

Tab H

DRAFT 4/23/98

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 Technical Changes.

SUMMARY: The Commission proposes to amend the flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14 to make several technical changes that would correct the definition of "tight-fitting garment." The proposed changes will clarify the points where garment measurements should be made.

DATE: Written comments concerning this proposed amendment are due no later than [insert date 75 days after publication].

ADDRESS: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 504-0800 or delivered to the Office of the Secretary, room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments' should be submitted in five copies and captioned "Sleepwear." 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-

0550, extension 2354.

SUPPLEMENTARY INFORMATION:

A. Background

In 1971, the Secretary of Commerce issued a flammability standard for children's sleepwear in sizes 0 through 6X, which became effective in 1972. That standard, issued under Section 4 of the Flammable Fabrics Act ("FFA"), 15 U.S.C. 1193, prescribes tests for children's sleepwear garments and fabrics intended for use in children's sleepwear. The flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR Part 1615.

In 1973, responsibility for administration and enforcement of the FFA was transferred to the Consumer Product Safety Commission by provisions of 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, to become effective in 1975. The tests in that standard are substantially the same as those in the standard for children's sleepwear in sizes 0 through 6X. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

Both standards require that test specimens must self-extinguish when exposed to a small open-flame ignition source. Self-extinguishing fabrics and garments are those that stop burning when removed from an ignition source. Both standards require manufacturers of sleepwear garments to perform prototype tests on specimens of fabric, seams, and trim with acceptable

results before beginning production of sleepwear garments. Both standards also require manufacturers of sleepwear fabrics and garments to group fabrics and garments into production units and to randomly sample and test products from each production unit. Neither standard requires that specific fabrics or flame-retardant treatments be used in the manufacture of children's sleepwear.

On September 9, 1996, the Commission issued a final rule amending the flammability standards for children's sleepwear to exclude from the definition of "children's sleepwear" (1) garments sized for infants nine months of age or younger and (2) tight-fitting sleepwear garments for children older than nine months. 61 FR 47634.

The Commission found that such tight-fitting sleepwear did not present an unreasonable risk of injury. Rather, the Commission's information showed that sleepwear incidents occurred with loose-fitting garments such as nightgowns. A review of literature for that amendment showed that fit can influence garment flammability. Garments that fit close to the body are less likely to catch fire in the first place and less likely to allow heat to develop between the fabric and the body, thus decreasing the likelihood of thermal injury. Id. The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards as they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However,

the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 1, 1998. 62 FR 60163.

The Commission defined tight-fitting garments as those that did not exceed certain measurements in the chest, waist, seat, upper arm, thigh, wrist, and ankle for each size ranging from over 9 months through children's size 14. In the amendments, the Commission specified maximum allowable measurements for each of these locations for each size garment. 61 FR 47644-47.

B. Statutory Provisions

The FFA provides that the Commission can issue or amend a flammability standard when the standard may be needed to protect the public from an unreasonable risk of the occurrence of fire leading to death, injury or significant property damage. 15 U.S.C. 1193(a).

Section 4(g) of the FFA, 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"). 15 U.S.C. 1193(g). That section requires that the ANPR identify the product and the nature of the risk at issue; summarize the alternatives under consideration; provide information about existing relevant standards; and invite interested persons to submit comments on the ANPR. Id.

Due to the technical nature and narrow scope of this proceeding, an ANPR conforming to the requirements of section 4(g) would be of no value to the public or the Commission.

This proposed amendment would simply correct errors in the previous amendments to the children's sleepwear standards. The only change that would result if this amendment were to be issued in final is that some locations on sleepwear garments would be measured in a slightly different place to determine whether they could be exempt as tight-fitting garments. Thus, the Commission is initiating this rulemaking with this notice of proposed rulemaking ("NPR") rather than an ANPR.

C. Proposed Amendments

1. Need for Technical Changes.

Once manufacturers began to design tight-fitting sleepwear that would meet the amendments, they identified some problems with design and construction of these garments. First, in December 1996, it became apparent that the location specified to measure the upper arm ("at a line perpendicular to the sleeve. Extending from the outer edge of the sleeve to the arm pit") would result in an unworkable garment. Some garment manufacturers asserted that measuring the upper arm at this location could result in an opening at the upper end of the sleeve (the armhole) that would be uncomfortable to the wearer. Thus, the Commission staff sent an enforcement letter to industry clarifying the measurement point for the upper arm.

