

# Tab C

MFR/PRVLR NOTIFIED

No Comments made  
 Comments attached  
 Excisions/Revisions  
 Firm has not requested further notice

LOG OF MEETING

DIRECTORATE FOR ENGINEERING SCIENCES

**SUBJECT:** Flammability Tests of Pyrovatex-treated Flame Resistant Fabrics

**DATE OF MEETING:** January 21, 1998

**DATE OF LOG ENTRY:** February 11, 1998

**SOURCE OF LOG ENTRY:** Margaret L. Neily, ESME

**LOCATION:** CPSC, Room 410 A, East West Towers, Bethesda, MD

**CPSC ATTENDEES:** Margaret Neily, ESME, and others. See attached list of CPSC attendees.

**NON-CPSC ATTENDEES:** See attached list of attendees.

**SUMMARY OF MEETING:** In preparation for updating the laundering/detergent requirements for several Flammable Fabrics Act standards, the CPSC staff tested flame resistant children's sleepwear fabrics after laundering with AATCC 124 (with phosphate and non-phosphate built standard detergents) as well as common household powder and liquid non-phosphate detergents. Fabrics treated with Pyrovatex CP new (Pyrovatex) showed poor flame resistance after laundering with powder non-phosphate detergents.

Ciba Specialty Chemicals representatives reported on their follow-up work to further evaluate the impact of laundering on fabrics treated with Pyrovatex. This study focused on knitwear, although primary uses of Pyrovatex are in workwear and home furnishings. Douglas Parks outlined a number of factors that affect the durability of this flame retardant including product quality, application level, processing steps, other finishing components, fabric weight, fiber content, print coverage, fabric style, fabric/garment care. Chlorine bleach, acid sour rinse, storage at high temperature and humidity can degrade the treatment. Fabric softeners, soap-based detergents, and flammable finishes/prints can render the treatment ineffective.

In order to determine the affect of product care on sleepwear fabrics, Ciba conducted a number of flammability tests. Interlock and 1x1 rib knits and heavier cotton terries were included. Test conditions included unwashed and after 50 laundering with non-phosphate detergents: AATCC 1993, a powder detergent for baby products, a powder concentrate and a liquid concentrate with bleach. The phosphorous levels remained durable to the washing process; however, increases in calcium and magnesium were detected. The interlock knits performed unsatisfactorily with the powder concentrate; rib knits also showed increased char lengths over 3 inches. Cotton terries

maintained very short char lengths under all of these wash conditions. Further tests with the terry fabrics, however, confirmed the adverse affects of laundering with products containing chlorine bleach and of fabric softener added to the rinse cycle.

Ciba Specialty Chemicals has no control over the application process used to apply Pyrovatex (they only sell the chemical) or other care factors that adversely impact the flame resistance of garments in use. With the lighter weight fabrics typically used for sleepwear, there is little room for error. Because of this, the company decided it is prudent to stop marketing Pyrovatex to the sleepwear industry (with one exception, a terry fabric over which they have acceptable control). Ciba plans to publish the results of this study.

## ATTENDANCE

**Ciba Specialty Chemicals  
Tests of Pyrovatex-treated FR Fabrics  
under the Children's Sleepwear Flammability Standard**

January 21, 1998

NAME	COMPANY	PHONE NUMBER
Margaret Neily	CPSC/Engineering	(301) 504-0550, x2354
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Pat Farrell	CPSC/Compliance	301-504-0400 X1369
Fatty Pollitzer	CPSC OGC	301-504-0980 x2119

## *Children's Sleepwear Notice*

Your safety and satisfaction are our top priority. Because of this, Nordstrom would like to advise our customers that we have been notified by Consumer Product Safety Commission that laundering 'N Kids' and 'Baby N' sleepwear with some detergents may cause a deterioration of the flame-retardant characteristics of the sleepwear. The garments were labeled '100% Cotton—FLAME RETARDANT' and sold between 1993 and 1997 at all Nordstrom stores.

Although there have been no reports of injuries associated with the use of this sleepwear, if you have further questions, contact the store nearest you and we'll gladly address your concerns.

