



**STATEMENT OF COMMISSIONER ROBERT ADLER
ON
THE PETITION REGARDING MODIFICATION OF THE COMMISSION'S STANDARD
FOR THE FLAMMABILITY OF CLOTHING TEXTILES IN 16 CFR PART 1610**

April 12, 2016

On February 4, 2015, the International Association of Users of Artificial and Synthetic Filament Yarns of Natural Silk filed a petition for rulemaking with the Consumer Product Safety Commission to modify the test procedure of the Commission's Standard for the Flammability of Clothing Textiles in 16 CFR Part 1610. Specifically, the petition requested modification of how the agency conditions samples for flammability testing in order to permit more of its products to pass the agency's flammability standard.¹

In seeking Commission approval, the petitioner clearly aims to modify Part 1610 to permit lighter-weight, very sheer silk fabrics into the market. The problem with their approach is that they would have the Commission weaken an already weak standard such that highly flammable fabrics would be introduced into the market. When I say that Part 1610 is a weak standard, I am not exaggerating. This standard is a 63-year old regulation that has been repeatedly criticized over the years for its extremely narrow and limited ability to prevent the distribution of quite flammable fabrics.² In fact, State Fire Marshals have long deplored the fact that Part 1610 will pass both newspaper and tissue paper.³ Moreover, by most accounts, virtually all fabrics ever

¹ The petitioner requested that the Commission increase the time permitted before testing begins and modify the conditioning requirements by decreasing the temperature and increasing the humidity, consistent with the conditioning in two voluntary standards. Neither of these standards is a flammability standard. Instead, they set conditions for testing textiles for properties such as tear strength or density.

² See, e.g., C.J. Abraham, "The Flammable Fabrics Act: An Unreasonably Dangerous Act," *The Journal of the Standards Engineering Society*, Volume 45, No. 3 (May/June 1993). See also, National Association of State Fire Marshals, <http://www.firemarshalsarchives.org/pdf/WearingApparelGuidanceFINAL.pdf> (December 2004) and G. Damant, "Clothing Related Burn Casualties: An Overlooked Problem?" GBH International, <http://www.gbhinternational.com/Editorials/editorialapr09.htm> (April 2009).

³ Id.

marketed in the United States would pass the requirements of the standard.⁴

Accordingly, for me to consider further weakening the standard, I would have to be shown that doing so would not expose the public to increased danger of severe burns. Unfortunately, petitioners have not come close to making such a demonstration. To the contrary, their petition simply asserts with little to no empirical justification that weakening the standard would not diminish safety – a proposition strongly challenged by staff in its analysis of the effect of changing the standard.⁵

I further note that maintaining Part 1610 in its current form will not significantly disadvantage the public to any great extent. As staff points out, a wide variety of silk fabric is already available in the U.S. market. Thus, I believe that any benefit from permitting flimsier and sheerer silk fabric in the market will be more than offset by the significantly increased risk of dangerous and severe burns.

One final point: over the years, the Commission has repeatedly heard calls for undertaking retrospective reviews of its rules and regulations. I fully support this notion, but with one caveat: retrospective reviews must be neutral and balanced, not pretexts for repealing or weakening standards that have protected consumers over many years. By all means, standards that no longer serve a useful purpose because technology has rendered them obsolete or irrelevant should be repealed or modified. But correspondingly, standards that have fallen short in their purpose of adequately protecting the public should be reformed and upgraded to meet the public's needs and expectations.

⁴ In fact, CS-191-53, as Part 1610 is often known, was designed to remove only the most dangerous and intensely flammable clothing from the market – the two most well-known examples being long rayon pile cowboy chaps and brushed rayon sweaters, often referred to as “torch” or “exploding” sweaters. Id.

⁵ According to staff, “Petitioner’s proposed conditioning would bring about unreliable test results and possibly no longer identify and classify fabrics that ignite too readily and burn too rapidly. This change in conditioning would alter how dangerously flammable textiles are identified and could impact the overall safety of wearing apparel.” Staff Briefing Package, at 16.