Industry members told CPSC staff of other manufacturing problems they were having with making tight-fitting sleepwear. On June 4, 1997, an industry task force presented the staff with recommendations for producing cotton garments. They suggested a

new set of garment dimensions as well as revised points of measurements. Most dimensions were larger than those in the Commission's standard. The staff reviewed the suggestions from the industry task force and those of other industry members. The staff concluded that some technical changes to the standard were necessary for **manufacturers** to make workable garments. However, the staff concluded that most of the changes advocated by the industry task force and others would result in larger garments that would not meet the standard's safety criteria. As mentioned above, the Commission based its exemption for tight-fitting garments on information showing that garments close to the body and touching it at key points would not present an unreasonable risk. The revisions suggested by industry would produce garments that would fall away from the body.

It seemed apparent to the staff that some adjustments needed to be made to the locations for measurements specified in the amendments for some points on the garments. The staff believed that these adjustments would be needed for the point of measurement of the upper arm, the seat, and the thigh. The staff also examined possible changes to the sweep (bottom of the top of a two-piece garment). In order to better assess this need and to determine if the possible changes would result in practical, wearable garments, the staff conducted structured observations of some garments.

2. Observations.

The staff conducted a series of observations to see if the

technical changes that appeared necessary would result in practical garments. The staff considered practical garments to be ones that adhere to the intentions of the regulation to provide a snug fit while permitting the wearer to move without undue discomfort or restraint. Eight manufacturers provided garments for children to try on so that the staff could assess the comfort and fit of the various garments. Numerous different fabrics were used (several 1x1 rib knits, several interlock knits, and a thermal knit). Garment fit was evaluated by CPSC staff with experience in garment design and construction. During the observations children put on and took off the garments, played actively and simulated sleeping. The staff observers looked for indications that the garments were binding or causing discomfort. The children also took garments home to sleep in.

One garment that met the current tight-fitting requirements was included. It proved to be impractical for several reasons. Measuring the upper arm from the arm pit produced an armhole too small to be comfortable and made it impossible for a child to remove the garment top without assistance. The points of measurement for the thigh and seat resulted in pants that were unnecessarily tight in these areas; This tightness would also tend to further restrict the fabrics that could be used.

The garments made according to measurement locations contemplated by the staff appeared to be wearable, comfortable and suitable for sleeping and play. Children (or parents of smaller children) had no problems putting the garments on or

removing them. The children's bodies remained covered when they moved about. The fabrics' stretch accommodated leg and arm movements so the children were able to bend, squat, run and roll. The children reported no discomfort sleeping in the garments overnight.

3. Substance of Chancres.

Measurement of Upper Arm. As explained above, this proposed amendment would allow manufacturers to measure sleepwear garments at a location that better approximates the true upper arm of the garment. In an effort to simplify the definition of "tight-fitting garment" the 1996 sleepwear amendments called for measuring from the arm pit; however, this does not allow sufficient room at the upper opening of the sleeve. Under the proposed correction, the upper arm would be measured from the shoulder to approximately one quarter the length of the arm.

The maximum upper arm dimensions for each size specified in the 1996 sleepwear amendments would remain unchanged. These are indicated in the charts provided in the September 9, 1996 Federal Register notice. 61 FR 47644-47 (codified at 16 CFR 1615.1(o) and 1616.2(m)). This proposed amendment would only change the location where the upper arm is measured.

To determine the appropriate point for the upper arm measurement, the staff considered available sizing and body measurements. For sizes 9 months through 6x the staff based its calculations on the arm lengths given in ASTM standards D4910-95a and D5826-95. Currently there is no ASTM standard for body

measurements for sizes 7 through 14. Therefore the staff based its calculations for these sizes on the 1977 anthropometric study of U.S. children conducted by the University of Michigan

Measurement of Seat. The 1996 sleepwear amendments state that the seat should be measured "at widest location between waist and crotch." 16 CFR 1615.1(o) and 1616.2 (m) (see footnotes to chart). If read literally, this describes a location immediately above the bottom of the crotch and is essentially the same location as specified for the thigh measurement. This is not where the seat/hip measurement is normally made under general industry practices. A literal reading of this direction results in a more constricted pant in the seat and thigh area.

