



United States
CONSUMER PRODUCT SAFETY COMMISSION
 Washington, D.C. 20207

BALLOT VOTE SHEET

TO : The Commission
 Sadye E. Dunn, Secretary

DATE: JAN 5 1999

FROM : Jeffrey Bromme, General Counsel *JB*
 Stephen Lemberg, Assistant General Counsel *SL*

SUBJECT: Final Technical Changes to Sleepwear Standard and
 Clarification of Enforcement Policy

BALLOT VOTE DUE _____

Attached is a briefing package recommending that the Commission issue three technical changes to the flammability standards for children's sleepwear that would clarify where garment measurements should be taken to determine if they meet the exemption for tight-fitting garments. A draft Federal Register notice finalizing these changes is at Tab J. The staff also recommends that the Commission finalize a change to the enforcement policy published with the sleepwear standards. This change would clarify that tight-fitting and infant garments may be marketed with traditional flame resistant sleepwear. A draft Federal Register notice finalizing this change is at Tab L.

Please indicate your vote:

A. Technical Changes

1. Approve the Federal Register notice finalizing three technical changes to the flammability standards for children's sleepwear as drafted.

 Signature

 Date

NOTE: This document has not been reviewed or accepted by the Commission.

CPSA 6 (b)(1) Cleared

No Mfrs. Products Identified
 Excepted *Products*

C. Take other action (please specify): _____

Signature

Date

Attachment



BRIEFING PACKAGE

CHILDREN'S SLEEPWEAR FLAMMABILITY STANDARDS

**Analysis of Public Comments on
Proposed Technical and
Enforcement Policy Amendments
and**

FINAL RULES

For Further Information Contact:
Margaret L. Neily, Project Manager
Directorate for Engineering Sciences
(301) 504-0508

NOTE: This document has not been
certified for release by the
Directorate for Engineering Sciences.

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by Mrs./Prvt/Blk
is identified

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United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

MEMORANDUM

DATE: JAN 5 1999

TO : The Commission
Sadye E. Dunn, Secretary

Through: Jeffrey S. Bromme, General Counsel *J. Bromme*
Pamela Gilbert, Executive Director *PG-*

FROM : Ron Medford, Assistant Executive Director *RUM*
Office of Hazard Identification and Reduction
Margaret L. Neily, Project Manager, ESME *M*
504-0508 Ext. 1293

SUBJECT: Children's Sleepwear Flammability Standards Technical
and Enforcement Policy Amendments--Analysis of Public
Comments and Proposed Final Rules

I. INTRODUCTION

On May 21, 1998, the Commission proposed in the *Federal Register* certain amendments to the Flammability Standards for Children's Sleepwear. A table in the proposed amendments was corrected by another *Federal Register* notice on June 11, 1998. **(Tab A)** This briefing package provides the Commission with the staff analysis and response to public comments received on the Notice of Proposed Rulemaking (NPR). The proposed changes corrected the definition of "tight-fitting garment" by clarifying garment measurement points. Copies of the public comments are in **Tab B**.

At the same time, the Commission also proposed to amend the sleepwear enforcement policy statements to allow certain infant garments and "tight-fitting" garments to be marketed and promoted with other complying sleepwear. **(Tab A)** This briefing package provides staff analysis of the one public comment received on the proposed policy clarification. A copy of the comment is in **Tab B**.

The briefing package updates injury data associated with garments worn for sleeping and provides new information on industry production and marketing of snug-fitting sleepwear.

NOTE: This document has not been

CPSA 6 (b)(1) Cleared

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II. TECHNICAL AMENDMENTS

After an extensive review of design and production problems reported by the industry, the staff concluded that strict adherence to the measurement points currently described in the standards produce impractical, unwearable garments. With slight changes in the standards, however, comfortable, practical snug-fitting garments could be produced. In May 1998 the Commission proposed for public comment several technical amendments to clarify the location of garment measurements to be made on tight-fitting sleepwear exempted from the flame resistance requirements of the sleepwear standards.

A. BACKGROUND AND CURRENT STATUS

1. Fire Incident Data

In the April 1998 briefing package on the proposed technical amendments, the staff gave a summary of in-depth investigations (IDIs) involving clothing-related thermal burn injuries to children under 15 years old from 1993 to 1997. To update these hazard patterns in children's sleepwear-related thermal burn incidents, the staff reviewed seven additional IDIs describing incidents that occurred during calendar year 1998. None of the incidents involved garments either listed as Nightwear (product code 1644) or worn as sleepwear, according to the IDI. The conclusion from the earlier report remains the same: none of the in-depth investigations collected since 1993 involved "stay of enforcement" garments or garments exempt from current sleepwear flammability standards (certain tight-fitting garments and garments sized for infants 9 months old and under). "These investigations also revealed that the most frequent and severe sleepwear-related thermal burn injuries involved oversize, loose-fitting T-shirts". (Tab C)

2. Marketing/Economics

The American Apparel Manufacturers Association (AAMA) continues to express concern over the dimensions required of exempted tight-fitting children's sleepwear. The AAMA's concerns center on difficulties in production to these dimensions, and state that consumers will not accept the products because the sleepwear would be too tight for comfort.

To conduct a preliminary evaluation of consumer acceptance of the exempted sleepwear, the CPSC staff contacted six manufacturers. (Tab D) Each of these was optimistic about the market for these products. Further, the manufacturers estimate that tight-fitting cotton sleepwear now accounts for 20-25 percent (or more) of total children's sleepwear sales.

These manufacturers also stated that there were initial design and production difficulties in manufacturing to these dimensions. Design difficulties were most often addressed through the substitution of fabrics with differing stretch

characteristics. The firms also reported that other firms entering the market for these garments are adapting the styles and fabrics of firms which are already producing and selling garments. They stated that there were perhaps five firms producing exempted garments last year, and that currently there are "1-2 dozen or more."

The AAMA was also concerned about returns of products from dissatisfied customers. The manufacturers we contacted reported "little or no" returns. CPSC staff also contacted the two largest retailers of children's sleepwear. These firms stated that producers would not be aware of customer returns for months, until retailers charged-off returned items from their payments to manufacturers. The retailers stated that these sleepwear returns were at about 5 percent, which they described as a relatively high level. However, one manufacturer, which has produced exempted children's sleepwear for over a year reported "negligible" returns.

3. Consumer Information and Education Programs

While there is still no formal industry coordination of consumer information efforts, there is consistent labeling of snug-fitting sleepwear by manufacturers and, in some cases, in-store signs and supporting information programs implemented by retailers. These activities are discussed in more detail in response to comments later in this paper. (Tab E) In addition, the Commission issued a press release and video news release on November 19, 1998, focusing on the risk of using oversized T-shirts for sleepwear. (Tab F)

B. ANALYSIS OF PUBLIC COMMENTS

On May 21, 1998, the Commission published a Notice of Proposed Rulemaking proposing technical changes to the definition of "tight-fitting" garment in the Standards for the Flammability for Children's Sleepwear. The NPR invited written comments on the proposal as well as on a proposed clarification of the enforcement policy published at the same time. The Commission received six written comments in response to the NPR from:

- Industry or trade groups (2),
- Manufacturers/marketers (3), and
- Public interest group (1).

Nine related comments were sent separately from:

- Hospitals/burn centers (3),
- Public interest groups (2), and
- Fire/emergency groups (4).

One comment on the enforcement policy clarification came from a trade association. Copies of these comments are included in Tab B. During the comment period, the Office of Compliance also received several oral inquiries from the industry requesting clarification of requirements for short sleeves given the

proposed change in measurement location for the upper arm. This is addressed in the response to comment number 15 below.

1. The proposed amendments are an improvement.

Comment: American Marketing Enterprises, Inc., an importer of childrenswear, commented that they agree with the recommendations of the staff to a certain extent. Similarly, the National Cotton Council (NCC), representing cotton producers, believes the proposed technical changes are an improvement.

Response: Garments on children observed by the staff while developing the proposed technical amendments demonstrated that comfortable, practical, snug-fitting sleepwear could be produced with these slight changes in the standards. (Tab E)

2. The 1996 amendments should be rescinded.

Comment: The Safe Children's Sleepwear Coalition (SCSC), a group formed in response to the Commission's decision in 1996 to exempt certain tight-fitting garments and garments intended for infants from the sleepwear flammability standards, commented that it opposes the 1996 amendments. SCSC stated its members "do not believe any technical changes to the amendments can make the new requirements for children's sleepwear effective" and thus "it would be counter-productive and misleading" to comment on specific measurement protocols. Rather, SCSC would like the Commission to rescind the 1996 amendments. The Commission also received nine other letters (apparently form letters) from hospitals, public interest groups, and fire/emergency groups asking that the Commission reconsider the 1996 exemption for tight fitting and infant garments.

Response: The purpose of the May 21, 1998, proposed rule was to propose necessary technical changes that would clarify the points where garment measurements should be made. The proposed rule has a very narrow scope. The comments of the SCSC and others mentioned above are responding to the broader 1996 rulemaking and are beyond the scope of the technical amendments proposed in the May 21, 1998, notice. (Tab E) However, the recent appropriations bill, Pub. L. 105-276, requires the Commission to propose for comment a revocation of the September 9, 1996, amendments to the standards and any subsequent amendments.

3. The promised consumer education campaign is inadequate.

Comment: Six letters received with comments related to the proposed technical amendments were critical of the consumer education campaign promised by the American Apparel Manufacturers Association at the time the exemption for tight-fitting sleepwear was published. These form letters (from hospitals, public

interest and fire/emergency groups) said that the "apparel industry has failed to agree on labeling or tight-fitting requirements or design and implement the promised educational campaign. ...it is virtually impossible for consumers to judge the relative safety of such sleepwear garments in the marketplace".

Response: These comments are beyond the scope of the proposed technical amendments, but the issue is an important one. AAMA has declined to initiate a comprehensive consumer information campaign as originally planned with a press conference. AAMA indicated that they are prepared to do so when the sleepwear amendments are final and they are satisfied that saleable, wearable, and comfortable snug-fitting garments can be produced.

In the meantime, AAMA is actively distributing the artwork for the hang tags and reproducing copies of the brochure developed to inform consumers about safety and the new snug-fitting sleepwear at the point of sale. Early in 1997, AAMA distributed the artwork and brochure information to 40 organizations (AAMA members, non-members, and other interested parties). Since March 1998, 13 companies have requested the artwork for the hang tags. Approximately 3,500 brochures have been distributed by a major retailer and two major AAMA member companies. (From a personal communication with Mary Howell, AAMA, November 17, 1998) On December 14, 1998, AAMA issued a holiday press release giving children's sleepwear safety tips about snug-fitting and FR sleepwear. **(Tab E)**

There is still no formal industry coordination of consumer information efforts at this time. However, at trade shows, meetings and other communications with industry members, the CPSC staff have encouraged the use of a consistent message on hang tags to facilitate consumer understanding. All known manufacturers of snug-fitting sleepwear are marketing their garments with the basic information from the AAMA hang tag. Some flame resistant garments also carry a version of this information. The label states "Fabric and fit are important safety considerations for children's sleepwear. Sleepwear should be flame resistant or snug-fitting to meet U.S. Consumer Product Safety Commission sleepwear requirements". Labels further state that the garment attached is either flame resistant or should be worn snug-fitting. Some retailers have expanded their use of this labeling to store displays and have informed their salespeople and customers through training courses and in-house publications. **(Tab E)**

In November 1998, the Commission issued a video news release warning about the use of loose-fitting garments, especially T-shirts for sleepwear. The press release is in **Tab F**. The VNR also described the safer alternatives available under the

existing sleepwear regulations--flame resistant and snug-fitting sleepwear--and the hang tags that commonly identify them in retail stores.

