

**Subpart C—Interpretations and Policies**

§§ 1632.61–1632.62 [Reserved]

**§ 1632.63 Policy clarification on renovation of mattress.**

(a) Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other things, the “manufacture for sale” of any product which fails to conform to an applicable standard issued under the act. The standard for the Flammability of Mattresses, as amended (FF 4–72) (subpart A of this part), issued pursuant to the act, provides that, with certain exceptions, mattress must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

(b) The purpose of this document is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

(c) For purposes of this document, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more, of these steps in mattress renovation is considered to be mattress manufacture.

(d) If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer or a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, “manufacture for sale” has not occurred and such a renovated mattress is not subject to the mattress standard.

(e) However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be “manufacture for sale”.

(f) Accordingly, mattress renovation is considered by the Commission to be “manufacture for sale” and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer of the renovator.

(g) A renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

**PART 1633—STANDARD FOR THE FLAMMABILITY (OPEN FLAME) OF MATTRESS SETS**

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## § 1633.2

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AUTHORITY: 15 U.S.C. 1193, 1194

SOURCE: 71 FR 13498, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 13498, Mar. 15, 2006, part 1633 was added, effective July 1, 2007.

### Subpart A—The Standard

#### § 1633.1 Purpose, scope and applicability.

(a) *Purpose.* This part 1633 establishes flammability requirements that all mattress sets must meet before sale or introduction into commerce. The purpose of the standard is to reduce deaths and injuries associated with mattress fires by limiting the size of the fire generated by a mattress set during a thirty minute test.

(b) *Scope.* (1) All mattress sets, as defined in § 1633.2(c), manufactured, imported, or renovated on or after the effective date of this standard are subject to the requirements of the standard.

(2) One-of-a-kind mattress sets may be exempted from testing under this standard in accordance with § 1633.13(c).

(c) *Applicability.* The requirements of this part 1633 shall apply to each “manufacturer” (as that term is defined in § 1633.2(k)) of mattress sets

which are manufactured for sale in commerce.

#### § 1633.2 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (15 U.S.C. 1191), the following definitions apply for purposes of this part 1633.

(a) *Mattress* means a resilient material or combination of materials enclosed by a ticking (used alone or in combination with other products) intended or promoted for sleeping upon. This includes mattresses that have undergone renovation as defined in paragraph (d) of this section.

(1) This term includes, but is not limited to, adult mattresses, youth mattresses, crib mattresses (including portable crib mattresses), bunk bed mattresses, futons, flip chairs without a permanent back or arms, sleeper chairs, and water beds or air mattresses if they contain upholstery material between the ticking and the mattress core. Mattresses used in or as part of upholstered furniture are also included; examples are convertible sofa bed mattresses, corner group mattresses, day bed mattresses, roll-away bed mattresses, high risers, and trundle bed mattresses. See § 1633.9 Glossary of terms, for definitions of these items.

(2) This term excludes mattress pads, mattress toppers (items with resilient filling, with or without ticking, intended to be used with or on top of a mattress), sleeping bags, pillows, liquid and gaseous filled tickings, such as water beds and air mattresses that contain no upholstery material between the ticking and the mattress core, upholstered furniture which does not contain a mattress, and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads. See § 1633.9 Glossary of terms, for definitions of these items.

(b) *Foundation* means a ticking covered structure used to support a mattress or sleep surface. The structure may include constructed frames, foam, box springs, or other materials, used alone or in combination.

(c) *Mattress set* means either a mattress and foundation labeled by the