

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**Statement of Regulatory Priorities**

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- participates in the development or revision of voluntary product safety standards;
- develops mandatory product safety standards or banning rules when other, less restrictive, efforts are inadequate to address a safety hazard;
- obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard; and
- develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- costs and benefits of Commission action;
- unforeseen nature of the risk;
- vulnerability of the population at risk;
- probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost/benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of

the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 2006, the Commission's significant rulemaking activities will involve addressing risks of fire associated with ignition of upholstered furniture and of mattresses and bedding. The emphasis on this rulemaking activity in the Commission's FY 2006 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities.

CPSC**PROPOSED RULE STAGE****159. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE****Priority:**

Economically Significant. Major under 5 USC 801.

Legal Authority:

15 USC 1193, Flammable Fabrics Act; 5 USC 801

CFR Citation:

16 CFR 1640

Legal Deadline:

None

Abstract:

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. CPSC staff conducted research and developed a draft flammability performance standard. The draft standard was first presented to stakeholders at a 1996 ASTM voluntary standards meeting. The staff also worked with industry and voluntary standards groups to develop possible alternatives to a Federal rule.

In 1998, the Commission held a public hearing to gather additional information beyond that available to the agency on the potential toxicity, health risks, and environmental effects associated with flame-retardant chemicals that might be used to meet a standard. In CPSC's 1999 appropriations legislation, Congress directed the Commission to

contract with the National Academy of Sciences (NAS) for an independent study of potential health hazards associated with the use of flame retardant chemicals that might be used in upholstered furniture fabrics to meet a CPSC standard. The final NAS report was published in July 2000. The report concluded that of 16 flame-retardant chemicals reviewed, 8 could be used in upholstered furniture fabrics without presenting health hazards to consumers.

In 2002, the staff held a public meeting to receive any new technical information and recommendations from interested parties on the project. In 2003, the staff forwarded a package to the Commission analyzing the information received at the meeting and a package recommending that the Commission expand its proceeding to cover both small open flame and cigarette ignition risks.

On October 23, 2003, the Commission issued a new ANPRM expanding the scope of the proceeding to include both cigarette and small open flame-ignited fire risks. The staff held a public meeting to discuss public comments on April 9, 2004. The staff developed revised drafts of the standard addressing both cigarette and small open flame ignition, and held public meetings on October 28, 2004 and May 18, 2005 to present and discuss the revised drafts. The staff is currently analyzing comments and preparing alternatives for Commission consideration.

CPSC is also considering possible impacts of flame-retardant chemical use on worker safety and the environment. At the CPSC staff's request, the National Institute for Occupational Safety and Health studied potential worker exposure to and risks from certain flame-retardant chemicals that may be used by textile and furniture producers to comply with an upholstered furniture flammability standard. NIOSH preliminarily concluded that significant worker health effects were unlikely. CPSC staff is also working with the Environmental Protection Agency to (a) develop a significant new use rule (SNUR) for flame-retardant compounds used in residential upholstered furniture fabrics under that agency's Toxic Substances Control Act Authority, and (b) identify and encourage the use of environmentally-friendly flame retardants under a Design for the Environment industry/government partnership.

Statement of Need:

For 1995-1999, an annual average of approximately 6,600 residential fires in which upholstered furniture was the first item to ignite resulted in an estimated 460 deaths, 1,110 civilian injuries, and about \$130 million in property damage that could be addressed by a flammability standard. The total annual societal cost attributable to these upholstered furniture fire losses was approximately \$2.75 billion. This total includes fires ignited by small open-flame sources and cigarettes.

Summary of Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

Alternatives:

(1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture; (2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard; and (3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result.

Anticipated Cost and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. Again, depending upon the test requirements, a standard may

reduce cigarette and small open flame-ignited fire losses, the annual societal cost of which was \$2.75 billion for 1995-1999. Thus, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture could be significant, even if the standard did not prevent all such fires.