4. General industry standards should be used for measurements.

Comment: The J.C. Penney Company, a major retailer, commented that "the measurements proposed by the CPSC for sizes 7-14 are based on one university study, rather than generally accepted industry standards. Standards CS 53-48 (Girls) and CS 51-50 (Boys) should be the applicable measurement standards for children's sizes 7-14."

Response: This comment is beyond the scope of the proposed technical amendments. The standards recommended in the comment were incorrectly titled. The correct titles are CS 153-48 (Girls) and CS 155-50 (Boys). However, these are not the latest versions of the National Bureau of Standards (NBS) sizing standards. They were last updated in 1970 and 1972 (before the NBS was renamed the National Institute of Standards and Technology) and designated NBS Voluntary Product Standards PS 54-72 (Girls) and PS 36-70 (Boys).

The snug-fitting dimensions for sizes 7-14 in the children's sleepwear standards are based on these current standards and the data from the University of Michigan study "Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design." The majority of the CPSC snug-fitting dimensions match those of the NBS standards.

During an April 25, 1995 meeting with CPSC staff, sleepwear industry representatives indicated that they do not adhere to any consistent sizing standards. Therefore, CPSC staff developed the snug-fitting dimensions from the most current and reliable data available that pertain to typical body dimensions of children. (Tab G)

5. The upper arm dimension is too tight.

Comment: Two commenters requested an increase in the upper arm dimensions of the snug-fitting requirements. Gap, Inc., a garment producer and retailer, recommends an increase of 1/4 inch in upper arm dimensions of baby garments from size 9 months to 36 months (or size 3T) to improve comfort and fit. The American Apparel Manufacturers Association (AAMA), a large trade association of the apparel industry, recommends all upper arm measurements be increased 2 inches. AAMA disagrees with Commission staff conclusions that saleable, wearable, and comfortable garments can be produced with current upper arm dimensions.

Response: The staff is not persuaded that an increase in upper arm dimensions is needed to produce comfortable, functional garments. Previous presentations from AAMA in 1997 requesting an additional 2 inches in the upper arm dimension were based on garments made with popular interlock fabrics that only had 55% stretch. No further technical support was provided with this most recent recommendation, and no substantiation was provided for the claim that such an addition to the upper arm dimension would not affect safety.

Fabrics with inadequate stretch are not appropriate for use in this style of garment where the fabric must be worn in the stretched condition. The best fabrics available for the 1997 staff observations worked well in this snug-fitting style with 65% - 85% stretch. Some of the newer fabrics being introduced to the snug-fitting sleepwear market since July 1998 stretch over 100% of their original dimension. This is more than enough to ensure comfort and accommodate a child's arm motion. Even the additional 1/4 inch increase in the upper arm dimension proposed by Gap appears unnecessary under these circumstances. (Tab E)

While AAMA believes that saleable garments cannot be produced with current upper arm dimensions, manufacturers estimate that snug-fitting cotton sleepwear now accounts for 20-25% of total children's sleepwear sales. By these figures, there is a significant market for these garments. Manufacturers contacted by the staff were optimistic about this market. (Tab D)

6. Measurement method for upper arm should be simplified.

Comment: Several commenters suggested that the current method for measuring the upper arm (three steps) is complicated and should be reduced to two. J.C. Penney, a major retailer, comments that the "upper arm measurement is too complicated for factory inspection and will lead to controversy between manufacturers, retailers and CPSC enforcement staff". They, along with AAMA, suggest measuring down the under arm seam 2 inches for infants and toddler sizes (12 mos. to 4T) and 3 inches down for sizes 4 to 14 before measuring the upper arm. Gap also suggests a measurement along the underarm seam as easier to follow and less prone to error.

Response: The staff recognizes that the measurement method for the upper arm is more complicated than for other typical garment dimensions measured by the industry. This is because the upper arm of the body is defined as a point between the shoulder and the elbow. Sleeves do not have elbows; and since some sleeve designs do not have a defined shoulder, the shoulder was defined by a logical extension of the side seam. The location of the upper arm can then be measured down the sleeve according to average body dimensions for each size. The CPSC staff

observations described in the April 1998 briefing package showed this method to produce a fairly accurate match with the upper arm of the children wearing the garments.

AAMA and the Gap suggested an easier way to measure the upper arm--a specified distance along the underarm sleeve seam. CPSC staff evaluated a large sample of snug-fitting garment styles to determine the impact of the simplified measurement method. Because the style of the sleeves varied, so did the location for the upper arm to be measured by the suggested method. In some cases, the upper arm would be measured further down the sleeve than where the child's upper arm is, allowing the sleeve to be larger or fuller for more of the sleeve than currently specified. In other cases, the measurement would be closer to the armhole than measurement by the current proposed amendment. This would create even more restrictions in the upper sleeve design, already the area offering the greatest design challenge to manufacturers.

The staff does not recommend this change. Even with the dimensional restrictions of the snug-fitting requirements, garment styles vary considerably. The staff suggests that manufacturers could, for various sizes of a particular style, determine the distance(s) down the underarm seam(s) that coincide with the point(s) where the measurement should be made by the standard method. This could provide the simplicity of the industry measurement proposals and the accuracy and maximum allowance for the upper arm dimension provided by the standard method. Because of style variations among garments and manufacturers, CPSC would continue to use the standard method for measuring the upper arm. (Tab E)

7. Diaper/training pant ease is needed in the seat measurement.

Comment: One commenter, J.C. Penney Company, notes that the standard garment dimensions do not allow for diaper or training pant ease (an increase in the width of the garment in the seat area). An allowable increase in the rise (the length of the garment in the seat area) produces ill-fitting garments.

Response: This comment is beyond the scope of the proposed amendments of May 21, 1998. The issue was discussed thoroughly in earlier briefing packages on the original amendments. For garments made of woven fabrics or knits with little or no stretch, extra fabric or ease in the seat is absolutely necessary for a practical, wearable garment. However, with the use of fabrics that stretch adequately for this style of garment (85 to 100% stretch), diaper ease is absolutely unnecessary. This photo from the 1998 staff observations illustrates the point with a garment that meets the standard dimensions measured as proposed

in the May 1998 NPR. The rib knit fabric used in this size 2T garment has 80-85% stretch. (Tab E)



Room for Diapers
Observation Garment 2, Size 2T

8. Measure thigh $1\frac{1}{2}$ in down inseam instead of 1 inch.

Comment: AAMA recommended that the thigh measurement be taken $1\frac{1}{2}$ inches below the crotch seam for all sizes instead of 1 inch. Although no specific justification was given for this recommendation in this comment, AAMA designers provided rationale in an August 14, 1997, phone conference. They indicated that because of the changing dimension of the pant in this area, the lower measuring point would help with getting the correct stride in the pant.

Response: The staff is not persuaded to change this measurement point further. In developing the proposed technical amendments, the staff received input from a wide variety of

industry contacts, including childrenswear and actionwear design instructors. They indicated that it is typical industry practice to measure the thigh 1 inch down on the inseam. In August 1997, when AAMA members originally made this recommendation, they were still trying to design snug-fitting garments with interlock knits with inadequate stretch for this garment design. CPSC staff observations in 1998 showed that snug-fitting sleepwear on children could be made well following the industry practice of measuring 1 inch down the inseam. Again, the fabrics used in these successful observation garments had considerable stretch (65-85%). (Tab E)

9. Hourglass silhouette is needed for a top to fit properly.

Comment: Two commenters requested that the bottom sweep (hem of the top) of a two piece garment be increased to the standard seat dimension rather than the waist dimension. Examples given by the J.C. Penney Company showed that the sweep of various sizes of boys and girls garments would have to stretch 14 to 28% of their original dimension to fit the hip. They noted other problems from their perspective: (1) a questionable pajama silhouette, (2) difficulty pulling the top over the head and shoulders, (3) the sweep would ride up to the waist with body movement, and (4) the fabric would be stretched loose (wrinkled) around the chest and waist.

Gap expressed similar concerns about the exaggerated undersizing of the sweep to the waist dimension, especially when factories are already manufacturing garments toward a negative "tolerance". They observed bunching as the garment rides up towards the waist and are concerned that this is a safety hazard. They propose that the sweep be less than or equal to the standard seat dimension for girls sizes 7 to 14 and toddler sizes 2XL and 3XL (similar to 2T and 3T in the standards) for reasons of comfort and fit.

Response: The snug-fitting garment silhouette is very different than the silhouette consumers have come to expect for pajamas. One reason the Commissioners wanted the industry to move forward with the consumer education campaign was to help consumers make the necessary adjustment in their expectations. These snug-fitting garments should be viewed realistically and appreciated for the safety of their design.

CPSC staff observed a variety of snug-fitting garments made of different fabrics and by different manufacturers during the development of the proposed technical amendments. None of the child models or parents, in the case of the infant, had difficulty putting on or removing the garments made to the proposed technical amendments.

The sweep is one of several dimensions for which commenters requested increased dimensions to improve fit and comfort. The sweep sized to the standard waist dimension has no problem stretching to fit the larger hip, if made of fabrics that stretch adequately. Even if the sweep is undersized one inch in production (the Gap's concern), the J.C. Penney examples discussed above must still only stretch approximately 14-28% of their original dimension. This is a small portion of the available stretch of the fabric.

During the proposal development, several manufacturers thought the hourglass silhouette option might be helpful for larger girls sizes where the seat is considerably larger than the waist, but not helpful for other sizes. The staff included the hourglass option in the observations because it had the potential to reduce fabric bunching at the waist and/or produce a more functional garment.

For the CPSC staff observations, a girls size 12 garment was constructed with a conservative hourglass silhouette; the sweep was equal to the smaller chest dimension required by the standard rather than the larger seat dimension. The top of the garment fit nicely while the model stood still; however, when she raised her arms or moved during the observation, the sweep flared away from the body significantly, exposing the bottom edge of the garment.

All of the garments observed on children by the staff showed some wrinkling or bunching of fabric at various points, most commonly around the waist, knees and elbows. None of the pajama tops pulled up to the waist as anticipated. The concept of snug-fitting was readily defeated with the flaring of the sweep of the hourglass silhouette in the 2-piece garment. For this reason, the staff did not recommend this option in the May 21, 1998, proposal and does not recommend it now. (Tab E)

10. Manufacturing, sewing tolerances are still needed.

Comment: Three commenters supported the addition of sewing tolerances to the standards. American Marketing Enterprises, Inc., commented that tolerances are currently used during sewing and manufacturing of knit garments. "It is impossible to not have 'plus or minus' tolerances in a size specification." "... CPSC's policy ... only minus tolerances are allowed." Manufacturers are forced to undercut these already snug fitting garments which results "in substandard garments". Not allowing for both a positive and negative tolerance is "asking the trade to operate outside of the normal manufacturing procedures".

