

**U.S. Consumer Product Safety Commission
LOG OF MEETING**

— EXCEPTED BY: PETITION
RULEMAKING ADMIN. PRCDG

— WITH PORTIONS REMOVED: _____

SUBJECT: Draft Notice of Requirements for Lab Accreditation for Children's Sleepwear Standards (16 CFR part 1615 and 1616) and staff recommendations for third party testing of children's sleepwear

DATE OF MEETING: November 1, 2010

LOG ENTRY SOURCE: Patricia Adair

DATE OF LOG ENTRY: November 4, 2010

LOCATION: Room 410 b/c Bethesda Towers

CPSC ATTENDEE(S): Robert "Jay" Howell, Hazard Identification and Analysis (EXHR); Cheryl Falvey, Office of the General Counsel (OGC); Patty Adair, Engineering Sciences (ES); Dale Ray, Economic Analysis (EC); Robert Franklin, EC; Philip Chao, OGC; Mary Boyle, OGC; Harleigh Ewell, OGC; Mary Toro, Office of Compliance (OC); Marilyn Borsari, OC; Neal Cohen, Acting Small Business Ombudsman; Meredith Mallory, Office of Commissioner Anne Northup (COAN); Joe Martyak, Office of Commissioner Nancy Nord (CONN); Patsy Semple, CONN; Jana Fong-Swamidoss, Office of Commissioner Robert Adler (CORA); Michael Gougisha, Office of Commissioner Thomas Moore (COTM).

NON-CPSC ATTENDEE(S): Steve Lamar, American Apparel and Footwear Association (AAFA); Rebecca Mond, AAFA; Sean Oberle, Product Safety Letter; David Schmeltzer, Consumer Product Safety Consultant; Phil Wakelyn, Wakelyn Associates (consultant); Jim Neill, Retail Industry Leaders Association (RILA). Participating by conference call: Tom Hill, Polo Ralph Lauren; Hardy Poole, National Textile Association; Margorie Glenn, Gerber Childrenswear; Jen Hargrave, Bureau Veritas; Ellen Roaldi, Bureau Veritas; Ann Travaro, Russell Newman Brands; Frank Citera, Greenberg Traurig LLP; Ben Divito, Specialized Technology Resources (STR); Laura Bernstein, Candlesticks, Inc; Suzanne Grifo,

Candlesticks, Inc.; Beth Ring, Sandler, Travis and Rosenberg P.A.; Rob Hunt, Skivvydoodles.

SUMMARY OF MEETING: CPSC staff met with the American Apparel and Footwear Association (AAFA) to discuss issues relating to the Section 14(a)(2) of the Consumer Product Safety Act, which requires manufacturers of any children's product subject to a children's product safety rule to submit product samples to a third party conformity assessment body accredited by the Commission to be tested for compliance with such rule, and based on the testing, certify that the product complies with the rule.

The draft Notice of Requirements (NOR) for lab accreditation to the children's sleepwear standards, which included the staff's draft recommendation for 3rd party testing of children's sleepwear, was sent to the Commission on October 27, 2010 for a ballot vote.

CPSC staff requested the meeting with AAFA to:

- (1) Explore with AAFA the extent to which their members who manufacture children's sleepwear were already having their products, which must meet applicable requirements of 16 CFR part 1615 and/or 1616, third party tested by an outside laboratory, and if testing is conducted by a third party lab, at what stage or stages outside testing was being conducted.**
- (2) Discuss the issue of laboratory capacity for 3rd party testing to 16 CFR part 1615/16 once the stay is lifted and children's sleepwear manufacturers must have their products tested for compliance by a 3rd party conformity assessment body accredited by the CPSC, and**
- (3) Discuss the staff's recommendation that 3rd party testing not be required for compliance to the "tight-fitting" exemptions or for the presence of the required labeling.**

The children's sleepwear standards require testing at three stages -- fabric testing, prototype testing and production testing. One AAFA member stated that most AAFA member manufacturers are sending their testing to a 3rd party laboratory at all three stages, although some companies are only 3rd party testing at the first stage and others are only 3rd party testing at the last stage. When asked about the timing between sending samples to a third party laboratory and

getting the results back, the consensus among manufacturers was 5-7 days turnaround, although that may go up to as much as 14 days, when Garment Production Unit (GPU) testing requires laundering. They noted that turnaround times may be longer during peak times, which are generally Oct - Dec. and April-July. None of the AAFA representatives raised any objections to CPSC requiring 3rd party testing of children's sleepwear at all three stages of testing to meet the statutory requirements of the CPSA.

With regard to the staff recommendation not to require measurements by a 3rd party laboratory to confirm compliance with the exemption for tight fitting garments, the group generally agreed that was appropriate and in keeping with a previous Commission decision to not require 3rd party testing to exemptions in 16 CFR part 1610. However, Rob Hunt (Skivvydoodles) stated that the Commission should require 3rd party to confirm compliance with the tight-fitting exemption, as he believes many manufacturers are selling "tight-fitting" sleepwear that does not comply.

AAFA was asked how much of the apparel and sleepwear industry they represent. Steve Lamar stated the association represents approximately 75-80 percent of the wholesale apparel industry but had no specific numbers for children's sleepwear manufacturers. He stated that two-thirds of their membership are small businesses; the remaining third are evenly split between large and medium-sized firms.

AAFA asked how the the children's sleepwear standards would apply to the proposed rule on Testing and Certification. Cheryl Falvey noted that the team continues to work on the proposed rule and is considering this issue.

Beth Ring (attorney) asked that CPSC update the information on the CPSC website regarding lifting the stay for general wearing apparel and noted that there is confusion in the industry with the notices of requirements. CPSC staff agreed that improvements should be made in this area.

Steve Lamar noted that AAFA has submitted comments on the NOR for 16 CFR part 1610.

Ms. Falvey told the group that the staff will brief the Commission on the staff's recommendations for 3rd party testing of children's sleepwear on November 3rd. The briefing will be a public meeting.