

**PETITION FOR RULEMAKING**  
(16 C F R., Ch. II, Part 1051)

**PETITION ID:** CCFSM-004

**PETITION DATE:** MARCH 28, 2000

**PETITIONER:** CHILDREN'S COALITION FOR FIRE-SAFE  
MATTRESSES, BY ITS DIRECTOR,  
WHITNEY A. DAVIS

**SUBJECT:** MATTRESS WARNING LABELS

**EXISTING RULES:** 16 C.F.R., CH. II, SECTION 1632.63

**ACTION  
REQUESTED:** AMENDMENT TO 16 C.F.R CH.II, PART 1632,  
TO PROVIDE FOR EMERGENCY  
RULEMAKING REGARDING MATTRESS  
COMBUSTIBILITY WARNING LABELS

**COMPANION  
PETITIONS:** CCFSM-001 (MATTRESS-PRIMARY)  
CCFSM-002 (MATTRESSES- ALTERNATE)  
CCFSM-003 (RENOVATED MATTRESSES)  
CCFSM-005 (MATTRESS IDENTIFICATION)

**INTRODUCTION:**

The Children's Coalition for Fire-Safe Mattresses is a grassroots organization of more than 100 burn survivors, parents, and concerned citizens. It was founded in the fall of 1999, with a commitment to 1) educate consumers about the risks of mattress fires; 2) publicly advocate an open-flame standard for residential mattresses; and 3) petition the U S Consumer Product Safety Commission to timely address the hazard in an effective and impartial manner.

The Children's Coalition is directed by Whitney A. Davis, a California product liability attorney practicing in the area of mattress flammability for over 10 years. This Petition is brought by Mr. Davis on behalf of the Children's Coalition.

The Children's Coalition also submits, or will submit, four other companion Petitions:

- CCFSM-001 (MATTRESS-PRIMARY), concerning a proposed TB-129-based open flame standard;
- CCFSM-002 (MATTRESS-ALTERNATIVE), concerning a proposed BS5852, Part 2, Ignition Class 5 open flame standard,
- CCFSM-003 (RENOVATED MATTRESSES), a petition to allow private enforcement of 16 C.F.R., CH.II, Part 1632, as to mattress renovators, and
- CCFSM-005 (MATTRESS IDENTIFICATION), a petition to require mattress manufacturers to place identification tags on innerspring units which will survive a mattress fire.

## **FACTUAL BASIS**

Petitioner incorporates by reference the Factual Basis sections set forth in companion Petitions CCFSM001 and CCFSM002.

A divergence in warnings has arisen in the mattress industry. Polyurethane foam manufacturers provide the following warning to mattress manufacturers and other customers on its foam shipping containers:

### **"WARNING**

### **FLAMMABLE POLYURETHANE FOAM**

### **FOAM BURNS RAPIDLY**

"When ignited, this foam burns rapidly, resulting in great heat, generating dangerous and potentially toxic gas and thick smoke, consuming oxygen. Burning foam can be harmful or fatal."

"Keep away from open flame, sparks, or other heat sources. Do not smoke near this foam."

**IF FOAM STARTS BURNING  
GET OUT!**

"These warnings should be passed on to the ultimate users."

Such warnings are not passed on to the ultimate users of mattresses. In fact, most mattress advisories merely inform the user that the mattress complies with the cigarette ignition standard, that the unit contains non-flame-retarded polyurethane foam, and that one should "avoid contact with open flame"

This divergence in warnings fails to inform the ordinary consumer of the risk of death and injury from the foam in a conventional mattress. The mattress advisory fails to set forth the life-threatening conditions created by ignited mattress foam, and minimizes the hazard.

### **INCORPORATION BY REFERENCE.**

Petitioner incorporates the issues, propositions, conclusions and references contained in FP99-1, which is the Petition for Rule-Making, Fire Hazard Warning Label on Certain Upholstered Furniture, as submitted by the National Association of Fire Marshalls.

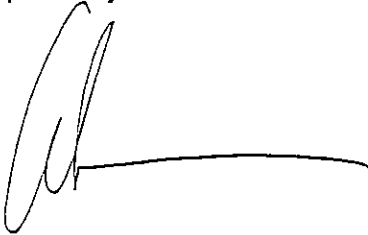
Petitioner incorporates the issues, propositions, conclusions and references contained in the CPSC 1996 Residential Fire Loss Estimates; the CPSC report entitled "Residential Fires in Mattresses and Bedding, 1997"

### **STANDARD REQUESTED:**

Petitioner proposes that the CPSC amend 16 C F R., Ch.II, Part 1632, to include

- A requirement for all mattresses subject to the Commission's jurisdiction to contain an effective written warning approximating that historically provided to mattress manufacturers as set forth above. Such a written warning must be conspicuously placed on the top surface of the mattress, so that it may be viewed each time the bedding is changed..
- A requirement for all mattresses subject to the Commission's jurisdiction to contain an effective multi-colored icon-based warning, no less than 6 inches by 6 inches square, depicting a column of flame, a burning cigarette with a red line through it, and a burning match with a red line through it.

