



February 8, 2016

The Honorable Michael Burgess
Chairman
Subcommittee on Commerce, Manufacturing and Trade
Energy and Commerce Committee
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Dear Chairman Burgess and Ranking Member Schakowsky,

Thank you for the opportunity to provide testimony for the record in accordance with your hearing entitled "Industry Perspectives on the Consumer Product Safety Commission." The American Home Furnishings Alliance (AHFA) represents 450 manufacturers and importers of residential furnishings that include upholstered furniture, wood furniture, home office, and decorative accessories. Member companies participate in a highly competitive global market characterized by ever-changing style preferences, margin pressures, and the tendency of consumers to postpone big-ticket purchases if their perceptions of value and function are not satisfied. Member companies provide approximately 100,000 manufacturing jobs throughout the US and represent a \$35 billion segment of the nation's economy.

In October 2015, the AHFA, along with other industry associations, submitted a petition to the CPSC urging the commissioners to promptly adopt California's flammability standard, Technical Bulletin 117-2013 (TB 117-2013), as the national flammability standard for upholstered furniture. California's standard adequately addresses the risk of upholstered furniture flammability and will greatly enhance fire safety for consumers throughout the country.

I. Overview

For over 40 years, since it inherited the Flammable Fabrics Act ("FFA") from Congress in 1973, the CPSC has been evaluating whether it should adopt national regulations that would establish flammability standards for residential upholstered furniture. Since 1981, CPSC has focused on cigarette-smolder ignition as the primary risk of fires resulting from residential upholstered furniture.

The CPSC proposed a flammability standard in 2008 that focused primarily on protecting against fires started by smoldering materials, the leading cause of furniture fire deaths. Consumers, public health advocates, and the furniture industry welcomed this approach. The State of California, which mandated the open flame test for furniture fillings in 1975, refined the CPSC's 2008 proposal in the development of TB 117-2013. This refinement recognized that focusing on smolder ignition adequately addresses the risk of upholstered furniture flammability and that other ignition sources currently either pose an insignificant risk or are not addressable. Significantly, the new approach adopted in California addresses fire safety without necessitating the use of flame retardant chemicals. As a result, suppliers and manufacturers in the home furnishings industry have predominantly removed flame retardant chemistry from their products.

The CPSC held a stakeholder meeting in 2014 to discuss open flame testing and solutions. Open-flame ignition of residential upholstery presents an entirely different risk of ignition than smoldering ignition and simultaneously presents a much greater technical challenge to both the Commission and the industry. Open-flame testing is incredibly burdensome for manufacturers, requiring a full scale “build one-burn one” testing scheme – i.e., testing of each cover fabric on each design – rather than a significantly more cost-effective small-scale testing scheme.¹ Barrier technology, is inconclusive at best and ineffective at worst in addressing the primary cause of residential upholstered furniture fires.

Currently available barrier technology utilized for mattresses – which have a simple, uniform shape and a limited number of ticking fabric types and uses – is not well suited for application to residential upholstered furniture. The various geometries, spatial relationships, designs, construction, cover fabric options, and consumer uses all prevent a simple, uniform application of barrier technology to the range of residential upholstered furniture, preventing a “one-size-fits-all” solution.

Unfortunately, over 8 years have passed and the CPSC has not yet finalized its 2008 proposed rule. TB 117-2013 was developed with broad stakeholder participation and the test methods are reproducible, repeatable, reliable, well known and practiced by industry and independent laboratories. The vacuum created by the lack of progress on this issue at CPSC is evidenced by the growing number of state legislatures moving to address upholstered furniture flammability individually. While TB 117-2013 is helping enhance fire safety, CPSC continues to allow the perfect to be the enemy of the good. Adoption of TB 117-2013 allows CPSC to expeditiously and efficiently finalize this rule making, which is supported by all the affected stakeholders, and reallocate limited and critical resources to other pressing issues.

II. Recent Petition for Rulemaking to Adopt California’s Flammability Program

On October 30, 2015, nine associations, including the International Association of Firefighters and the furniture and upholstery industries filed a Petition for Rulemaking urging the CPSC to simply adopt California’s current TB 117-2013 as a national harmonized standard—in order to address the issue of smolder-ignition for residential upholstered furniture in a practical and cost-effective manner. On November 25, 2015, the Assistant General Counsel to the CPSC refused to create a new docket or to notice and solicit public comments on this “material” Petition for Rulemaking.²

The CPSC tried to justify this action by claiming the following: in the preamble to an outdated 2008 notice of proposed rulemaking, CPSC had “discussed the adoption of all, or portions, of the TB 117 standard that was in effect at that time.” However, in its November 25 letter, CPSC admitted that “significant changes” were made in 2013 to TB 117 by TB 117-2013. In 2013, California dramatically modified and improved TB 117-2013, which now exclusively focuses on the risks of smolder-ignition of cover fabrics through repeatable and reproducible test methods that can be met *without the use of flame retardants*.

¹ As a result of technological limitations, the use of flame retardant chemicals is currently the only practical way for manufacturers to meet an open-flame standard.

² On January 14, 2016, the CPSC Assistant General Counsel sent a follow-up letter which stated: “The Commission has the authority to issue a supplemental notice of proposed rulemaking without a petition. Whether to take the action you suggest is a decision for the Commission, not the Office of the General Counsel.”

III. Outstanding Concerns

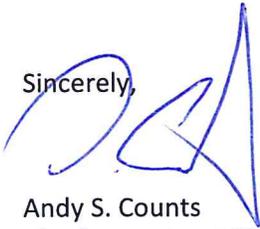
The CPSC appears to have buried the Coalition's Petition in the dormant and outdated 2008 Rulemaking docket. The version of TB 117 that was rejected by the CPSC (more than 8 years ago) was fundamentally different than the improved TB 117-2013, which is the basis of the Coalition's 2015 petition. Accordingly, the CPSC should respond to the Petition by formally noticing and soliciting public comments on the new TB 117-2013.

In short, national adoption of the widely accepted TB 117-2013 standard is now due. This standard provides the double benefit of public safety and health by addressing the risk of upholstered furniture flammability while eliminating the necessity for flame retardant chemicals.

The AHFA greatly appreciates the opportunity to provide this testimony to the Subcommittee. We are committed to producing and selling safe products to our consumers and feel that the most expedient solution is available to the CPSC through the California revised standard.

Please feel free to contact me with any further questions or comments.

Sincerely,



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