Originally, the staff considered measuring just above the curve in the crotch seam, some specified number of inches above the bottom of the crotch. A different distance would be specified for groups of sizes, e.g., 2 1/2 inches above the bottom of the crotch for infant sizes.

However, during the observations the staff found that specifying the point of measurement as 4 inches above the crotch consistently matched the seat/hip location on the wearer. Specifying a uniform measurement for all sizes also has the advantage of being easier to apply both for manufacturers and for Commission enforcement. Thus, the Commission proposes to specify that the seat should be measured 4 inches above the crotch for all sizes.

Measurement of Thigh. The amendments state that the thigh measurement should be taken "at a line perpendicular to the leg extending from the outer edge of the leg to the crotch.¹¹ 16 CFR 1615.1(o) and 1616.2(m) (see footnotes to chart). This calls for measuring the thigh right at the bottom of the crotch. This is not really the location of the thigh and means measuring at a point where bulky seams join. Typical practice in the garment design and manufacturing industry is to measure the thigh at a point one inch down the inseam from its intersection with the crotch seam. This provides a more accurate measurement of the thigh without interference from the bulky intersection of the seams. Thus, the Commission proposes that the thigh be measured at this point.

Sweep. The staff also considered whether any change should be made to the sweep of the top of a two-piece garment. The existing standard provides that the sweep must be equal to or less than the waist dimension. This is specified in the notes to the chart specifying where to measure the waist ("on two-piece garment, measure width at the bottom of the upper piece, and the top of the lower piece."). The staff considered also allowing an hourglass silhouette that essentially is allowed now for one-piece garments. However,, the observations showed that such an hourglass shape for a two-piece garment could create extra loose fabric around the waist after a child has raised her arms. That is, after a child is moving around the top would ride up to the waist creating loose fabric. Thus, the Commission is not

proposing to make any changes to the sweep of the garments.

D. Effective Date

Section 4(b) of the FFA 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. 15 U.S.C. 1193(b). Section 4(b) also requires that an amendment of a flammability standard shall exempt product "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.

The Commission has reason to believe that an effective date 30 days after publication of final amendments will be in the public interest. This would provide adequate notice to the public and would allow for the prompt initiation of these minor adjustments.

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 notes that on December 9, 1996 the Commission staff issued an enforcement policy stating that it would exercise its enforcement discretion concerning the measurement of the upper arm between the shoulder and the elbow. Specific measurement points for each size were given in a table. Thus, manufacturers may currently use the table reproduced below in the proposed amendments when measuring

the sleepwear garment's upper arm. The other proposed technical changes are also minor in nature, simply changing the point of measurement. Thus, the Commission believes that a 30-day effective date once the changes have been issued as a final rule is appropriate. Manufacturers who wish to may use the proposed points of measurement in making garments, and the staff will not take any enforcement action. Of course, manufacturers may also continue to use the points of measurement specified in the 1996' amendments until any changes become effective.

E. Impact on Small Businesses

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission hereby certifies that the proposed amendments to the flammability standards for children's sleepwear described below will not have a significant impact on a substantial number of small businesses or other small entities. The proposed amendments clarify where the upper arm, seat and thigh measurements should be taken to determine whether a children's sleepwear garment may be exempt as a "tight-fitting garment."

These changes in the location of measurement will not have an impact on small businesses.

E. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed amendments to the children's sleepwear standards.

The Commission's regulations state that amendments such as this one normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(3). The Commission has no information indicating that this particular amendment would affect the environment. Therefore, the Commission determines that neither an environmental assessment nor an environmental impact statement is required.

F. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. These amendments, if issued in final, would slightly modify the flammability standards for children's sleepwear under the FFA. The FFA provides that, generally, when a flammability standard issued under the FFA is in effect, "no State or political subdivision of a State may establish or continue in effect a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of

occurrence of **fire**" as the FFA standard "**unless** the State or political subdivision standard or other regulation is identical" to the FFA standard. 15 U.S.C. 1203(a). A **local** standard may be excepted from this preemptive effect if: (1) the local standard provides a higher degree of protection from the risk of occurrence of fire than the FFA standard or (2) the State or political subdivision applies to the Commission for an exemption from the FFA's preemption clause and the Commission grants the exemption through a process specified at 16 CFR part 1061. 15 U.S.C. 1203(b) and (c).

