Register* on November 16, 2015. One comment was received.

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 to CBP and CPSC would be subject to the Freedom of Information Act and its exemptions to public disclosure.

11. Sensitive Questions

Information regarding ownership, business and governmental relationships, suppliers, and third party conformity assessment body personnel may be considered sensitive. Such information could appear through the records and documentation required by the testing and component part rules.

However, the rules do not require the disclosure of confidential business information to non-governmental third parties.

## 12. Estimates of Burden Hours and Explanation

*Testing Rule:* Three types of third party testing of children's products are required by the testing rule: certification testing, material change testing, and periodic testing. Component part testing can be used to meet any of these requirements. Certification testing must occur for every regulated children's product before the product is introduced into commerce. After certification testing, continuing testing must occur when the product undergoes a material change and periodically. If no material changes occur in continuing production of a children's product, periodic testing still must be conducted at certain intervals. The maximum periodic testing interval is 1 year, unless a manufacturer uses a production testing plan (2 years), or uses a testing laboratory accredited to ISO/IEC 17025:2005(E) (3 years). When conducting periodic testing, manufacturers must select representative samples for third party testing. Material change testing is tantamount to recertification, and it can reset the periodic testing interval for the product or component part tested.

The CPSC reviewed every category in the NAICS and selected those that included firms that could manufacture or sell any consumer product that could be covered by a consumer product safety rule. Using data from the U.S. Census Bureau, we determined that there were approximately 34,000 manufacturers, about 77,000 wholesalers, and about 133,000 retailers in these categories. However, these categories also include many non-children's products, which are not covered by any children's product safety rules. Therefore, these numbers would constitute an overestimate of the number of firms that are subject to the recordkeeping requirements.

The testing rule requires that manufacturers conduct sufficient testing to ensure that they have a high degree of assurance that their children's products comply with all applicable children's products safety rules before such products are introduced into commerce. Each manufacturer is required to obtain third party certification tests for each children's product and maintain the resulting records, including the children's product certificate. Manufacturers are also required to conduct continuing tests on their children's products and maintain the records associated with this testing. Continuing testing includes third party testing after a material change to the product and periodic third party testing or a combination of periodic third party testing and production (first party) testing. Because of the vast number and variety of children's products, there is a corresponding variety of manufacturing processes for children's products. Accordingly, the testing rule allows manufacturers a substantial amount of flexibility in designing their testing programs. For example, manufacturers may use first party production testing to increase the maximum time interval between required third party periodic testing from 1 to 2 years. Manufacturers also have the option of simply recertifying each batch of products instead of conducting periodic or production testing.

Based on the comments that we received from manufacturers in response to the NPR, we estimate that several hours of recordkeeping, per product, will be required each year, including the cost to develop any records. However, because firms have multiple options for conducting the required testing, it is not possible for us to estimate how this time will be distributed over the records listed under §1107.26. Although all manufacturers will have at least one children's product certificate for

each children's product that they produce during the year, some manufacturers will simply conduct certification tests on each batch produced during the year. This means that they will have to create records of multiple certification tests and multiple children's product certificates for each product but no records of periodic tests, production tests, or material changes. Other manufacturers may opt to conduct periodic or production tests instead of recertifying each batch. Therefore, these manufacturers will be responsible for creating and maintaining records of one set of certification tests and one children's product certificate, but they will also be responsible for creating and maintaining the records associated with their periodic testing and material changes.

If a manufacturer conducts periodic testing, they are required to keep records that describe how the samples for periodic testing are selected, the number of samples that will be selected, and an explanation of why the procedure described will result in the selection of representative samples. Although it might take a manufacturer several hours, or perhaps several days, to analyze its products and manufacturing processes to determine its options for selecting representative samples, the actual documentation of the procedure and basis for inferring compliance will probably take less time. This is not likely to be done on a per product basis, but on a per plan basis, which could be used for more than one product. This is a first year cost. In successive years, it will apply only to new products or to products whose sampling plan changes, so the burden will be reduced. Documenting representative sample selection will likely be part of developing a periodic or production testing plan.