**NORDSTROM**

# Tab D

Draft 9/16/98

**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 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 [insert date 75 days after publication in the FEDERAL REGISTER].

**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 [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.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 that 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").<sup>(1)</sup> 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,

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<sup>1</sup>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.

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	1996	
<b>Washing Machine</b>			
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	
<b>Dryer</b>			
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

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. 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 phosphorus-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.

#### 4. 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 1191(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.

#### **5. 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 14**

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) *Laundrying*. (i) The procedures described in sections 1615.4(b) through (g) 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 Laundrying," 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 laundryings 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 ( $60^{\circ} \pm 3^{\circ}$  C,  $140^{\circ} \pm 5^{\circ}$  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), (c), (d) (3), (e), 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.<sup>2</sup> This section also

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<sup>2</sup>American Association of Textile Chemists and Colorists, Technical Manual Vol 73, 1997.

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.* 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

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:

**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 paragraph (c) (4) (i) and (ii) to read as follows:

**§ 1616.5 Test procedure.**

(c) *Testing* \* \* \*

(4) *Laundering.* (i) The procedures described under sections 1616.4 *Sampling and acceptance procedures*, 1616.5(b) *Conditioning and mounting of specimens*, and 1616.5(c) *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 ( $60^{\circ} \pm 3^{\circ}$  C,  $140^{\circ} \pm 5^{\circ}$  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 ( $66^{\circ} \pm 5^{\circ}$  C,  $150^{\circ} \pm 10^{\circ}$  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), (c), (d)(3), (e), (f), 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.<sup>3</sup> 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)(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

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<sup>3</sup>American Association of Textile Chemists and Colorists, Technical Manual. Vol 73, 1997.

Assistant Executive Director for Compliance, may be authorized to use the alternate laundering procedure pending the final decision. \* \* \*

(2) As provided in detail in section 1616.32(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 section 1616.32(f), 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 section 1616.32(f), 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 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))

Dated: \_\_\_\_\_

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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.

DRAFT 10/15/98

**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 [insert date 75 days after publication in the FEDERAL REGISTER].

**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 cpssc-os@cpssc.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 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

At the time the carpet standards were issued, some carpets and rugs were treated with fire retardants or made from fibers that were treated with fire retardants. The standards address the possibility that any fire-retardant treatment used on carpets or rugs or on fibers used in the production of carpets or rugs might be progressively reduced by cleaning. Section 1630.4(b)(1)(ii) of the standard for large carpets and rugs and section 1631.4(b)(1)(ii) of the standard for small carpets and rugs require that specimens of a carpet or rug that has a fire-retardant treatment or that is made from fibers which have had a fire-retardant treatment shall be tested after they have been washed and dried 10 times in accordance with a specified laundering procedure, or "such number of times under such other washing and drying procedures as shall have been found to be equivalent by the Consumer Product Safety Commission."

The laundering procedure specified by the standards is AATCC Test Method 124-67, published by the American Association of Textile Chemists and Colorists ("AATCC").<sup>(1)</sup> This procedure involves washing and drying the specimens in a household washing machine and dryer. The AATCC test method is similar to the method that might be used by consumers to clean small carpets and rugs such as bath mats and small area rugs.

Although the AATCC laundering procedure does not resemble

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<sup>1</sup> 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.

the method that consumers could be expected to use for cleaning wall-to-wall carpeting and large carpets or rugs, the Commission has not made a finding that any other washing and drying procedure is equivalent to AATCC Test Method 124-67.

AATCC Test Method 124-67 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. AATCC Test Method 124-67 was developed in 1967. 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 124-67. (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 used

for household laundering of fabrics at this time. The revised test method differs from AATCC Test Method 124-67 by specifying the use of 1993 AATCC detergent, 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 124-67, 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**

<b>WASH/DRY CONDITIONS</b>	<b>VERSION 1967</b>	<b>VERSION 1996</b>
<b>Washing Machine</b>		
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

<b>Dryer</b>			
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

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 offered for sale at this time do not have the settings and operating characteristics of the washing machine specified by AATCC Test Method 124-67. (3)

The laundering procedures specified in the carpet flammability standards must be followed by the Commission when testing carpets manufactured with a fire-retardant treatment to determine their compliance. Information available to the Commission indicates that at this time, no carpets or rugs treated with a fire retardant or made from fibers which have been treated with a fire retardant are offered for sale. However, it is possible that carpets treated with fire retardants may be marketed in the future.

