



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Robert S. Adler
 Commissioner Dana Baiocco
 Commissioner Peter A. Feldman

ITEM:

Standard for the Flammability of Residential Upholstered Furniture – Termination of Rulemaking
(Briefing package dated September 1, 2021)

DECISION:

The Commission voted (2-1) to approve publication of a *Federal Register* notice announcing the Commission's termination of the rulemaking associated with upholstered furniture that was initiated in 1994 under the Flammable Fabrics Act.

Commissioners Baiocco and Feldman voted to approve publication of the *Federal Register* notice. Acting Chairman Adler voted to not approve publication of the *Federal Register* notice, and filed a statement with his vote.

For the Commission:

Alberta Mills
Secretary

* Ballot vote due September 8, 2021

Attachment: Statement by Acting Chairman Adler



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

ACTING CHAIRMAN ROBERT ADLER

**Statement of Acting Chairman Robert Adler Opposing Termination of
CPSC Rulemaking on Flammability of Residential Upholstered Furniture**

September 8, 2021

The Commission has before it a staff recommendation to terminate the agency's rulemaking on upholstered furniture flammability. For the reasons set forth below, I oppose the recommendation.

In FY 2016, CPSC staff produced a briefing package on upholstered furniture flammability and California's Technical Bulletin (TB) 117-2013 (TB 117-2013).¹ The staff briefing package recommended terminating CPSC's upholstered furniture rulemaking and concluded that TB 117-2013 contained a number of limitations that weighed against adopting it as a national standard. The Commission did not accept staff's recommendation to terminate the rulemaking. I voted against accepting this recommendation then because I thought staff should continue its work to develop a good standard on upholstered furniture flammability.

I continue to oppose terminating this work notwithstanding Congress's enactment of what is known as the SOFFA Act, which directed CPSC to adopt TB-117-2013² as a Commission standard.

My problem with approving a recommendation to terminate CPSC's upholstered furniture standard is that it sends a signal that the Commission somehow agrees that TB-117-2013 is a good standard. It is not. As noted by staff in a 2019 briefing package³ that summarized staff's long-standing objections to TB-117-2013 --

The test method is intended to address fires caused by a smoldering ignition source only. CPSC staff determined that this test method relies on inconsistent standard materials and uses char length, a two-dimensional metric, as a performance measure to quantify a three-dimensional phenomenon. This significantly limits the consistency and repeatability of the test. Specifically, the test mockup geometry, dimensional measurement, and pass/fail criteria do not produce sufficiently consistent results. As a result of these limitations, CPSC staff does not believe TB 117-2013 effectively addresses the hazard of smoldering ignition.

Needless to say, the Commission will enforce TB-117-2013 as mandated by Congress. That said, I want to go on record as objecting to the standard and urging future members of the Commission and Congress to re-think its many deficiencies.

¹ <https://www.cpsc.gov/s3fs-public/The%20Feasibility%20Benefits%20and%20Costs%20of%20Adopting%20TB117-2013%20-%20September%208%202016.pdf>

² Consolidated Appropriations Act, 2021 (P.L. 116-260), Division FF, Title XXI).

³ <https://cpsc.gov/s3fs-public/Upholstered%20Furniture%20Update%202019.pdf>