

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 5000 Class D Airspace

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AWP CA D Castle Airport, Atwater, CA [NEW]

Castle Airport, Atwater, CA

(Lat. 37°22'50" N, long. 120°34'05" W)

That airspace extending upward from the surface to 2,500 feet MSL beginning at lat. 37°18'34" N., long. 120°35'54" W, and extending clockwise around the 4.5 nautical mile radius of the Castle Airport to lat. 37°21'06" N., long. 120°28'53" W, thence to the point of beginning. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Leonard Mobley,

Acting Area Director, Western Terminal Operations, Western Terminal Area Office.

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BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Parts 1630 and 1631****Technical Amendment to the Flammability Standards for Carpets and Rugs**

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission proposes to amend the flammability standards for carpets and rugs to remove the reference to Eli Lilly Company Product No. 1588 in Catalog No. 79, December 1, 1969, as the standard ignition source and provide a technical specification defining the ignition source.¹ The proposed specification for the standard ignition source is a timed burning tablet, consisting of essentially pure methenamine, with a nominal heat of combustion value of 7180 calories/gram, a mass of 150 mg +/- 5 mg, flat, and a nominal diameter of 6 mm. An

¹ Commissioner Thomas H. Moore filed a statement which is available from the Office of the Secretary or on the Commission's Web site at <http://www.cpsc.gov>.

immediate effective date is also recommended.

DATES: Written comments concerning the proposed amendments must be received by the Office of the Secretary not later than January, 29, 2007.

ADDRESSES: Comments may be filed by e-mail to cpsc-os@cpsc.gov, and should be captioned "CARPET AND RUG TECHNICAL AMENDMENT." Comments may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814, or delivered to the same address (telephone (301) 504-0800). Comments may also be filed by facsimile to (301) 504-0127.

FOR FURTHER INFORMATION CONTACT:

Patricia K. Adair, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504-7536 or e-mail: padair@cpsc.gov.

SUPPLEMENTARY INFORMATION:**A. Background**

The standards for surface flammability of carpets and rugs appear at 16 CFR Parts 1630 and 1631. They were codified and published in 1975, 40 FR 59931 and 59935 (December 30, 1975). The standards were originally issued in 1970 by the Department of Commerce under the authority of the Flammable Fabrics Act (FFA). Subpart A of 16 CFR Parts 1630 and 1631 sets forth the standards. Subpart B contains the implementing regulations of the standards. Subpart C contains alternative washing procedures for hide carpets and rugs and wool flokati carpets and rugs. Subpart D of 16 CFR 1630 contains the staff interpretations and policies.

16 CFR Parts 1630 and 1631 establish minimum acceptance criteria for the surface flammability of carpets and rugs when exposed to a standard small source of ignition, a burning methenamine tablet, under prescribed conditions (the "pill test"). These standards reduce the risks of death, personal injury, and property damage associated with fires that result from the surface ignition of carpets and rugs.

Both standards require a timed burning tablet as the standard ignition source for flammability performance testing. The standards define the ignition source at 16 CFR Part 1630.1(f) and 1631.1(f) as a methenamine tablet, weighing approximately 0.149 grams (2.30 grains), sold as Product No. 1588 in Catalog No. 79, December 1, 1969 by

the Eli Lilly Company, or an equal tablet.

In April 2002, Commission staff learned that the Eli Lilly Company was no longer producing the methenamine tablets specified in the carpet and rug standards. Although the standards allow for the use of "an equal" methenamine tablet and give parameters for chemical composition and weight of the tablet, they do not provide any guidance on determining whether tablets from alternative sources are "equal" to those manufactured by the Eli Lilly Company. In July 2003, CPSC staff met with representatives of the Carpet and Rug Institute (CRI) to discuss evaluation of alternative methenamine tablets for use in 16 CFR Part 1630 and Part 1631. CRI members were experiencing differing test results using the old Eli Lilly tablets and currently available tablets. CRI members had begun to study the various characteristics of the current tablets. In one case, about 50% of one manufacturer's tablets were found broken in the bottle, with others breaking later. This problem was attributed to the tablets having a domed top. The problem has since been corrected with a flat tablet.

