



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

CPSC Executive Session
April 15, 1976

1750 K Street, N.W.
Washington, D.C.

Presiding: Chairman Simpson

Present : Commissioner Franklin
Commissioner Kushner
Commissioner Pittle

ITEM

Amendment to CPSC Policy on Exportation of Non-Complying
Goods under the Flammable Fabrics Act

(Briefing material transmitted by Office of the Secretary
April 8, 1976)

DECISION

In a letter dated April 2, 1976, to Mr. Fred Shippee of the American Apparel Manufacturers Association, the Commission provided an interpretation of its policy on exportation of non-complying goods under the Flammable Fabrics Act (16 CFR 1602.2) with respect to the question of when domestically manufactured non-complying items may be exported from the United States. (See minute of Executive Session April 1, 1976.) On advice of the General Counsel that the interpretation should be published as an amendment to the policy, the Commission approves publication of a FEDERAL REGISTER notice accomplishing the amendment by adding a new section (i) to contain the clarifying language as set forth in the April 2, 1976, letter to Mr. Shippee.

Also in this notice, the Commission amends section (h) of the policy to clarify that importers may return non-conforming imported goods to the foreign manufacturer for reworking only if the Commission allows such action.

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Amendment to CPSC Policy on Exportation on Non-complying Goods
under the Flammable Fabrics Act

A copy of the FEDERAL REGISTER notice amending the policy
in accordance with the above is attached.

VOTE

Concurring: Chairman Simpson *

Commissioner Franklin *B. Franklin*

Commissioner Kushner *J. Kushner*

Commissioner Pittle *R. David Pittle*

* Minute approved in draft

Attachment

Submitted by: Office of the Secretary

clarify when domestically manufactured noncomplying items may be exported from the United States. In addition, the Commission amends section (h) of the Policy to clarify that importers may return nonconforming imported goods to the foreign manufacturer for reworking only if the Commission allows such action.

Since this document involves a statement of policy, notice and public comment are not required by the Administrative Procedure Act (5 U.S.C. 553(b)). Therefore, section 1602.2 of Chapter II of title 16 Code of Federal Regulations is amended as follows to amend section (h) and to add a paragraph (i):

§ 1602.2 [Amended]

(h) In any enforcement action taken by this Commission, the person who markets or handles nonconforming goods shall not be allowed to export domestically made goods unless the intent to export them was previously manifested at the time of manufacture nor shall a person be allowed to export foreign made noncomplying goods which were imported into the United States, unless the intent to export them was previously manifested at the time of the original importation. The Commission may in certain instances allow persons subject to the act the opportunity to re-work the violative goods in order to bring them into conformity with the applicable standard of flammability and the Flammable Fabrics Act. In some instances the Commission may permit an importer to return nonconforming imported goods to the foreign manufacturer to be reworked to bring them into conformity with the applicable standard and the act. Otherwise, nonconforming goods shall be destroyed.

(i) In any enforcement action taken by this Commission, the person who domestically manufactures nonconforming goods shall not be allowed to export any production unit or lot of such goods once any portion of the production unit or lot has been shipped from the manufacturer's premises without bearing a stamp or label stating that such fabric, related material, or product is intended for export to other than an installation of the United States. However, the Commission does not interpret this policy in such a way as to prevent a manufacturer from exporting noncomplying goods that the manufacturer discovers to be noncomplying before any of the items in the production unit or lot leave the manufacturer's premises.

(Secs. 3, 5, 67 Stat. 111-112, 115, as amended 81 Stat. 568-569, 574; 15 U.S.C. 1192, 1202.)

SADYE E. DUNN,
*Secretary, Consumer Product
Safety Commission.*

Dated: April 19, 1976.

[FR Doc.76-11700 Filed 4-21-76;8:45 am]

PART 1602—STATEMENTS OF POLICY OR INTERPRETATION POLICY ON EXPORTATION OF NONCOMPLYING GOODS; AMENDMENT

Flammable Fabrics Act Regulations

In this document, the Consumer Product Safety Commission amends the Policy on Exportation of Noncomplying Goods Under the Flammable Fabrics Act (16 CFR Part 1602.2). The Policy was published as a notice in the FEDERAL REGISTER of October 1, 1975 (40 FR 45219) and was revised and codified in the FEDERAL REGISTER of December 5, 1975 (40 FR 56885).

The Policy interprets section 15 of the Flammable Fabrics Act (15 U.S.C. 1191, 1202) and describes the circumstances under which goods that do not comply with the Act may be exported from the United States. This amendment adds a new section (i) to the Policy, to further