



Billing Code 6355-01

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2006-0011]

Regulatory Flexibility Act Section 610 Review of the Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of section 610 review and request for comments.

SUMMARY: The Consumer Product Safety Commission (CPSC) is conducting a review of the Standard for the Flammability (Open Flame) of Mattress Sets (Mattress Standard) as set forth at 16 CFR part 1633, pursuant to Section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine, while protecting consumer safety, whether this standard should be maintained without change, rescinded, or modified to minimize any significant impact of the rule on a substantial number of small entities and whether the rule should be changed to reduce regulatory burden or improve its effectiveness. The CPSC seeks comment on these issues.

DATES: Written comments should be submitted by **[insert date that is 60 days from publication of this notice in the Federal Register]**.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2006-0011, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except

through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number CPSC-2006-0011, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Lisa L. Scott, Fire Protection Engineer, Laboratory Sciences, Consumer Product Safety Commission 5 Research Place, Rockville, MD 20850, Telephone: (301) 987-2064; email: lscott@cpsc.gov.

SUPPLEMENTARY INFORMATION: In 2006, the CPSC issued a standard for the flammability (open flame) of mattress sets under the Flammable Fabrics Act. (71 FR 13472, March 15, 2006). The Mattress Standard sets forth performance requirements that all mattress sets must meet before being introduced into commerce. The Mattress Standard establishes flammability requirements to reduce deaths and injuries associated

with mattress fires by limiting the size of the fire generated by a mattress set during a 30-minute test. The Mattress Standard establishes two test criteria, which the mattress set must meet to comply with the standard: (1) the peak rate of heat release for the mattress set must not exceed 200 kW at any time during the 30 minute test; and (2) the total heat release must not exceed 15 MJ for the first 10 minutes of the test. These requirements are set forth at 16 CFR part 1633.

The CPSC has selected the Mattress Standard for review in accordance with the regulatory review provisions of Section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The purpose of a review under Section 610 of the Regulatory Flexibility Act is to determine whether such rule should be continued without change, or should be rescinded, or amended, consistent with the stated objectives of applicable statutes to minimize any significant impact of the rules on a substantial number of small entities.

The Agency must consider the following factors:

- (1) The continued need for the rule;
- (2) The nature of complaints or comments received concerning the rule from the public;
- (3) The complexity of the rule;
- (4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
- (5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(b).

An important step in the review process involves gathering and analyzing information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This document requests written comments on the continuing need for the rule, its adequacy or inadequacy, its small business impacts, and other relevant issues. Comments concerning the subjects below would assist the CPSC's review. The purpose of these questions is to assist commenters in their responses and not to limit the format or substance of their comments. Comments are requested on all issues raised by Section 610 of the Regulatory Flexibility Act.

Safety and Effectiveness

1. Do you believe that mattresses that comply with the Mattress Standard provide adequate safety from fires that may involve a mattress? Are there additional requirements or protections that could reduce the number of deaths and injuries resulting from mattress fires?
2. Do any aspects of the Mattress Standard need to be updated to improve effectiveness as a result of technological developments since the standard went into effect?

Costs and Impacts

3. Are there any requirements of the Mattress Standard that are especially or unnecessarily costly and/or burdensome? Which ones? How might the Mattress Standard requirements be modified to reduce the costs or burdens on the industry without reducing the fire safety provided by the Mattress Standard? Please explain your response and provide supporting data.
4. Do you believe that any of the requirements in the Mattress Standard lead to a disproportionate burden on small entities? If so, which requirements lead to a

disproportionate burden, and how? How might CPSC modify the Mattress Standard requirements to reduce the burden on small businesses or the industry without reducing the fire safety provided by the Mattress Standard?

5. What percent of the time and cost of mattress construction, including testing, does complying with the Mattress Standard represent? Do these percentages vary significantly depending on the type of mattress, geographical location, size of firm, or other factors? Which requirements in the Mattress Standard have the greatest impact on cost of production? The lowest impact on cost of production? Explain your response and provide supporting data, if possible.
6. Do manufacturers rely on information from suppliers or conduct their own testing when selecting and/or substituting: (1) ticking materials; (2) component materials; (3) fire resistant materials; and (4) fire-blocking barrier materials? How does this impact decisions regarding prototyping (qualified or subordinate prototypes) of mattresses? How does material supply variability affect a manufacturer's ability to consistently comply with the technical and recordkeeping requirements of the Mattress Standard?
7. Are the labeling and recordkeeping requirements in the Mattress Standard adequate, inadequate, or overly burdensome to meet the requirements of the standard?
8. Please explain what materials are used by firms to meet the requirements of the standard and how do the various materials, or combinations of materials, compare in terms of cost?

Clarity and Duplication

9. Is there any aspect of the Mattress Standard that is unclear, needlessly complex, or duplicative? Do any portions of the standard overlap, duplicate, or conflict with other

federal, state or local government rules? Most notably, do any portions of this standard overlap, duplicate, or conflict with CPSC's "Standard for the Flammability of Mattresses and Mattress Pads," as set forth at 16 CFR part 1632? What benefits, if any, would CPSC, the regulated community, or other stakeholders gain from reviewing the interactions between that standard and the Mattress Standard along with the Mattress Standard's independent operation?

10. Do other government entities, including other countries, have alternative fire safety standards? If so, how do they differ from CPSC's approach? Are these alternative approaches more effective? Please provide a copy of the alternative fire safety standard(s) or a citation to the standard(s).

11. Can any of the technical aspects of the Mattress Standard be expanded or clarified without reducing the fire safety provided by the standard? For example, should the measurement requirements in the standard be defined more clearly, such as uncertainty values associated with dimensions, flow, temperature/humidity, energy value, or other values?

Outreach and Advocacy

12. Are CPSC's requirements in the Mattress Standard known to firms that manufacture new mattresses or renovate mattresses for sale, or import mattresses into the United States, including small firms and firms that build mattresses or import mattresses infrequently or in small lots? How could the requirements of the standard be more effectively communicated to such firms?

13. If mattresses fail to comply with the Mattress Standard, is noncompliance more commonly the result of: (1) the manufacturer's lack of information (*e.g.*, about the

scope of the standard or the safety requirements); (2) manufacturing processes and techniques; (3) methods of assembly; (4) component selection and availability; (5) cost considerations; or (6) other factors? What can CPSC do to assist manufacturers with meeting the requirements of the standard? Please explain.

Alberta E. Mills,
Acting Secretary, Consumer Product Safety Commission.

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