CRI urged the Commission to specify clearly the characteristics of the "equal" tablets that should be used for determining compliance with the carpet and rug standards. In an effort to make such a determination, the Commission staff conducted a comparison study to evaluate the weight, chemical composition, and combustion characteristics of presently available brands of methenamine tablets relative to each other and those produced by the Eli Lilly Company. The outcome of the study indicated that tablets consisting of essentially pure methenamine, having a heat of combustion value of approximately 7180 calories/gram and weighing approximately 0.149 grams may be considered equivalent to the tablets produced by the Eli Lilly Company and referenced in the regulation.

On July 29, 2004, the Commission's Office of Compliance issued a letter to industry in response to inquiries received by the CPSC staff regarding the equivalency of methenamine tablets formerly manufactured by the Eli Lilly Company and similar tablets currently produced by other manufacturers. The letter stated that the Commission staff determined that tablets consisting of essentially pure methenamine and weighing approximately 0.149 grams may be considered equivalent to the tablets formerly produced by the Eli Lilly Company. Therefore, tablets meeting these criteria may be used for

purposes of determining conformance with the carpet and rug standards.

B. Amending the Flammability Standards

1. Outcome of Commission Testing

As mentioned above, the Eli Lilly Company is no longer producing the methenamine tablets specified in the carpet and rug standards. The standards allow for the use of "an equal" methenamine tablet and give parameters for chemical composition and weight of the tablet, but they do not provide any guidance on determining whether tablets from the alternative sources are "equal" to those manufactured by the Eli Lilly Company. The Commission staff conducted a comparison study to evaluate the weight, chemical composition, and combustion characteristics of presently available brands of methenamine tablets relative to each other and those produced by the Eli Lilly Company. The outcome of the Commission's comparative study indicated that tablets consisting of essentially pure methenamine, having a heat of combustion value of approximately 7180 calories/gram and weighing approximately 0.149 grams may be considered equivalent to the tablets formerly produced by the Eli Lilly Company and referenced in the regulation.

2. Review of Other Existing Standards

The Commission staff is aware of one U.S. voluntary standard regarding the type of ignition source to be used in testing the flammability of carpets and rugs. This standard, ASTM D2859-04, "Standard Test Method for Ignition Characteristics of Finished Textile Floor Covering Materials," describes the use of the Eli Lilly tablet as satisfactory. It also states that "normal variation in the weight of the different tablets will not affect the test results."

There is an existing international voluntary standard developed by the International Organization for Standardization in 1982 (ISO 6925), that describes a tablet test for the flammability of textile floor coverings. The prescribed tablets are of "hexamethylenetetramine, flat, having a mass of 150mg (plus or minus 5mg) and a diameter of 6mm." The allowable variance is about 3.3%. The mass expressed in ISO 6925 is essentially equivalent to that specified in the U.S. Standards under the FFA. While the ISO standard did not identify the Eli Lilly tablet, it noted that the tablets were commercially available. Thus, the ISO-specified tablet is equivalent to the Eli Lilly tablet in its specifications.

Canada's 1973 mandatory standard for carpets and textile floor coverings under the Hazardous Products Act, CGSB 4-GP-2, also specifies in its appendix the Eli Lilly tablet as the ignition source. It notes that "normal variation in weight * * * will not affect the test results."

3. Proposed Amendments

The carpet and rug flammability standards were issued under section 4 of the FFA (15 U.S.C.1193), which authorizes the issuance or amendment of flammability standards to protect the public against unreasonable risks of fire leading to death, personal injury, or significant property damage. As required by section 4(b) of the FFA, both standards are based on findings that they are needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage. That section further requires findings that a flammability standard issued under the FFA is "reasonable, technologically practicable, and appropriate."