The American Apparel Manufacturers Association commented that their manufacturers have to undercut garments to comply with the published measurements. "This yields a garment that is too

tight and will force the consumer to buy a larger size creating new safety hazards from garments that are too long."

The National Cotton Council "strongly believes that there is a need for a sewing tolerance".

Response: The CPSC staff recognizes that "plus or minus" tolerances are normally used in the production of all garments and allow for permissible variations to the pattern specifications that can occur during cutting or sewing of the garment. However, a production tolerance that increases the garment dimensions specified in the sleepwear standards, would result in a less than snug-fitting sleepwear garment. The snug fit is important because the ease of ignition increases when the wearer's clothing stands away from the body. Without a snug fit, if ignition occurs, the oxygen under the garment and the absence of a heat sink increase the opportunity for sustained burning.

The garment dimensions specified in the standard are maximum dimensions for the seven body locations indicated. Manufacturers are allowed to sell snug-fitting sleepwear garments as long as the garment dimensions for a specific size are not exceeded. Knit fabrics are available with a sufficient degree of stretch that even if the manufacturer undercuts the fabric somewhat, the garment still fits the intended size child.

Snug-fitting sleepwear garments acceptable to consumers have been available for purchase since the fall of 1997. Manufacturers are able to produce acceptable sleepwear garments through the selective use of specific knit fabrics that allow for necessary stretch and recovery. These garments hug the body. Through careful planning before and during the manufacturing process, manufacturers build in acceptable tolerances to the pattern so that the finished garments will meet the required specification after assembly. (Tab H)

11. Shrinkage tolerances are necessary.

Comment: The National Cotton Council "strongly believes that there is a need for a ... 5% shrinkage tolerance".

Response: The amount of shrinkage that occurs in a garment varies and is dependent on the fiber type (or types in the case of blends), quality of fiber, fabric construction and weight, method of manufacture, type of finishing process, and subsequent laundering conditions. The amendments to the children's sleepwear standards do not specify a particular fiber or fabric; therefore, manufacturers may choose among a variety of fiber contents, fabric constructions, etc., for snug-fitting garments. A 5% tolerance for shrinkage may not be needed for all fabrics. Those garments with less than 5% shrinkage would be less than snug-fitting because they would exceed the maximum dimensions

after laundering. In addition, with laundering required before measurements could be taken, it would be burdensome and impractical for CPSC staff and others to determine compliance at the retail or manufacturing levels. (Tab H)

Difficulties in controlling shrinkage were previously cited by industry members as reasons for allowing positive manufacturing tolerances. Manufacturers of successful products this fall are using several methods to control the shrinkage of their snug-fitting garments: fabric compacting, garment washing, and fabrics made of more stable cotton/polyester blends. (Tab E)

12. General comments on fit problems and consumer preference.

Comment: The National Cotton Council commented that the proposed amendments "do not go far enough in correcting the garment fit problems and could be further improved without affecting the safety provided by the standard". The Safe Children's Sleepwear Coalition (SCSC), a group objecting to the tight-fitting exemption, is concerned that any changes may not help the situation because they believe parents will purchase larger sizes and defeat the tight-fit intended by the rule.

Response: Neither commenter provided data or other evidence to support their position. CPSC staff observations from fittings with real garments and children were reported in April 1998. These showed that comfortable, functional garments that fit the size child intended can and are being produced with the measurement clarifications proposed. (Tab E) As noted earlier in this paper, consumer acceptance of these snug-fitting garments has resulted in their representing 20-25% of total children's sleepwear sales, a significant portion of the market. (Tab D)

13. The chest should be measured 1 inch below the armpit.

Comment: Gap proposes that the chest measurement be taken 1 inch below the armpit to armpit line. "Because the armpit is a sewing point, the garment is prone to stretching in this area, compromising the accuracy of the measurement. The one inch modification will eliminate this inaccuracy".

Response: This comment is beyond the scope of the proposed amendments. Although other industry members have previously mentioned that this measurement could be shifted to 1 inch below the armpit, none indicated that it was troublesome to have the chest measured at the armpit. For that reason, it was not included in the staff observations of snug-fitting garments for developing the proposed technical amendments. During the CPSC fittings reported in April 1998, the staff observed no problems with fit or function with garments made with chest measurements determined at the armpit. (Tab E)

14. Guidance on enforcement sample size and tolerance is needed.

Comment: Gap Inc., a manufacturer and retailer of children's wear, indicates that clarification of CPSC's enforcement policy is necessary to further set quality assurance guidelines. This is important because of the high variability inherent in manufacturing knitted products. Specifically, they request sample size and tolerance to be used in enforcement testing.

Response: Measurements defined in the tight-fitting amendments to the sleepwear standards refer to maximum dimensions at specified locations on garments. There are no positive tolerances specified in the proposed amendments. The staff will consider enforcement of these measurements on a case by case basis, and the staff will exercise enforcement discretion where appropriate. The staff will consider the overall compliance of the garments and may base enforcement actions on more than one garment and/or dimensions exceeding the maximum measurement, including the frequency and size of the dimensional difference(s). (Tab I)

15. Sleeve taper clarification is needed.

Comment: During the comment period for the NPR, the Compliance staff received several inquiries and comments from the industry regarding the design and style of short sleeves and their acceptability under the definition of tight-fitting garments. Several industry representatives requested clarification about the required tapering of a sleeve that is shorter than where the upper arm is to be measured. (Tab I)

Response: With the proposed technical changes (May 21, 1998), the upper arm measurement point was moved from the armpit to a location that more closely approximates the true upper arm of a child wearing the garment. The proposed location (approximately one quarter length down the sleeve) is the midpoint between the shoulder and the elbow. The maximum upper arm dimensions remain unchanged.

The original amendments of September 1996 (§1615.1(o)(3) and §1616.2(m)(3)) define sleeves of a tight-fitting garment "which diminish in width gradually from the upper arm to the wrist". The upper arm of the garment was measured from the arm pit. However, in the proposed technical amendments, the upper arm measurement is made further down the sleeve. The change, if interpreted literally, allows for short or cap sleeves on garments that could realistically end at a point above where the upper arm measurement is to be made.

To avoid flaring sleeves and maintain the desired safety of the tapering sleeve silhouette, the language describing the sleeve should be changed to "which diminish in width gradually from the top of the shoulder (point G in diagram 1 of 1615.1(0) and 1616.2(m)) to the wrist". If a short sleeve ends before the location of the upper arm measurement, the sleeve should still taper (rather than flare) toward the wrist along the same lines as a long sleeve. This clarification reflects the original intent of the amendment. (Tab I)

C. DISCUSSION AND CONCLUSIONS

1. Proposed Amendments

The purpose of the technical amendments is to make it possible for manufacturers to produce comfortable, practical snug-fitting children's sleepwear. Those in the industry who have chosen to design and market snug-fitting sleepwear have made continuing progress in their efforts to employ appropriate (stretchable and shrinkage-controlled) fabrics and to adjust pattern designs, production processes, and marketing strategies for this demanding style. As mentioned earlier in this paper, since the Commission's Stay of Enforcement in 1993, the snug-fitting cotton sleepwear market has grown to 20-25% (or more) of total children's sleepwear sales. Also since the 1993 Stay of Enforcement, no burn incidents have been identified involving these snug-fitting garments.

2. Regulatory Analysis

The changes recommended by the staff do not change the garment dimensions specified, but rather where those dimensions are measured. These changes are intended to result in more comfortable garments and to make construction of garments to the dimensions of the exemption easier for manufacturers without sacrificing the snug-fitting safety benefits. These revisions are not expected to have any adverse effect on manufacturers, consumers, or other parties.

Due to the nature of the revisions, they are unlikely to have any adverse impact on small businesses or other entities. Garments that comply with the measurements as specified by the September 1996 sleepwear standard amendments also comply with the proposed revisions. The proposal would have no significant adverse effects on costs or prices of children's sleepwear, or on the competitive position of small manufacturers.

The revisions are not expected to have a significant effect on the materials used in the production or packaging of children's sleepwear, or in the amount of products discarded after the revisions. Therefore, no significant environmental

effects will result from the proposed revisions to the location of measurement of exempted sleepwear garments. (Tab D)

3. Effective Date

As stated in the NPR, the staff believes that an effective date 30 days after publication of final amendments will be in the public interest. The staff stated in the May 1998 NPR that manufacturers could use the proposed points of measurement in making garments, and the staff would not take any enforcement action.

D. RECOMMENDATION

The staff recommends that the Commission issue the technical amendments clarifying garment measurement points as proposed, including the further clarification of the sleeve taper, as noted in the draft FR notice at Tab J. The effective date would be 30 days after publication of the final amendments.

III. ENFORCEMENT POLICY CLARIFICATION

After the Commission amended the sleepwear standards in September 1996 to exempt certain infant size and tight-fitting sleepwear garments from the sleepwear standards, some manufacturers expressed their concern about the statements at 16 CFR 1615.64(d) and 1616.65(d). These statements suggest segregation at the point of sale of items covered by the children's sleepwear standards (flame resistant garments) from other fabrics and garments that are beyond the scope of the sleepwear standards (such as the exempted garments).

Garments sized nine months and under and tight-fitting garments in sizes above nine months can now be sold and used as sleepwear. On May 21, 1998, the Commission proposed to modify the enforcement policy to allow these garments to be marketed and sold as sleepwear along with complying (flame resistant) sleepwear. (Tab A)

A. ANALYSIS OF PUBLIC COMMENT

The Commission received only one comment on the proposed clarification during the public comment period.

Comment: The National Cotton Council, representing the cotton industry, strongly supports the clarification of the segregation policy. "This is necessary because it would be confusing to the consumer not to allow all complying sleepwear to be similarly marketed and promoted as sleepwear". (Tab B)

Response: The Commission staff shares the opinion of the National Cotton Council. The enforcement policy should allow all complying (flame resistant sleepwear) and exempted sleepwear (infant sleepwear sized nine months and under and tight-fitting sleepwear) to be marketed/sold together as sleepwear. (Tab K)

B. RECOMMENDATION

The Commission staff recommends finalizing the enforcement policy changes as proposed, effective upon their publication in the *Federal Register*. (The minimum effective date of 30 days required by 5 U.S.C. 553(d) is not applicable to statements of policy.) A draft *Federal Register* notice for the final rule is attached at **Tab L**.

Tab A

not limited to considerations of aviation noise.

The FAA is charged with the responsibility to maintain a safe and efficient national airspace system. The FAA fosters compatible land use planning both to facilitate access to airports commensurate with the demands of air commerce and to abate the aviation noise effects in the airport vicinity. Even though the Federal government lacks the authority to zone land, the FAA may use its influence to encourage compatible land use in the vicinity of an airport. The agency exerts this influence through airport development grant agreements, environmental review requirements, grants for airport noise compatibility planning, and educational instruments on compatible land use planning. The FAA has issued guidelines for land use compatibility around airports to assist those responsible for determining land use. These guidelines are primarily contained in 14 CFR Part 150 and related guidance.

