

## **INFORMATION COLLECTION REQUEST (ICR): OMB 83-I SUPPORTING STATEMENT**

### ***A. Justification***

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

The Flammable Fabrics Act of 1953 (FFA) (Pub. L. 83-88, 67 Stat.111; June 30, 1953) prohibits the manufacture for sale, importation, or sale in commerce of any article of wearing apparel or any fabric or related material intended for use in wearing apparel which exhibits “rapid and intense” burning when tested in accordance with the standard identified as “Flammability of Clothing Textiles, Commercial Standard 191-53” or the standard identified as “General Purpose Vinyl Plastic Film, Commercial Standard 192-53.” Those standards are now codified as the Standard for the Flammability of Clothing Textiles (16 C.F.R. Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 C.F.R. Part 1611). They prohibit the use of dangerously flammable textiles and related materials in wearing apparel.

Garments, fabrics, and related materials which are subject to the standards must meet the requirements of the applicable standard when tested by the Commission. Manufacturers and importers of those garments, fabrics, and related materials are not required to perform premarket testing unless they elect to issue a guaranty that products comply with the applicable standard. Enforcement regulations issued under section 5 of the FFA (15 U.S.C. Part 1194) implement both standards. These regulations specify the testing necessary to support a guaranty that items comply with the applicable standard. These regulations also require maintenance of records of testing to support guaranties.

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

The Commission uses the information compiled and maintained by firms issuing guaranties with the flammability standards for clothing textiles and vinyl film to help protect the public from risks of injury or death from fires involving wearing apparel. More specifically, the information helps the Commission arrange corrective actions if any garments, fabrics, or related materials covered by a guaranty fail to comply with the applicable standard in a manner that creates a substantial risk of injury or death to the public. The Commission also uses this information to determine whether the required testing was performed to support guaranties of compliance with the flammability standards for clothing or textiles and vinyl film.

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

The enforcement regulations require firms issuing guaranties to perform testing and to maintain records of testing to support guaranties for three years. Firms may elect to use automated, mechanical, or electronic technology to compile and maintain the information required by the enforcement regulations.

#### ***4. Efforts to identify duplication***

The information contained in the records of testing required by the enforcement regulations is not available from any source other than the individual firms issuing guaranties with the flammability standards for clothing textiles and vinyl plastic film.

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

In 1988, the Commission reviewed the economic impact of the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations on small businesses. The Commission concluded that the standards and regulations do not have a significant economic impact upon a substantial number of small businesses.

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

Section 8(a) of the FFA (15 U.S.C. Part 1197(a)) requires that a guaranty of compliance with a flammability standard must be supported by “reasonable and representative” tests in accordance with the applicable standard. If the testing to support guaranties with the flammability standards for clothing textiles and vinyl plastic film were performed less frequently than specified in the enforcement regulations, that testing would no longer be “representative” of the products covered by the guaranty. In its 1988 review of the standards for clothing textiles and vinyl plastic film for economic impact on small businesses, the Commission observed that amendments of the implementing regulations in 1983 and 1984 may have reduced the testing and recordkeeping burdens of the standards to all firms by as much as 40 percent.

#### ***7. Special circumstances requiring respondents to report information more often than quarterly or to prepare responses in fewer than 30 days***

The collection of information in the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations is not conducted under any of the conditions described in item number 7.

#### ***8. Agency’s Federal Register Notice and related information***

A notice soliciting comments on the Commission’s intent to request an extension of a previously approved collection of data was published in the FR on March 13, 2020 (85 FR 14654). No comments were received.

#### ***9. Decision to provide payment or gift***

No gifts or payments are made to persons or firms subject to the flammability standards for clothing textiles and vinyl plastic film.

## ***10. Assurance of confidentiality***

If a firm believes that any of the information required to be maintained by the standards and enforcement rules is a trade secret or confidential, the firm may identify that information before submitting it to the Commission. That information then becomes subject to the Commission's procedures for withholding confidential information from public disclosure. Those procedures are codified at 16 C.F.R. Part 1015, Subpart B. If such information is requested from the Commission under provisions of the Freedom of Information Act, the firm is notified and given the opportunity to respond prior to the Commission's release of the information.