The proposed change to the standards is needed to remove reference to a product that is no longer being produced and to reflect the parameters defining the timed burning tablet as the standard ignition source.

Section 4(g) of the FFA (15 U.S.C. 1193(g)) states that a proceeding "for the promulgation of a regulation under this section" shall be initiated by publication of an advance notice of proposed rulemaking ("ANPR"), and sets forth requirements for the contents of the ANPR. However, these proposed amendments are necessary because the current standards refer to a product, the Eli Lilly tablet, that is no longer being produced or sold. The current standards do allow for the use of a tablet "equal" to the Eli Lilly tablet and give parameters for chemical composition and weight of the tablet. The Commission is simply proposing to substitute equivalent technical specifications for a specific product identification. Because the proposed amendments preserve the original intent and effect of the existing test method and the regulatory status quo, the Commission has determined that it is not required to commence this proceeding with an ANPR, nor is it necessary for the Commission to make the findings that sections 1193(g) and (h) of the FFA would otherwise require for promulgation of a new mandatory standard.

4. Effective Date

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of

a flammability standard shall become effective one year from the date it is promulgated, unless the Commission finds for good cause that an earlier or later effective date is in the public interest, and publishes that finding. Because manufacturers are already using "equal" methenamine tablets as allowed by the current standards, the Commission believes an immediate effective date upon publication of the amendments is appropriate. The Commission invites comments on the proposed effective date and factual information relating to that issue.

C. Other Issues

1. Impact on Small Businesses

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission hereby preliminarily certifies that these amendments to the carpet and rug flammability standards proposed below will not have a significant economic impact on a substantial number of small entities, including small businesses, if issued as proposed.

The proposed amendments keep current industry practices and procedures in place, and no additional actions would be required of small entities. Based on available information, there would be little or no effect on small producers of carpets and rugs, since the standards already require that all carpets and rugs meet the criteria of the tests, and, given the equivalence of the test tablets, the results of the tests should be the same. Consequently, the Commission estimates that the amendments proposed below will have no economic consequences to any manufacturers, large or small, of carpets and rugs.

2. Environmental Considerations

The amendments proposed below fall within the categories of Commission actions described at 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. The amendments are not expected to have a significant effect on production processes or on the types or amounts of materials used for the manufacture of carpets and rugs. The amendments will not render existing inventories unsalable, or require destruction of existing goods. The Commission has no information indicating any special circumstances in which these amendments may affect the human environment. For that reason, neither an environmental assessment nor an environmental impact statement is required.

3. Executive Orders

Executive Order 12988 (February 5, 1996) requires agencies to state in clear language the preemptive effect, if any, to be given to any new regulation. The amendments proposed below, if issued on a final basis, would modify two flammability standards issued under the FFA. With certain exceptions which are not applicable here, no State or political subdivision of a State may enact or continue in effect "a flammability standard or other regulation" applicable to the same fabric or product as an FFA standard if the State or local flammability standard or regulation is "designed to protect against the same risk of the occurrence of fire" unless the State or local flammability standard or regulation "is identical" to the FFA standard. See section 16 of the FFA (15 U.S.C. 1203). Consequently, if issued as proposed, the amendments proposed below would preempt nonidentical State or local flammability standards or regulations that are intended to address the unreasonable risk of the occurrence of fire associated with ignition of carpets and rugs.

In accordance with Executive Order 12612 (October 26, 1987), the Commission certifies that the proposed amendments do not have sufficient implications for federalism to warrant a Federalism Assessment.

Conclusion

Therefore, pursuant to the authority of section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)) and sections 4 and 5 of the Flammable Fabrics Act (15 U.S.C. 1193, 1194), the Commission hereby proposes to amend title 16 of the Code of Federal Regulations, Chapter II, Subchapter D, Parts 1630 and 1631 to read as follows below.

List of Subjects in 16 CFR Parts 1630 and 1631

Carpets, Consumer protection, Flammable materials, Floor coverings, Labeling, Records, Rugs, Textiles, Warranties.

