be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of January 1999, 1,248 dairy farmers were producers under Order 65. Of these producers, 1,176 producers (i.e., 94 percent) were considered small businesses having monthly milk production under 326,000 pounds. A further breakdown of the monthly milk production of the producers on the order during January 1999 is as follows: 753 produced less than 100,000 pounds of milk; 322 produced between 100,000 and 200,000; 101 produced between 200,000 and 326,000; and 72 produced over 326,000 pounds. During the same month, 5 handlers were pooled under the order. None are considered small businesses.

This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Preliminary Statement

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, suspension for the months of March through September 1999 of the following language from the pool plant provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered:

In the first sentence of § 1065.7(b)(4), suspending the following language: ''each of the months of,'' ''through March,'' and ''for the following months of April.''

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Programs during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension was requested by AMPI, a cooperative association that supplies milk for the market's fluid needs. AMPI requests that language be suspended from the Nebraska-Western Iowa order's pool supply plant definition for the purpose of allowing producers who have historically supplied the fluid needs of Nebraska-Western Iowa distributing plants to maintain their pool status. AMPI contends that because a fluid milk plant operator reduced its purchase of fluid milk from AMPI by more than 50 percent, AMPI will not be able to pool milk historically associated with the Nebraska-Western Iowa order for March 1999, and thus will not qualify for the automatic qualification months of April through August.

AMPI maintains that through discussions with other handlers in the order, it is certain that no additional milk is needed at this time.

Accordingly, it may be appropriate to suspend the aforesaid regulatory language for the months of March through September 1999.

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: March 11, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–6488 Filed 3–16–99; 8:45 am]

BILLING CODE 3410–02–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission proposes to amend the flammability standards for children's sleepwear in sizes 0 through 6X and sizes 7 through 14 by revising the laundering procedure specified in those standards. These laundering procedures help assure that any chemical flame retardants are not removed or degraded with repeated washing and drying, thereby creating a flammability hazard. The Commission is proposing these amendments because the detergent specified by the existing laundering procedure is no longer available and the operating characteristics of the washing and drying machines required by that procedure are no longer representative of machines now used for home laundering.

DATES: Written comments concerning the proposed amendments must be received by the Office of the Secretary not later than June 1, 1999.

ADDRESSES: Written comments should be captioned ''Children's Sleepwear, Laundering Procedures'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0508, extension 1293.

SUPPLEMENTARY INFORMATION:

A. Background

The Flammable Fabrics Act (''FFA'') (15 U.S.C. 1191 *et seq.*) authorizes issuance and amendment of flammability standards and regulations to protect the public from unreasonable risks of death, injury, and property damage from fire associated with products of wearing apparel made from fabric and related materials.

In 1971, the Secretary of Commerce issued a flammability standard for children's sleepwear in sizes 0 through 6X to protect young children from death and serious burn injuries which had been associated with ignition of sleepwear garments such as nightgowns and pajamas, by small open-flame sources. That standard became effective in 1972, and is codified at 16 CFR Part 1615.

In 1973, authority to issue flammability standards under the FFA was transferred from the Department of Commerce to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15

U.S.C. 2079(b)). In 1974, the Commission issued a flammability standard for children's sleepwear in sizes 7 through 14. That standard became effective in 1975 and is codified at 16 CFR Part 1616.

Both standards prescribe a test which requires that specimens of fabrics, seams, and trim of children's sleepwear garments must self-extinguish after exposure to a small open flame. The standards do not require or prohibit the use of any particular type of fabric as long as the manufacturer successfully completes the prescribed prototype and production testing.

Each standard defines the term ''children's sleepwear'' to mean ''any product of wearing apparel'' in the sizes covered by the standard ''such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping.'' The standard for sizes 0 through 6X excludes infant garments sized for children nine months of age or younger. Both standards exclude diapers, underwear, and certain tight-fitting garments. See 16 CFR 1615.1(a) and 1616.2(a), as amended September 9, 1996 (61 FR 47634).

B. Amending the Flammability Standards

As discussed below, laundering procedures are prescribed by the standards to help assure than any flame retardant treatment used in the production of children's sleepwear does not deteriorate over time and thereby create a flammability hazard. However, the current procedures are out of date in several respects, and the Commission is therefore proposing to change them.

