

**BUREAU OF HOME FURNISHINGS & THERMAL INSULATION**  
**FINAL STATEMENT OF REASONS**

Hearing Date: July 30, 2007, in North Highlands CA and August 6, 2007, in Diamond Bar CA.

Subject Matter of Proposed Regulations: Mattresses - Open-Flame Standard

Section Affected: Article 13 in Division 3, of Title 4 of the California Code of Regulations, Section 1371.

Updated Information: The Initial Statement of Reasons is included in the file. No changes have been made which would warrant an update to the Initial Statement of Reasons.

Local Mandate: None

Small Business Impact: This action will not have significant adverse economic impact on small businesses.

Consideration of Alternatives: No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses:

Written comments received during the 45-day comment period

The Bureau did not receive oral comments during the scheduled hearings; however, the Bureau received written comments from the U.S. Consumer Product Safety Commission (CPSC) staff.

U.S. Consumer Product Safety Commission

Comment:

These comments are those of the CPSC staff and have not been reviewed or approved by, and may not necessarily reflect the views of the Commission.

Commission staff is concerned that by removing the references to 16 C.F.R. Part 1632 in the regulation may cause confusion about the applicability of the two federal standards affecting mattresses.

The proposed language may give mattress manufactures, importers, renovators and retailers the impression that they no longer have to comply with 16 C.F.R. 1632 for mattresses and mattress pads sold in the state of California. The standard for the flammability (open-flame) of mattress sets, 16 C.F.R. Part 1633, addresses open flame ignition of mattresses and foundations. 16 C.F.R. Part 1632 addresses smoldering (cigarette) ignition of mattresses and mattress pads. In addition, 16 C.F.R. Part 1632 is the only federal flammability standard for mattress pads. To reduce the possibility of confusion about the applicability of federal standards, the Commission suggests that the Bureau's regulations and/or documents accompanying the regulations emphasize strongly that the federal standard at 16 C.F.R Part 1632 continues to apply to mattresses and mattress pads.

Bureau response:

With the enactment of Senate Bill 1849, 2006 Chapter 760, effective January 1, 2007, operative July 1, 2007, Business and Professions Code Section 19161 was amended to require all mattresses and mattress sets manufactured for sale in California to be fire retardant. Under amended Section 19161 (a), "fire retardant" is defined as a product that meets the standard for resistance to open-flame test adopted by the U.S. Consumer Product Safety Commission and set forth in Section 1633 and following of Title 16 of the Code of Federal Regulations.

As a result of this amendment, the Bureau does not have the authority to enforce the federal standard for the smoldering (cigarette) ignition of mattresses and mattress pads set forth in Section 1632 of Title 16 of the Code of Federal Regulations. Additionally, with the new Fire-Safe Cigarette Act (Assembly Bill 178, 2005, Chapter 633) effective January 1, 2007, the Bureau no longer can purchase traditional "non-self extinguishing" cigarettes. Therefore, the Bureau is unable to perform the smoldering (cigarette) test. For this reason, the Bureau is not amending this regulation. However, the Bureau intends to provide licensees a copy of the final language to this regulatory change (after adoption) and will include a notice emphasizing that the federal standard at 16 C.F.R. Part 1632 continues to apply to mattresses and mattress pads and is enforceable by the Commission.