In January 1995, an FAA-sponsored Study Group on Compatible Land Use, which was composed of community, airport, and aviation representatives, produced a report with recommendations for Federal initiatives to promote compatible land use planning and controls around airports. The group's recommendations included the following concepts:

- Provide direct Federal funding through the Airport Improvement Program (AIP) to non-airport sponsors who have land use planning jurisdiction;
- Encourage cooperative agreements between airport sponsors and communities;
- Revise FAA regulations in Part 150 or supporting guidelines to recognize and publicize successful land use compatibility concepts, encourage more effective public participation and encourage innovative land-use control techniques;
- Strengthen the linkage between Part 150 noise compatibility programs and existing Federal programs that reinforce land use planning, such as Federal Housing Administration and Department of Veterans Affairs policies not to accept properties in high-noise areas for mortgage insurance.

The FAA has implemented portions of these recommendations. These ideas are presented here only to stimulate thought for additional ideas.

Request for Comments

The FAA is soliciting comments on any concepts that might serve to promote compatible land use planning

by state and local authorities and to discourage development of noncompatible land uses around airports. The FAA is particularly interested in bold, innovative, and creative options that could be implemented quickly to discourage development of noncompatible land uses, as well as long-term solutions. Comments that provide a factual basis for the suggestions are particularly helpful. The more specific the suggestions for FAA action, the better. Ultimately, any process should achieve long-term cost avoidance for all levels of government.

The FAA will review information from public comments and other sources to identify methods that might assist State and local governments in achieving and maintaining land use compatibility around airports. Further action would depend on the nature and scope of the methods identified.

Communications should identify the notice docket number and be submitted in triplicate using one of the media specified in the ADDRESSES paragraph above. All communications will be filed in the docket. The docket is available for public inspection both before and after the closing date for receipt of comments.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. [29231]." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Issued in Washington, D.C. on May 15, 1998.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 98-13577 Filed 5-20-98; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

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

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed technical changes.

SUMMARY: The Commission proposes to amend the flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14 to make several

technical changes that would correct the definition of "tight-fitting garment."¹ The proposed changes will clarify the points where garment measurements should be made.

DATES: Written comments concerning this proposed amendment are due no later than August 4, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone: (301) 504-0800 or delivered to the Office of the Secretary, room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments should be submitted in five copies and captioned "Sleepwear." Comments may also be filed by telefacsimile to (301) 504-0127 or by email to 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) 504-0550, extension 2354.

SUPPLEMENTARY INFORMATION:

A. Background

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

In 1973, responsibility for administration and enforcement of the FFA was transferred to the Consumer Product Safety Commission by provisions of section 30(b) of the Consumer Product Safety Act, 15 U.S.C. 2079(b). In 1974, the Commission issued a flammability standard for children's sleepwear in sizes 7 through 14, to become effective in 1975. The tests in that standard are substantially the same as those in the standard for children's sleepwear in sizes 0 through 6X. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR Part 1616.

Both standards require that test specimens must self-extinguish when exposed to a small open-flame ignition source. Self-extinguishing fabrics and garments are those that stop burning when removed from an ignition source.

¹ The Commission voted to issue the proposed changes 2-0. Commissioners Mary Gail and Thomas Moore voted in favor of issuing the proposed rule. Chairman Ann Brown abstained.

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

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

The Commission found that such tight-fitting sleepwear did not present an unreasonable risk of injury. Rather, the Commission's information showed that sleepwear incidents occurred with loose-fitting garments such as nightgowns. A review of literature for that amendment showed that fit can influence garment flammability. Garments that fit close to the body are less likely to catch fire in the first place and less likely to allow heat to develop between the fabric and the body, thus decreasing the likelihood of thermal injury. *Id.* The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards as they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However, the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 1, 1998. 62 FR 60163.

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

B. Statutory Provisions

The FFA provides that the Commission can issue or amend a flammability standard when the standard may be needed to protect the public from an unreasonable risk of the

occurrence of fire leading to death, injury or significant property damage. 15 U.S.C. 1193(a).

Section 4(g) of the FFA, states that a proceeding "for the promulgation of a regulation under this section" shall be initiated by publication of an advance notice of proposed rulemaking ("ANPR"). 15 U.S.C. 1193(g). That section requires that the ANPR identify the product and the nature of the risk at issue; summarize the alternatives under consideration; provide information about existing relevant standards; and invite interested persons to submit comments on the ANPR. *Id.*

Due to the technical nature and narrow scope of this proceeding, an ANPR conforming to the requirements of section 4(g) would be of no value to the public or the Commission. This proposed amendment would simply correct errors in the previous amendments to the children's sleepwear standards. The only change that would result if this amendment were to be issued in final is that some locations on sleepwear garments would be measured in a slightly different place to determine whether they could be exempt as tight-fitting garments. Thus, the Commission is initiating this rulemaking ("NPR") rather than an ANPR.

C. Proposed Amendments

1. Need for Technical Changes

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

Industry members told CPSC staff of other manufacturing problems they were having with making tight-fitting sleepwear. On June 4, 1997, an industry task force presented the staff with recommendations for producing cotton garments. They suggested a new set of garment dimensions as well as revised points of measurements. Most dimensions were larger than those in the Commission's standard. The staff

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

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

2. Observations

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

One garment that met the current tight-fitting requirements was included. It proved to be impractical for several reasons. Measuring the upper arm from the arm pit produced an armhole too small to be comfortable and made it

impossible for a child to remove the garment top without assistance. The points of measurement for the thigh and seat resulted in pants that were unnecessarily tight in these areas. This tightness would also tend to further restrict the fabrics that could be used.

The garments made according to measurement locations contemplated by the staff appeared to be wearable, comfortable and suitable for sleeping and play. Children (or parents of smaller children) had no problems putting the garments on or removing them. The children's bodies remained covered when they moved about. The fabrics' stretch accommodated leg and arm movements so the children were able to bend, squat, run and roll. The children reported no discomfort sleeping in the garments overnight.

3. Substance of Changes

Measurement of Upper Arm

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

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

To determine the appropriate point for the upper arm measurement, the staff considered available sizing and body measurements. For sizes 9 months through 6x the staff based its calculations on the arm lengths given in ASTM standards D4910-95a and D5826-95. Currently there is no ASTM standard for body measurements for sizes 7 through 14. Therefore the staff based its calculations for these sizes on the 1977 anthropometric study of U.S. children conducted by the University of Michigan.

Measurement of Seat

The 1996 sleepwear amendments state that the seat should be measured

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

Originally, the staff considered measuring just above the curve in the crotch seam, some specified number of inches above the bottom of the crotch. A different distance would be specified for groups of sizes, e.g., 2½ inches above the bottom of the crotch for infant sizes.

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

Measurement of Thigh

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

Sweep

The staff also considered whether any change should be made to the sweep of the top of a two-piece garment. The existing standard provides that the sweep must be equal to or less than the waist dimension. This is specified in the notes to the chart specifying where to measure the waist ("on two-piece garment, measure width at the bottom of the upper piece, and the top of the lower piece."). The staff considered also allowing an hourglass silhouette that

essentially is allowed now for one-piece garments. However, the observations showed that such an hourglass shape for a two-piece garment could create extra loose fabric around the waist after a child has raised her arms. That is, after a child is moving around the top would ride up to the waist creating loose fabric. Thus, the Commission is not proposing to make any changes to the sweep of the garments.

D. Effective Date

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

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

The Commission does not propose to withdraw or limit the exemption for products in inventory or with the trade as provided by section 4(b) of the FFA. The Commission notes that on December 9, 1996 the Commission staff issued an enforcement policy stating that it would exercise its enforcement discretion concerning the measurement of the upper arm between the shoulder and the elbow. Specific measurement points for each size were given in a table. Thus, manufacturers may currently use the table reproduced below in the proposed amendments when measuring the sleepwear garment's upper arm. The other proposed technical changes are also minor in nature, simply changing the point of measurement. Thus, the Commission believes that a 30-day effective date once the changes have been issued as a final rule is appropriate. Manufacturers who wish to may use the proposed points of measurement in making garments, and the staff will not take any enforcement action. Of course, manufacturers may also continue to use the points of measurement specified in the 1996 amendments until any changes become effective.

E. Impact on Small Businesses

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

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

F. Environmental Considerations

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

The Commission's regulations state that amendments such as this one normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(3). The Commission has

no information indicating that this particular amendment would affect the environment. Therefore, the Commission determines that neither an environmental assessment nor an environmental impact statement is required.

G. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. These amendments, if issued in final, would slightly modify the flammability standards for children's sleepwear under the FFA. The FFA provides that, generally, when a flammability standard issued under the FFA is in effect, "no State or political subdivision of a State may establish or continue in effect a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire" as the FFA standard "unless the State or political subdivision standard or other regulation is identical" to the FFA standard. 15 U.S.C. 1203(a). A local standard may be excepted from this preemptive effect if: (1) the local standard provides a higher degree of protection from the risk of occurrence of fire than the FFA standard or (2) the State or political subdivision applies to the Commission for an exemption from the FFA's preemption clause and the Commission grants the exemption through a process specified at 16 CFR part 1061. 15 U.S.C. 1203(b) and (c).

Thus, the proposed amendments would modify the points specified for measuring garments exempt from the sleepwear flammability standards that preempt non-identical state or local flammability standards or regulations

which are designed to protect against the same risk of occurrence of fire as the FFA flammability standards for children's sleepwear.

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

List of Subjects in 16 CFR Parts 1615 and 1616

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

Conclusion

For the reasons stated above and pursuant to the authority of section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) the Commission proposes to amend 16 CFR parts 1615 and 1616 as follows:

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

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

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

2. Section 1615.1 is amended by revising paragraph (o) introductory text and (o)(1) to read as follows:

§ 1615.1 Definitions.

