



## U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814-4408

### Record of Commission Action Commissioners Voting by Ballot\*

Commissioners Voting:      Chairman Inez M. Tenenbaum  
   Commissioner Thomas H. Moore  
   Commissioner Nancy A. Nord  
   Commissioner Anne M. Northup  
   Commissioner Robert S. Adler

### ITEM:

Revision of Ignition Source Specification in the *Standard for the Flammability of Mattresses and Mattress Pads*, 16 C.F.R. part 1632  
(Briefing package dated September 7, 2011)

### DECISION:

The Commission voted unanimously (5-0) to approve publication in the *Federal Register* of the draft final rule revising the ignition source provision in the *Standard for Flammability for Mattresses and Mattress Pads*, codified at 16 C.F.R. part 1632, without changes. This amendment will change the ignition source specification in the Standard to a Standard Reference Material ("SRM") cigarette, SRM 1196, developed by the National Institute of Standards and Technology through an interagency agreement.

Commissioner Nord filed the attached statement regarding the matter.

For the Commission:

A handwritten signature in black ink that reads "Todd A. Stevenson".

Todd A. Stevenson  
Secretary

\* Ballot vote due September 13, 2011



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## 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.