Thus, the proposed amendments would modify the points specified for measuring garments exempt from the sleepwear flammability standards that preempt non-identical state or local flammability standards or regulations which are designed to protect against the same risk of occurrence of fire as the FFA flammability standards for children's sleepwear.

In accordance with Executive Order 12612 of 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

For the reasons stated above and pursuant to the authority of section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) the

Commission proposes to amend 16 CFR parts 1615 and 1616 as follows:

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

1. The authority citation for part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569-70; 15 U.S.C. 1193.

2. Section 1615.1 is amended by revising paragraph (o) to read as follows:

§ 1615.1 Definitions.

* * * * *

(o) Tight-fitting garment means a garment which:

(1) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

Size 9-12 mos	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	48.3	48.3	48.3	14.3	26.7	10.5	13
(inches)	(19)	(19)	(19)	(5½)	(10½)	(4½)	(5½)

<i>Size</i> 12-18 mos							
Maximum Dimension							
Centimeters	49.5	49.5	50.8	14.9	28.3	10.5	13.1
(inches)	(19½)	(19½)	(20)	(5¾)	(11¼)	(4¼)	(5¼)
Size 18-24 mos							
Maximum Dimension							
Centimeters	52.1	50.8	53.3	15.6	29.5	11	13.6
(inches)	(20¾)	(20)	(21)	(6¼)	(11¾)	(4¼)	(5¼)
Size 2	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	52.1	50.8	53.3	15.6	29.8	11.4	14
(inches)	(20¾)	(20)	(21)	(6¼)	(11¾)	(4¼)	(5½)
Size 3							
Maximum Dimension							
Centimeters	53.3	52.1	56	16.2	31.4	11.7	14.9
(inches)	(21)	(20¾)	(22)	(6¼)	(12¼)	(4¾)	(5¾)
Size 4							
Maximum Dimension							
Centimeters	56	53.3	58.4	16.8	33.0	12.1	15.9
(inches)	(22)	(21)	(23)	(6¾)	(13)	(4¾)	(6¼)

Size 5							
Maximum Dimension							
Centimeters	58.4	54.6	61.0	17.5	34.6	12.4	16.8
(inches)	(23)	(21½)	(24)	(6¾)	(13½)	(4¾)	(6¾)

Size 6	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	61.0	55.9	63.5	18.1	36.2	12.7	17.8
(inches)	(24)	(22)	(25)	(7¼)	(14¼)	(5)	(7)
Size 6X							
Maximum Dimension							
Centimeters	62.9	57.2	65.4	18.7	37.8	13.0	18.7
(inches)	(24¾)	(22½)	(25¾)	(7½)	(14¾)	(5¼)	(7½)

NOTE: Measure the dimensions on the **front** of the garment. Lay garment, right side out, on a flat, horizontal surface. Smooth out wrinkles. Measure distances as specified below and multiply them by two. Measurements should be equal to or less than the maximum dimensions given in the standards.

Chest - measure distance **from** arm pit to arm pit (A to B) as in Diagram 1.

Waist - See Diagram 1. **One-piece garment**, measure at the narrowest location between arm pits and crotch (C to D).

Two-piece garment, measure width at both the bottom/sweep of the upper piece (C to D) and, as in Diagram 3, the top of the lower piece (C to D).

Wrist - measure the width of the end of the sleeve (E to F), if intended to extend to the wrist, as in Diagram 1.

Upper arm - draw a straight line from waist/sweep D through arm pit B to G. Measure down the sleeve fold **from** G to H. Refer to table below for G to H distances for each size. Measure the upper arm of the garment (perpendicular to the fold) **from** H to I as shown in Diagram 1.

