

November 2, 2006

Ms. Page C. Faulk
General Counsel
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Re: Standards for the Flammability (Open Flame) of Mattress Sets (71 Fed. Reg 13472, March 15, 2006)

Dear Ms. Faulk:

Congress established the Office of Advocacy (Advocacy) under Pub. L. 94-305 to represent the views of small business before Federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA); as such the views expressed by Advocacy do not necessarily reflect the views of the SBA or of the Administration.

As Chief Counsel for Advocacy, I am writing because my office has received several oral and written contacts from small businesses that are concerned with the Consumer Product Safety Commission's (CPSC) final rule on Standards for the Flammability (Open Flame) of Mattress Sets (71 Fed. Reg. 13472, March 15, 2006). Also, the U.S. Small Business Administration's Office of the National Ombudsman referred various small business inquiries to Advocacy relative to this matter. While my office supports the public policy behind the rule, small businesses—which comprise 97.7 percent of the mattress manufacturers—are concerned that the regulation's requirements will result in a significant economic impact upon the industry. One way to address industry concerns may be to ensure that small businesses are educated adequately about the requirements of the rule in advance of implementation.

I commend the CPSC for preparing the Initial Regulatory Flexibility Analysis in the proposed rule, and for the additional analysis in the Final Regulatory Flexibility Analysis (FRFA) contained in the final rule. Since the CPSC has concluded that the rule is significant and a FRFA was prepared, the CPSC is required to publish a compliance guide pursuant to Section 212 of the Small Business Regulatory Enforcement Fairness Act (SBREFA).¹ Section 212 states: "For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of the Regulatory Flexibility Act, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as 'small entity compliance guides.'" Although the CPSC has issued a compliance guide for mattresses and mattress pads when exposed to cigarettes, it does not appear that CPSC has produced

¹ Pub. L. No. 104-121, 110 Stat.857, Section 212 (1996).

such a guide for the requirements of this most recent rule. The compliance guide would instruct small businesses on how to comply with the rule's requirements and may serve to reassure them about the numerous provisions of the regulation.

Thank you for your attention to the above matter. If you have any questions or concerns, please do not hesitate to contact me or Assistant Chief Counsel, Linwood Rayford at (202) 401-6880, or www.linwood.rayford@sba.gov.

Sincerely yours,

Thomas M. Sullivan
Chief Counsel Advocacy

Linwood L. Rayford, III
Assistant Chief Counsel for Food, Drug
And Health Affairs

cc: Mary F. Toro, Assistant Director Office of Compliance, U.S. Consumer Product
Safety Commission
Nicholas N. Owens, National Ombudsman, U.S. Small Business Administration