## ***11. Questions of a sensitive nature***

The flammability standards for clothing textiles and vinyl plastic film and enforcement regulations do not require firms to compile or maintain records containing any information of a sensitive nature.

## ***12. Estimate of hour burden to respondents***

The Commission's estimate of 1,000 firms that issue guaranties is based on the number of continuing guaranties that have been filed with the Commission. The Commission's last updated records indicate that approximately 675 firms have active continuing guaranties. Because continuing guaranties are not required to be filed with the Commission, CPSC staff rounded the number of firms up to 1,000. The Commission estimates that the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations impose an average annual burden of about 101.6 hours on each of those firms, based on an estimate of the time for each firm to conduct testing, issue guaranties, and to establish and maintain associated records. The average annual burden hour estimate of 101.6 is based on the following assumptions, which are based, among other things, on staff's experience with and expertise in testing requirements and procedures and staff's review of records relating to guaranties that have been filed with the Commission:

- Testing Time—5 hours per test series, using either the test and conditioning procedures in the regulations or alternate methods that are now allowed under the 2007 amendments to the regulations (this was applied to all firms for each guaranty, even though many firms no longer test because the products are exempt by virtue of weight or fiber content under 16 CFR 1610.1(d), or because the firms' experience indicates that the fabrics already comply)
- Guaranties Issued—On average, 20 new guaranties issued per firm per year for new fabrics or garments
- Estimated Annual Testing Time per Firm—5 hours for testing × 20 guaranties issued = 100 hours per firm
- Estimated Annual Recordkeeping per Firm—1 hour to create, record, and enter test data into a computerized dataset; 20 minutes (= 0.3 hours) for annual review/removal of records; 20 minutes (= 0.3 hours) to respond to one CPSC records request per year; for a

total of 1.6 recordkeeping hours per firm (1 hour + .3 hours + .3 hours = 1.6 hours per firm)

- Total Estimated Annual Burden Hours per Firm—100 hours Estimated Annual Testing Time per Firm + 1.6 Estimated Annual Recordkeeping hours per Firm = 101.6 hours per firm

- Estimated Annual Industry Burden—101.6 hours per firm  $\times$  1,000 firms issuing guaranties = 101,600 industry burden hours. The total annual industry burden imposed by the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations on manufacturers and importers of garments, fabrics, and related materials is estimated to be about 101,600 hours (101.6 hours per firm  $\times$  1,000 firms).

The hourly compensation for the time required for record keeping is \$70.17 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” September 2019, Supplementary table 1, total compensation of all management, professional, and related occupations in goods-producing industries: <http://www.bls.gov/ncs>). The estimated annualized cost to the industry would be \$7.1 million (101,600  $\times$  \$70.17 = \$7,129,272).

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

The only costs to firms subject to the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations are those described in item 12, above.

### ***14. Estimate of annualized costs to the Federal government***

The estimated annual cost of the information collection requirements to the federal government is approximately \$5,483, which includes 80 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 hourly wage rate for a mid-level salaried GS-12 employee in the Washington, DC metropolitan area is \$46.88 (GS-12, step 5). This represents 68.4 percent of total compensation costs (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” September 2019, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees: <http://www.bls.gov/ncs/>). Adding the remaining 31.6 percent for benefits brings average hourly compensation costs for a mid-level salaried GS-12 employee to \$68.54.

Assuming that approximately 80 hours will be required annually, the annual cost to the Federal government is \$5,483.

### ***15. Program changes or adjustments***

No change has been made to the collection of information in the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations since it was last approved by OMB.

### ***16. Plans for tabulation and publication***

The Commission does not publish any of the information required to be compiled or maintained by firms subject to the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations.

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

The Commission does not request permission to avoid display of the expiration date of OMB approval of this collection of information.

***18. Exception to the certification statement***

No exception is made to the certification statement in item 19 of OMB Form 83-I.

***B. Collections of information employing statistical methods***

Not applicable.