Section 8 of the FFA (15 U.S.C. 1197) provides that no

person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) if that person holds in good faith a written guaranty to the effect that "reasonable and representative tests conducted in accordance with the applicable standard" show that a product subject to a flammability standard issued under the FFA complies with that standard. Enforcement regulations codified at 16 CFR 1630.31 and 1631.31 establish minimum requirements for reasonable and representative tests to support guaranties of compliance with the carpet flammability standards.

Although issuance of a guaranty is not mandatory, manufacturers who elect to issue guaranties must perform the testing required by the standard, including the laundering procedure specified by the standard for those carpets and rugs manufactured with a fire-retardant treatment unless exempted from the use of that procedure by other provisions of the standards.

### **3. Proposed Amendment**

The carpet flammability 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 change to the standards is needed to make the specified laundering procedures represent those currently used by consumers. The proposed amendments are also needed to assure that the carpet flammability standards will continue to be "technologically practicable" for both the Commission's laboratory and those manufacturers of carpets and rugs required to use the laundering procedures when testing for guaranty purposes.

Section 4(c) 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 of carpet manufactured with a fire-retardant treatment to be tested after washing and drying 10 times using the procedure specified in AATCC Test Method 124-1996. The proposed amendments would incorporate that test method into the carpet flammability standards by reference.

Existing sections 1630.4(b)(1)(ii) and 1631.4(b)(1)(ii) contain the following language:

Alternatively, the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.  
[Emphasis added.]

Alternative laundering procedures have been approved in accordance with provisions of sections 1630.4(b)(1)(ii) and 1631.4(b)(1)(ii) for hide carpets and rugs and wool flokati carpets and rugs. See 16 CFR 1630.61, 1630.62 and 1630.63; 16 CFR 1631.61 and 1631.62. The amendments proposed below would change the references in Subpart C of sections 1630 and 1631 to the revised AATCC Test Method 124-1996 so that they are consistent with the other proposed changes.

#### **4. 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 carpet flammability standards is that the standard detergent specified by the existing laundering method in the standard 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 give 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 testing in accordance with the laundering procedure specified in the standard 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 carpet flammability standards 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 Commission has not been able to find any carpets or rugs currently offered for sale which have been treated with a fire-retardant treatment or made from fibers treated with a fire-retardant. In the event that some carpets treated with a fire-retardant or made from fibers treated with a fire-retardant treatment come onto the market in the future, manufacturers will be able to apply for approval of any alternate laundering procedure which is normally used for cleaning those products if the procedure specified by the amendments is not appropriate.

Consequently, the Commission estimates that the amendments proposed below will have no economic consequences to any manufacturers, large or small, of carpets and rugs.

#### **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 the manufacture of carpets and rugs. 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. For that reason, 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 any 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 here, 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 as an FFA standard if the state or local flammability standard or regulation is "designed to protect against the same risk of the occurrence of 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 the occurrence of fire associated with ignition of carpets and rugs.

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 1630 and 1631**

Carpets, Consumer Protection, Flammable Materials, Floor Coverings, Labeling, Records, Rugs, 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 1630 and 1631 to read as follows:

#### **PART 1630--STANDARD FOR THE SURFACE FLAMMABILITY OF CARPETS AND RUGS**

1. The authority for subpart A of part 1630 continues to read as follows:

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

2. Section 1630.4 is amended by revising paragraph

(b) (1) (ii), eliminating footnote 3, renumbering the remaining footnotes, and adding new paragraph (b) (1) (iii) to read as follows:

**§ 1630.4 Test procedure.**

\* \* \* \* \*

(b) *Sampling*--(1) \* \* \*

(ii) If the carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or over-sized specimens thereof shall be washed, prior to cutting of test specimens after they have been washed and dried either 10 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," using wash temperature V ( $60^{\circ} \pm 3^{\circ}$  C,  $140^{\circ} \pm 5^{\circ}$  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, and drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, maximum load 3.64 Kg (8 pounds), using the exhaust temperature ( $66^{\circ} \pm 5^{\circ}$  C,  $150^{\circ} \pm 10^{\circ}$  F) and cool down time of 10 minutes specified in the "Durable Press" conditions of Table IV; or such number of times by another washing and drying procedure which the Consumer Product Safety Commission has determined to be equivalent of AATCC Test Method 124-1996. Alternatively, the selected sample or oversized specimens thereof may be washed, drycleaned, or shampooed 10 times, prior to

cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(iii) AATCC Test Method 124-1996 "Appearance of Fabrics After Repeated Home Laundering," is found in Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, 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.

3. The authority for subpart C of part 1630 continues to read as follows:

**Authority:** Secs. 4, 5, 67 Stat. 112, as amended, 81 Stat. 569-570; 15 U.S.C. 1193, 1194.

4. Section 1630.61 is amended by revising the first sentence of paragraph (a) to read as follows:

**§ 1630.61 Hide carpets and rugs -- alternative washing procedure.**

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1996 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. \* \* \*

5. Section 1630.62 is amended by revising the first sentences in paragraphs (a) and (d)(3) as follows:

**§ 1630.62 Wool flokati carpets and rugs -- alternative washing procedure.**

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1996 of the American Association of Textile Chemists and Colorists or such number of times under such other

washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2" with a wash solution of 1.1 grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 124-1996 (or equivalent) per liter of water preheated to 105° F. \* \*

\*

6. Section 1630.63 is amended by revising the first sentence in paragraph (a) (1) to read as follows:

**§ 1630.63 Suspension of washing requirements for carpets and rugs with alumina trihydrate in the backing.**

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b) (1) (ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1996 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. \* \* \*

**PART 1631--STANDARD FOR THE SURFACE FLAMMABILITY OF SMALL CARPETS AND RUGS**

1. The authority for subpart A of part 1631 continues to read as follows:

**Authority:** Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569-570; 15 U.S.C. 1.93.

2. Section 1631.4 is amended by revising paragraph (b) (1) (ii), eliminating footnote 3, renumbering the remaining footnotes, and adding new paragraph (b) (1) (iii) to read as follows:

\* \* \* \* \*

(b) *Sampling*--(1) \* \* \*

(ii) If the carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or over-sized specimens thereof shall be washed, prior to cutting of test specimens after they have been washed and dried either 10 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," using wash temperature V ( $60^{\circ} \pm 3^{\circ}$  C,  $140^{\circ} \pm 5^{\circ}$  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, and drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, maximum load 3.64 Kg (8 pounds), using the

exhaust temperature ( $66^{\circ} \pm 5^{\circ}$  C,  $150^{\circ} \pm 10^{\circ}$  F) and cool down time of 10 minutes specified in the "Durable Press" conditions of Table IV; or such number of times by another washing and drying procedure which the Consumer Product Safety Commission has determined to be equivalent of AATCC Test Method 124-1996. Alternatively, the selected sample or oversized specimens thereof may be washed, drycleaned, or shampooed 10 times, prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(iii) AATCC Test Method 124-1996 "Appearance of Fabrics After Repeated Home Laundering," is found in Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, 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.

3. The authority for subpart C of part 1631 continues to read as follows:

**Authority:** Secs. 4, 5, 67 Stat. 112, as amended, 81 Stat. 569-70; 15 U.S.C. 1193, 1194.

4. Section 1631.61 is amended by revising the first sentence of paragraph (a) as follows:

**§ 1631.61 Hide carpets and rugs -- alternative washing procedure.**

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1996 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. \* \* \*

5. Section 1631.62 is amended by revising the first sentences in paragraphs (a) and (d)(3) to read as follows:

**§ 1631.62 Wool flokati carpets and rugs -- alternative washing procedure.**

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or

rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1996 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2" with a wash solution of 1.1 grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 124-1996 (or equivalent) per liter of water preheated to 105° F. \* \*

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Dated: \_\_\_\_\_

\_\_\_\_\_  
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 Laun-

derings," 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.