1. Current Laundering Procedures

Each of the children's sleepwear standards describes the apparatus and procedure used to test items for compliance with the standard. See 16 CFR 1615.4 and 1616.5. The standards address the possibility that a flame-retardant treatment used in children's sleepwear might progressively deteriorate by washing or drying. Section 1615.4(g)(4) of the standard for sizes 0 through 6X and section 1616.5(c)(4) of the standard for sizes 7 through 14 require that testing shall be performed on finished items, as produced (or after one washing and drying in the case of garments labeled with instructions to wash before wearing) and after they have been washed and dried 50 times in accordance with a specified laundering procedure. That laundering procedure is AATCC Test Method 124–69, published by the American Association of Textile Chemists and Colorists (''AATCC''). (1) [1] Each standard incorporates specific aspects of that laundering procedure by reference.

The AATCC Test Method was developed in 1967 and revised in 1969. AATCC Test Method 124–69 specifies operating characteristics of the washing machine and dryer to be used, wash water and rinse water temperatures, exhaust temperature of the dryer, and a particular detergent, AATCC Standard Detergent 124. These specifications are representative of the equipment, wash, rinse, and drying temperatures, and detergent used for home laundering in the 1960s. For example, AATCC Standard Detergent 124 is a high-phosphate powder with optical brightener, similar to the phosphate-based detergents sold to consumers between 1950 and 1970. (3)

Since 1970, environmental concerns about water pollution have resulted in the elimination of phosphate-based detergents for home laundering. Today, all laundry detergents sold to consumers are nonphosphate-based. Additionally, energy-efficient washing machines and dryers currently sold for consumer use have operating characteristics and temperature settings which differ from those specified by AATCC Test Method 124–69. (3)

2. Revised Laundering Test Method

In 1996, AATCC revised AATCC Test Method 124, ''Appearance of Fabrics After Repeated Home Laundering.'' (2) The 1996 AATCC test method more closely resembles the equipment and practices currently used for household laundering of fabrics. The revised test method differs from AATCC Test Method 124–69 by specifying the use of a nonphosphate-based detergent. The 1996 test method also specifies use of a washing machine with different operating characteristics than those specified by AATCC Test Method 124–69, and rinse water temperatures which differ from those in the older test method. (3) Table 1, below, provides a summary comparison of the two test methods.

TABLE 1.—AATCC TEST METHOD 124

WASH/DRY CONDITIONS	VERSION 1969	VERSION 1996	
Washing Machine:			
Cycle	Normal	Normal/Cotton Sturdy.	
Wash Water Temp	60 ± 3°C	60 ± 3°C.	
Rinse Water Temp	41 ± 3°C	Less Than 29°C.	
Water Level	Full	18 ± 1 gal.	
Agitator Speed	70 ± 5 spm	179± 2 spm.	
Wash Time	12 minutes	12 minutes.	
Spin Speed	500–510 rpm	630–660 rpm.	
Final Spin Cycle	4 minutes	6 minutes.	
Dryer:			
Cycle	Normal	Cotton Sturdy	Durable Press.
Exhaust Temp	140–160°F	140–160°F	140–160°F.
Cool Down Cycle	5 minutes	5 minutes	10 minutes.

spm = strokes (or cycles) per minute.
rpm = revolutions per minute.

[1] Numbers in parentheses identify reference documents in the List of Relevant Documents at the end of this notice. Requests for inspection of any of these documents should be made at the Office of the Secretary, 4330 East-West Highway, room 502, or by calling that office at (301) 504–0800.

In 1996, AATCC also announced that when that organization's supply of Standard Detergent 124 is depleted, that detergent will no longer be available. AATCC is the only source for Standard Detergent 124. Additionally, washing machines now offered for sale do not have the settings and operating characteristics of the washing machine specified by AATCC Test Method 124–69. (3).

3. Review of Existing Standards

In addition to reviewing AATCC Test Method 124–1996, the Commission staff reviewed and analyzed twelve other international and technical association standards or test methods to determine if any were appropriate for consideration in this proceeding. Standards and test methods from AATCC, ASTM, the International Standards Organization, the United Kingdom, Australia, Canada, China and the Soap and Detergent Association were identified. All of these methods could be used for sleepwear fabrics and mattress pads.

