

standard every time the AATCC standard is revised.

The Commission cannot accept this suggestion. For any change by AATCC to have the force and effect of a Commission rule, the Commission must formally adopt it through notice and comment rulemaking.

6. Final Rule

The amendments 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 amendments incorporate that test method into the sleepwear standard by reference.

The amendments 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 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 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 amendment corrects an erroneous citation in the regulations to the laundering provisions of the standard. The correct citation

in the 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.

7. Effective Date

The Commission proposed that the amendments become effective 30 days after publication of a final rule. 64 FR 13128. As discussed in the preamble to the proposed rule, the standard detergent specified by the existing laundering method in the standard is no longer available. Thus the Commission believes that an effective date 30 days after publication of final amendments will be in the public interest. The Commission is not withdrawing or limiting the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA.

The Commission received no comments on the proposed effective date. The Commission continues to believe that an effective date of thirty days allows adequate notice to all interested persons of the change in laundering procedure, and at the same time assures 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.

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 certified that the proposed amendments to the children's sleepwear standards and enforcement rules will not have a significant economic impact on a substantial number of small entities, including small businesses. 64 FR 13129. Because the amendment codifies existing industry testing practices (and reflects current consumer practices), it is not expected to have an effect on small entities.

2. Environmental Considerations

The amendments 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. As discussed in the proposed rule, 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 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, the amendments 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.

The Commission has also evaluated this rule in light of the principles stated in Executive Order 13132 concerning federalism, even though that Order does not apply to independent regulatory agencies such as CPSC. The Commission does not expect that the rule will have any substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

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 amends title 16 of the Code of Federal Regulations, Chapter II, Subchapter D, Parts 1615 and 1616 to read as follows:

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

1. The authority for subpart A of part 1615 continues to

read as follows:

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

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

§ 1615.4 Test procedure.

(g) *Testing* * * *

(4) *Laundering.* (i) The procedures described in 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 Laundering," Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the

Federal Register. Items which do not withstand 50 launderings shall be tested at the end of their useful service life.

(ii) Washing shall be performed in accordance with sections 8.2.2 and 8.2.3 of AATCC Test Method 124-1996, using wash temperature V ($60^{\circ} \pm 3^{\circ}$ 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 1615 continues to read as follows:

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

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

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

(a) *Scope.* (1) Section 1615.4(g)(4)(ii) of the Standard for the Flammability of Children's Sleepwear in sizes 0-6X (16 CFR 1615.4(g)(4)(ii)) requires that all fabrics and certain garments subject to the standard be tested for flammability as produced (or after one washing and drying) and after the items have been washed and dried 50 times in machines, using the procedure specified in AATCC Test Method 124-1996.² This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an alternate laundering procedure is equivalent to the procedure specified in the standard.

* * * * *

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

* * * * *

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

²American Association of Textile Chemists and Colorists, Technical Manual. Vol 73, 1997.

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 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 1615.32(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 1615.32(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 1615.4(g)(4)(ii) of the standard if testing from 20 specimens laundered by the proposed alternate procedure yields as many or more char lengths in excess of five inches as does testing from the twenty specimens laundered by the 50-laundering cycle method prescribed in the standard.

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

from the 50-wash cycle procedure, the Assistant Executive Director for Compliance will approve the alternate laundering procedure.

* * * * *

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

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

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) (1), introductory text and (b) (2), the first 3 sentences of (c) (1), (c) (2), the first sentence of (d) (3), the first sentence of (e) (1), the first sentence of (e) (2), (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 124-1996.³ This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an alternate laundering procedure is equivalent to the procedure specified in the standard.