* * * * *

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

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

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 9-12 mos							
Maximum Dimension:							
Centimeters	48.3	48.3	48.3	14.3	26.7	10.5	13
(inches)	(19)	(19)	(19)	(5%)	(10½)	(4¼)	(5¼)
Size 12-18 mos							
Maximum Dimension:							
Centimeters	49.5	49.5	50.8	14.9	28.3	10.5	13.1
(inches)	(19½)	(19½)	(20)	(5¾)	(11¼)	(4¼)	(5¼)
Size 18-24 mos							
Maximum Dimension:							
Centimeters	52.1	50.8	53.3	15.6	29.5	11	13.6
(inches)	(20½)	(20)	(21)	(6¼)	(11¾)	(4¼)	(5¾)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 2							
Maximum Dimension:							
Centimeters	52.1	50.8	53.3	15.6	29.8	11.4	14
(inches)	(20½)	(20)	(21)	(6¼)	(11¾)	(4½)	(5½)
Size 3							
Maximum Dimension:							
Centimeters	53.3	52.1	56	16.2	31.4	11.7	14.9
(inches)	(21)	(20½)	(22)	(6½)	(12¾)	(4¾)	(5¾)
Size 4							
Maximum Dimension:							
Centimeters	56	53.3	58.4	16.8	33.0	12.1	15.9
(inches)	(22)	(21)	(23)	(6¾)	(13)	(4¾)	(6¼)
Size 5							
Maximum Dimension:							
Centimeters	58.4	54.6	61.0	17.5	34.6	12.4	16.8
(inches)	(23)	(21½)	(24)	(6¾)	(13¾)	(4¾)	(6¾)
Size 6							
Maximum Dimension:							
Centimeters	61.0	55.9	63.5	18.1	36.2	12.7	17.8
(inches)	(24)	(22)	(25)	(7¼)	(14¼)	(5)	(7)
Size 6X							
Maximum Dimension:							
Centimeters	62.9	57.2	65.4	18.7	37.8	13.0	18.7
(inches)	(24¾)	(22½)	(25¾)	(7½)	(14¾)	(5½)	(7¾)

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

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

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

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

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

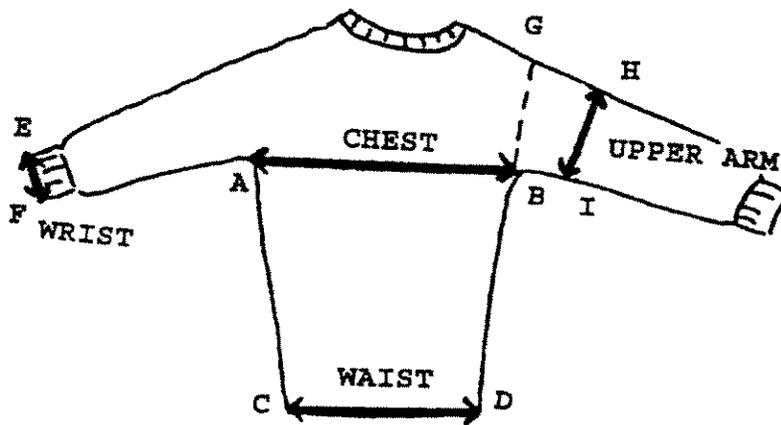


Diagram 1

DISTANCE FROM SHOULDER (G) TO (H) FOR UPPER ARM MEASUREMENT FOR SIZES 9 MONTHS THROUGH 6X

9-12 mo	12-18 mo	18-24 mo	2	3	4	5	6	6x
5.8 cm 2 1/8"	6.6 cm 2 5/8"	7.4 cm 2 7/8"	7.4 cm 2 7/8"	8.1 cm 3 1/4"	8.8 cm 3 1/2"	9.5 cm 3 3/4"	10.3 cm 4"	11 cm 4 3/8"

(E) Seat—Fold the front of the pant in half to find the bottom of the crotch at J as in the left side of Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the

garment as in the right side of Diagram 2. Measure the seat from L to M through K as shown.

(F) Thigh—measure from the bottom of the crotch (J) 1 inch down the inseam to N as in the left side of Diagram 2. Unfold the garment and measure the

thigh from the inseam at N to O as shown in the right side of Diagram 2.

(G) Ankle—measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in the right side of Diagram 2.

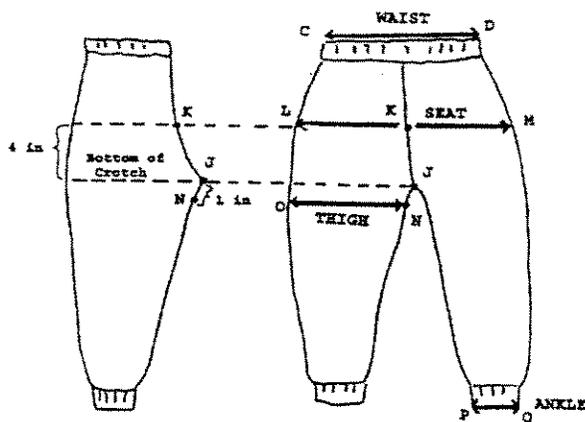


Diagram 2

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

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

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

2. Section 1616.2 is amended by revising paragraph (m) introductory text and (m)(1) to read as follows:

§ 1616.2 Definitions.

* * * * *

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

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

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 7 Boys¹							
Maximum Dimension:							
Centimeters	63.5	58.4	66	18.7	37.2	13.0	18.7
(inches)	(25)	(23)	(26)	(7 3/8)	(14 5/8)	(5 1/8)	(7 3/8)
Size 7 Girls							
Maximum Dimension:							
Centimeters	63.5	58.4	67.3	18.7	38.7	13.0	18.7
(inches)	(25)	(23)	(26 1/2)	(7 3/8)	(15 1/4)	(5 1/8)	(7 3/8)
Size 8 Boys¹							
Maximum Dimension:							
Centimeters	66	59.7	67.3	19.4	38.4	13.3	19.1
(inches)	(26)	(23 1/2)	(26 1/2)	(7 5/8)	(15 1/4)	(5 1/4)	(7 1/2)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 8 Girls							
Maximum Dimension:							
Centimeters	66	59.7	71.1	19.4	41.3	13.3	19.1
(inches)	(26)	(23½)	(28)	(7½)	(16¼)	(5¼)	(7½)
Size 9 Boys¹							
Maximum Dimension:							
Centimeters	68.6	61.0	69.2	20	39.7	13.7	19.4
(inches)	(27)	(24)	(27¼)	(7¾)	(15½)	(5½)	(7¾)
Size 9 Girls							
Maximum Dimension:							
Centimeters	68.6	61.0	73.7	20	42.6	13.7	19.4
(inches)	(27)	(24)	(29)	(7¾)	(16¾)	(5½)	(7¾)
Size 10 Boys¹							
Maximum Dimension:							
Centimeters	71.1	62.2	71.1	20.6	41.0	14	19.7
(inches)	(28)	(24½)	(28)	(8¼)	(16¼)	(5½)	(7¾)
Size 10 Girls							
Maximum Dimension:							
Centimeters	71.1	62.2	76.2	20.6	43.8	14	19.7
(inches)	(28)	(24½)	(30)	(8¼)	(17¼)	(5½)	(7¾)
Size 11 Boys¹							
Maximum Dimension:							
Centimeters	73.7	63.5	73.7	21	42.2	14.3	20
(inches)	(29)	(25)	(29)	(8¼)	(16½)	(5½)	(7¾)
Size 11 Girls							
Maximum Dimension:							
Centimeters	73.7	63.5	78.7	21	45.1	14.3	20
(inches)	(29)	(25)	(31)	(8¼)	(17¾)	(5½)	(7¾)
Size 12 Boys¹							
Maximum Dimension:							
Centimeters	76.2	64.8	76.2	21.6	43.5	14.6	20.3
(inches)	(30)	(25½)	(30)	(8½)	(17¼)	(5¾)	(8)
Size 12 Girls							
Maximum Dimension:							
Centimeters	76.2	64.8	81.3	21.6	46.7	14.6	20.3
(inches)	(30)	(25½)	(32)	(8½)	(18½)	(5¾)	(8)
Size 13 Boys¹							
Maximum Dimension:							
Centimeters	78.7	66	78.7	22.2	44.8	14.9	20.6
(inches)	(31)	(26)	(31)	(8¾)	(17½)	(5¾)	(8½)
Size 13 Girls							
Maximum Dimension:							
Centimeters	78.7	66	83.8	22.2	47.6	14.9	20.6
(inches)	(31)	(26)	(33)	(8¾)	(18¾)	(5¾)	(8½)
Size 14 Boys¹							
Maximum Dimension:							
Centimeters	81.3	67.3	81.3	22.9	46	15.2	21
(inches)	(32)	(26½)	(32)	(9)	(18¼)	(6)	(8¼)

	Chest	Waist	Seat	Upper arm	Thigh	Wrist	Ankle
Size 14 Girls							
Maximum Dimension:							
Centimeters	81.3	67.3	86.4	22.9	49.5	15.2	21
(inches)	(32)	(26½)	(34)	(9)	(19½)	(6)	(8¼)

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

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

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

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

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

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

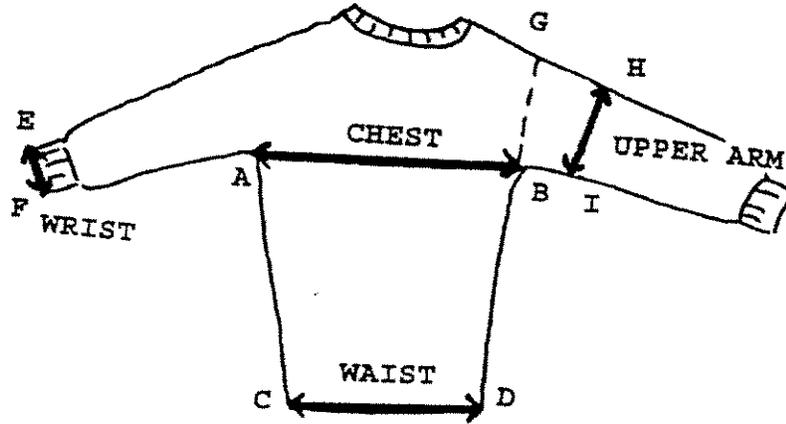


Diagram 1

DISTANCE FROM SHOULDER (G) TO (H) FOR UPPER ARM MEASUREMENT FOR SIZES 7 THROUGH 14

7	8	9	10	11	12	13	14
11.4 cm 4½"	11.7 cm 4"	11.9 cm 4¾"	12.5 cm 4"	12.8 cm 5"	13.1 cm 5"	13.7 cm 5"	14.2 cm 5"

(E) Seat—Fold the front of the pants in half to find the bottom of the crotch at J as in the left side of Diagram 2. The crotch seam and inseam intersect at J. Mark point K on the crotch seam at 4 inches above and perpendicular to the bottom of the crotch. Unfold the

garment as in the right side of Diagram 2. Measure the seat from L to M through K as shown.

(F) Thigh—measure from the bottom of the crotch (J) 1 inch down the inseam to N as in the left side of Diagram 2. Unfold the garment and measure the

thigh from the inseam at N to O as shown in the right side of Diagram 2.

(G) Ankle—measure the width of the end of the leg (P to Q), if intended to extend to the ankle, as in the right side of Diagram 2.

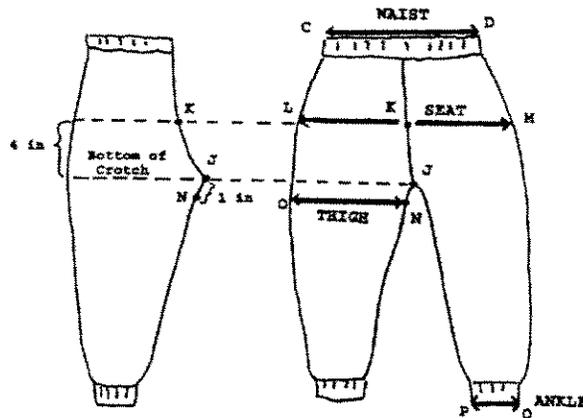


Diagram 2

* * * * *

Dated: May 12, 1998.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

References

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

1. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to the Commission, "Children's Sleepwear Flammability Standards—Technical Amendments," April 27, 1998.
2. Report from C. Craig Morris, Ph.D., Directorate for Epidemiology and Health Sciences, "Clothing-Related Thermal Burns in Children Under 15 Years Old," March 1998.
3. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to File, "Technical Amendments of the Children's Sleepwear Flammability Standards—Snug-fitting" Requirements, March 31, 1998.
4. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Children's Sleepwear Update," April 9, 1998.
5. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Economic Considerations of Revisions to the Children's Sleepwear Standard," April 9, 1998.
6. Memorandum from Patricia Fairall, Program Manager to Margaret Neily, Project

Manager, "Industry Request for clarification of sleepwear segregation of tight-fitting garments," March 3, 1998.

