

TITLE 4. Department of Consumer Affairs
Bureau of Electronic and Appliance Repair,
Home Furnishings and Thermal Insulation

NOTICE IS HEREBY GIVEN that the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) is proposing to take the action described in the Informative Digest. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at 1747 N. Market Blvd, room # 186, Sacramento, CA 95834, at 9:00 A.M., on September 17, 2018. Webcasting is available at <https://thedcapage.blog/webcasts/>. Participants may also teleconference at (866) 842-2981 (passcode # 4598662).

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on September 17, 2018 or must be received by the Bureau at the hearing. The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 19031, 19034, and 19034.5 of the Business and Professions Code and to implement, interpret, or make specific section 19161 of the Business and Professions Code, the Bureau is considering revising sections 1374 and 1374.3 of Division 3 of Title 4 of the California Code of Regulations, as described in this Notice.

INFORMATIVE DIGEST

- A. Informative Digest/Policy Statement Overview
Pursuant to Business and Professions Code (B & PC) section 19161, the Bureau may adopt regulations that it deems necessary to implement the standards for "Fire Retardant" furniture.

Existing regulations require that filling materials in upholstered furniture used in public-occupied buildings must comply with the California upholstered furniture flammability standard, Technical Bulletin (TB) 117-2013. TB 133 is also a recognized fire-retardant flammability test standard for upholstered furniture used in publicly-occupied buildings. This proposal would eliminate the TB 133 test standard and accompanying label requirements because TB 133 is a redundant test standard that causes confusion within the industry and presents unnecessary health risks. Therefore, the Bureau is proposing the following amendments:

Amend section 1374:

The proposed amendment to this section removes the reference to TB 133 and its requirements that all upholstered seating furniture sold for use in publicly-occupied buildings shall meet the flammability test requirements set forth in TB 133.

Amend Section 1374.3:

The proposed amendment to this section removes the requirement to have labels on upholstered seating furniture that state the product meets TB 133 flammability requirements.

B. Anticipated Benefits of Proposal

This regulatory action is projected to lower costs of upholstered seating furniture used in public buildings and reduce the need for flame retardants in component materials. The flame retardants are commonly applied to foams, textiles, and polymers during or after production of upholstered furniture to meet the existing TB 133 standard.

In addition, by reducing the need for flame retardant chemicals, this action is anticipated to improve public health by reducing exposure to carcinogenic organohalogen flame retardants.

The primary purpose for amending section 1374.3 is to remove the necessity of the TB 133 label on furniture in publicly-occupied buildings. The removal of this requirement aligns this section with the proposed amendment to section 1374 and establishes TB 117-2013 as the standard for furniture in publicly-occupied buildings and decreases the exposure to hazardous chemical flame retardants. The proposed amendments also have the added benefit of simplifying the labeling requirements for the manufacturers.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Bureau conducted a search of any similar regulations on this topic and has concluded that there is no reasonable interpretation of any state regulation that is inconsistent or incompatible with the proposed action.

INCORPORATION BY REFERENCE

None

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact:

The Bureau has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts or evidence/documents/testimony:

Furniture manufacturers have often cited the added cost of manufacturing TB 133 compliant furniture associated with both labor and material costs, including flame retardants. Therefore, the proposed regulatory action is likely to have a positive impact on California businesses by reducing manufacturing costs.

Also, manufacturers often state that meeting the TB 133 standard results in loss of resiliency and comfort, as well as potential degradation of the highly fire-retardant components materials (such as foams that include flame retardants) in furniture. Elimination of TB 133 may, therefore, result in manufacturers producing longer-lasting furniture at a lower price, while also maintaining high safety standards.

Cost Impact on Representative Private Person or Business:

The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. This proposal will have no cost impact affecting current registration fees, business practices, or registration trends. For these reasons, the Bureau anticipates no economic impact on businesses or private person.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Bureau has determined that the proposed regulation would not affect small businesses as most small businesses are not employed in the manufacture of TB 133 compliant products. If a small business was employed in the manufacture of TB 133 compliant products, the likely effect would be beneficial, resulting from a decrease in manufacturing costs due to lower labor and material costs.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Bureau has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, new or existing businesses, or the expansion of businesses in the State of California.

Benefits of Regulation:

The Bureau has determined that this regulatory proposal will have the following benefits to the health, safety, and welfare of California residents:

This regulatory action is projected to lower costs of upholstered seating furniture used in public buildings and reduce the need for flame retardants in component materials, which are commonly applied to foams, textiles, and polymers during or after production of upholstered furniture to meet the existing TB 133 standard. In addition, by reducing the need for flame retardant chemicals, this action is anticipated to improve public health by reducing exposure to carcinogenic organohalogen flame retardants.

By eliminating the outdated TB 133 standard, this regulatory action will provide clarity to the manufacturing industry by eliminating competing flammability standards.

CONSIDERATION OF ALTERNATIVES

The Bureau must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Bureau has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau at 4244 South Market Court, Suite D, Sacramento, CA 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Nicholas Oliver
Address: 4244 South Market Court, Suite D
Sacramento, CA 95834
Telephone No.: (916) 999-2041
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The backup contact person is:

Name: Diana Godines
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Website Access: Materials regarding this proposal can be found at www.bearhfti.ca.gov.