**DRAFT 9/3/98**

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1632**

**Standard for the Flammability of Mattresses and Mattress Pads**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed amendments.

**SUMMARY:** The Commission proposes to amend the flammability standard for mattresses and mattress pads by revising the laundering procedure specified in that standard for mattress pads which contain a chemical fire retardant. These laundering procedures help assure that any chemical flame retardant is not removed or degraded by 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 [insert date 75 days after publication in the FEDERAL REGISTER].

**ADDRESSES:** Written comments should be captioned "Mattress Pads, 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](mailto: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 interior furnishing made from fabric and related materials.

In 1972, the Secretary of Commerce issued a flammability standard for mattresses and mattress pads to protect the public from death and serious burn injuries associated with ignition of mattresses and mattress pads by smoldering cigarettes. That standard became effective in 1973, and is codified at 16 CFR Part 1632.

The standard prescribes a test for mattresses and mattress pads which requires placement of lighted cigarettes at specified locations on the surface of the mattress or mattress pad. An individual mattress or mattress pad prototype passes the test in the standard if no cigarette test location produces a char length more than two inches in any direction.

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)).

On June 8, 1973, the Commission amended the standard by adding requirements for premarket testing of mattresses and mattress pads by manufacturers. As amended in 1973, the standard required manufacturers to perform prototype testing on each combination of materials and construction methods used in the production of mattresses or mattress pads. After successful completion of prototype testing, the standard required manufacturers to obtain samples at specified intervals during production and test those samples for compliance with the standard. See 38 FR 15095 (June 8, 1973).

In 1984, the Commission amended the standard to eliminate the requirements for production sampling and testing. The amended standard requires that manufacturers perform prototype testing with acceptable results before introducing products subject to the standard into commerce, but does not require manufacturers to perform production sampling and testing. See 49 FR 39780 (October 10, 1984).

#### **B. Amending the Flammability Standard**

As discussed below, laundering procedures are prescribed by the standard to help assure that any fire-retardant chemicals used in the production of mattress pads will not be removed or degraded by repeated washing and drying and create a flammability hazard. However, the current procedures are out of date in several respects and the Commission therefore proposes to change them.

## 1. Current Procedures

The mattress flammability standard describes the apparatus and procedure used to test mattress pads for compliance with the standard. See 16 CFR 1632.4 and 1632.5(a). The standard addresses the possibility that a fire-retardant chemical used in the production of mattress pads might be progressively reduced or degraded by washing and drying. Sections 1632.5(a) and (b) of the standard require that any mattress pad manufactured with a fire retardant chemical shall be tested in the condition in which it is intended to be sold, and after it has been washed and dried ten times in accordance with a specified laundering procedure. That laundering procedure is AATCC Test Method 124-82, published by the American Association of Textile Chemists and Colorists ("AATCC").<sup>(1)</sup><sup>1</sup> The mattress standard incorporates that laundering procedure by reference. See 16 CFR 1632.5(b)(2)(iv).

AATCC Test Method 124-82 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. AATCC Test Method 124-82 was originally developed in 1967 and subsequently revised. These specifications are representative of the equipment, wash, rinse, and drying temperatures, and the detergent used for home laundering in the 1960s. For example,

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<sup>1</sup> 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, Bethesda, Md., or by calling that office at (301) 504-0800.

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 124-82. (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 124-82 by specifying the use of 1993 AATCC detergent, 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 124-82, 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.

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 124-82.(3)

**Table 1. AATCC TEST METHOD 124**

WASH/DRY CONDITIONS	VERSION		
	1982	1996	
<b>Washing Machine</b>			
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	
<b>Dryer</b>			
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
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spm = strokes (or cycles) per minute

rpm = revolutions per minute

### 3. Comparability of Test Results

The Commission intended to perform some testing of mattress pads manufactured with chemical fire retardants after washing and drying 10 times in accordance with AATCC Test Method 124-82 and after washing and drying 10 times using AATCC Test Method 124-1996 to compare the two test methods. However, the staff has been unable to locate any flame retardant-treated mattress pads for this comparison. The mattress pads located by the staff are made of fabric and filling materials that do not need to be treated to pass the flammability test of the mattress standard. However, since there is a demand for natural fibers such as cotton (which may need to be FR treated to pass the flammability standard) in other products, the Commission believes it is appropriate to propose revising the laundering method so that it is consistent with actual consumer and industry laundering practices should cotton mattress pads return to the market in the future.