The hour burden of the recordkeeping requirements will likely vary greatly from product to product, depending upon such factors as the complexity of the product and the amount of testing that must be documented. Therefore, estimates of the hour burden of the recordkeeping requirements are somewhat speculative.

Based on the comments we received on the proposed testing rule, we revised the estimated number of children's products that are affected, as well as the hourly recordkeeping burden estimate. We estimate that approximately 300,000 non-apparel children's products are covered by the rule and that an average of 5 hours will be needed for the recordkeeping associated with these products per year. We also estimate that there are approximately 1.3 million children's apparel and footwear products, for which an average of 3 hours of recordkeeping will be required per year. Thus, the total hour burden of the recordkeeping associated with the testing rule is 5.4 million hours (300,000 non-apparel children's products x 5 hours per non-apparel children's product plus 1,300,000 children's apparel products x 3 hours per children's apparel product = 1.5 million hours + 3.9 million hours, or a total of 5.4 million hours). At \$30.52 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2015, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>) per hour hourly compensation rate, the total cost of the recordkeeping associated with the testing rule is approximately \$197 million (5.4 million hours x \$30.52 = \$164,808,000).

It is unclear how recordkeeping for the selection of representative samples changes the recordkeeping burden for children's products because the requirement exists only for manufacturers who conduct periodic testing. Additionally, the same basis could apply to multiple products, and therefore, documentation may not need to be reproduced for each product to which it applies but could be cited in the periodic or production testing plan. In the final rule implementing

representative sample selection, we estimate that if each product line averages 50 individual models or styles, then a total of 32,000 individual representative sampling plans (1.6 million children's products ÷ 50 models or styles) would need to be developed and documented. This would require 128,000 hours (32,000 plans x 4 hours per plan), at a total cost of approximately \$8.6 million (128,000 hours x \$67.22 per hour (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," December 2014, Table 9, total compensation for all management, professional, and related workers in goods-producing private industries: <http://www.bls.gov/ncs/>)). If each product line averages 10 individual models or styles, then a total of 160,000 different representative sampling plans (1.6 million children's products ÷ 10 models or styles) would need to be documented. This would require 640,000 hours (160,000 plans x 4 hours per plan), at a total cost of approximately \$43 million (640,000 hours x \$67.22 per hour). Thus, the requirement to document the basis for selecting representative samples could increase the hour burden by up to 640,000 hours and increase the cost of recordkeeping associated with third party testing of children's products by up to \$43 million, bringing the total cost for the testing rule to an estimated \$207 million.

*Component Part Rule:* The component part rule shifts some testing costs and some recordkeeping costs to component part and finished product suppliers because some testing will be performed by these parties rather than by the finished product certifiers (manufacturers and importers). However, a finished product certifier is still responsible for receiving or having access to required testing and traceability records from component part and finished product suppliers and for recording pertinent information on the finished product certificate. Thus, even if a finished product certifier can rely entirely on component part and finished product suppliers for all required testing, the finished product supplier still has some recordkeeping burden in order to create and maintain a finished product certificate. Therefore, although the component part testing rule should reduce the total cost of the testing required by the testing rule, it will lead to an increase in the recordkeeping burden for those who choose to use component part testing.

Because we do not know how many companies participate in component part testing and supply test reports or certifications to other certifiers in the supply chain, we have no concrete data to estimate the recordkeeping and third party disclosure requirements in the component part rule. Likewise, no clear method exists for estimating the number of finished product certifiers who conduct their own component part testing. In the preamble to the proposed rule (75 FR at 28218), we suggested that the recordkeeping burden for the component part testing rule could amount to 10 percent of the burden estimated for the testing and labeling rule. Although some comments suggested that the resulting estimates were too low, no commenter provided a better estimate or suggested a better method for estimating the burden. Moreover, because the estimate of the recordkeeping burden for the testing and labeling rule has been increased, using the same methodology used in the proposed rule, the estimates for the component rule also would increase. This may address the concern of the commenters who believed the estimate used in the proposed rule was too low.