* * * * *

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

(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 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: _____

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," November 18, 1998.
4. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Amending the Laundering Provisions of the CPSC Flammability Regulations," August 18, 1998.
5. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Textile Laundering Standards," August 18, 1998.
6. Memorandum from Gail Stafford and Shing-Bong Chen, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Detergent Comparison Tests," August 19, 1998.
7. Log of Meeting on January 21, 1998 concerning Flammability Test of Pyrovatex-treated Flame Resistant Fabrics.
8. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Amendments to FFA Standards," August 10, 1998.
9. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, "Briefing Package Supplement: Laundering/Detergent Update for Flammable Fabrics Act Standards -- The Soap and Detergent Association (SDA) Laundering Procedures," January 11, 1999.
10. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Soap and Detergent Association Proposed Laundering Procedure," December 23, 1998.
11. Letter from Jenan Al-Atrash, Director, Human Health &

Safety, The Soap and Detergent Association, to Margaret Neily, Technical Program Coordinator, Office of the Executive Director, including SDA Recommended Wash Conditions for CFR 1615.4, September 15, 1998.

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

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

14. Briefing Memorandum, from Ron Medford, AED, Office of Hazard Identification and Reduction and Margaret L. Neily, Project Manager, ESME, to the Commission, "Final Rule Updating Standard Detergent and Laundering Procedures for Flammable Fabrics Act Standards," _____.

15. Memorandum from Martha A. Kosh, OS, "Comments on Children's Sleepwear Laundering Procedures, Mattress Pads Laundering Procedures, Carpet and Rugs Laundering Procedures," June 1, 1999.

16. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Response to Comments Received as a Result of the Notice of Proposed Rulemaking (NPR) for the Laundering/Detergent Update for the Flammable Fabrics Act Standards," October 25, 1999.

Draft 12/16/99

6355-01-PF

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: Final amendments.

SUMMARY: The Commission is amending 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 issuing 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: The rule will become effective on [insert date 30 days after publication in the FEDERAL REGISTER] and will apply to products manufactured or imported after that date.

FOR FURTHER INFORMATION CONTACT: Marilyn Borsari, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0400, extension 1370.

SUPPLEMENTARY INFORMATION:

A. Background

The Flammable Fabrics Act ("FFA") (15 U.S.C. 1191 et seq.) authorizes the Commission to issue and amend 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.

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

B. Amending the Flammability Standards

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

used in the production of carpets or rugs will not be removed or degraded by repeated cleaning and create a flammability hazard. However, the current procedures are out of date in several respects.

1. Current Procedures

The carpet flammability standards describe the apparatus and procedure to be used to test carpets and rugs for compliance with the standards. See 16 CFR 1630.4 and 1631.4.

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. 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").(1)¹ This procedure

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

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 washable carpets and rugs such as bath mats and small area rugs.

Although the AATCC laundering procedure does not resemble 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. Nor has the Commission approved an alternate cleaning procedure that is normally used for them.

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

WASH/DRY CONDITIONS	VERSION 1967	VERSION 1996
Washing Machine		
Cycle	Normal	Normal/Cotton Sturdy
Wash Water Temp.	60 ± 3°C	60 ± 3°C
Rinse Water Temp.	41 ± 3°C	Less Than 29°C

Water Level	Full	18 ± 1 gal	
Agitator Speed	70 ± 5 spm	179 ± 2 spm	
Wash Time	12 minutes	12 minutes	
Spin Speed	500-510 rpm	630-660 rpm	
Final Spin Cycle	4 minutes	6 minutes	
Dryer			
Cycle	Normal	Cotton Sturdy	Durable Press
Exhaust Temp.	140-160°F	140-160°F	140-160°F
Cool Down Cycle	5 minutes	5 minutes	10 minutes

spm = strokes (or cycles) per minute

rpm = revolutions per minute

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.

3. Review of Other Existing Standards

As explained in the notice of proposed rulemaking, the Commission staff reviewed and analyzed fourteen other international and technical association standards or test methods to determine if any were appropriate for consideration in this proceeding. All of the standards designed for fabric laundering have significant deficiencies. They are either based on earlier versions of AATCC Test Method 124 (with obsolete detergent and equipment), require equipment not available in the U.S., use only water in the laundering procedure, or specify significantly lower wash and rinse water temperatures than those still available for consumers.