PART 1630—STANDARD FOR THE SURFACE FLAMMABILITY OF CARPETS AND RUGS

1. The authority for subpart A of part 1630 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

2. Section 1630.1(f) is revised to read as follows:

§ 1630.1 Definitions.

* * * * *

(f) *Timed Burning Tablet* (pill) means a methenamine tablet, flat, with a nominal heat of combustion value of 7180 calories/gram, a mass of 150 mg ± 5 mg and a nominal diameter of 6 mm.

* * * * *

3. Section 1630.4(a)(3) is amended by revising the first sentence to read as follows:

§ 1630.4 Test Procedure.

(a) * * *

(3) *Standard igniting source.* A methenamine tablet, flat, with a nominal heat of combustion value of 7180 calories/gram, a mass of 150 mg ± 5 mg and a nominal diameter of 6mm.

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PART 1631—STANDARD FOR THE SURFACE FLAMMABILITY OF SMALL CARPETS AND RUGS

1. The authority for subpart A of part 1631 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

2. Section 1631.1(f) is revised to read as follows:

§ 1631.1 Definitions.

* * * * *

(f) *Timed Burning Tablet* (pill) means a methenamine tablet, flat, with a nominal heat of combustion value of 7180 calories/gram, a mass of 150 mg ± 5 mg and a nominal diameter of 6 mm.

* * * * *

3. Section 1631.4(a)(3) is amended by revising the first sentence to read as follows:

§ 1631.4 Test Procedure.

(a) * * *

(3) *Standard igniting source.* A methenamine tablet, flat, with a nominal heat of combustion value of 7180 calories/gram, a mass of 150 mg ± 5 mg and a nominal diameter of 6mm.

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Dated: November 7, 2006.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

List of Relevant Documents

1. Briefing Memorandum from Patricia K. Adair, Project Manager, Directorate for Engineering Sciences, to the Commission, "Technical Amendment to the Flammability Standards for Carpets and Rugs; 16 CFR Part 1630 and 16 CFR Part 1631.

2. Memorandum from Linda Fansler, Division of Electrical and Flammability Engineering, "Evaluation of Methenamine Tablets," July 25, 2005.

3. Memorandum from Linda Fansler, Division of Electrical and Flammability

Engineering, "Methenamine Tablet Thickness," September 12, 2005.

4. Memorandum from Shing Bong Chen, Ph.D. and Bhawanji K. Jain, Directorate for Laboratory Sciences, Division of Chemistry, "Chemical Composition of the Methenamine Tablets," April 13, 2003.

5. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, "Preliminary Regulatory Analysis: Amendment to Flammable Fabrics Act; Standards for Carpets and Rugs," September 23, 2005.

6. Letter from Alan H. Schoem, Office of Compliance, "Equivalency of Methenamine Tablets, Standard for Flammability of Carpets and Rugs, 16 CFR Parts 1630 and 1631," July 29, 2004.

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502 and 546

Class II Definitions and Game Classification

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Proposed rule; notice of availability.

SUMMARY: This notice announces the availability of two analytical reports commissioned by the National Indian Gaming Commission (NIGC) to analyze the economic impact of proposed class II game classification regulations as well as sets a deadline for comments on these reports. These two reports may be viewed and downloaded by visiting the NIGC Web site <http://www.nigc.gov>. Those individuals who are unable to view or download this Web site may contact Shawn Pensoneau at (202) 632–7003 to obtain a copy of the reports.

DATES: The deadline for comments on the economic impact reports is December 15, 2006.

FOR FURTHER INFORMATION CONTACT: Penny Coleman, Michael Gross or John Hay at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission (NIGC or Commission) under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701 *et seq.*) (IGRA) to regulate gaming on Indian lands. On May 25, 2006, proposed Class II definitions and game classification standards were published in the **Federal Register** (71 FR 30232, 71 FR 30238).