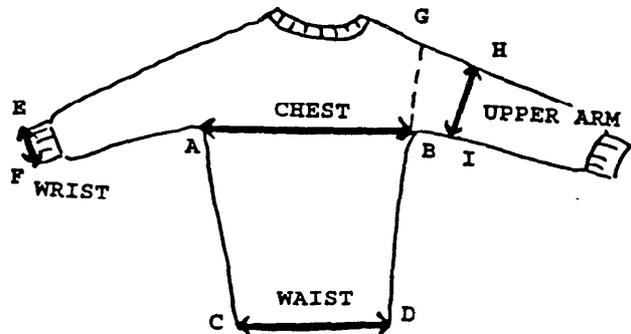


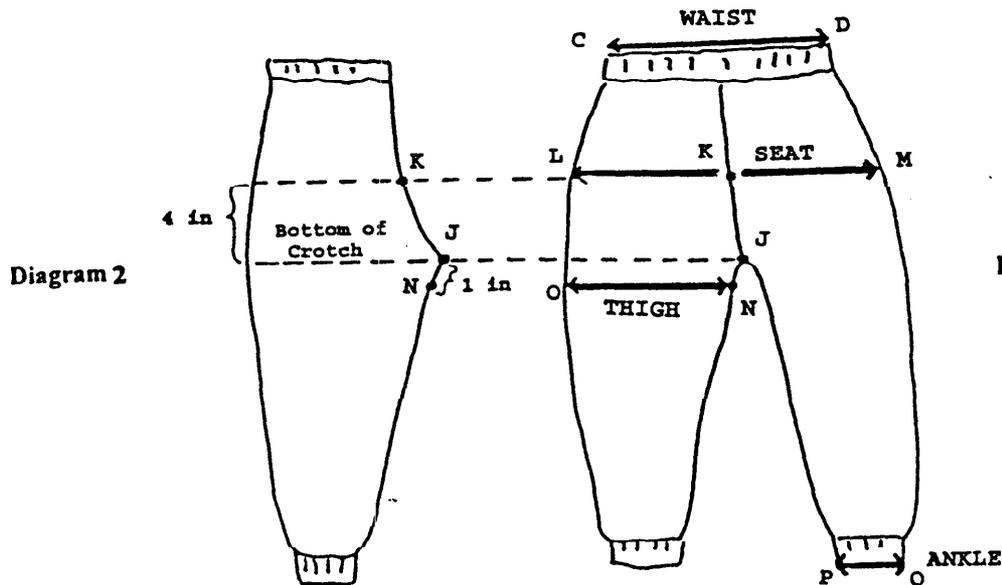
Diagram 1

Distance from shoulder (G) to I for Upper Arm Measurement for Sizes 9 Months through 6x								
9-12 mo	12-18 mo	18-24 mo	2	3	4	5	6	6x
5.8 cm 2 1/8"	6.6 cm 2 5/8"	7.4 cm 2 7/8"	7.4 cm 2 7/8"	8.1 cm 3 1/4"	8.8 cm 3 1/2"	9.5 cm 3 3/4"	10.3 cm 4"	11 cm 4 3/8"

Seat - Fold the front of the pant in half to find the bottom of the crotch at J as in Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the garment as in Diagram 3. Measure the seat from L to M through K as shown.

Thigh - measure from the bottom of the crotch (J) 1 inch down the inseam to N as in Diagram 2. Unfold the garment and measure the thigh **from** the inseam at N to O as shown in Diagram 3.

Ankle - measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in Diagram 3.



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

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

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

2. Section 1615.2 is amended by revising paragraph (m) to read as follows:

§ 1615.2 Definitions.

* * * * *

(m) Tight-fitting garment means a garment which:

(1) In each of the sizes listed below does not exceed the maximum dimension specified below for the chest, waist, seat, upper arm, thigh, wrist, or ankle:

Size 7 Boys¹	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	63.5	58.4	66	18.7	37.2	13.0	18.7
(inches)	(25)	(23)	(26)	(7%)	(14%)	(5%)	(7%)
Size 7 Girls							
Maximum Dimension							
Centimeters	63.5	58.4	67.3	18.7	38.7	13.0	18.7
(inches)	(25)	(23)	(26½)	(7%)	(15½)	(5%)	(7%)

¹Garments not explicitly labeled and promoted for wear by girls must not exceed these maximum dimensions.