Two of these methods (AATCC 138 and a Canadian standard CAN/CGSB-4.2 No. 30.2-M90) were specifically developed for carpets. However, they use different liquid detergents, and neither of these methods approximates the typical home laundering used in the Flammability Standard for Carpets and Rugs. Further, the AATCC 138 was judged to be too harsh for the hand washable flokati rugs because of the brushing specified by the method.

4. Proposed Amendment

On March 17, 1999, the Commission proposed to revise the

laundering procedures specified in 16 CFR 1632.5(b) to those of AATCC Test Method 124-1996. 64 FR 13132. As explained in the preamble to the proposed rule, the Commission determined that an advance notice of proposed rulemaking was not necessary to begin this proceeding. Id. at 13134. 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.

The Commission received comments on the proposed rule from the Soap and Detergent Association ("SDA"), American Textile Manufacturers Institute ("ATMI"), the National Cotton Council ("NCC"), and Shaw Industries. ATMI and NCC both expressed their support for the proposed revision. SDA's and Shaw Industries comments are discussed below.

Wash and rinse water temperatures.

SDA suggested that the Commission consider a laundering protocol different than AATCC Test Method 124. SDA's suggested protocol calls for cooler wash and rinse temperatures, stating that they are more representative of today's laundering conditions.

The Commission declines to make this change. Many water heaters in use today are set at 60C/140F. Thus, consumers have hotter wash water available to them than the 32C/90F that SDA

recommends. It is appropriate that the laundering requirements reflect not necessarily the average conditions, but the most rigorous that a consumer is likely to use. By specifying a hot water wash and a cold water rinse, the revised CPSC standard represents the most rigorous real, although not necessarily average, wash conditions.

Water hardness.

SDA also suggested that the revised standard should specify water hardness criteria. While water hardness is one factor that may affect the flammability performance of some fabrics, the Commission has no evidence that water hardness is a significant problem for flame retardant treated products currently marketed. At this time, the Commission is only correcting the outdated detergent and laundering conditions in the current FFA standards. It is not within the scope of this proceeding to consider additional criteria.

Ballast load weight.

The SDA suggested changing the ballast load weight to 2.7 ± 0.1 kg (6 ± 0.2 lb). CPSC's current standard specifies 3.64 kg (8 lb) while the AATCC Test Method 124 only requires 1.8kg (4 lb). SDA may not have realized that CPSC is retaining the larger load requirement. As explained above, the Commission is only correcting the outdated aspects of the laundering standard. It is not altering other criteria.

Omit reference to a specific date.

Finally, SDA suggested that the Commission not refer to the

specific year of the AATCC standard but simply refer to the most current method. This would alleviate the need to revise the standard every time the AATCC standard is revised.

The Commission cannot accept this suggestion. For any change by AATCC to have the force and effect of a Commission rule the Commission must formally adopt it through notice and comment rulemaking.

New cleaning method for carpets.

Shaw Industries suggested that the Commission adopt a new cleaning method for carpets, AATCC Test Method 171-1995, because it would better replicate the manner in which most carpets are cleaned.

AATCC Test Method 171-1995 simulates on-floor cleaning of carpets. While most carpets are not cleaned in washing machines as AATCC Test Method 124 prescribes, the purpose of this proceeding is to revise the laundering requirements for those carpets that may be washed in a home washing machine, not to require a new method.

5. Final Rule

The amendments 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 amendments 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 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 changes.

6. Effective Date

The Commission proposed that the amendments become effective 30 days after publication of a final rule. 64 FR 13134-35. As discussed in the preamble to the proposed rule, the standard detergent specified by the existing laundering method in the standard is no longer available. Thus the Commission believes that an effective date 30 days after publication of final amendments will be in the public interest. The Commission is not withdrawing or limiting the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA.

The Commission received no comments on the proposed effective date. The Commission continues to believe that an effective date of thirty days allows adequate notice to all

interested persons of the change in laundering procedure, and at the same time assures 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.