7. Carolyn Meiers, Directorate for Engineering, to Margaret Neily, Project Manager, "Methodology for Structured Sleepwear Observations," March 31, 1998.

8. ASTM Standards D4910-95a and D5826-95.

9. Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design. Highway Safety Research Institute. Ann Arbor, Michigan: University of Michigan (1977).

10. Log of February 18, 1998 meeting, prepared by Margaret Neily, "Children's Sleepwear—snug-fitting requirements," March 4, 1998.

11. Memorandum from Linda Fansler, Division of Engineering, Lab Sciences, to Margaret Neily, Project Manager, "Tolerance," April 8, 1998.

[FR Doc. 98-13026 Filed 5-20-98; 8:45 am]

BILLING CODE 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

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

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed clarification of statement of policy.

SUMMARY: The Commission proposes to amend the policy statements on the flammability of children's sleepwear so that infant garments (sized for a child nine months and under) and "tight-fitting" garments (as defined in the sleepwear standards) can be marketed and promoted with other sleepwear.¹

DATES: Written comments concerning this proposed amendment are due not later than August 4, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone:

¹ The Commission voted 2-0 to propose clarifying the enforcement policy statement. Commissioners Mary Gail and Thomas Moore voted in favor of issuing the proposal. Chairman Ann Brown abstained.

freedom by relocating to another part of the proposed country of removal.

(ii) In cases where the applicant has established past persecution before an immigration judge, the Service shall bear the burden of establishing the requirements of paragraphs (b)(1)(i)(A) or (B) of this section.

(2) *Future threat to life or freedom.* An applicant who has not suffered past persecution may demonstrate that his or her life or freedom would be threatened in the future in a country if he or she can establish that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion upon removal to that country. Such an applicant cannot demonstrate that his or her life or freedom would be threatened if the asylum officer or immigration judge finds that the applicant could reasonably avoid a future threat to his or her life or freedom by relocating to another part of the proposed country of removal. In evaluating whether it is more likely than not that the applicant's life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the asylum officer or immigration judge shall not require the applicant to provide evidence that he or she would be singled out individually for persecution if:

(i) The applicant establishes that in that country there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(ii) The applicant establishes his or her own inclusion in and identification with such group of persons such that it

is more likely than not that his or her life or freedom would be threatened upon return to that country.

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1) and (b)(2) of this section, it would not be reasonable to expect an applicant to relocate within a country to avoid persecution if the asylum officer or immigration judge finds that there is a reasonable possibility that the applicant would face other serious harm in the place of potential relocation. In cases where the persecutor is a national government, it shall be presumed that internal relocation would not be reasonable, unless the Service establishes that it would be reasonable for the applicant to relocate. In cases where the applicant has established past persecution before an immigration judge, the Service shall bear the burden of establishing that it would be reasonable for the applicant to relocate. In cases where the applicant has not established past persecution, the applicant shall bear the burden of establishing that it would not be reasonable for him or her to relocate.

* * * * *
Dated: June 5, 1998.

Janet Reno,
Attorney General.
[FR Doc. 98-15590 Filed 6-10-98; 8:45 am]
BILLING CODE 4410-10-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1616

Proposed Technical Changes; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed technical changes correction.

SUMMARY: This document corrects a table in a proposed rule published in the Federal Register of May 21, 1998, regarding technical changes to the flammability standard for children's sleepwear. The table showing the distance from the shoulder for upper arm measurement for sizes 7 through 14 inadvertently omitted some fractions. This correction provides the complete and correct table. Due to the minor nature of this correction the Commission does not intend to extend the comment period for the proposed rule. However, if a commenter believes that additional time is necessary to comment due to the error, he/she may request an extension.

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.

Correction

In proposed rule FR Doc. 98-13026, beginning on page 27877 in the issue of May 21, 1998, make the following correction. On page 27884, correct the table that follows Diagram 1 to read as follows:

Distance from shoulder (G) to (H) for Upper Arm Measurement for Sizes 7 through 14

7	8	9	10	11	12	13	14
11.4 cm 4½"	11.7 cm 4¾"	11.9 cm 4¾"	12.5 cm 4¾"	12.8 cm 5"	13.1cm 5½"	13.7cm 5¾"	14.2cm 5¾"

Dated: June 4, 1998.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.
[FR Doc. 98-15492 Filed 6-10-98; 8:45 am]
BILLING CODE 6355-01-P

**DEPARTMENT OF TRANSPORTATION
Federal Highway Administration**

23 CFR Part 655
[FHWA Docket No. FHWA-98-3644]
RIN 2125-AE98

Revision of the Manual on Uniform Traffic Control Devices; Part II—Signs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: The MUTCD is incorporated by reference in 23 CFR part 655, subpart F, approved by the Federal Highway Administrator, and recognized as the national standard for traffic control on all public roads. The FHWA announced its intent to rewrite and reformat the MUTCD on January 10, 1992, at 57 FR

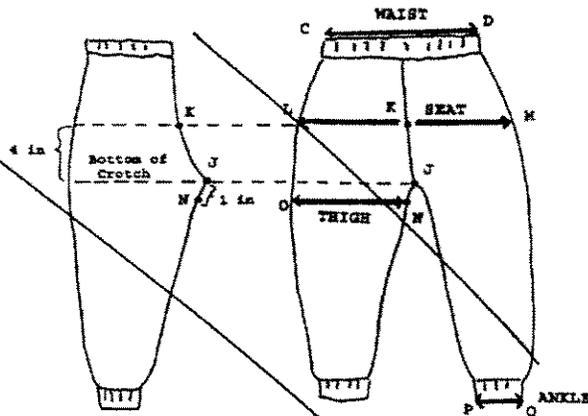


Diagram 2

* * * * *

Dated: May 12, 1998.
Sadye E. Dunn,
 Secretary, Consumer Product Safety
 Commission.

References

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

1. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering to the Commission, "Children's Sleepwear Flammability Standards—Technical Amendments," April 27, 1998.
2. Report from C. Craig Morris, Ph.D., Directorate for Epidemiology and Health Sciences, "Clothing-Related Thermal Burns in Children Under 15 Years Old," March 1998.
3. Memorandum from Margaret Neily, Project Manager, Directorate for Engineering, to File, "Technical Amendments of the Children's Sleepwear Flammability Standards—Snug-fitting" Requirements, March 31, 1998.
4. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Children's Sleepwear Update," April 9, 1998.
5. Memorandum from Terrance R. Karels, Directorate for Economic Analysis, to Margaret Neily, Project Manager, "Economic Considerations of Revisions to the Children's Sleepwear Standard," April 9, 1998.
6. Memorandum from Patricia Fairall, Program Manager to Margaret Neily, Project

Manager, "Industry Request for clarification of sleepwear segregation of tight-fitting garments," March 3, 1998.

7. Carolyn Meiers, Directorate for Engineering, to Margaret Neily, Project Manager, "Methodology for Structured Sleepwear Observations," March 31, 1998.

8. ASTM Standards D4910-95a and D5826-95.

9. Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design. Highway Safety Research Institute, Ann Arbor, Michigan: University of Michigan (1977).

10. Log of February 18, 1998 meeting, prepared by Margaret Neily, "Children's Sleepwear—snug-fitting requirements," March 4, 1998.

11. Memorandum from Linda Fansler, Division of Engineering, Lab Sciences, to Margaret Neily, Project Manager, "Tolerance," April 8, 1998.

[FR Doc. 98-13026 Filed 5-20-98; 8:45 am]

BILLING CODE 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

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

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed clarification of statement of policy.

SUMMARY: The Commission proposes to amend the policy statements on the flammability of children's sleepwear so that infant garments (sized for a child nine months and under) and "tight-fitting" garments (as defined in the sleepwear standards) can be marketed and promoted with other sleepwear.¹

DATES: Written comments concerning this proposed amendment are due not later than August 4, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone:

¹ The Commission voted 2-0 to propose clarifying the enforcement policy statement. Commissioners Mary Gall and Thomas Moore voted in favor of issuing the proposal. Chairman Ann Brown abstained.

(301) 504-0800 or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Copies should be submitted in five copies and captioned "Sleepwear Policy Statement." Comments may also be filed by telefacsimile to (301) 504-0127 or by e-mail to cpssc@cpssc.gov.

FOR FURTHER INFORMATION CONTACT: Patricia Fairall, Program Manager, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0400, extension 1369.

SUPPLEMENTARY INFORMATION:

A. Background

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

On September 9, 1996, the Commission issued a final rule amending the flammability standards for children's sleepwear to exclude from the definition of "children's sleepwear," codified at 16 CFR 1615.1(a) and 1616.2(a), (1) garments sized for infants nine months of age or younger and (2) tight-fitting garments for children older than nine months. 61 FR 47634. The Commission found that such tight-fitting garments did not present an unreasonable risk of injury. Rather, the Commission's information showed that many severe incidents occurred with loose-fitting garments such as oversized t-shirts used inappropriately as sleepwear. The Commission concluded that garments fitting closely and that touch the body at key points should be exempt from the sleepwear standards because they do not present the same risk as loose-fitting garments. These amendments became effective on January 1, 1997. However, the Commission also issued a stay of enforcement for close-fitting garments which are labeled and promoted as underwear. That stay expires on June 9, 1998.

B. Clarification

The Commission has become aware that the garment industry is concerned about the policy statements in 16 CFR 1615.64(d) and 1616.65(d), which suggest segregation of items covered by the children's sleepwear standards from all fabrics and garments that are beyond the scope of the children's sleepwear standards. The purpose of the September 9, 1996 final rule was to

allow garments sized for a child nine months and under and tight-fitting garments in sizes above nine months to be sold and used as sleepwear.

Therefore, the Commission proposes to modify the policy statements at 1615.64(d) and 1616.65(d) to provide that infant garments (defined in the amended sleepwear standard at 16 CFR 1615.1(c)(1) as sized for a child nine months and under) and "tight-fitting" garments (defined in the amended sleepwear standard at 16 CFR 1615.1(o) and 1616.2(m)) can be marketed and promoted with other sleepwear.

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

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

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

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

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

§ 1615.64 Policy to clarify scope of the standard.

* * * * *

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

* * * * *

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

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

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

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

§ 1616.65 Policy scope of the standard.