As discussed above, although we have no concrete data to estimate the amount of component part recordkeeping, we suggest that it could amount to about 10 percent of the recordkeeping burden associated with the testing rule. The component part rule also requires third party disclosure of test reports and certificates, if any, to a certifier intending to rely on such documents to issue its own certificate. Without data it is also difficult to allocate our burden estimation between the recordkeeping and third party disclosure requirements. However, we believe that creating and

maintaining records accounts for 90 percent of the burden, while the third party disclosure burden is much less, perhaps 10 percent. Therefore, if we continue to use the estimate that component part testing will amount to about 10 percent of the burden estimated for the testing and labeling rule, then the hour burden of the component part rule would be about 540,000 hours total; allocating 486,000 hours for recordkeeping and 54,000 hours for third party disclosure.. At \$30.52 per hour, the total cost of the recordkeeping and third party disclosures for the component part rule would be about \$16.5 million.

*Section 104 Rules:* Section 9 of each ASTM standard incorporated by reference requires that the name of the manufacturer, distributor, or seller, and either the place of business (city, state, and mailing address, including zip code) or telephone number, or both, to be marked clearly and legibly on each product and its retail package. It also requires a code mark or other means that identifies the date (month and year, at a minimum) of manufacture. Furthermore, these markings must be permanent.

Section 10 of each ASTM standard incorporated by reference requires instructions to be supplied with the product. Instructions include installation or assembly instructions. Products sold without such information would not be able to compete successfully with products supplying this information. Under the OMB's regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the "normal course of their activities" are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are "usual and customary." Therefore, because we are unaware of durable infant and toddler products that generally require installation or some assembly but lack any instructions to the user about such installation or assembly, we estimate tentatively that there are no burden hours associated with section 10 of each ASTM standard, because any burden associated with supplying instructions with would be "usual and customary" and not within the definition of "burden" under the OMB's regulations.

Each section 104 rule contains a similar analysis for marking and labeling. The time estimated to make any necessary changes to the marking and labeling has been estimated to equal one hour per model. The variable in each rule is the number of respondents, meaning the number of manufacturers, the number of models sold, and the average labor cost. We estimate the hourly compensation for the time required to create and update labels is \$30.52 (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," June 2015, Table 9, total compensation for all sales and office workers in goods-producing private industries: <http://www.bls.gov/ncs/>). Based on the foregoing, the burden for marking and labeling for each section 104 rule is provided in the chart below. The total number of respondent hours is 3,378, with total cost equal to \$103,097 (3,378x\$30.52).

<b>Discontinued OMB Control Nbr</b>	<b>16 CFR Part</b>	<b>Description</b>	<b>Mfrs</b>	<b>Models</b>	<b>Total Respondent Hours</b>
3041-0145	1215	Safety Standard for Infant Bath Seats	7	2	14
3041-0141	1216	Safety Standard for Infant Walkers	16	4	64
3041-0150	1217	Safety Standard for Toddler Beds	78	10	780
3041-0157	1218	Safety Standard for Bassinets and Cradles	62	5	310
3041-0147	1219	Safety Standard for Full-Size Cribs	78	11	858
3041-0147	1220	Safety Standard for Non-Full-Size Cribs	24	4	96
3041-0152	1221	Safety Standard for Play Yards	31	4	124
3041-0160	1222	Safety Standard for Infant Bedside Sleepers	5	2	10
3041-0155	1223	Safety Standard for Swings	10	11	110
3041-0149	1224	Safety Standard for Portable Bedrails	17	2	34
3041-0158	1225	Safety Standard for Hand-Held Infant Carriers	71	2	142
3041-0162	1226	Safety Standard for Soft Infant and Toddler Carriers	54	2	108
3041-0164	1227	Safety Standard for Carriages and Strollers	85	8	680
3041-0166	1230	Safety Standard for Frame Child Carriers (not effective until 9/2016)	16	3	48
<b>Total Burden Hours</b>					<b>3,378</b>