Respectfully Submitted,

A handwritten signature in black ink, consisting of a large, stylized initial 'W' followed by a horizontal line extending to the right.

Whitney A. Davis

Director

Children's Coalition for Fire-Safe Mattresses

1515 K Street, Suite 500

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PETITION FOR RULEMAKING  
(16 C F R., Ch II, Part 1051)

**PETITION ID:** CCFSM-005

**PETITION DATE:** MARCH 28, 2000

**PETITIONER:** CHILDREN'S COALITION FOR FIRE-SAFE MATTRESSES, BY ITS DIRECTOR, WHITNEY A. DAVIS

**SUBJECT:** MATTRESS IDENTIFICATION

**EXISTING RULES:** 16 C.F.R., CH II, SECTION 1632.63

**ACTION REQUESTED:** AMENDMENT TO 16 C F.R CH.II, PART 1632, TO PROVIDE FOR RULEMAKING REGARDING MATTRESS IDENTIFICATION.

**COMPANION PETITIONS:** CCFSM-001 (MATTRESS-PRIMARY)  
CCFSM-002 (MATTRESSES- ALTERNATE)  
CCFSM-003 (RENOVATED MATTRESSES)  
CCFSM-004 (MATTRESS WARNINGS)

INTRODUCTION:

The Children's Coalition for Fire-Safe Mattresses is a grassroots organization of more than 100 burn survivors, parents, and concerned citizens. It was founded in the fall of 1999, with a commitment to 1) educate consumers about the risks of mattress fires, 2) publicly advocate an open-flame standard for residential mattresses, and 3) petition the U S Consumer Product Safety Commission to timely address the hazard in an effective and impartial manner

## INCORPORATION BY REFERENCE

Petitioner incorporates the issues, propositions, conclusions and references contained in FP99-1, which is the Petition for Rule-Making Fire Hazard Warning Label on Certain Upholstered Furniture, as submitted by the National Association of Fire Marshalls.


Petitioner incorporates the issues, propositions, conclusions and references contained in the CPSC 1996 Residential Fire Loss Estimates, the CPSC report entitled "Residential Fires in Mattresses and Bedding, 1997"

## STANDARD REQUESTED:

Petitioner proposes that the CPSC amend 16 C F R., Ch.II, Part 1632, to include

- A requirement for all mattresses subject to the Commission's jurisdiction to be identified by maker, prototype number, production number and model number. Such identification shall be made by a permanent fire-proof tag affixed to the innerspring unit.

Respectfully Submitted,



Whitney A. Davis

Director

Children's Coalition for Fire-Safe Mattresses

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PETITION FOR RULEMAKING  
(16 C F R , Ch. II, Part 1051)

CPSA 6 (b)(1) Cleared *5/24/00*  
No Mfrs/Prvt/birs or  
Products Identified  
 Excepted by *Pet medg*  
Firms Notified  
Comments Processed

PETITION ID: CCFSM-001  
PETITION DATE: MARCH 28, 2000

PETITIONER: CHILDREN'S COALITION FOR FIRE-SAFE  
MATTRESSES, BY ITS DIRECTOR,  
WHITNEY A. DAVIS

SUBJECT: RESIDENTIAL MATTRESSES

EXISTING RULES: 16 C.F.R., CH. II, PART 1632

ACTION  
REQUESTED: AMENDMENT TO EXISTING RULES TO  
SUBSTITUTE OR ADD TO EXISTING  
IGNITION SOURCE OF LIGHTED  
CIGARETTES WITH TB-129 IGNITION  
SOURCE.

COMPANION  
PETITIONS: CCFSM-002 (MATTRESS-ALTERNATIVE)  
CCFSM-003 (RENOVATED MATTRESSES)  
CCFSM-004 (WARNING LABELS)  
CCFSM-005 (MATTRESS IDENTIFICATION)

INTRODUCTION:

The Children's Coalition for Fire-Safe Mattresses is a grassroots organization of more than 100 burn survivors, parents, and concerned citizens. It was founded in the fall of 1999, with a commitment to 1) educate consumers about the risks of mattress fires, 2) publicly advocate an open-flame standard for residential mattresses; and 3) petition the U S Consumer Product Safety Commission to timely address the hazard in an effective and impartial manner.

