

CPSC MEETING LOG

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Date: October 13, 2009

Meeting Between: Chairman Inez Tenenbaum, Commissioner Robert Adler and
Representatives of the Polyurethane Foam Association

Meeting Topic: Flammability, Lead / CPSIA

Filed By: Dale Ray, EC, Project Mgr., Upholstered Furniture

Attendees:

Chairman Tenenbaum
Commissioner Adler
Robert Luedeka, PFA Executive Director
James McIntyre, McIntyre Law Firm (PFA Counsel)
Mary Martha McNamara, UFAC
Sean Oberle, Product Safety Letter
Matt Howsare, COIT
Scott Wolfson, OPA
Patty Adair, CPSC / ES
Dale Ray, CPSC / EC

Summary:

Mr. Luedeka and Mr. McIntyre described PFA's positions on two principal issues involving flexible polyurethane foam products -- upholstered furniture flammability and lead content. They also provided some general statements about industry and market conditions affecting PFA's membership. Mr. Luedeka spoke of PFA's cooperative relationship with CPSC in regulatory development matters, and pledged further cooperation in these areas.

On upholstered furniture, Mr. Luedeka discussed PFA's prior work with the 'Fabric Coalition,' an industry group comprised of furniture, fabric and foam producers, and reviewed events related to the investigation of flame retardant (FR) chemical treatments in foam and other upholstery materials. He recommended that CPSC issue a furniture rule with smoldering resistance requirements now, and consider open flame requirements when more information is available on FR usage and potential chemical health and environmental risks. He expressed concern that imported furniture, particularly from China, may continue to contain penta-bromodiphenyl ether, a foam FR that is no longer produced in the U.S. following production controls put in place by the EPA in 2004. He further recommended that CPSC consider prohibiting all but trace amounts of penta-BDE in furniture foams. Mr. Ray reminded the group that the Commission's 2008 proposed furniture rule did not contain any specific performance requirements for foam components, and would not require FR treatments generally. Mr.

Luedeka stated his preference for testing of composite furniture assemblies, based on certification of individual components; this reflects the approach of CPSC's proposal.

Mr. McIntyre discussed PFA's request that flexible polyurethane foam be exempt from CPSIA lead testing requirements, citing the potential burden on manufacturers (who do not generally know whether their foams may be used in end products intended for use by children) and the lack of lead in foam formulations. Mr. Luedeka noted that the only way lead could contaminate foam is from lead-containing water pipes during the manufacturing process; he characterized such contamination as unlikely. Mr. McIntyre noted that PFA submitted a petition requesting exemption from testing based on the existence of a voluntary industry certification program, 'CERTIPUR.' This program focuses on 'physical performance, indoor emissions and environmental stewardship.' An issue that the CPSC staff has discussed with PFA is the suitability of the alternative analytical technique used in the CERTIPUR program. Chairman Tenenbaum suggested that PFA follow through with the CPSC staff and provide data supporting their request that foam be considered an exempt class of materials.

Mr. Luedeka described industry conditions; he noted that foam use was tied to end-product market forces, e.g., in home building and construction sectors as well as automotive and other transportation sectors. He stated that U.S. manufacturing capability was down about 15% over the past 18 months, with plants in California closing recently; he also stated that general industry sales were down about 40% over the past two years. He invited the Commissioners to visit foam producing plants in North Carolina if the Commissioners planned to visit any furniture plants in that area. Mr. Luedeka and Mr. McIntyre pledged continuing cooperation with CPSC, and welcomed any further discussion with Commissioners and staff regarding the ongoing work on upholstered furniture and lead determinations.