C. Other Issues

1. Impact on Small Businesses

In accordance with section 605(5) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certified that the proposed amendments to the carpet flammability standards would not have a significant economic impact on a substantial number of small entities, including small businesses. 64 FR 13135. Because the Commission is unaware of 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, the Commission estimates that the amendments will have no economic consequences to any manufacturers, large or small, of carpets and rugs. 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.

2. Environmental Considerations

The amendments 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. As discussed in the proposed rule, neither an environmental assessment nor an environmental impact statement is required. 64 FR 13135.

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 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, the amendments 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.

The Commission has also evaluated this rule in light of the principles stated in Executive Order 13132 concerning federalism, even though that Order does not apply to independent regulatory agencies such as CPSC. The Commission does not expect that the rule will have any substantial direct effects on the States, the

relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

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 amends 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), removing footnote 3 and 4 respectively, 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) (1) 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. * * *

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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. 1193.

2. Section 1631.4 is amended by revising paragraph (b)(1)(ii), removing footnote 3, redesignating footnotes 4 and 5 as footnotes 3 and 4 respectively, and adding new paragraph (b)(1)(iii) to read as follows:

§ 1631.4 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 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. * * *

* * * * *

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," November 18, 1998.

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

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

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

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

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

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

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

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

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

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

14. Briefing Memorandum, from Ron Medford, AED, Office of Hazard Identificaiton and Reduction and Margaret L. Neily, Project Manager, ESME, to the Commission, "Final Rule Updating Standard Detergent and Laundering Procedures for Flammable Fabrics Act Standards," _____.

15. Memorandum from Martha A. Kosh, OS, "Comments on Children's Sleepwear Laundering Procedures, Mattress Pads Laundering Procedures, Carpet and Rugs Laundering Procedures," June 1, 1999.

16 Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager, "Response to Comments Received as a Result of the Notice of Proposed Rulemaking (NPR) for the Laundering/Detergent Update for the Flammable Fabrics Act Standards," October 25, 1999..

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Standard for the Flammability of Mattresses and Mattress Pads

AGENCY: Consumer Product Safety Commission.

ACTION: Final amendments.

SUMMARY: The Commission is amending 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 issuing 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: The rule will become effective on [insert date 30 days after publication in the FEDERAL REGISTER] and will apply to products manufactured or imported after that date.

FOR FURTHER INFORMATION CONTACT: Marilyn Borsari, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0400, extension 1370.

SUPPLEMENTARY INFORMATION:

A. Background

The Flammable Fabrics Act ("FFA") (15 U.S.C. 1191 *et seq.*) authorizes the Commission to issue and amend 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. 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)).

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.

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). 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").(1)¹ 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, 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

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

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	VERSION 1996
------------------------	-----------------	-----------------

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

spm = strokes (or cycles) per minute

rpm = revolutions per minute

3. Review of Other Existing Standards

As explained in the notice of proposed rulemaking, the Commission staff reviewed and analyzed twelve other international and technical association standards or test methods to determine if any were appropriate for consideration in this proceeding.

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

4. Comparability of Test Results

The Commission intended to perform some testing of mattress pads manufactured with chemical fire retardants using AATCC Test Method 124-82 and 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 Commission believes, however, it is appropriate to revise the laundering method so that it is consistent with actual consumer and industry laundering practices should cotton mattress pads (which might need flame retardant treatment) return to the market in the future.

5. Proposed Amendment

On March 17, 1999, the Commission proposed to revise the laundering procedures specified in 16 CFR 1632.5(b) to those of AATCC Test Method 124-1996. 64 FR 13137. As explained in the preamble to the proposed rule, the Commission determined that an advance notice of proposed rulemaking was not necessary to begin this proceeding. *Id.* at 13139. 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.

The Commission received comments on the proposed rule from the Soap and Detergent Association ("SDA"), American Textile Manufacturers Institute ("ATMI"), and the National Cotton Council ("NCC"). ATMI and NCC both expressed their support for the proposed revision. SDA's comments are discussed below.

Wash and rinse water temperatures.

SDA suggested that the Commission consider a laundering protocol different than AATCC Test Method 124. SDA's suggested protocol calls for cooler wash and rinse temperatures, stating that they are more representative of today's laundering conditions.

