



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MD 20814

## STATEMENT OF COMMISSIONER NANCY NORD ON THE MATTRESS-FLAMMABILITY AMENDMENT: USE OF SPECIALLY-DESIGNED CIGARETTE

September 13, 2011

The Commission is publishing a final rule specifying that a cigarette developed by the National Institute of Standards and Technology (NIST) be used for mattress-flammability testing. This rule will be codified as a technical amendment to the Commission's *Standard for Flammability of Mattresses and Mattress Pads*, 16 C.F.R. 1632.

Prior to this amendment, the standard specified that unfiltered Pall Mall cigarettes be used to test the smoldering propensity of mattresses, but those cigarettes' manufacturer discontinued their sale in 2008. NIST, at the request of the CPSC, designed a new cigarette—designated Standard Reference Material (SRM) 1196—to approximate the old cigarettes' ignition strength.

I voted in favor of this final rule because I support the use of a consistent standard in testing mattress flammability. However, I am concerned that the agency is falling behind on its obligation to promulgate and enforce rules that protect consumers from *current* hazards. Part 1632 took effect in 1972, before reduced ignition propensity (RIP) cigarettes became common. Now, all 50 states and the District of Columbia require manufacturers to make RIP cigarettes, which are less likely to burn their full length and thus less likely to set a mattress on fire. Non-RIP cigarettes are no longer sold in this country. The agency's use of SRM 1196 appears, therefore, to protect the public against a risk that may no longer exist.

We have received comments suggesting that another mattress-flammability regulation, 16 C.F.R. 1633, may make Part 1632 superfluous. Part 1633 addresses the flammability hazards from small open flames such as candles; Part 1632 addresses the hazard from a smoldering cigarette. Mattress makers have suggested that all mattresses that pass the small open-flame test could also pass the cigarette smolder test, obviating the need for two tests. In fact, the Commission issued an Advanced Notice of Proposed Rulemaking in 2005 proposing to revoke Part 1632 in light of Part 1633. However, the agency has not taken any steps forward since then. I believe that we should pursue this rulemaking to determine whether we can eliminate redundant tests while maintaining consumer safety. If Part 1632 still provides meaningful safety benefits that Part 1633 does not, then it should remain in force. If not, then we should reduce the regulatory burden and revoke it.