

**BUREAU OF ELECTRONIC AND APPLIANCE REPAIR,
HOME FURNISHINGS AND THERMAL INSULATION**

FINAL STATEMENT OF REASONS

Hearing Date: August 11, 2010

Subject Matter of Proposed Regulations: Exemption of strollers, infant carriers, nursing pillows from the flammability requirements of Technical Bulletin 117

Section Affected: Section 1374.2 Title 4, Article 13 of the California Code of Regulations (CCR)

Updated Information

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the information contained therein.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This regulation will not have an adverse economic impact on small businesses.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses

Summary of Comments Received During the 45-Day Comment Period:

The Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) received 300 comments via e-mail in support of the proposed regulation change during the 45-day comment period.

Mr. John H. Andrew, Public Member and Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation Advisory Council member e-mailed comment 1 on July 3, 2010:

1. Mr. Andrew stated that to his understanding, the first proposed exemption will be beneficial to consumers as it may slightly reduce the cost to consumers of the products being exempted while also allowing the Bureau to focus on more important enforcement efforts. The second proposal regarding exercise equipment does not change California law for the products involved are not included in the scope of Technical Bulletin 117.

This comment is accepted. No changes to the proposed regulation were made based on this comment.

An e-mailed letter, signed by 23 consumer, health, and environmental groups, and 293 individual e-mails were received between August 6, 2010 and August 10, 2010.

2. Each of the comments received have acknowledged that the Bureau testing has determined that the juvenile products to be exempted from the flammability requirements of Technical Bulletin 117 do not pose a fire hazard and all have expressed that they strongly urge the adoption of the proposed regulation.

This comment is accepted. No changes to the proposed regulation were made based on this comment.

3. Each of the comments received stated that the flammability requirements of Technical Bulletin 117 have led to saturating upholstered juvenile furnishings sold in California with flame retardant chemicals that are associated with many health problems and have created a needless toxic exposure hazard for infants and parents. These chemicals migrate from these products and into house dust which are ingested by humans and animals. This has led to Californians having the highest levels in the world of flame retardant pentaBDE in their homes and bodies.

These comments are rejected. The Bureau acknowledges the concerns expressed within this comment, however, this comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

The Bureau's intention is to adopt the regulations for the reasons explained in the Initial Statement of Reasons.

Mr. Matthew Cappadocia, individual, e-mailed comment 4 on August 6, 2010.

4. Mr. Cappadocia commented that he does not know why "stuff" that can kill us is allowed to be used for children.

This comment is rejected. Mr. Cappadocia's comment is vague and so the Bureau will answer each alternative.

If concerned that by exempting the proposed juvenile products from the flammability requirements of TB 117 will compromise children's safety, the Bureau has evaluated and concluded that the proposed items will not pose a serious fire hazard to infants and children if they are exempt from TB 117 flammability requirements. Detailed information can be read in the Initial Statement of Reasons.

If Mr. Cappadocia's concern is related to the chemicals used within flame retardants, the Bureau will not address this comment as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

Mr. Paul Dueweke, individual, submitted comments 5 through 6 via e-mail on August 6, 2010.

5. Mr. Dueweke requested change to the proposed regulation because he feels that parents deserve the option of buying anything they want that would contain no toxic flame retardants.

This comment is rejected. The Bureau acknowledges the concerns expressed in this comment but this comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

6. Mr. Dueweke questioned why the Bureau has supported the chemical industry profits over the health of children and questioned if an occasional fire is worse than the poisoning of every human being in California.

This comment is rejected. This comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

Linda Rudolph, MD, MPH, and Deputy Director of Center for Chronic Disease Preventions and Health Promotion submitted a letter with comments 7 and 8 received on August 9, 2010.

7. The comment states that CDPH supports the proposal to exempt strollers, infant carriers, and nursing pillows from the flammability requirements of Technical Bulletin 117 given the nature of the infant products and the circumstances of their use. CDPH agrees with the Bureau that such an exemption would not pose a serious fire hazard to infants or their families.

This comment is accepted. No changes to the proposed regulation were made based on this comment.

8. The comment states that Technical Bulletin 117 has had the unintended consequence of exposing Californians to a toxic component used in flame retardants, specifically known as the chemical pentaBDE. CDPH is concerned that widespread exposure of infants to such chemicals poses potentially serious long-term risks to their health. Although pentaBDE has been statutorily banned in California other chemical flame retardants are now being used.

This comment is rejected. The Bureau does not have regulatory authority over chemicals, chemical compounds, and such; therefore, this comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

Mr. Meaghan Simpson, individual, e-mailed comments 9 and 10 on August 8, 2010.

9. Mr. Simpson stated, "Poisons are abusing and terrorizing USA citizens. USA Gov agencies rate USA homes indoor air quality as 10Xs worse than outdoor air quality due to all the carelessness of sacrificing our lives to 100s of thousands of poisons which are not reviewed at all ever for our health and safety!!! Sick insane liars, thieves and killers have turned our USA into a grim and cruel sort of slow motion "aushwitz" concentration camp of horrors and of epidemic proportions for way too long now. Everyone who aids and abets these poison killers has blood on their hands!!! You must face the hard cold facts of the severe injuries, sickness and death these skull and crossbones killer poisons are responsible for!"

This comment is rejected. This comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

10. Mr. Simpson's comment states, in part, "From a very intelligent perspective this bill is far too tame and should include removal of these fire retardants from all goods sold. It should also include all the poisons that are harming, maiming and killing USA citizens by the millions. We do not have appropriate health and safety regulations and the poisons are creating more sick problems than our health systems can possibly keep up with." The rest of Mr. Simpson's comments reiterate comments 2 and 3.

This comment is rejected. This comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

Mr. Allan Hirsh, Chief Deputy Director of Office of Environmental Health Hazard Assessment (OEHHA) submitted a letter with comments 11 and 12 on August 9, 2010.

11. Mr. Hirsh stated that OEHHA supports the proposal to exempt strollers, infant carriers and nursing pillows from the requirements of TB 117. He acknowledges that the reasons for the exemption are because these products can be made fire-safe without the use of chemical flame retardants. OEHHA views this as a positive development and hopes the regulation will encourage further efforts to develop fire-safe products that do not rely on chemical retardants.

This comment is accepted. No changes to the proposed regulation were made based on this comment.

12. Mr. Hirsh stated that in 2003, California enacted the nation's first ban on two flame retardants mixtures, pentaBDE and octa-BDE, because of concerns over their toxicity and persistence in the environment.

This comment is rejected. This comment will not be addressed as it does not fall within the scope of the proposed regulation and does not fall within the Bureau's rulemaking authority.

Summary of Comments Received during the Public Hearing held on August 11, 2010:

Mr. Richard Holober, Executive Director of Consumer Federation of California, provided verbal testimony reiterating comments 2 and 3 which were also received via e-mail from Mr. Holober.

Responses to Mr. Holober's verbal testimony can be found under comments 2 and 3 respectively.