The Commission declines to make this change. Many water heaters in use today are set at 60C/140F. Thus, consumers have hotter wash water available to them than the 32C/90F that SDA recommends. It is appropriate that the laundering requirements reflect not necessarily the average conditions, but the most rigorous that a consumer is likely to use. By specifying a hot water wash and a cold water rinse, the revised CPSC standard represents the most rigorous real, although not necessarily average, wash conditions.

Water hardness.

SDA also suggested that the revised standard should specify water hardness criteria. While water hardness is one factor that may affect the flammability performance of some fabrics, the Commission has no evidence that water hardness is a significant problem for flame retardant treated products currently marketed. At this time, the Commission is only correcting the outdated detergent and laundering conditions in the current FFA standards. It is not within the scope of this proceeding to consider additional criteria.

Ballast load weight.

The SDA suggested changing the ballast load weight to 2.7 ± 0.1 kg (6 ± 0.2 lb). CPSC's current standard specifies 3.64 kg (8 lb) while the AATCC Test Method 124 only requires 1.8kg (4 lb). SDA may not have realized that CPSC is retaining the larger load requirement. As explained above, the Commission is only correcting the outdated aspects of the laundering standard. It is not altering other criteria.

Omit reference to a specific date.

Finally, SDA suggested that the Commission not refer to the specific year of the AATCC standard but simply refer to the most current method. This would alleviate the need to revise the standard every time the AATCC standard is revised.

The Commission cannot accept this suggestion. For any change by AATCC to have the force and effect of a Commission rule the Commission must formally adopt it through notice and comment rulemaking.

6. Final Rule

The amendments 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 amendments 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.

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.

7. Effective Date

The Commission proposed that the amendments become effective 30 days after publication of a final rule. 64 FR 13139. As discussed in the preamble to the proposed rule, the standard detergent specified by the existing laundering method in the standard is no longer available. Thus the Commission believes that an effective date 30 days after publication of final amendments will be in the public interest. The Commission is not withdrawing or limiting the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA.

The Commission received no comments on the proposed effective date. The Commission continues to believe that an effective date of thirty days allows adequate notice to all interested persons of the change in laundering procedure, and at the same time assures 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.

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 certified that the proposed amendments to the mattress flammability standard would not have a significant economic impact on a substantial number of small entities, including small

businesses, if issued on a final basis. 64 FR 13140. The Commission has no information that would alter this determination.

2. Environmental Considerations

As discussed in the preamble to the proposed rule, the amendments 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 Commission has no information indicating any special circumstances in which these amendments may affect the human environment. Accordingly, the Commission determined that neither an environmental assessment nor an environmental impact statement is required. 64 FR 13140.

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 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, the amendments 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.

The Commission has also evaluated this rule in light of the principles stated in Executive Order 13132 concerning federalism, even though that Order does not apply to independent regulatory agencies such as CPSC. The Commission does not expect that the rule will have any substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

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 amends 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 paragraphs (b) (2) (i) through (iv) and by removing the undesignated paragraph

following (b) (2) (iv) to read as follows:

§ 1632.5 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," November 18, 1998.

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

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

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

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

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

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

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

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

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

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

14. Briefing Memorandum, from Ron Medford, AED, Office of Hazard Identificaiton and Reduction and Margaret L. Neily, Project Manager, ESME, to the Commission, "Final Rule Updating Standard Detergent and Laundering Procedures for Flammable Fabrics Act Standards," _____.

15. Memorandum from Martha A. Kosh, OS, "Comments on: Children's Sleepwear Laundering Procedures, Mattress Pads Laundering Procedures, Carpet and Rugs Laundering Procedures," June 1, 1999.

16. Memorandum from Gail Stafford, Directorate for Laboratory Sciences, to Margaret Neily, Project Manager,

"Response to Comments Received as a Result of the Notice of Proposed Rulemaking (NPR) for the Laundering/Detergent Update for the Flammable Fabrics Act Standards," October 25, 1999.