### 4. Proposed Amendment

The Commission proposes to revise the laundering procedures specified in 16 CFR 1632.5(b) to those of AATCC Test Method 124-1996.

The mattress flammability standard was issued and amended 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, the standard is based on findings that it is 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 change to the standard is needed to make the specified laundering procedures represent those currently used by consumers. The proposed amendments are also needed to assure that the standard will continue to be "technologically practicable" for both the Commission's laboratory and those manufacturers of mattress pads required to use the laundering procedures before prototype testing.

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 a mattress pad containing a fire retardant chemical to be tested in the condition in which it is intended to be sold and after washing and drying 10 times using the procedure specified in AATCC Test Method 124-1996. The proposed amendments would incorporate that test method into the mattress standard by reference.

The mattress flammability standard and enforcement rules exempt any "one-of-a-kind" mattress or mattress pad manufactured to a physician's written prescription from all requirements of the standard. See sections 1632.2(b)(4) and 1632.31(f). Those sections are not affected by the amendments proposed below.

Additionally, existing section 1632.5(b)(1)(i) exempts from the laundering requirements of the standard any mattress pad intended for "one time use" and any mattress pad which is not

intended to be laundered. Existing section 1632.5(b)(1)(ii) states that mattress pads that cannot be laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has been found to be acceptable by the Commission before testing. Existing section 1632.5(b)(2)(v) allows manufacturers of mattress pads manufactured with a chemical fire retardant to test specimens after laundering "a different number of wash and dry cycles using another procedure . . . if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission." These sections are not affected by the amendments proposed below.

#### **5. 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 mattress flammability standard is that the standard detergent specified by the existing laundering method in the standard 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 give 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 prototype testing in accordance with the laundering procedure specified in the standard 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 mattress flammability standard 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. The requirements for washing and drying mattress pads manufactured with a fire retardant chemical were included in the standards to assure that any flame retardant treatment used in mattress pads would not be removed or degraded by repeated laundering.

At this time, all mattress pads subject to the standard are made without flame retardant treatments. Accordingly, most manufacturers of mattress pads are not required to launder mattress pads before testing, and the Commission does not expect that the proposed amendments will have a significant effect on any businesses, large or small.

## **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 mattress pads. 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 a flammability standard issued under the FFA. With certain exceptions which are not applicable here, 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 regulation is "designed to protect against the same risk of the occurrence of fire" unless the state or local 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 from ignition of mattress pads.

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 Part 1632**

Consumer Protection, Flammable Materials, Labeling, Mattresses and mattress pads, Records, 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, Part 1632 to read as follows:

**PART 1632--STANDARD FOR THE FLAMMABILITY OF MATTRESSES AND MATTRESS PADS**

1. The authority for part 1632 continues to read as follows:

**Authority:** 15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b).

2. Section 1632.5 is amended by revising paragraph

(b)(2)(i)-(iv) to read as follows:

**§ 1615.5 Mattress pad test procedure.**

\* \* \* \* \*

(b)(2) *Laundrying procedure.* (i) 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 ( $60^{\circ} \pm 3^{\circ}$  C,  $140^{\circ} \pm 5^{\circ}$  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.

(ii) Drying shall be performed in accordance with section 8.3.1(A) of AATCC Test Method 124-1996 "Appearance of Fabrics After Repeated Home Laundrying," Tumble Dry, using the exhaust temperature ( $66^{\circ} \pm 5^{\circ}$  C,  $150^{\circ} \pm 10^{\circ}$  F) and cool down time of 10 minutes specified in the "Durable Press" conditions of Table IV.

(iii) Maximum washer load shall be 3.64 Kg (8 pounds) and may consist of any combination of test samples and dummy pieces.

(iv) AATCC Test Method 124-1996 "Appearance of Fabrics After Repeated Home Laundrying," is found in 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.

Dated: \_\_\_\_\_

\_\_\_\_\_  
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.