Size 8 Boys ¹							
Maximum Dimension							
Centimeters	66	59.7	67.3	19.4	38.4	13.3	19.1
(inches)	(26)	(23½)	(26½)	(7½)	(15½)	(5¼)	(7½)
Size 8 Girls							
Maximum Dimension							
Centimeters	66	59.7	71.1	19.4	41.3	13.3	19.1
(inches)	(26)	(23½)	(28)	(7½)	(16¼)	(5¼)	(7½)
Size 9 Boys ¹	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	68.6	61.0	69.2	20	39.7	13.7	19.4
(inches)	(27)	(24)	(27¼)	(7½)	(15½)	(5½)	(7½)
Size 9 Girls							
Maximum Dimension							
Centimeters	68.6	61.0	73.7	20	42.6	13.7	19.4
(inches)	(27)	(24)	(29)	(7½)	(16¾)	(5½)	(7½)
Size 10 ¹ Boys							
Maximum Dimension							
Centimeters	71.1	62.2	71.1	20.6	41.0	14	19.7
(inches)	(28)	(24½)	(28)	(8½)	(16½)	(5½)	(7¾)

Size 10 Girls							
Maximum Dimension							
Centimeters	71.1	62.2	76.2	20.6	43.8	14	19.7
(inches)	(28)	(24½)	(30)	(8¼)	(17¼)	(5½)	(7¾)
Size 11¹ Boys							
	Chest	Waist	Seat	Upper A r m	Thigh	Wrist	Ankle
Maximum Dimension							
Centimeters	73.7	63.5	73.7	21	42.2	14.3	20
(inches)	(29)	(25)	(29)	(8¼)	(16½)	(5½)	(7¾)
Size 11 Girls							
Maximum Dimension							
Centimeters	73.7	63.5	78.7	21	45.1	14.3	20
(inches)	(29)	(25)	(31)	(8¼)	(17¾)	(5½)	(7¾)
Size 12 Boys¹							
Maximum Dimension							
Centimeters	76.2	64.8	76.2	21.6	43.5	14.6	20.3
(inches)	(30)	(25½)	(30)	(8½)	(17½)	(5¾)	(8)
Size 12 Girls							
Maximum Dimension							
Centimeters	76.2	64.8	81.3	21.6	46.7	14.6	20.3
(inches)	(30)	(25½)	(32)	(8½)	(18½)	(5¾)	(8)

Size 13 Boys¹	Chest	Waist	Seat	Upper Arm	Thigh	Wrist	Ankle
Maximum Dimension Centimeters (inches)	78.7 (31)	66 (26)	78.7 (31)	22.2 (8¾)	44.8 (17½)	14.9 (5¾)	20.6 (8¾)
Size 13 Girls							
Maximum Dimension Centimeters (inches)	78.7 (31)	66 (26)	83.8 (33)	22.2 (8¾)	47.6 (18¾)	14.9 (5¾)	20.6 (8¾)
Size 14 Boys¹							
Maximum Dimension Centimeters (inches)	81.3 (32)	67.3 (26¾)	81.3 (32)	22.9 (9)	46 (18¾)	15.2 (6)	21 (8¾)
Size 14 Girls							
Maximum Dimension Centimeters (inches)	81.3 (32)	67.3 (26¾)	86.4 (34)	22.9 (9)	49.5 (19¾)	15.2 (6)	21 (8¾)

NOTE: Measure the dimensions on the front of the garment. Lay garment, right side out, on a flat, horizontal surface. Smooth out wrinkles. Measure **distances as** specified below and multiply them by two. Measurements should be equal to or less than the maximum dimensions given in the standards.

Chest - measure distance **from** arm pit to arm pit (A to B) as in Diagram 1.

Waist - See Diagram 1. One-piece garment, measure at the narrowest location between arm pits and crotch (C to D). Two-piece garment, measure width at both the bottom/ sweep of the upper piece (C to D) and, as in Diagram 3, the top of the lower piece (C to D).

Wrist - measure the width of the end of the sleeve (E to F), if intended to extend to the wrist, as in Diagram 1.

Upper arm - draw a straight line **from** waist/sweep D through arm pit B to G. Measure down the sleeve fold from G to H. Refer to table below for G to H distances, for each size. Measure the upper arm of the garment (perpendicular to the fold) **from** H to I as shown in Diagram 1.