* * * * *

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

* * * * *
Dated: May 12, 1998.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.
[FR Doc. 98-13028 Filed 5-20-98; 8:45 am]
BILLING CODE 6355-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 334

[Docket No. 78N-036L]

RIN 0910-AA01

Laxative Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

Tab B



United States
CONSUMER PRODUCT SAFETY COMMISSION
 Washington, D.C. 20207

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 Bill Cleared
 8/6/98
 No Mfrs/Prvtlbrs et
 Identified
 Rec'd by
 Firms Notified
 Comments Processed

MEMORANDUM

DATE: August 4, 1998

TO : ES

Through: Sadye E. Dunn, Secretary

FROM : Martha Kosh
 Records Assistant

SUBJECT: Proposed Technical Changes to Standard for the
 Flammability of Children's Sleepwear; Sizes 0-6X;
 Standard for the Flammability of Children's Sleepwear:
 Sizes 7-14, 16 CFR 1615 and 1616; 63FR 27877, May 21,
 1998

ATTACHED ARE COMMENTS ON THE CF98-2

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CF98-2-1	5/27/98	Dennis Sargent	American Marketing Enterprises Inc. 10 West 33rd St. Suite 516 New York, NY 10001
CF98-2-2	6/16/98	Larry Martin President & Mary Howell Director of Product Divisions	American Apparel Manufacturers Assoc. 2500 Wilson Blvd. Suite 301 Arlington, VA 22201
CF98-2-3	7/08/98	Jeanne O'Neill Sr. Attorney	JC Penney P.O. Box 10001 Dallas, TX 75301
CF98-2-4	7/20/98	Phillip Wakelyn Ph.D., Senior Scientist, Environmental Health and Safety	National Cotton Council of America 1521 New Hampshire Ave NW Washington, DC 20036

Proposed Technical Changes to Standard for the Flammability of Children's Sleepwear; Sizes 0-6X; Standard for the Flammability of Children's Sleepwear: Sizes 7-14, 16 CFR 1615 and 1616; 63FR 27885, May 2, 1998

CF98-2-5	8/03/98	Sara Yerkes Director, Government Affairs	Safe Children's Sleepwear Coalition Trauma Foundation San Francisco General Hospital San Francisco, CA 94110
CF98-2-6	8/05/98	Gregory Poole Vice President	Gap Inc. Product Standards Dept. 345 Spear St., 2nd Floor San Francisco, CA 94105

RELATED COMMENTS

	3/3/98	Members of the Memorial Medical Center	Regional Burn Center 800 North Rutledge Springfield, IL 62781
	4/24/98	Denise Drobnick State Farm Agent	Berks County Chapter of Safe Kids
	4/28/98	Don Holt Board of Governors	Shriners Burns Hospital Galveston, TX
	4/29/98	Captain Ann Segers	Cherokee County Fire Safety Education Committee 6724 Bells Ferry Rd Woodstock, GA 30189
	5/1/98	Chief Warring Doles Director	Monroe County Emergency 507 Montpelier Ave. Forsyth, GA 31029
	5/6/98	Dawn Lang, B.S. Trauma Outreach Specialist	Detroit Receiving Hosp. & University Health Ctr. 4201 St. Antoine Detroit, MI 48201
	5/14/98	James A. Carlisle Coordinator Allentown- Bethlehem Area Safe Kids Coalition	City of Allentown Bureau of Health 245 North 6th St. Allentown, PA 18102

Proposed Technical Changes to Standard for the Flammability of Children's Sleepwear; Sizes 0-6X; Standard for the Flammability of Children's Sleepwear: Sizes 7-14, 16 CFR 1615 and 1616; 63FR 27885, May 2, 1998

RELATED COMMENTS, CON'T

5/26/98	Wayne Trumbly President	El Dorado County Fire Prevention Officer's Association P.O. Box 807 Camino, CA 95709
10/29/98	Edward Haber Secretary	the Connecticut Fire Chiefs' Association, Inc. 346 Spruce Brook Road Berlin, CT 06037

6/6/98
5/27/98
1537-01

**AMERICAN MARKETING ENTERPRISES INC.
10 WEST 33RD STREET
NEW YORK CITY, NEW YORK 10001
SUITE 516
TEL 212-279-3600 FAX. 212-279-3643
EMAIL - production@ameny.com**

TO: CONSUMER PRODUCTS SAFETY COMMISSION

ATT:OFFICE OF THE SECRETARY

FROM:DENNIS SARGENT

DATE:5/27/98

RE: SLEEPWEAR

PURSUANT TO THE NOTICE IN THE FEDERAL REGISTER I WOULD LIKE TO OFFER MY COMMENTS ON THE PROPOSED AMENDMENTS FOR CHILDREN'S SLEEPWEAR.

I DO AGREE WITH THE RECOMMENDATIONS OF THE STAFF AT THE MEETING OF FEBRUARY 18, 1998 TO A CERTAIN EXTENT. MY DIFFICULTY WITH THE AMENDMENTS, AS STATED AT THE MEETING, IS THAT NO PROVISION HAS BEEN MADE FOR THE MANUFACTURING TOLERANCES THAT OCCUR IN THE NORMAL OF THE PROCESS OF MAKING A GARMENT.

AS STATED AT THE MEETING, THE GARMENTS ARE CONSTRUCTED OF KNIT FABRICS. THE PROPERTIES OF THESE FABRICS ARE LEAD TO TOLERANCES IN THE NORMAL SEWING OF THE GARMENT. OTHER MANUFACTURES AGREED THAT IN THE NORMAL COURSE OF MANUFACTURING, TOLERANCES ARE REALIZED. ALSO, AT THE MEETING, MR. FRANCIS YUK, VICE PRESIDENT OF INTERTEK TESTING SERVICES, AGREED THAT IN THE NORMAL COURSE OF MANUFACTURING OF GARMENTS, WHETHER KNIT OR WOVEN, TOLERANCES ARE PART OF THE PROCESS.

IT IS IMPOSSIBLE TO NOT HAVE "PLUS OR MINUS" TOLERANCES IN A SIZE SPECIFICATION. CURRENTLY, THE CPSC'S POLICY DOES NOT ALLOW FOR ANY "PLUS" TOLERANCES. WE HAVE BEEN TOLD, BY THE OFFICE OF COMPLIANCE, THAT ONLY MINUS TOLERANCES ARE ALLOWED. WE ARE NOW FORCED TO DO BUSINESS OUT OF THE NORMAL OPERATING PROCEDURE. THAT IS TO SAY THE MANUFACTURES ARE FORCED TO UNDERCUT THE GOODS SO AS TO ALLOW THE FACTORIES TO WORK IN THE NORMAL PROCESS OF GARMENT MANUFACTURING. THIS UNDERCUTTING IS NOW BEING DONE TO GARMENTS THAT ARE ALREADY SNUG-FITTING. THIS RESULTS IN SUB STANDARD GARMENTS WHEN AN UNDER TOLERANCE IS REALIZED.

WHILE WE FEEL THIS POLICY IS UNREASONABLE AND UNFAIR, BECAUSE IT FORCES US TO DO BUSINESS IN A MANNER THAT IS CONTRARY TO THE MOST BASIC PRINCIPLES OF GARMENT MAKING, WE REALIZE THE CPSC'S CONCERN WITH OVER TOLERANCES. FOR THIS REASON , I PROPOSED THAT THE TOLERANCES BE SET BY

THE CPSC IN CONJUNCTION WITH NO LESS THEN THREE INDEPENDENT MAJOR TESTING SERVICES OR QUALITY CONTROL LABORATORIES. THESE TOLERANCES WOULD THEN BE SET AS PART OF PROPOSED AMENDMENTS OR PART OF THE POLICY BY COMPLIANCE. AT THE MEETING, WE OFFERED TO PAY FOR THE TESTING CHARGES. WE FELT THAT THIS WOULD BE OUT CONTRIBUTION TO THE SUCCESS OF THE NEW AMENDMENTS.

ON FEBRUARY 25TH OF THIS YEAR I FAXED MY RECOMMENDED TOLERANCES TO MARGARET NEELY OF THE CPSC. THESE SAME TOLERANCES ARE GIVEN TO THE UNITED STATES CUSTOMS SERVICE WHEN APPLYING FOR RULINGS ON THE CATEGORIZATION OF STYLES. THE UNITED STATES CUSTOMS SERVICES ACCEPTS THE TOLERANCES AS PART OF THE PROPERTIES OF THE GARMENT. BUT AGAIN , I WOULD RATHER HAVE THREE INDEPENDENT LABS SET THE TOLERANCES. I

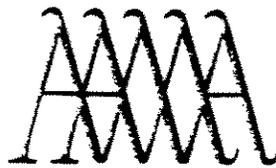
AS STATED EARLIER, I AGREE WITH THE PROPOSED AMENDMENTS BUT I FEEL THE NEED FOR THE PLUS AND MINUS TOLERANCES IS ESSENTIAL TO THE SUCCESS OF THIS LAW. TO NOT ALLOW FOR THE NORMAL TOLERANCES IS ASKING THE TRADE TO OPERATE OUTSIDE OF THE NORMAL MANUFACTURING PROCEDURES. I DON'T THINK THIS WAS THE INTENTION OF THE LAW. IN CONVERSATIONS WITH THE CPSC, I UNDERSTAND THAT TOLERANCES ARE TAKEN INTO ACCOUNT BUT NOT ON THESE ITEMS.

IT IS MY REQUEST THAT TOLERANCES ARE ADAPTED AND SET, SO THAT WE AS MANUFACTURES OF THESE GARMENTS, ARE ALLOWED TO DO BUSINESS ON AN EVEN PLAYING FIELD WITH THOSE MANUFACTURES OF GARMENTS THAT ARE NOT AFFECTED BY THIS LAW. WE ARE NOT ASKING FOR ANY CHANGES IN THE DIMENSIONS, RATHER WE ARE ASKING FOR AN AMENDMENT THAT WOULD NOT FAVOR MANUFACTURES OF GARMENTS USED FOR SLEEPING(I.E. TEE SHIRTS) THAT ARE NOT COVERED BY THE LAW. BY NOT ADAPTING THE CHANGES IS EQUAL TO PREFERENTIAL TREATMENT.

SINCERELY,

DENNIS M. SARGENT
AMERICAN MARKETING ENTERPRISES INC.

6-16-98
6/11/98
A



AMERICAN APPAREL MANUFACTURERS ASSOCIATION

June 16, 1998

Office of the Secretary
Consumer Products Safety Commission
4330 East-West Highway
Room 501
Bethesda, Maryland 20814

**RE: "Comments on Proposed Technical Changes to Standard for
The Flammability Of Children's Sleepwear; Sizes 0 – 6X; Standard for the
Flammability of Children's Sleepwear: Sizes 7 – 14"**

The American Apparel Manufacturers Association (AAMA) appreciates the opportunity to comment on the proposed technical changes to the Children's Sleepwear Standard. The AAMA is the central trade association for the U.S. apparel industry, representing companies that produce more than 80 percent of the clothing sold at wholesale for America's \$170 billion retail industry. AAMA members manufacture every type of garment and are located in virtually every state. Many of our members make children's sleepwear.