### 13. Annual Cost to Respondents

*Testing and Component Part Rules:* Typically, most records required by the rules will not be provided to the government. Records are requested by CPSC when we are investigating a potential noncompliant product at the ports, or through a domestic compliance program. The component part rule requires disclosure of records to third parties, but it allows for electronic access of records by such parties. Thus, the component part rule does not require that records be duplicated and physically provided to third parties, as long as such records can be made available to CPSC upon request. No particular format for recordkeeping is required by either rule. The annual cost to respondents to provide records to the CPSC and to third parties is expected to be minimal because records can be provided electronically, via electronic mail, or via any other electronic format, such as an Internet website.

*Section 104 Rules:* Marking, labeling, and instructions are required for every product subject to a section 104 rule. Every product must be marked and instructions must accompany the product. Because marking, labeling, and instructions are typically already provided with the products, and only adjustments to them are necessary, there should be minimal capital costs associated with

meeting the requirements.

14. Annual Cost to the Government

*Testing and Component Part Rules:* CPSC collects testing and certification records when we are investigating a potential noncomplying product. The records are intended to provide documentation of testing and certification, and traceability of component parts. In an investigation, access to these records should make it easier to identify the noncomplying products and possibly reduce the cost to the government of investigating a recall. Although the CPSC cannot estimate how often it will investigate allegedly noncomplying product incidents, the examination of records required by the rule would largely be incidental to a CPSC investigation. Accordingly, we anticipate that the annual cost to the government will be minimal.

*Section 104 Rules:* For each section 104 rule, the estimated annual cost to the federal government is approximately \$3,656, which includes 60 staff hours to examine and evaluate the information, as needed, for compliance activities. This is based on a GS-12 level salaried employee. The average wage rate for a mid-level salaried GS-12 employee in the Washington, D.C. metropolitan area (effective as of January 2015) is \$86,564 (GS-12, step 5). This represents 68.3 percent of total compensation (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2015, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees). Adding an additional 31.7 percent for benefits brings the average compensation for a mid-level salaried GS-12 employee to \$126,741 or \$60.93 per hour. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$3,656. The combined cost to the federal government for all section 104 rules is \$51,184.

15. Changes in Burden

*Section 104 Rules:* The additional burden of including the third-party disclosures in this collection will be offset by the discontinuance of the OMB control numbers that currently include the burdens for labeling and marking of children’s products.

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.

## APPENDIX A

*Children’s Product Safety Rules:* The following is a list of children’s product safety rules that require third party testing and certification.