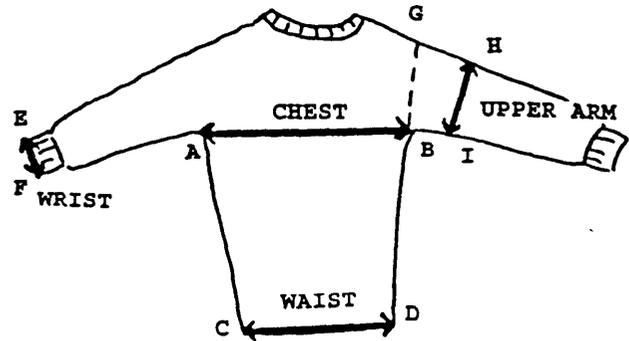


Diagram 1

Distance from shoulder (G) to (H) for Upper Arm Measurement for Sizes 7 through 14							
7	8	9	10	11	12	13	14
11.4 cm 4½"	11.7 cm 4"	11.9 cm 4¾"	12.5 cm 4"	12.8 cm 5"	13.1 cm 5"	13.7 cm 5"	14.2 cm 5"

Seat - Fold the front of the pant in half to find the bottom of the crotch at J as in Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the garment as in Diagram 3. Measure the seat **from** L to M through K as shown.

Thigh - measure **from** the bottom of the crotch (J) 1 inch down the inseam to N as in Diagram 2. Unfold the garment and measure the thigh **from** the inseam at N to O as shown in Diagram 3.

Ankle - measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in Diagram 3.

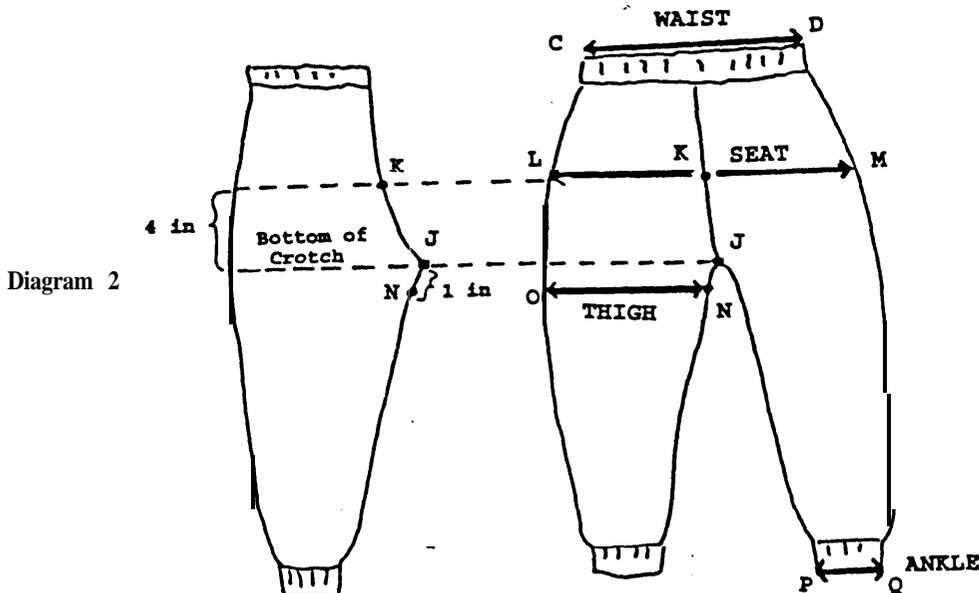


Diagram 2

Diagram 3

Dated: _____

Sadye E. Dunn, Secretary
Consumer Product Safety Commission

References

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland:

1. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to the Commission, "Children's Sleepwear Flammability Standards -- Technical Amendments, March ____, 1998.
2. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to File, "Technical Amendments of the Children's Sleepwear Flammability Standards -- "Snug-fitting" Requirements, February ____, 1998.
3. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Children's Sleepwear Update," February ____, 1998.
4. Carolyn Meiers, Directorate for Engineering, to Margaret Neily, Project Manager, "Methodology for Structured Sleepwear Observations," February ____, 1998.
5. ASTM Standards D4910-95a and D5826-95.
6. Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design. Highway Safety Research Institute. Ann Arbor, Michigan: University of Michigan (1977).

Tab I

Draft 4/7/98

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR. Parts 1615 and 1616

PROPOSED CLARIFICATION OF STATEMENT OF POLICY; 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 Clarification of Statement of Policy.

SUMMARY: The Commission proposes to amend the policy statements at 16 CFR
1615.64(d) and 1616.65(d) so that infant garments (sized for a child nine months and under)
and "tight-fitting" garments (as defined in the sleepwear standards) can be marketed and
promoted **with** other sleepwear.

DATE: Written comments concerning this proposed amendment are due no later than
[insert date 75 days after publication].

