



UNITED STATES  
 CONSUMER PRODUCT SAFETY COMMISSION  
 WASHINGTON, DC 20207

**BALLOT VOTE SHEET**

**MAR - 4 2010**

**DATE:**

**TO** The Commission  
 Todd Stevenson, Secretary

**FROM** Cheryl A. Falvey, General Counsel *CAF*  
 Philip L. Chao, Assistant General Counsel *PLC*  
 Mary A. House, Attorney *MAH*

**SUBJECT** Proposed Collection; Comment Request –  
 Consumer Product Safety Improvement Act;  
 Consumer Product Conformity Assessment Body  
 Registration Form

**MAR 11 2010**

**VOTE DUE:** \_\_\_\_\_

The Office of the General Counsel is providing a draft *Federal Register* document announcing that a proposed new collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The notice regards a proposed collection of information necessary for the Consumer Product Safety Commission (“CPSC”) staff to evaluate and accredit third party conformity assessment bodies to test children’s products, as required by section 14(a)(3) of the Consumer Product Safety Act, as amended by section 102 of the Consumer Product Safety Improvement Act of 2008.

Please indicate your vote on the following options:

- I. Approve the *Federal Register* notice as drafted.

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Date)

*R.H. 3/4/2010*

CLEARED FOR PUBLIC RELEASE  
 UNDER CPSA 6(b)(1)

THIS DOCUMENT HAS NOT BEEN  
 REVIEWED OR ACCEPTED BY THE  
 COMMISSION.

II. Approve the *Federal Register* notice with changes. (Please specify.)

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

III. Do not approve the *Federal Register* notice.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

IV. Take other action. (Please specify.)

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2009-0088]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC) is announcing that a proposed new collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202-395-6974, or e-mailed to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). All comments should be identified with the title "Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form." Also include the CPSC docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Linda Glatz,

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Services,

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SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the CPSC has submitted the following proposed collection of information to OMB for review and clearance: Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form – New Proposed Collection

**A. Background**

The Consumer Product Safety Improvement Act of 2008 (“CPSIA” or “Act”) was signed into law on August 14, 2008 (Pub. L. No. 110-314). Section 102 of the CPSIA requires third party testing for any children’s product that is subject to a children’s product safety rule. Such third party testing of children’s products must be completed before importing for consumption or warehousing or distributing the children’s product in commerce. Every manufacturer of such children’s products (and the private labeler of such children’s product if the product bears a private label) must submit samples for testing to a third party conformity assessment body which is accredited under requirements established by the Commission. The third party conformity assessment body will test such samples for compliance with applicable children’s product safety rules. Based on this testing, the manufacturer or private labeler must issue a certificate that certifies that the children’s product complies with all applicable children’s product safety rules.

Section 14(f)(2)(A) of the Consumer Product Safety Act (as amended by section 102(b) of the CPSIA) defines a third party conformity assessment body as one that is not owned, managed, or controlled by the manufacturer or private labeler of a product to be assessed by such conformity assessment body. A conformity assessment body that is owned, managed, or controlled by a manufacturer or a private labeler may, in certain specified circumstances, be accredited as a third party conformity assessment body. The CPSIA also refers to such entities as “firewalled conformity assessment bodies.” Additionally, the CPSIA specifies that, under certain conditions, a third party conformity assessment body may include a government-owned or government-controlled entity.

The CPSIA provides that accreditation of third party conformity assessment bodies may be conducted either by the Commission or by an independent accreditation organization designated by the Commission. The Commission must maintain an up-to-date list of entities that have been accredited to assess compliance with children’s product safety rules on its website.

The CPSC uses an online collection form, CPSC Form 223, to gather information from third party conformity assessment bodies voluntarily seeking recognition by CPSC. The information collected relates to location, accreditation, and ownership. The Commission staff will use this information to assess:

- a third party conformity assessment body’s status as either an independent third party conformity assessment body, a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body;
- qualifications for recognition by CPSC to test for compliance to specified children’s product safety rules; and
- eligibility for recognition on the CPSC website.

The collection of this information on CPSC Form 223 is required: 1) upon initial application by the third party conformity assessment body for recognition by CPSC (“initial registrations”); 2) at least every 2 years as part of a regular audit process (“re-registrations”); and 3) whenever a change to accreditation or ownership information occurs (“information changes”).

In the FEDERAL REGISTER of October 29, 2009 (74 FR 55817) the CPSC published a 60-day notice requesting public comment on the proposed collection of information. One comment was received which addresses several issues. A summary of each issue identified in the comment (identified by “Comment”) and a response (identified by “Response”) to each appears below.

*Comment 1:* Form 223 needs better explanation to help companies, manufacturers, or laboratories complete the form.

*Response:* The current instructions for the form provide sufficient clarity for the relatively narrow group of intended users of the form, which is third party conformity assessment bodies (also known commonly as testing laboratories or third party laboratories). In general, neither manufacturers nor companies complete the form (other than for firewalled conformity assessment bodies). Based on CPSC staff experience with the laboratory applications submitted through Form 223, the vast majority of applicants appear to have a good understanding of the form’s purpose and how to complete the form. An applicant who has questions regarding the form can submit them to a CPSC email address, and CPSC staff monitors and responds to these emails. If applicants raise issues for which changes to the form’s instructions would increase clarity, the CPSC will make these adjustments.