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The Children's Coalition is directed by Whitney A Davis, a California product liability attorney practicing in the area of mattress flammability for over 10 years. This Petition is brought by Mr. Davis on behalf of the Children's Coalition.

The Children's Coalition also submits four other companion Petitions:

- CCFSM-002 (MATTRESS-ALTERNATIVE), concerning an alternative open flame standard;
- CCFSM-003 (RENOVATED MATTRESSES), a private enforcement amendment to the rules on renovated mattresses;
- CCFSM-004 (WARNING LABELS), an interim emergency warning label petition for mattresses; and
- CCFSM-005 (MATTRESS IDENTIFICATION), a petition to require mattress manufacturers to place identification tags on innerspring units which will survive a mattress fire.

Each petition may be considered separately, and work on one petition should not be delayed pending submission or work on other companion petitions.

## **FACTUAL BASIS**

For more than 30 years, the U.S. Commerce Department, the U.S. Consumer Product Safety Commission, the U.S. Mattress Industry, and advocacy groups have recognized the fire hazards posed by mattresses intended for residential use. Residential mattresses and their bedding constitute a major, if not the greatest single cause of, fire death in the U.S. home.<sup>1</sup>

Since the "Notice of Finding of Need" issued by the Department of Commerce in 1971, standards were developed to address the mattress fire problem. However, those standards were aimed specifically at one ignition source – cigarettes. Despite Mattress Industry protests regarding the methods of the original proposed standard on a number of grounds in 1972 and 1973, mattress makers found a way to comply. As a result, mattress/bedding fires started by cigarettes have declined substantially since the adoption of 16 C.F.R., Ch. II, Part 1632 ("Part 1632"). Although it was an imperfect standard, and did not entirely eliminate the risk, the CPSC found it valuable to save lives through addressing the problem in a timely manner.

However, what we knew then, and know now, is that mattresses ignite due to a number of ignition sources. Child play with small open-flame sources cause nearly two-thirds of such fires.<sup>2</sup> Cigarettes remain an ignition source that cause 30% of such fires, while candles, and electrical appliances also play a role. Analysis of the hazard has been exhaustive, and has spanned these 30 years.

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<sup>1</sup> Residential Fires in Mattresses and Bedding, Rev'd May 1997, CPSC

<sup>2</sup> Wide Awake, 1997



Several things have changed since the adoption of Part 1632. First, upon the advent of the standard, the industry discovered the virtues of polyurethane foam. This foam allowed mattresses to pass the cigarette burn test by allowing effective displacement of heat given off by the cigarette's glowing ember. This development was an improvement over the cigarette ignition resistance of pre-standard cotton batting mattresses. The foam provided resilient cushioning and comfort that consumers fully embraced.

However, placement of polyurethane foam in the mattress also loaded this otherwise harmless home furnishing with a greater amount of easily combustible fuel. This foam resisted ignition by a smoldering cigarette, but easily succumbed to small open flames, or larger ignition sources such as ignited bedding. The resulting mattress fires fueled by the foam and other filling materials eclipsed pre-standard mattress fires in terms of smoke generation, heat production (peak rate of heat release), and flame spread. Deaths from mattress fires due to small open flames have not substantially fallen since 1980.<sup>3</sup> Indeed, even cigarette-ignited fires have become more deadly. These death and injury trends may be an indication that only so much can be achieved with smoke detector programs and consumer education. It is time to address the fuel in the mattress.

Second, in the 1990's the widespread sale of "pillowtop" mattresses began in the marketplace. These units are sold as plush models, and with every product cycle they seem to be built with ever-increasing amounts of polyurethane foam. The fuel load in residential mattresses is increasing, and so is the mattress fire death rate. Deaths per 1,000 people in smoking material fires has nearly doubled since 1980. The death rate for open flame mattress fires has risen by 23.5% during that same period.<sup>4</sup>

Third, during the mid 1980's, flame-retardant ("FR") technology had advanced to the point that it could be affordably integrated into the mattresses. Industry members began selling such FR-improved units in the contract market to institutional purchasers. Such units were not sold to consumers. Presently, a consumer does not have an effective option to purchase an FR mattress, even though technology has advanced to make such units easier to manufacture.

One confounding factor in addressing the problem is the role of bed clothes, which present a substantial secondary ignition source in 67% of mattress fires (i.e. the bed clothes are first ignited, which in turn ignite the mattress).<sup>5</sup> Although such bed clothes constitute a small (from 10% to 25%) addition to the peak heat release,<sup>6</sup> they constitute an effective means (or fuse) to ignite the foam fuel in the mattress.