All of the identified standards for fabric laundering have significant deficiencies. They are either based on earlier versions of AATCC Test Method 124 (with obsolete detergent and equipment), require equipment not available in the U.S., use only water in the laundering procedure, or specify significantly lower wash and rinse water temperatures than those still available for consumers.

4. Comparability of Test Results

In order to compare the results of laundering using AATCC Test Method 124–69 with those of the new AATCC Test Method 124–96 the Commission performed some tests of fabrics using each method. The staff conducted laundering comparisons using sleepwear made of cotton fabrics with the two known FR treatments being used to treat children's sleepwear at the time of the testing (organic phosphorous compound and antimony trioxide) and two untreated flame resistant polyester fabrics. All fabrics met the requirements of the children's flammability test in their original state (as marketed or after one laundering, as appropriate) and after 50 launderings with the old AATCC detergent and equipment specified in AATCC 124–69.

The laundering tests indicated that changes in washing machine and dryer operating conditions between the old and new versions of AATCC Test Method 124 did not make a difference in the flammability performance of the fabrics tested. However, the cotton sleepwear that was treated with the phosphorous-based Pyrovatex CP-new did not perform well in flammability testing after laundering with the new AATCC detergent. The Pyrovatex-treated sleepwear also did not perform well in flammability testing after laundering with common powder detergents. Liquid detergents did not seem to adversely affect flammability performance. Fabrics treated with the antimony-based FR showed some random failures that, according to laboratory chemical analyses, apparently were unrelated to the detergent and laundering conditions. The new AATCC detergent did not affect the flammability of the untreated polyester fabrics. However, one polyester fabric did show reduced flame resistance when a liquid fabric softener was used. Labels on both liquid and sheet fabric softener packages state that they should not be used on garments labeled as flame resistant.

After conducting these studies CPSC informed the manufacturer of Pyrovatex of the results. The manufacturer conducted additional studies to evaluate its product's performance on children's sleepwear as it is used and laundered by consumers. The manufacturer determined that such factors as the fabric, the application process, storage conditions, and consumer care practices can affect the flame resistance of the light weight fabrics used for children's sleepwear. Because the manufacturer has little control over these factors, the company decided, with one exception, to withdraw Pyrovatex from sale to the sleepwear industry.

With the withdrawal of Pyrovatex for treating children's sleepwear, the change in detergent and laundering equipment from AATCC 124–69 to AATCC 124–96 will not have any effect on the flammability performance of children's sleepwear on the market.

5. Proposed Amendment of Standards

The Commission proposes to revise the laundering procedures specified in the children's sleepwear standards at 16 CFR 1615.4(g)(4) and 1616.5(c)(4) to those of AATCC Test Method 124–1996.

The children's sleepwear standards were issued under section 4 of the FFA (15 U.S.C. 1193), which authorizes the issuance or amendment of flammability standards to protect the public against unreasonable risks of fire leading to death, personal injury, or significant property damage. As required by section 4(b) of the FFA, both standards are based on findings that they are needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, personal injury, or significant property damage. That section further requires findings that a flammability standard issued under the FFA is ''reasonable, technologically practicable, and appropriate.''

The proposed changes to the standards are needed to make the specified laundering procedures represent those currently used by consumers. The proposed amendments are also needed to assure that the standards will continue to be ''technologically practicable,'' for both the Commission's laboratory and those manufacturers of children's sleepwear required to use the laundering procedures and perform the testing required by the standards.

Section 4(g) of the FFA (15 U.S.C. 1193(g)) states that a proceeding ''for the promulgation of a regulation under this section'' shall be initiated by publication of an advance notice of proposed rulemaking (''ANPR''), and sets forth requirements for the contents of the ANPR. However, these proposed amendments are necessary because technical advances and the passage of time have rendered the existing test method obsolete. The amendments preserve the original intent and effect of the existing test method, modifying that method only as necessary to reflect the existence of modern equipment and detergent. Moreover, the existing regulations permit the Commission to employ a laundering test method different from AATCC Test Method 124 if it concludes that the test method is substantively as protective. Because the existing regulations allow the Commission to achieve without any amendment the substance of what it now proposes to achieve by amendment, and because the proposed amendments preserve the regulatory status quo, save for the reflection of modern equipment and detergent, the Commission has determined that it is not legally required to commence this proceeding with an ANPR, nor is it necessary for the Commission to make the findings that FFA sections 1193(g) and (h) would otherwise require.

