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United States Government Accountability Office
Washington, DC 20548

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April 12, 2006

The Honorable Ted Stevens
Chairman
The Honorable Daniel K. Inouye
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Joe Barton
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: Consumer Product Safety Commission: Final Rule: Standard for the
Flammability (Open Flame) of Mattress Sets

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Consumer Product Safety Commission (Commission), entitled “Final Rule: Standard for the Flammability (Open Flame) of Mattress Sets” (RIN: 3041-AC02). We received the rule on March 28, 2006. It was published in the Federal Register as a final rule on March 15, 2006. 71 Fed. Reg. 13472.

The final rule is a new flammability standard under the Flammable Fabrics Act and establishes new performance requirements based on research conducted by the National Institute of Standards and Technology. Mattresses and foundation sets that comply with the requirements will generate a smaller size fire with a slower growth rate, thus reducing the possibility of flashover occurring.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Commission complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers,
Assistant General Counsel, at (202) 512-8210.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Page C. Faulk
General Counsel
Consumer Product Safety Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
CONSUMER PRODUCT SAFETY COMMISSION
ENTITLED
"FINAL RULE: STANDARD FOR THE FLAMMABILITY (OPEN FLAME)
OF MATTRESS SETS"
(RIN: 3041-AC02)

(i) Cost-benefit analysis

The Commission performed a cost-benefit analysis of the final rule. Using a discount rate of 3 percent and an expected 10-year mattress life, aggregate benefits of the final rule are expected to be \$1,024 million to \$1,307 million. The midpoint estimate for aggregate benefits is \$1,166 million. The corresponding expected aggregate resource costs of the rule are \$175 to \$511 million. The midpoint estimate for aggregate costs is \$343 million. The aggregate net benefits equal \$514 to \$1,132 million. The midpoint estimate for aggregate net benefits is \$823 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed rule and final rule, respectively. The analyses comply with the requirements of the Act including the steps taken to reduce the burden on small entities. These include providing an effective date that coincides with the regular model/style change and the elimination of the requirements for keeping physical samples.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Commission states that the final rule does not contain any federal mandates, as defined in title II of the Act, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On January 13, 2005, the Commission published a Notice of Proposed Rulemaking in the Federal Register. 70 Fed. Reg. 2470. In addition, the Commission held a public hearing on the proposed rule on March 3, 2005. Over 540 comments were received and are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The Commission has submitted the required documentation to OMB for approval.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found in section 4 of the Flammable Fabrics Act (15 U.S.C. 1193 and 1194).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.