ADDRESS: Comments should be mailed to the Office of the Secretary, Consumer Product
Safety Commission, Washington, D .C. 20207; telephone: (301) 504-0800 or delivered to the
Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814.
Copies should be submitted in five copies and captioned "Sleepwear Policy Statement."
Comments may also be filed by telefacsimile to (301) 504-0127 or by e-mail to **cpsc-
os@cpsc.gov**.

FOR FURTHER INFORMATION CONTACT: Patricia Fairall, Program Manager, Office

of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0400, extension 1369.

SUPPLEMENTARY INFORMATION:

A. Background

The Consumer Product Safety Commission enforces two flammability standards for children's sleepwear. The flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR Part 1615. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

On September 9, 1996, the Commission issued a final rule amending the flammability standards for children's sleepwear to exclude from the definition of "children's sleepwear," codified at 16 CFR 1615.1(a) and 1616.2(a), (1) garments sized for infants nine months of age or younger and (2) tight-fitting garments for children older than nine months. 61 FR 47,634. The Commission found that such tight-fitting garments did not present an unreasonable risk of injury. Rather, the Commission's information showed that many severe incidents occurred with loose-fitting garments such as oversized t-shirts used inappropriately as sleepwear. The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards because they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However, the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 9, 1998.

B. Clarification

The Commission has become aware that the garment industry is concerned about the policy statements in 16 CFR 1615.64(d) and 1616.65(d), which suggest segregation of items covered by the children’s sleepwear standards from all fabrics and garments that are beyond the scope of the children’s sleepwear standards. The purpose of the September 9, 1996 final rule was to allow garments sized for a child nine months and under and tight-fitting garments in sizes above nine months to be sold and used as sleepwear. Therefore, the Commission proposes to modify the policy statements at 1615.64(d) and 1616.65(d) to provide that infant garments (defined in the amended sleepwear standard at 16 CFR 1615.1(c)(1) as sized for a child nine months and under) and “tight-fitting” garments (defined in the amended sleepwear standard at 16 CFR 1615.1(o) and 16 16.2(m)) can be marketed and promoted with other sleepwear.

For the reasons stated above and pursuant to the authority of Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193), the Commission proposes to amend 16 CFR 1615.64 and 1616.65 to read as follows:

Part 1615 -- STANDARD FOR THE FLAMMABILITY OF CHILDREN’S SLEEPWEAR: SIZES 0 THROUGH 6X

1. The authority citation for part 1615 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569-70; 15 U.S.C. 1193.

2. Section 1615.64 is amended by revising paragraph (d) to read as follows:

§ 1615.64 Policy to clarify scope of the standard.

* * * * *

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or

garment into commerce which does not meet the requirements of the flammability standards for children’s sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children’s sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children’s sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or, otherwise, does not meet the requirements of the children’s sleepwear flammability standards and is not intended or suitable for use: as sleepwear. “Infant garments” as defined by § 1615.1(c) and “tight-fitting” garments as defined by § 1615.1(o) are exempt from the standard which requires flame resistance. They may be marketed as sleepwear for purposes of this section. Additionally, retailers are advised:

* * * * *

Part 1616 -- STANDARD FOR THE FLAMMABILITY OF CHILDREN’S SLEEPWEAR: SIZES 7 THROUGH 14

1. The authority citation for part 1616 continues to read as follows:

Authority: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569-70; 15 U.S.C. 1193.

2. Section 1616.65 is amended by revising paragraph (d) to read as follows:

§ 1616.65 Policy scope of the standard.

* * * * *

(d) Retailers, distributors, and wholesalers, as well as manufacturers, importers, and other persons (such as converters) introducing a fabric or garment into commerce which does not meet the requirements of the flammability standards for children’s sleepwear, have an obligation not to promote or sell such fabric or garment for use as an item of children’s sleepwear. Also, retailers, distributors, and wholesalers are advised not to advertise, promote, or sell as an item of children’s sleepwear any item which a manufacturer, importer, or other person (such as a converter) introducing the item into commerce has indicated by label, invoice, or, otherwise, does not meet the requirements of the children’s sleepwear flammability standards and is not intended or suitable for use as sleepwear. “Tight-fitting” garments as defined by § 1616.2(m) are exempt from the standard which requires flame resistance. They may be marketed as sleepwear for purposes of this section. Additionally, retailers are advised:

* * * * *

Dated: _____

Sadye E. **DUNN**, Secretary
Consumer Product Safety Commission