Another confounding factor is presented by a hypothetical voluntary industry standard. A competitive disadvantage may be suffered by a compliant

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<sup>3</sup> Residential Fires in Mattresses and Bedding, Rev'd May 1997, CPSC

<sup>4</sup> Id. at p. iv

<sup>5</sup> Id. at p. v

<sup>6</sup> Heat Release Tests of Mattresses and Bedding Systems, California Bureau of Home Furnishings, Damant [199]

manufacturer that incurs increased production costs for an FR mattress, as compared to a non-compliant manufacturer or importer. Further, some in the mattress industry have expressed a speculative concern that the cost of the FR "fix" might cause consumers to flock to renovated mattresses instead of buying a new FR-improved unit.

When considering all of these issues, it is clear that a new FR standard for residential mattresses is technologically practicable. It is likewise clear that the industry needs a mandatory standard to level the "playing field" from the standpoint of price competition. Measures must be taken to make renovated mattresses a safe alternative (as set forth in a companion petition).

Lastly, the FR "fix" that must be applied to the problem need not eliminate the risk of ignition, especially from large open flame ignition sources such as bedding. Rather, the new standard should require mattress construction that will provide the consumer substantial additional time to exit the sleeping room or dwelling before the fuel in the mattress becomes involved. With this goal in mind, the risk from many smaller open flame ignition sources may be eliminated entirely.

Opponents can blame parents, blame the lighter companies, blame the foam companies, blame the textile industry, or blame the pillow-makers. However, the one inescapable conclusion is that the most dangerous and destructive fuel element involved in a mattress fire is the non-FR polyurethane foam. Therefore, to effectively reduce the risk, the fuel in the mattress needs to be isolated by a barrier, or effectively neutralized by FR treatments for a sufficient amount of time to allow victim escape.

While every substance that mankind produces will burn, we have the opportunity to eliminate the hazard as to some ignition sources (cigarettes, small open flame), and significantly reduce the hazard as to others (electrical, ignited bedclothes). The amount of protection afforded by the "fix" merely buys the consumer time to escape the fire. The average response time for fire emergency personnel is approximately 8 minutes. A sleeping room mattress fire can reach flash-over in less than one-half of that time. We propose a single solution that will effectively limit these risks.

While perhaps an imperfect standard may result, as in 1973, the CPSC needs to develop the fortitude to save the lives of our families, rather than chase the perfect laboratory standard that has eluded us for decades.

## **INCORPORATION BY REFERENCE**

Petitioner incorporates the issues, propositions, conclusions and references, contained in FP99-1, which is the Petition for Rule-Making Fire Hazard Warning Label on Certain Upholstered Furniture, as submitted by the National Association of Fire Marshalls.

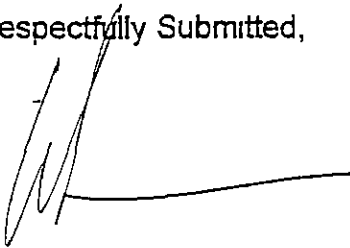
Petitioner incorporates the issues, propositions, conclusions and references contained in the CPSC 1996 Residential Fire Loss Estimates, and the CPSC report entitled "Residential Fires in Mattresses and Bedding, 1997"

Petitioner incorporates by reference California Technical Bulletin 129, as promulgated by the California Bureau of Home Furnishings and Thermal Insulation.

**STANDARD REQUESTED:**

Petitioner proposes that the CPSC amend 16 C F R., Ch II, Part 1632 to require that residential mattresses under the Commission's jurisdiction pass an open flame standard approximating that set forth in California Technical Bulletin 129. This is a full-scale test, which may be modified by the Commission in some manner to allow for more economic prototype testing.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Whitney A. Davis', with a long horizontal line extending to the right.

Whitney A. Davis

Director

Children's Coalition for Fire-Safe Mattresses

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**PETITION FOR RULEMAKING**

(16 C F R , Ch II, Part 1051)

PETITION ID: CCFSM-002

PETITION DATE: MARCH 28, 2000

PETITIONER: CHILDREN'S COALITION FOR FIRE-SAFE MATTRESSES, BY ITS DIRECTOR, WHITNEY A. DAVIS

OMSG/OPC OF THE SECRETARY  
 FIRE DIVISION  
 APR 11 2 49 PM '00

SUBJECT: RESIDENTIAL MATTRESSES

EXISTING RULES: 16 C.F R., CH. II, PART 1632

**ACTION REQUESTED:** ALTERNATIVE AMENDMENT TO EXISTING RULES TO SUBSTITUTE OR ADD TO EXISTING IGNITION SOURCE OF LIGHTED CIGARETTES WITH BS5852, PART 2, IGNITION CRIB 5