The amendments proposed below would require specimens to be tested as produced (or after one washing and drying) and after washing and drying 50 times using the procedure specified in AATCC Test Method 124–1996. The proposed amendments would incorporate that test method into the sleepwear standard by reference.

The amendments proposed below also include minor changes to the enforcement regulations at 16 CFR 1615.32 and 1616.32 prescribing the procedure for seeking approval from the Commission for use of alternate

laundering procedures. The proposed amendments of those sections:

(i) update the laundering procedure prescribed by the sleepwear standards to AATCC Test Method 124–1996; and

(ii) substitute the words ''Assistant Executive Director for Compliance'' for ''Associate Executive Director for Compliance and Enforcement'' to reflect the current title for that position.

The proposed amendments of the enforcement rules implementing the standard for sizes 7 through 14 also include a revision of section 1616.32(g), Commission testing for compliance. The proposed amendment corrects an erroneous citation in the regulations to the laundering provisions of the standard. The correct citation in the proposed amendment is to section 1616.5(c)(4)(ii) of the standard rather than 1616.5(c)(4)(iii) in the existing text. No similar error exists in the enforcement rules implementing the standard for sizes 0 through 6X.

6. Effective Date

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of a flammability standard shall become effective one year from the date it is promulgated, unless the Commission finds for good cause that an earlier or later effective date is in the public interest, and publishes that finding. Section 4(b) also requires that an amendment of a flammability standard shall exempt products ''in inventory or with the trade'' on the date the amendment becomes effective, unless the Commission limits or withdraws that exemption because those products are so highly flammable that they are dangerous for use by consumers.

One reason for proposing these amendments of the children's sleepwear standards is that the standard detergent specified by the existing laundering method in the standards is no longer available. The Commission has reason to believe that an effective date 30 days after publication of final amendments will be in the public interest. The Commission does not propose to withdraw or limit the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA.

The Commission believes that an effective date of thirty days would provide adequate notice to all interested persons of the change in laundering procedure, and at the same time would assure that the Commission will be able to test for compliance with the standards without interruption. Those manufacturers who perform premarket testing in accordance with the laundering procedures specified in the standards will also benefit from a relatively short effective date.

The Commission invites comments on the proposed effective date and factual information relating to that issue.

C. Other Issues

1. Impact on Small Businesses

In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission hereby certifies that the amendments to the children's sleepwear standards and enforcement rules proposed below will not have a significant economic impact on a substantial number of small entities, including small businesses, if issued on a final basis. As noted above, the requirements for washing and drying specimens 50 times before testing were included in the standards to assure that any flame retardant treatment used in children's sleepwear would not be removed by repeated laundering.

When the standards were issued in 1971 and 1974, some fabrics used in the production of children's sleepwear were treated with flame retardants. However, at this time, nearly all fabrics used for children's sleepwear are made without flame retardant treatments. The ability of these fabrics to pass the flammability tests in the standards is not affected by washing or drying. (3) Moreover, the proposed changes are intended to bring the standards promulgated in the 1970s into conformance with current practices. Independent testing laboratories report that they currently use the requirements of the revised test method (AATCC Test Method 124–96) that the Commission is proposing. Because the proposed amendment would codify existing industry testing practices (and reflect current consumer practices), the proposal is not expected to have an effect on small entities.

2. Environmental Considerations

The amendments proposed below fall within the categories of Commission actions described at 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. The amendments are not expected to have a significant effect on production processes or on the types or amounts of materials used for construction or packaging of children's sleepwear. The amendments will not render existing inventories unsalable, or require destruction of existing goods. The Commission has no information indicating any special circumstances in which these amendments may affect the human environment. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

3. Executive Orders

Executive Order 12988 (February 5, 1996), requires agencies to state in clear language the preemptive effect, if any, to be given to a new regulation. The amendments proposed below, if issued on a final basis, would modify two flammability standards issued under the FFA. With certain exceptions which are not applicable in this instance, no state or political subdivision of a state may enact or continue in effect ''a flammability standard or other regulation'' applicable to the same fabric or product covered by an FFA standard if the state or local flammability standard or other regulations is ''designed to protect against the same risk of the occurrence fire'' unless the state or local flammability standard or regulation ''is identical'' to the FFA standard. See section 16 of the FFA (15 U.S.C. 1203). Consequently, if issued on a final basis, the amendments proposed below will preempt nonidentical state or local flammability standards or regulations that are intended to address the unreasonable risk of fire associated with ignition of children's sleepwear in sizes 0 through 14.

