#237

6(b) CLEARED: 3/15/84

X No Mfrs Identified

Excepted

Mfrs Notified

Comments Processed

RECEIVED
OFFICE OF THE SECRETARY
APR 8 3 42 PM '76
CONSUMER PRODUCT SAFETY COMMISSION

Tom McKay, Director, Congressional Relations

THRU : Margaret A. Freeston, Assistant General Counsel
Alan H. Schoem, OGC

Whether "surgical drapes" are subject to the Flammable Fabrics Act.

The question has been raised whether a "surgical drape" is subject to regulation under the Flammable Fabrics Act (FFA) (15 U.S.C. 1191 et seq.) It is our understanding that a surgical drape is used to completely or partially cover a patient undergoing surgery in a hospital. The "drape," which is sterile, is used to exclude contaminated areas from sterilized operating areas. A surgical drape may be used in lieu of clothing.

The FFA is applicable to articles of wearing apparel and interior furnishings. An article of wearing apparel is defined in section 2(d) of the FFA (15 U.S.C. 1191(d)) as meaning "any costume or article of clothing worn or intended to be worn by individuals." The term "interior furnishing" is defined in section 2(e) of the Act as "any type of furnishing made in whole or in part of fabric or related material [including paper, plastic, rubber, or synthetic foam which may be used in an interior furnishing] and intended for use or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accommodation."

The legislative history of the 1967 amendments to the FFA indicates that the amendments would extend the scope of the Act to include all items of wearing apparel and interior furnishings (S. Rep. 407, 90th Cong. 1st sess., 3(1967)). As noted in the legislative history, the Act as originally passed in 1953 (ch. 164, 67 stat. 111, as amended, ch. 833, 68 stat. 770(1954)) did not include interior furnishings such as blankets, bedding, drapes, carpets, and upholstery. (S. Rep. 407, 90th Cong. 1st sess. 2(1967)). We believe, therefore, it was clearly the intent of Congress to include such products within the definition of the term "interior furnishing."

237

ADVISORY OPINION

#237

It is the view of the Office of the General Counsel that surgical drapes fall within the definition of the term "interior furnishing" as defined in section 2 of the FFA. A surgical drape would not be an article of wearing apparel because it is not "worn or intended to be worn by individuals," but merely placed over the body of an individual as a covering.

AHSchoem:mli:4/7/76

cc: AHSchoem
gc chron
gc file
gc reading(2)