<b>Citation</b>	<b>Description</b>
1203	Safety Standard for Bicycle Helmets – Children's
1215	Safety Standard for Infant Bath Seats
1216	Safety Standard for Infant Walkers
1217	Safety Standard for Toddler Beds
1218	Safety Standard for Bassinets and Cradles
1219	Safety Standard for Full-Size Cribs
1220	Safety Standard for Non-Full-Size Cribs
1221	Safety Standard for Play Yards
1222	Safety Standard for Infant Bedside Sleepers
1223	Safety Standard for Swings
1224	Safety Standard for Portable Bedrails
1225	Safety Standard for Hand-Held Infant Carriers
1226	Safety Standard for Soft Infant and Toddler Carriers
1227	Safety Standard for Carriages and Strollers
1230	Safety Standard for Frame Child Carriers (not effective until 9/2016)
1303	Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint - Children's Products. Applies to consumer paints and paint used on certain movable non-metal children's furniture products
1420	Requirements for All Terrain Vehicles (ATVs) - Children's
1501	Small Parts
1505	Electrically Operated Toys or Articles
1510	Rattles
1511	Pacifiers
1512	Requirements for Bicycles – Children's
1513	Safety Standard for Entrapment Hazards in Bunk Beds – Children's
1610	Standard for the Flammability of Clothing Textiles - Children's
1611	Standard for the Flammability of Vinyl Plastic Film - Children's
1615	Standard for the Flammability of Children’s Sleepwear: Sizes 0 through 6X (FF 3-71)
1616	Standard for the Flammability of Children’s Sleepwear: Sizes 7 through 14 (FF 5-74)
1630	Standard for the Surface Flammability of Carpets and Rugs - Children's
1631	Standard for the Surface Flammability of Small Carpets and Rugs - Children's
1632	Standard for the Flammability of Mattresses and Mattress Pads (FF 4-72, Amended) - Children's
1633	Standard for the Flammability (Open Flame) of Mattress Sets - Children's
15 USC 1278a Metal	Test Method CPSC-CH-E1001-08 and/or CPSC-CH-E1001-08.1 and/or CPSC-CH-E1001-08.2 and/or CPSC-CH-E1001-08.3, or for Metal Jewelry CPSC Laboratory SOP (effective date 03/23/2009)
15 USC 1278a Non-Metal	Test Method CPSC-CH-E1002-08 and/or CPSC-CH-E1002-08.1 and/or CPSC-CH-E1001-08.2 and/or CPSC-CH-E1002-08.3, Lead Content in Children's Non-Metal Products
15 USC 2057c	Determination of Phthalates in Toys and Certain Children’s Products— Plasticizers in Polyvinyl Chloride Plastic(Test Method: CPSC-CH-C1001-09.3 and/or GB/T 22048-2008) (effective date December 31, 2011. See Federal Register notice of August 10, 2011)
1500.18(a)	Kites
1500.86(a)(5)	Clacker Balls
1500.86(a)(7) & (8)	Dive Sticks and Other Similar Articles
ASTM F963	Standard Consumer Safety Specification for Toy Safety

The following sections of ASTM F963 are mandatory safety requirements for toys. Toys must be third party tested and certified to meet each applicable section of the standard listed below. Citations are to the 2011 version of ASTM F963, unless otherwise noted.

<b>Citation</b>	<b>Description</b>
4.10	Wires or Rods
4.11	Nails and Fasteners
4.12	Plastic Film
4.13	Folding Mechanisms and Hinges
4.14	Cords, Straps, and Elastics
4.15	Stability and Overload Requirements
4.16	Confined Spaces
4.17	Wheels, Tires, and Axles
4.18	Holes, Clearances, and Accessibility of Mechanisms
4.19	Simulated Protective Devices (except labeling and/or instructional literature requirements)
4.20.1	Pacifiers with Rubber Nipples/Nitrosamine Test
4.20.2	Toy Pacifiers
4.21	Projectile Toys
4.22	Teethers and Teething Toys
4.23.1	Rattles with nearly spherical, hemispherical, or circular flared ends
4.24	Squeeze Toys
4.25	Battery-Operated Toys (except labeling and/or instructional literature requirements)
4.26	Toys Intended to Be Attached to a Crib or Playpen (except labeling and/or instructional literature requirements)
4.27	Toy Chests (except labeling and/or instructional literature requirements) – ASTM F-963-07e1
4.27	Stuffed and Beanbag-Type Toys
4.3.5.1(2)	Surface Coating Materials – Soluble Test for Metals
4.3.5.2	Toy Substrate Materials
4.3.6.3	Cleanliness of Liquids, Pastes, Putties, Gels, and Powders
4.3.7	Stuffing Materials
4.30	Toy Gun Marking
4.32	Certain Toys with Nearly Spherical Ends
4.35	Pompoms
4.36	Hemispheric-Shaped Objects
4.37	Yo-Yo Elastic Tether Toys
4.38	Magnets (except labeling and/or instructional literature requirements)
4.39	Jaw Entrapment in Handles and Steering Wheels
4.5	Sound Producing Toys
4.6	Small Objects (except labeling and/or instructional literature requirements)
4.7	Accessible Edges (except labeling and/or instructional literature requirements)
4.8	Projections (except bath toy projections)
4.9	Accessible Points (except labeling and/or instructional literature requirements)