In accordance with Executive Order 12612 (October 26, 1987), the Commission certifies that the proposed amendments do not have sufficient implications for federalism to warrant a Federalism Assessment.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Records, Sleepwear, Textiles, Warranties

Conclusion

Therefore, pursuant to the authority of section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)) and sections 4 and 5 of the Flammable Fabrics Act (15 U.S.C. 1193, 1194), the Commission hereby proposes to amend title 16 of the Code of Federal Regulations, Chapter II, Subchapter D, Parts 1615 and 1616 to read as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X

1. The authority for subpart A of part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

2. Section 1615.4 is amended by revising paragraph (g)(4)(i) and (ii) to read as follows:

§ 1615.4 Test procedure.

(g) Testing * * *

(4) Laundering. (i) The procedures described in paragraphs (b) through (g) of this section shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times in accordance with sections 8.2.2, 8.2.3, and 8.3.1(A) of AATCC Test Method 124–1996 ''Appearance of Fabrics After Repeated Home Laundering,'' Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register. Items which do not withstand 50 launderings shall be tested at the end of their useful service life.

(ii) Washing shall be performed in accordance with sections 8.2.2 and 8.2.3 of AATCC Test Method 124–1996, using wash temperature V (60°±3°C, 140°±5°F) specified in Table II of that method, and the water level, agitator speed, washing time, spin speed and final spin cycle specified for ''Normal/Cotton Sturdy'' in Table III. A maximum washer load shall be 3.64 Kg (8 pounds) and may consist of any combination of test samples and dummy pieces. Drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, using the exhaust temperature (66°±5°C, 150°±10°F) and cool down time of 10 minutes specified in the ''Durable Press'' conditions of Table IV.

* * * * * *

3. The authority for subpart B of part 1615 continues to read as follows:

Authority: Sec. 5, 67 Stat. 112–113, as amended, 81 Stat. 570; 15 U.S.C. 1194.

4. Section 1615.32 is amended by revising paragraphs (a)(1), (b)(1), introductory text and (b)(2), the first 3 sentences of (c)(1), (c)(2), the first sentence of (d)(3), the first sentence of (e)(1), the first sentence of (e)(2), and (f) to read as follows:

§ 1615.32 Method for establishment and use of alternate laundering procedures under section 4(g)(4)(ii) of the standard.

(a) Scope. (1) Section 1615.4(g)(4)(ii) of the Standard for the Flammability of Children's Sleepwear in sizes 0–6X (16 CFR 1615.4(g)(4)(ii)) requires that all fabrics and certain garments subject to the standard be tested for flammability as produced (or after one washing and drying) and after the items have been washed and dried 50 times in machines, using the procedure specified in AATCC Test Method 124–1996.[5] This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an alternate laundering procedure is equivalent to the procedure specified in the standard.

* * * * *

(b) Application procedure. (1) Applicants seeking approval for use of an alternate laundering procedure under section 1615.4(g)(4)(iii) of the standard must submit the following information to the Assistant Executive Director for Compliance, Consumer Product Safety Commission, Washington, DC 20207:

* * * * *

(2) Applications shall be certified by the chief executive officer of the applicant or the official to whom the duty to certify has been delegated in writing. The Commission's Assistant Executive Director for Compliance must be notified in writing of any such delegation.

(c) Use of alternate laundering procedure. (1) The applicant may begin to use the alternate laundering procedure 30 days after the application is received by the Assistant Executive Director for Compliance unless notified to the contrary. The Assistant Executive Director for Compliance will normally furnish an applicant with written notice of approval within 30 days. The applicant may be notified that a longer time is needed for evaluation of the application, and in the discretion of the Assistant Executive Director for Compliance, may be authorized to use the alternate laundering procedure pending the final decision. * * *

(2) As provided in detail in 1615.32(e), applicants must immediately discontinue use of an alternate procedure, and must immediately notify the Assistant Executive Director for Compliance if there are test failures during revalidation testing.

