

NEWS:

March 4, 2008

Consumer Product Safety Commission announces a proposed new rule for residential upholstered furniture.

At the BIFMA Flammability Subcommittee meeting held March 19, 2008, Mr. Dale Ray of the U.S. Consumer Product Safety Commission summarized the actions of the Commission. After 14 years of careful consideration of the complex issues of upholstered furniture flammability, the agency has released its notice of proposed rule making (NPR), a proposed new rule on upholstered furniture flammability. The proposed new rule will cover indoor residential furniture products that are upholstered, and have a contiguous back and seat. Office seating used in the home will be covered as well as dormitory furniture. At the time of this meeting, the Commission was still operating with only two commissioners. The full compliment of commissioners is normally three. In 2007, Congress provided an extension of a two-Commissioner quorum in order for the Commission to continue functioning, but this extension expired in February 2008 after the Commission voted to propose the upholstered furniture rule. The official Notice of Proposed Rule making was published in the Federal Register March 4, 2008. The document: 16 CFR Part 1634 Standard for the Flammability of Residential Upholstered Furniture Proposed Rule can be downloaded from the following web address: <http://www.cpsc.gov/businfo/frnotices/fr08/cpscfr08.html>. Public comments on the proposed new rule are due by May 19, 2008. The comments should be directed to the Office of the Secretary at CPSC at [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

Mr. Ray continued describing the aspects of the proposed new standard. Manufacturers and material suppliers would be responsible for maintaining records of tests to support guarantees of compliance, although Suppliers would probably develop most of the records. The basic purpose of the record keeping is to track the materials used in manufacturing upholstered furniture. The records are to be kept for as long as the product is produced, and 3 years beyond.

The basic attributes of the proposed standard are:

1. Smoldering ignition, the main focus of the new standard.
2. Minimal reliance on fire retardant chemicals.
3. To provide a compliance option that would use barrier materials, to be used with any cover fabrics that do not comply with the smoldering ignition requirements.

Elements of the standard:

Type I: Smolder Test: Fabrics must protect interior fillings from progressive smoldering and transition to flaming. Complying fabrics may be used with any filling material.

Type II: Barrier Tests: Barrier materials must protect interior fillings from progressive smoldering and from flaming by ignited cover fabrics. Complying barriers may be used with any cover fabrics and filling materials.

The manufacturer is required to label the product certifying that it meets the requirements, either Type I or Type II. The certification has to be based on a reasonable amount of testing to support the claim of certification. Suppliers will be providing certification to the manufacturer on the performance of their fabrics and barrier materials.

This can be accomplished by:

A barrier manufacturer can test product and certify that it passes the Type II test, and sell the barrier to a seating manufacturer. The seating manufacturer will label the product as complying with Type II. In the case of customer-supplied material, as long as you have a complying barrier, the Manufacturer can label as Type II compliant.

The proposed effective date for the new standard will be 1 year from publication of the final rule. The final rule will be available at some future date. Mr. Ray could not say when that would be.

CPSC is planning full scale testing activities, and inter-lab testing, and continues to work on evaluating the reduced ignition propensity (RIP) cigarettes. They will also be responding to public comments on the proposed standard. Mr. Ray mentioned that the earlier concerns about halogen fire retardant and the potential use of more chemicals have been answered with the way the proposed new standard was developed. The standard has no requirement for polyurethane foam. It is possible to meet the new standard without the addition of FR chemicals. Complying fabrics can be used with any filling materials. Complying barriers can be used with any filling materials, and any type of fabric.

Concerning the testing of products, under the Flammable Fabrics Act, manufacturers are required to certify their products comply the proposed new rule for upholstered furniture. Whoever does the testing will make up 10 mockups or specimens and conduct the tests. If all 10 mockups or specimens pass, then the product would be considered a “pass,” and the product could have the label applied claiming compliance.

If in the first test of ten specimens, there are any failures, then 20 additional specimens need to be tested. A passing condition would be 25 “passes” out of 30 total specimens. According to Mr. Ray, this testing protocol relates to approximately a 97% confidence level.

Mr. Ray’s recommendation to fabric or barrier suppliers was that when testing, to take precautions to not have products that perform at the minimum level of acceptance. CPSC does not require periodic testing, but most manufacturers would be well advised to perform some periodic compliance checking. The manufacturers need certification of complying fabrics from suppliers in order to apply label to their products. It will be the responsibility of the manufacture to affix the label indicating compliance with the CPSC standard. The label must contain: the name, address, and location of the manufacturer, the month and year of manufacture of the product “model” and indicate whether it is Type I or Type II compliant. The label needs to be permanently affixed. It is allowable for CPSC labeling information to be combined with other information, but the other information cannot interfere with the CPSC compliance statement. For further clarification, refer to section 1634.8 Labeling of the proposed standard.

Manufacturers need to be able to track their product in the event of a recall.

Labeling requirements may be adjusted to work with other upholstery labeling requirements. Suggestions on labeling should be submitted to CPSC as part of the comments due May 19, 2008. Mr. Ray’s PowerPoint presentation from the March 20, 2008 Flammability Workshop and the proposed new rule can be downloaded from the CPSC website:

<http://www.cpsc.gov/library/foia/foia08/os/os.html>. PowerPoint Presentation  
<http://www.cpsc.gov/businfo/frnotices/fr08/cpscfr08.html>. 16 CFR Part 1634