Risks:

The estimated average annual cost to society from all residential fires associated with upholstered furniture was \$2.75 billion for 1995-1999. Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
ANPRM Comment	08/15/94	
Period End		
Staff Briefing of Commission on NPRM	12/18/97	
Commission Voted To	03/02/98	
Defer Action		
Pending Results of Toxicity Hearing		
Commission Hearing	03/17/98	63 FR 13017
May 5 & 6, 1998 on Possible Toxicity of Flame Retardant Chemicals		
NAS Study	07/10/00	
Completed (Required by Congress)		
Staff Sent Briefing Package to Commission	11/01/01	
Meeting Notice	03/20/02	67 FR 12916
Staff Held Public Meeting	06/18/02	
Second Day of Public Meeting	06/19/02	
Staff Sent Analysis of Information From Public Meeting to the Commission	02/06/03	
Staff Sent Regulatory Options to Commission	07/12/03	
Notice of September 24 Public Meeting	08/27/03	68 FR 51564
Commission Decision	10/17/03	
ANPRM	10/23/03	68 FR 60629
ANPRM Comment	12/22/03	
Period End		
Staff Held Public Meeting	10/28/04	
Staff Held Public Meeting	05/18/05	
Staff Sends Briefing Package to Commission	01/00/06	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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CPSC**FINAL RULE STAGE****160. PROPOSED STANDARD TO ADDRESS OPEN-FLAME IGNITION OF MATTRESSES/FOUNDATION SETS****Priority:**

Economically Significant. Major under 5 USC 801.

Legal Authority:

15 USC 1193, Flammable Fabrics Act; 5 USC 801

CFR Citation:

16 CFR 1633

Legal Deadline:

None

Abstract:

On October 11, 2001, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury, and property damage from fires associated with ignition of mattresses/bedding by small open-flame sources such as lighters, candles, or matches. This ANPRM was issued after the Commission staff conducted a field investigation study of these incidents and worked with industry members to improve consumer information programs and conducted research to define and measure the fire hazard presented by mattress/bedding ignitions in residential fires.

The Commission also received four petitions from the Children's Coalition for Fire-Safe Mattresses proposing: (1)

an open flame standard similar to the full-scale test set forth in California Technical Bulletin 129; (2) an open flame standard similar to the component test set forth in British Standard 5852; (3) a warning label for mattresses warning of polyurethane foam fire hazards; and (4) a permanent, fire-proof mattress identification tag. The Commission granted the first two petitions and denied the others.

The Commission staff reviewed public comments on the ANPRM and continued working with the Sleep Products Safety Council (representing manufacturers and suppliers to the industry), the National Institute of Standards and Technology, the State of California Bureau of Home Furnishings, and others to complete the development of an appropriate test method and criteria for a standard to address open flame ignition of mattresses. In 2004, the staff prepared a decision package for Commission consideration, including a draft proposed standard with supporting materials, draft notice of proposed rulemaking (NPRM), and possible options to separately address the bedclothes contribution to mattress fires. On December 22, 2004, the Commission voted to publish the NPRM for mattresses (and to separately address bedclothes by publishing an ANPRM for bedclothes). The staff will evaluate public comments received on the NPRM and prepare a briefing package for Commission decision on publishing a final mattress standard.

Statement of Need:

Based on national fire estimates for the years 1995-1999, ignition of mattresses and bedding resulted in an estimated 18,500 residential fires, 440 civilian deaths, 2,160 civilian injuries, and \$259.5 million in property loss annually that could be addressed by a flammability standard. Since mattress fires often involve the ignition source of burning bedding, initially ignited by a smaller source, a standard incorporating an ignition source representing burning bedding could

address deaths and injuries from these fires.

Summary of Legal Basis:

Section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." The Commission's regulatory proceeding could result in the development of a mandatory standard requiring that mattresses sold in the United States meet mandatory labeling requirements and performance criteria limiting the size of the fire produced when a mattress is exposed to a large ignition source representing burning bedclothes.

Alternatives:

- (1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of mattresses;
- (2) The Commission could issue mandatory requirements for labeling of mattresses, in addition to, or as an alternative to, the requirements of a mandatory flammability standard; or
- (3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result.

Anticipated Cost and Benefits:

The estimated annual cost of imposing a mandatory standard to address ignition of mattresses by open-flame sources will depend upon the performance requirements imposed by the standard and the steps manufacturers take to meet those requirements. A standard incorporating an ignition source representing burning bedclothes could address deaths and

injuries from fires caused by smoking materials, traditional small open flame sources, as well as other heat sources.

Risks:

The estimated total cost to society from all residential fires associated with mattresses/bedding was about \$3 billion in 1999. Societal costs associated with mattress/bedding fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/01	66 FR 51886
ANPRM Comment Period End	12/10/01	
Staff Sends Briefing Package to Commission	11/01/04	
Staff Briefs Commission on NPRM Draft	12/09/04	
Commission Decision NPRM	12/22/04	
Public Hearing	01/13/05	70 FR 2470
NPRM Comment Period End	03/03/05	
Staff Sends Briefing Package to Commission	03/29/05	
Staff Sends Briefing Package to Commission	01/00/06	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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