



May 1, 2003

Lynn Morris
Bureau Chief
Bureau of Home Furnishings and Thermal Insulation
California Department of Consumer Affairs
3485 Orange Grove Avenue
North Highlands, CA 95560-5595

RE: Additional statement of the National Association of State Fire Marshals to the public record regarding the proposed mattress flammability standard, Technical Bulletin 603

Dear Chief Morris:

The National Association of State Fire Marshals (NASFM) submits these additional comments to the public record on the proposed Technical Bulletin 603. All are based on testimony heard during the Tuesday, April 22, 2003, public hearing on this standard in San Francisco.

1. NASFM's statement asked for the record to show additional scientific justification for the one-hour duration of the proposed flammability test. Our interest is in data demonstrating that, even in fire-resistant mattresses, large fires can erupt 50 or more minutes following ignition. Experience tells us that this sometimes happens; while we do not doubt the wisdom of the 60-minute test, we also recognize that science is needed to validate anecdotal experience.

Another witness addressed this issue by arguing that a 30-minute test is more reasonable and justified this position by stating that 30 minutes is adequate for a fire department to respond to a mattress fire. NASFM respectfully disagrees with this assessment. We wish that all fires were detected and reported promptly, but often that is not the case, for many reasons: The fire incident data consistently show that a large percentage of the deadliest fires occur while families sleep. Smoke alarms may not work, and recent findings indicate that some people may even sleep through a smoke alarm. Too often, Americans attempt to fight a fire before reporting it. A major fire is disorienting and frightening, causing even the most educated people to act in irrational ways. People escaping a fire may not have quick access to a phone to

call the fire department. Finally, it is important to note that not all Californians (or Americans) are protected by full-time fire departments with 5-minute response times. Volunteers comprise about 74 percent of firefighters in the United States and according to the California State Firefighters Association, more than 50 percent of firefighters in California are volunteers. A reason may exist to challenge the 60-minute duration of the test, but we did not hear one on April 22.

2. NASFM also commented on the importance of taking full account of the proposed standard's commercial feasibility. One witness stated that an "\$80 cost of compliance" with TB 603 would result in \$240 in additional cost to consumers. If this calculation is true, manufacturers intend to apply a 200 percent mark-up to costs they incur in complying with a new flammability standard. The same witness then claimed that consumers would buy fewer mattresses as a result of this significant cost increase.
3. Witnesses failed to discuss the marginal cost differences between a 30-minute and 60-minute standard. If one accepts the "\$80 per mattress cost," how much of that amount is incurred if the test is conducted for 30 minutes? The second question raises important differences between the least and most expensive mattresses in the market. It stands to reason that the most expensive mattresses would be the most comfortable and contain the most materials, i.e., the most fuel, and therefore require the greatest protection. It stands to reason that the least expensive mattresses typically contain the least fuel and thus require the least protection at proportionately lower costs. In a low-cost mattress, is there even enough fuel to sustain a 150 kW fire for an hour? In others words, is it possible that the low-cost mattresses are the most likely to pass the standard as proposed?

If disadvantaged families were denied the benefits of the new standard, we would be distressed. To the contrary, the record suggests that disadvantaged families will be denied these benefits only if manufacturers make inappropriate pricing decisions. The reality is that the mattress industry is highly competitive. Costs will drop, and prices will be set to attract, not repel, customers.

4. On April 22, we also did not hear sufficient testimony regarding the importance of enforcement, especially insofar as keeping very low cost, non-compliant renovated mattresses out of American homes. These issues may not be relevant to the standard itself, but they are highly relevant to public safety.
5. Prior to the April 22 hearing, we were told by some in the industry that the proposed standard could not be met. One witness reported testing failures. Other witnesses reported testing successes. Several witnesses attested to the availability of suitable quantities of materials to meet the new standard. These claims must be supported by data on the public record, and we are told that some claims are supported in this way.

The existence of successful tests of actual mattresses along with supporting cost data proves the technological and the economic practicability and disproves the claim that the standard cannot be met. In any market, some companies succeed and others fail. This is not about ensuring that every technology that is proposed to meet a standard will succeed.

6. Our final observation is that the testimony on the toxicology of mattress materials often was misinformed and as a result provided little value to those who are seriously engaged in these issues. Generalized statements about flame retardant chemicals have no meaning, and the suggestion that these substances are more deadly than the gases from a fire, e.g., carbon monoxide, showed an appalling disregard for science. The United States Environmental Protection Agency is among many regulatory authorities taking care to protect consumers from chemical hazards used to meet fire safety standards.

We thank the Bureau and all of the witnesses at the April 22 hearing for what they have taught us. This process and the standard it is yielding has been a model for how fire safety should be achieved.

Sincerely,

Robert Polk, *Chairperson*
Consumer Product Fire Safety Task Force

cc: NASFM Directors and Members