(d) Revalidation testing. * * *

(3) Records of revalidation testing need not be submitted to the Assistant Executive Director for Compliance.

* * *

(e) Revalidation testing failures. (1) If revalidation testing for any fabric or garment does not meet the criteria of paragraph (f) of this section, the applicant must immediately discontinue use of the alternate laundering procedure for the fabric or garment and must immediately notify the Assistant Executive Director for Compliance in writing of the failure to meet the criteria. * * *

(2) When use of an alternate laundering procedure for a particular fabric or garment has been discontinued because of a failure to meet the criteria of paragraph (f) of this section, the alternate laundering procedure shall not be used again unless a new application for approval is submitted to the Assistant Executive Director for Compliance and that officer approves the application in writing. * * *

(f) Commission criteria for evaluating applications. (1) The Assistant Executive Director for Compliance will approve the alternate laundering procedure as equivalent to the laundering procedure specified in section 1615.4(g)(4)(ii) of the standard if testing from 20 specimens laundered by the proposed alternate procedure yields as many or more char lengths in excess of five inches as does testing from the twenty specimens laundered by the 50-laundering cycle method prescribed in the standard.

(2) If the alternate laundering procedure yields fewer char lengths in excess of five inches than does the 50-wash and dry cycle, then the Assistant Executive Director for Compliance will not consider the alternate procedure to be equivalent with the following exception: If the number of five-inch chars from the alternate procedure is within one of the number of five-inch chars obtained from the 50-cycle procedure, the applicant may repeat the original test with new specimens and if the combined results of both tests show the count of chars exceeding five inches from the alternate is equal to, or greater than, the count from the 50-wash cycle procedure, the Assistant Executive Director for Compliance will approve the alternate laundering procedure.

* * * * *

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14

1. The authority for subpart A of part 1616 continues to read as follows:

[5] American Association of Textile Chemists and Colorists, Technical Manual. Vol 73, 1997.

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–570; 15 U.S.C. 1193.

2. Section 1616.5 is amended by revising paragraphs (c)(4)(i) and (ii) to read as follows:

§ 1616.5 Test procedure.

(c) Testing * * *

(4) Laundering. (i) The procedures described under § 1616.4 Sampling and acceptance procedures, paragraph (b) of this section, Mounting and conditioning of specimens, and paragraph (c) of this section *Testing* shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times in accordance with sections 8.2.2, 8.2.3, and 8.3.1(A) of AATCC Test Method 124–1996 ''Appearance of Fabrics After Repeated Home Laundering,'' Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register. Items which do not withstand 50 launderings shall be tested at the end of their useful service life with prior approval of the Consumer Product Safety Commission.

(ii) Washing shall be performed in accordance with sections 8.2.2 and 8.2.3 of AATCC Test Method 124–1996, using wash temperature V (60°±3–C, 140°±5–F) specified in Table II of that method, and the water level, agitator speed, washing time, spin speed and final spin cycle specified for ''Normal/Cotton Sturdy'' in Table III. A maximum washer load shall be 3.64 Kg (8 pounds) and may consist of any combination of test samples and dummy pieces. Drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, using the exhaust temperature (66°±5–C, 150°±10–F) and cool down time of 10 minutes specified in the ''Durable Press'' conditions of Table IV.

* * * * *

3. The authority for subpart B of part 1616 continues to read as follows:

Authority: Sec. 5, 67 Stat. 112–113, as amended, 81 Stat. 570; 15 U.S.C. 1194.

4. Section 1616.32 is amended by revising paragraphs (a)(1), (b)(1) introductory text and (b)(2), the first 3 sentences of (c)(1), (c)(2), the first sentence of (d)(3), the first sentence of (e)(1), the first sentence of (e)(2), (b) and (g)(1) to read as follows:

§ 1616.32 Method for establishment and use of alternate laundering procedures under section 5(c)(4)(ii) of the standard.