**COMPANION**

**PETITIONS:** CCFSM-001 (MATTRESS-PRIMARY)  
 CCFSM-003 (RENOVATED MATTRESSES)  
 CCFSM-004 (WARNING LABELS)  
 CCFSM-005 (MATTRESS IDENTIFICATION)

**INTRODUCTION:**

The Children's Coalition for Fire-Safe Mattresses is a grassroots organization of more than 100 burn survivors, parents, and concerned citizens. It was founded in the fall of 1999, with a commitment to 1) educate consumers about the risks of mattress fires, 2) publicly advocate an open-flame standard for residential mattresses, and 3) petition the U S Consumer Product Safety Commission to timely address the hazard in an effective and impartial manner

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- CCFSM-003 (RENOVATED MATTRESSES), a private enforcement amendment to the rules on renovated mattresses,
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## **FACTUAL BASIS.**

For more than 30 years, the U.S. Commerce Department, the U.S. Consumer Product Safety Commission, the U.S. Mattress Industry, and advocacy groups have recognized the fire hazards posed by mattresses intended for residential use. Residential mattresses and their bedding constitute a major, if not the greatest single cause of, fire death in the U.S. home.<sup>1</sup>

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30% of such fires, while candles, and electrical appliances also play a role. Analysis of the hazard has been exhaustive, and has spanned these 30 years.

Several things have changed since the adoption of Part 1632. First, upon the advent of the standard, the industry discovered the virtues of polyurethane foam. This foam allowed mattresses to pass the cigarette burn test by allowing effective displacement of heat given off by the cigarette's glowing ember. This development was an improvement over the cigarette ignition resistance of pre-standard cotton batting mattresses. The foam provided resilient cushioning and comfort that consumers fully embraced.

However, placement of polyurethane foam in the mattress also loaded this otherwise harmless home furnishing with a greater amount of easily combustible fuel. This foam resisted ignition by a smoldering cigarette, but easily succumbed to small open flames, or larger ignition sources such as ignited bedding. The resulting mattress fires fueled by the foam and other filling materials eclipsed pre-standard mattress fires in terms of smoke generation, heat production (peak rate of heat release), and flame spread. Deaths from mattress fires due to small open flames have not substantially fallen since 1980.<sup>3</sup> Indeed, even cigarette-ignited fires have become more deadly. These death and injury trends may be an indication that only so much can be achieved with smoke detector programs and consumer education. It is time to address the fuel in the mattress.

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<sup>6</sup> Heat Release Tests of Mattresses and Bedding Systems, California Bureau of Home Furnishings, Damant 1991

Another confounding factor is presented by a hypothetical voluntary industry standard. A competitive disadvantage may be suffered by a compliant manufacturer that incurs increased production costs for an FR mattress, as compared to a non-compliant manufacturer or importer. Further, some in the mattress industry have expressed a speculative concern that the cost of the FR "fix" might cause consumers to flock to renovated mattresses instead of buying a new FR-improved unit.

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While perhaps an imperfect standard may result, as in 1973, the CPSC needs to develop the fortitude to save the lives of our families, rather than chase the perfect laboratory standard that has eluded us for decades

## INCORPORATION BY REFERENCE

Petitioner incorporates the issues, propositions, conclusions and references contained in FP99-1, which is the Petition for Rule-Making: Fire Hazard Warning Label on Certain Upholstered Furniture, as submitted by the National Association of Fire Marshalls

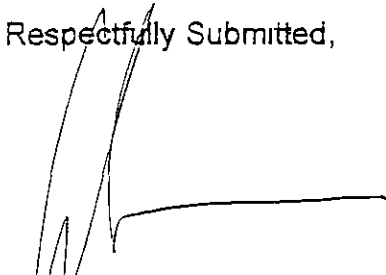
Petitioner incorporates the issues, propositions, conclusions and references contained in the CPSC 1996 Residential Fire Loss Estimates, the CPSC report entitled "Residential Fires in Mattresses and Bedding, 1997"

Petitioner incorporates by reference British Standards Institution Standard, BS5852, Part 2, Ignition Crb 5

### STANDARD REQUESTED:

Petitioner proposes that the CPSC amend 16 C.F.R., Ch.II, Part 1632 to require that residential mattresses under the Commission's jurisdiction pass an open flame standard approximating that set forth in BS5852, Part 2, Ignition Crb 5. This is a component test, which may be modified by the Commission in some manner to allow for more economic prototype testing.

Respectfully Submitted,



Whitney A. Davis

Director

Children's Coalition for Fire-Safe Mattresses

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