*Comment 2:* Information on total time in business and formal complaints against the company or manufacturer and laboratory would be beneficial.

*Response:* The information sought by the comment is beyond the scope and purpose of Form 223. The form's primary purpose is to receive applications from testing laboratories for staff evaluation with the CPSC-established criteria for acceptance of third party testing laboratories for purposes of testing children's products to certain safety rules enforced by the Commission. Section 14(a)(3)(E) of the Consumer Product Safety Act, as amended, requires the Commission to "maintain on its Internet website an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules." The CPSC has other mechanisms for collecting product safety-related complaints through the agency's web site, hotline, or by mail.

*Comment 3:* Form 223 should incorporate filter and blocking software, and the CPSC should install safeguards to prevent identity theft or corporate espionage from occurring.

*Response:* CPSC computer systems receive regular security audits and have been certified for operation. The CPSC observes all industry and federal government best practices for network security. CPSC staff regularly analyzes its systems for vulnerabilities and malware, and monitor the network for real-time intrusion attempts.

## **B. Estimated Burden**

The CPSC staff estimates a total reporting burden of approximately 451 hours. This reporting burden is broken down into the categories of submissions as follows: 1) initial registrations – 300 hours, 2) re-registrations – 150 hours, and 3) information changes - .75 hours, for a total of 450.75 hours, which the Commission will round up to 451 hours.

*Initial Registrations* - The Commission tentatively estimates that 300 third party conformity assessment bodies will register initially, with each response taking 1 hour for a total of 300 reporting hours (300 third party conformity assessment bodies x 1 hour = 300 hours). The

300 entity estimate is based on the fact that, by June 5, 2009, 153 third party conformity assessment bodies had already registered with the CPSC. The Commission expects to receive additional registrations, which will be further increased by a notice of requirement for “all other children’s product safety rules” pursuant to section 14(a)(3)(B)(vi) of the CPSA.

*Re-Registrations* - Under a separate proposed rule issued by the Commission on August 13, 2009 (74 FR 40784), third party conformity assessment bodies would be required to re-register using CPSC Form 223 every two years as part of the audit process required by section 14(d)(1) of the CPSA. Because not all third party conformity assessment bodies will first submit CPSC Form 223 at the same time, only some entities will re-register using CPSC Form 223 in any given year. Because the Commission does not know how many entities will re-register in any given year, for the purposes of this analysis, the Commission estimates that half of the third party conformity assessment bodies will re-register using CPSC Form 223 in any given year, for a total of 150 re-registrations per year (300 total third party conformity assessment bodies x 0.5 = 150 re-registrations per year). The reporting burden for each re-registration is estimated to be one hour, making the total reporting burden for all re-registrations per year 150 hours (150 re-registrations x 1 hour per re-registration = 150 hours).

*Information Changes* - Finally, under the same separate proposed rule noted above, third party conformity assessment bodies would be required to ensure that the information submitted on CPSC Form 223 remains current. Any changes in information must be submitted on a new CPSC Form 223. Based on current experience, the Commission estimates that only one percent of third party conformity assessment bodies will revise or update their information yearly, so the estimated number of respondents is 3 (300 third party conformity assessment bodies x 0.01 = 3 information changes per year). Because information changes in most cases will likely only

involve updating a phone number or contact person, the estimated reporting burden is 15 minutes per update, for a total reporting burden of 45 minutes per year (3 information changes x 0.25 hours = 0.75 hours per year).

*Estimated Total Cost Burden on Respondents* - Assuming that CPSC Form 223 will be submitted by someone at the level of a general or operations manager at each third party conformity assessment body, at a median compensation (wages and benefits) of \$68 per hour, the total cost burden to the respondents is estimated to be \$30,668 ( $\$68 \times 451$  hours).

*Estimated Annualized Cost Burden to the Federal Government* – The Commission estimates 150 re-registrations per year. Re-registrations will require review by a CPSC staff member with an average rate of pay of \$67/hour (the approximate hourly compensation (wages and benefits) of a GS-13 step 5 employee). Re-registration review involves a thorough review of the accreditation certificate and scope documents provided by the third party conformity assessment body to ensure, among other things, that the accreditations are current, are to the ISO Standard ISO/IEC 17025:2005, “General Requirements for the Competence of Testing and Calibration Laboratories,” and include the appropriate test methods. The review is estimated to take an average of 1.75 hours per submission. Thus, the annualized cost to the federal government is estimated to be approximately \$17,588 ( $150 \text{ re-registrations} \times 1.75 \text{ hours} \times \$67 = \$17,587.50$  per year).

Additional costs to the federal government associated with information changes submitted on CPSC Form 223 will be negligible. The Commission estimates that 15 minutes will be spent reviewing each update. The annualized cost to the federal government is estimated to be approximately \$50 ( $3 \text{ information changes} \times 0.25 \text{ hours} \times \$67 = \$50.25$  per year).

Dated:

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Todd A. Stevenson, Secretary,  
Consumer Product Safety Commission.