(a) Scope. (1) Section 1616.5(c)(4)(ii) of the Standard for the Flammability of Children's Sleepwear in sizes 7–14 (16 CFR 1616.5(c)(4)(ii)) requires that all fabrics and certain garments subject to the standard be tested for flammability as produced (or after one washing and drying) and after the items have been washed and dried 50 times in machines, using the procedure specified in AATCC Test Method 124–1996.[3] This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an alternate laundering procedure is equivalent to the procedure specified in the standard.

* * * * *

(b) Application procedure. (1) Applicants seeking approval for use of an alternate laundering procedure under section 1616.5(c)(4)(ii) of the standard must submit the following information to the Assistant Executive Director for Compliance, Consumer Product Safety Commission, Washington, DC 20207:

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(2) Applications shall be certified by the chief executive officer of the applicant or the official to whom the duty to certify has been delegated in writing. The Commission's Assistant Executive Director for Compliance must be notified in writing of any such delegation.

(c) Use of alternate laundering procedure. (1) The applicant may begin to use the alternate laundering procedure 30 days after the application is received by the Assistant Executive Director for Compliance unless notified to the contrary. The Assistant Executive Director for Compliance will normally furnish an applicant with written notice of approval within 30 days. The applicant may be notified that a longer time is needed for evaluation of the application, and in the discretion of the Assistant Executive Director for Compliance, may be authorized to use the alternate laundering procedure pending the final decision. * * *

(2) As provided in detail in paragraph (e) of this section, applicants must immediately discontinue use of an alternate procedure, and must immediately notify the Assistant Executive Director for Compliance if there are test failures during revalidation testing.

(d) Revalidation testing. * * *

(3) Records of revalidation testing need not be submitted to the Assistant Executive Director for Compliance.

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(e) Revalidation testing failures. (1) If revalidation testing for any fabric or garment does not meet the criteria of paragraph (f) of this section, the applicant must immediately discontinue use of the alternate laundering procedure for the fabric or garment and must immediately notify the Assistant Executive Director for Compliance in writing of the failure to meet the criteria. * * *

(2) When use of an alternate laundering procedure for a particular fabric or garment has been discontinued because of a failure to meet the criteria of paragraph (f) of this section, the alternate laundering procedure shall not be used again unless a new application for approval is submitted to the Assistant Executive Director for Compliance and that officer approves the application in writing. * * *

(f) Commission criteria for evaluating applications. (1) The Assistant Executive Director for Compliance will approve the alternate laundering procedure as equivalent to the laundering procedure specified in section 1616.5(c)(4)(ii) of the standard if testing from 20 specimens laundered by the proposed alternate procedure yields as many or more char lengths in excess of five inches as does testing from the twenty specimens laundered by the 50-laundering cycle method prescribed in the standard.

(2) If the alternate laundering procedure yields fewer char lengths in excess of five inches than does the 50-wash and dry cycle, then the Assistant Executive Director for Compliance will not consider the alternate procedure to be equivalent with the following exception: If the number of five-inch chars from the alternate procedure is within one of the number of five-inch chars obtained from the 50-cycle procedure, the applicant may repeat the original test with new specimens and if the combined results of both tests show the count of chars exceeding five inches from the alternate is equal to, or greater than, the count from the 50-wash cycle procedure, the Assistant Executive

[3] American Association of Textile Chemists and Colorists, Technical Manual. Vol 73, 1997.

Director for Compliance will approve the alternate laundering procedure.

(g) Commission testing for compliance. (1) For the purpose of determining compliance with the standard, the Commission will rely on testing employing the laundering procedure now prescribed by section 1616.5(c)(4)(ii) of the standard. (15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b))

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Dated: March 8, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Relevant Documents

1. American Association of Textile Chemists and Colorists, ''Appearance of Durable Press Fabrics After Repeated Home Launderings,'' AATCC Test Method 124–1969. AATCC Technical Manual, Vol. 46, 1970.

2. American Association of Textile Chemists and Colorists, ''Appearance of Fabrics After Repeated Home Laundering,'' AATCC Test Method 124–1996. AATCC Technical Manual, Vol. 73, 1997.

3. Briefing memorandum from Margaret Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, ''Proposed Amendments to Flammable Fabrics Act Standards to Replace Obsolete Standard Detergent and Update Laundering Procedures Required for Tests,'' __, 1998.

4. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, ''Amending the Laundering Provisions of the CPSC Flammability Regulations,'' August 18, 1998.

5. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, ''Textile Laundering Standards,'' August 18, 1998.

6. Memorandum from Gail Stafford and Shing-Bong Chen, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, ''Detergent Comparison Tests,'' August 19, 1998.

7. Log of Meeting on January 21, 1998 concerning Flammability Test of Pyrovatex-treated Flame Resistant Fabrics.

8. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, ''Amendments to FFA Standards,'' August 10, 1998.

9. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, ''Briefing Package Supplement: Laundering/Detergent Update for Flammable Fabrics Act Standards—The Soap and Detergent Association (SDA) Laundering Procedures,'' January 11, 1999.

10. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, ''Soap and Detergent Association Proposed Laundering Procedure,'' December 23, 1998.

11. Letter from Jenan Al-Atrash, Director, Human Health & Safety, The Soap and Detergent Association, to Margaret Neily, Technical Program Coordinator, Office of the Executive Director, including SDA Recommended Wash Conditions for CFR 1615.4, September 15, 1998.

12. Letter from Jenan Al-Atrash, Director, Human Health & Safety, The Soap and Detergent Association, to Margaret Neily, Technical Program Coordinator, Office of the Executive Director, follow-up comments to September 15, 1998, letter, November 12, 1998.

13. Memorandum from Margaret L. Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, ''Laundering/Detergent Updates—FR notice supplements,'' February 19, 1999.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1630 and 1631

Standard for the Surface Flammability of Carpets and Rugs; Standard for the Surface Flammability of Small Carpets and Rugs

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission proposes to amend the flammability standards for carpets and rugs and for small carpets and rugs by revising the laundering procedure specified in those standards. The laundering procedures help assure that any fire retardant treatment used on carpets or on fibers used in the manufacture of carpets will not be removed or degraded by cleaning, thereby creating a flammability hazard. The Commission is proposing these amendments because the detergent specified by the existing laundering procedure is no longer available and the operating characteristics of the washing and drying machines required by that procedure are no longer representative of machines now used for home laundering.

DATES: Written comments concerning the proposed amendments must be received by the Office of the Secretary not later than June 1, 1999.

ADDRESSES: Written comments should be captioned ''Carpet and Rug Standards, Laundering Procedures'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Margaret Neily, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0508, extension 1293.

SUPPLEMENTARY INFORMATION:

A. Background

The Flammable Fabrics Act (''FFA'') (15 U.S.C. 1191 *et seq.*) authorizes issuance and amendment of flammability standards and regulations to protect the public from unreasonable risks of death, injury, and property damage from fire associated with products of interior furnishing made from fabric and related materials.

In 1970, the Secretary of Commerce issued two flammability standards for carpets and rugs to protect the public from risks of deaths, injuries, and economic losses associated with ignition of carpets and rugs by small ignition sources. The Standard for the Surface Flammability of Carpets and Rugs, now codified at 16 CFR Part 1630, is applicable to carpets and rugs with a surface area greater than 24 square feet and one dimension longer than six feet. The Standard for the Surface Flammability of Small Carpets and Rugs, now codified at 16 CFR Part 1631, is applicable to carpets and rugs which have an area of 24 square feet or less, and no dimension longer than six feet.

Both standards prescribe a test which involves exposing specimens from a carpet or rug to a standard ignition source. Eight specimens, each measuring nine inches by nine inches, are taken from the product to be tested. A specimen passes the test in the standards if charring does not extend more than three inches in any direction from the ignition source. The flammability standard for large carpets and rugs requires that seven of the eight specimens taken from a carpet or rug must pass the test. See 16 CFR 1630.3.

The standard for small carpets and rugs requires that seven of eight specimens taken from a carpet or rug must pass the test, or that the product must be permanently labeled indicating that it fails the flammability standard. See 16 CFR 1631.3, 1631.5(a) and 1631.34.

In 1973, authority to issue and amend flammability standards under the FFA was transferred from the Department of Commerce to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)).

B. Amending the Flammability Standards

As discussed below, laundering procedures are required by the standards to help assure that any fire-