The AAMA has been involved with this issue since the CPSC first considered amending the Children's Sleepwear Flammability Standards (16 CFR 1615 and 1616) in 1992. Since that time, we have made several recommendations and comments on the current standards published in September 1996. In 1997, we met with the CPSC on several occasions to discuss real concerns and problems the childrenswear manufacturers are having producing garments under the current specifications. **Hence, we submitted our recommendations for the consideration of technical changes to the dimensions and points of measurements, so the garments will be acceptable not only to the end consumer, but to the rest of the supply chain partners, the retailers and manufacturers.**

After a long review process, the CPSC agreed that several of the measurement points currently described in the standards produce an impractical, non-wearable garment. As a result, the CPSC is proposing technical changes to three points of measurements of the upper arm, seat, and thigh as the solution to the problems manufacturers are having in trying to produce a saleable, wearable, and comfortable garment. **On behalf of its membership, the AAMA must disagree with the CPSC's conclusions.**

Once again and for the record, the AAMA would like to make the following recommendations on two points of measurements and request an additional amendment. Please keep in mind that these recommendations are a result of a collaborative group of experts representing a significant portion of the childrenswear industry.

- ◆ **Measurement of upper arm:** We recommend the measurement should be made 2" down from the underarm sleeve seam on infant and toddler sizes up to 4T, and 3" down from the sleeve seam on larger sizes. We also recommend that the arm measurement should be at least 2" larger than currently permitted.
- ◆ **Measurement of thigh:** We recommend this measurement be taken 1 ½" below the crotch seam for all sizes.
- ◆ **Sewing Tolerance:** We firmly believe there is a need for sewing tolerances in the ruling. To comply with the published measurements, our manufacturers have to undercut garments. This yields a garment that is too tight and will force the consumer to buy a larger size creating new safety hazards from garments that are too long.

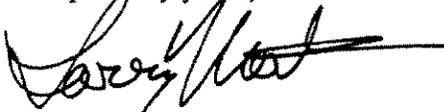
Many of our manufacturers have spent countless hours testing/re-testing, and designing/re-designing garments to meet the CPSC's specifications only to have the garments returned to them from their customer (the retailer) for one of two reasons. They will not put the garment on the selling floor because of its appearance, or because the garment has been returned by the end consumer because it is not functional.

The AAMA firmly believes that under the current specs, and even with the proposed changes to the three points of measurements, the consumer is still going to do one of two things. They will either buy the garment in two sizes too large (this creates a fire hazard in itself, as a result of the excess fabric from a longer sleeve and pant leg), or will reject the garments completely, and put their child in cotton T-shirts, boxers, sweats, etc.

The AAMA firmly believes that if the CPSC will incorporate our recommendations in the Children's Sleepwear Flammability Standard, apparel manufacturers will be able to make garments which will not compromise the effectiveness of the standard, but will satisfy the end consumer's needs while still adhering to the "tight-fitting" requirements of the standards.

Thank you for considering our comments.

Respectfully yours,



Larry Martin
President
AAMA



Mary R. Howell
Director of Product Divisions
AAMA

JCPenney

July 8, 1998

6/4/06
7/8/98
[Signature]

Via Facsimile (301) 504-0127
Office of the Secretary
U. S. Consumer Product Safety Commission
Washington, D.C. 20207

Re: Sleepwear - 16 CFR Parts 1615 and 1616
Proposed Technical Changes to the Children's Sleepwear Standards

Ladies and Gentlemen:

JCPenney's technical design staff has reviewed the CPSC's proposal dated May 12, 1998 to amend the Children's Sleepwear Standards to make certain technical corrections to the definition of "Tight Fitting Garments." The following comments and suggestions are respectfully submitted:

1. General Industry Standards Should Be Used for Measurements. The measurements proposed by the CPSC for sizes 7-14 are based on one university study, rather than generally accepted industry standards. Standards CS 53-48 (Girls) and CS 51-50 (Boys) should be the applicable measurement standards for children's sizes 7-14.
2. Upper Arm Measurement Should be Simplified. The formula proposed by the CPSC for upper arm measurement is too complicated for factory inspection and will lead to controversy between manufacturers, retailers and CPSC enforcement staff. Upper arm measurement should be simplified to perhaps 2 measurements: (i) 2" down the sleeve seam for infants & toddler sizes (12 mos. to 4T); and (ii) 3" down the sleeve seam for children's sizes 4 to 14.
3. Infant/Toddler Waist & Hip Measurements Require Diaper/Training Pant Ease. The waist and hip measurements proposed by CPSC for infant (12, 18 and 24 mos.) and toddler (2T, 3T, and 4T) sizes are body measurements and do not allow for diaper ease or training pant ease. The only allowable ease is in the length of the rise, which will produce ill-fitting garments.
4. Bottom Sweep Measurement on Pajama Tops Should Equal Hip Specification. For 2-piece garments, the CPSC has proposed a bottom sweep measurement on pajama tops equal to the waist specification. As proposed, the garment will be tapered from the chest to the bottom on the side seams. For example, to even lay flat, the size 8 girls garment must stretch 4 1/2" (23 1/2" waist to a 28" hip); size 14 girls must stretch 7 1/2" (26 1/2" waist to 34" hip). For boys, the size 10 must stretch 3 1/2" (24 1/2" waist to 28" hip); size 14 must

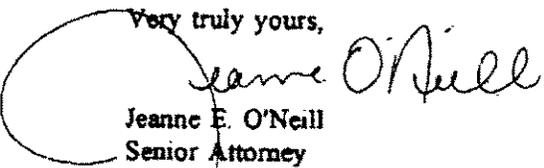
U.S. Consumer Product Safety Commission
July 8, 1998
Page 2

stretch 5 1/2" (26 1/2" waist to 32" hip). The bottom sweep measurements for pajama tops proposed by the CPSC are problematic in the following regards: (i) they will produce a questionable pajama silhouette; (ii) there will be difficulty pulling the pajama top over the head and shoulders; (iii) the bottom of the pajama top will ride up to the waist upon any body movement, especially raising of the arms; and (iv) the fabric will be stretched loose around the chest and waist.

The bottom sweep on the top of a pair of pajamas should be located closer to the hip than to the waist; accordingly, the bottom sweep measurement should be larger than the chest measurement and, ideally, equal to the hip measurement.

If you have any questions about the foregoing comments, please give me a call at (972) 431-1242.

Very truly yours,



Jeanne E. O'Neill
Senior Attorney

cc: R. Hood
P. McGrath
E. Saddoris
J. Wilhite



1521 New Hampshire Avenue, NW • Washington, DC 20036
(202) 745-7805 • FAX (202) 483-4040

272-2-4
July 20, 1998

PRODUCERS • GINNERS • WAREHOUSEMEN • MERCHANTS • CRUSHERS • COOPERATIVES • MANUFACTURERS

July 20, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Re: *Sleepwear* - - Comments of the National Cotton Council to CPSC's proposed technical changes to the Children's Sleepwear Flammability Standards, 16 CFR 1615 and 1616 (63FR 27877; May 21, 1998 and 63FR 31950; June 11, 1998)

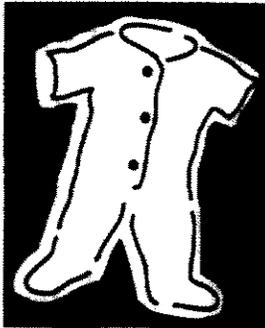
These comments are submitted by the National Cotton Council (NCC) in response to CPSC's May 21, 1998 (63FR 27877) and June 11, 1998 (63FR 31950) request for comments on "Proposed Technical Changes; Standards for Flammability of Children's Sleepwear." NCC is the central trade association of the American cotton industry. NCC members include producers of over 75% of the U.S. cotton and cotton processing industries.

NCC has been actively involved with this issue since the CPSC first started the process to amend the Children's Sleepwear Flammability Standards sizes 0-6x (16CFR 1615) and sizes 7-14 (16CFR 1616) in 1992, which resulted in the September 1996 amendments. In addition, NCC was involved in the original rulemakings in the early 1970's, which resulted in 16 CFR 1615 and 1616, and the rulemaking for the 1977-78 amendments, because of "Tris", which lessened the standards by removing the melt-drip flammability requirements for garments. Since publication of the most recent amendments (September 9, 1996) regarding garments sized for infants nine months of age or younger and tight-fitting sleepwear for children older than nine months, NCC has met with CPSC on several occasions along with other industry representatives and made recommendations and submitted comments on the "tight-fitting" definitions in the standard. NCC feels the proposed technical changes are an improvement. However, NCC feels that the proposed technical changes do not go far enough in correcting the garment fit problems and could be further improved without effecting the safety provided by the standard. In addition, as stated in our earlier comments during the rulemaking, NCC also strongly believes that there is a need for a sewing tolerance and a 5% shrinkage tolerance. When garments are sold both of these are usually part of the purchase contract.

We appreciate the CPSC's consideration of these comments,
Sincerely,

A handwritten signature in black ink, appearing to read "P. J. Wakelyn".

Phillip J. Wakelyn, Ph.D.
Senior Scientist, Environmental Health and Safety



Safe Children's Sleepwear Coalition

STEERING COMMITTEE

American Burn Association
Coalition for American Trauma Care
The Federation of Burn Foundations
National Fire Protection Association
Trauma Foundation

ENDORSORING ORGANIZATIONS

A O North America
American Academy of Pediatrics
American Association for the Surgery of Trauma
American College of Surgeons
American Public Health Association
Burn Awareness Coalition
Burn Foundation
Burn Institute
Burn Prevention Foundation
The Children's Burn Foundation
Children's Hospital of Alabama
Dameron Hospital Burn Unit
Eastern Association for the Surgery of Trauma
Emergency Nurses Association
Fairfax County Fire and Rescue Department
Firefighters Pacific Burn Institute
Foundation for Burns & Trauma, Inc.
Georgia Firefighters Burn Foundation
International Association of Black Professional Fire Fighters
International Association of Fire Chiefs
International Association of Fire Fighters
Journal of Trauma
National Association of Children's Hospitals and Related Institutions
National Association of Hispanic Firefighters
National Association of State Fire Marshals
North Carolina Jaycee Burn Center
Orthopaedic Trauma Association
St. Lukes Health System, Burn Trauma Center
UAB Burn Center

6/15/98
8/1/98
2-2-98

RECEIVED BY THE SECRETARY

8/3/98 - 6 A 9:52

August 3, 1998

Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

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

The Safe Children's Sleepwear Coalition (SCSC) was organized in August 1997 in response to the 1996 CPSC vote to relax the children's sleepwear standards. The purpose of the Coalition is to work cooperatively with the Commission to reverse the 1996 vote, as well as to raise consumer awareness about injury and death risks related to untreated cotton sleepwear.

The undersigned organizations, comprising a task force of the SCSC, respectfully submits this written statement in response to the May 21, 1998 Federal Register notice on the proposed technical changes to clarify the points where garment measurements should be made. The SCSC's position was, and continues to be, in opposition to the standards as amended in 1996.

Based on the expertise of our Coalition members and information available, we do not believe any technical changes to the amendments can make the new requirements for children's sleepwear effective. The amendments are designed for specific ages. The Coalition has pointed out that parents will avoid tight-fitting clothing for reasons of comfort and also, for economic reasons, will use clothing outside of intended age ranges and thereby defeat the approach to tight fit, even if that is not their intention.

Trauma Foundation, San Francisco General Hospital, San Francisco, CA 94110
Telephone: 415 821-8209 • Fax: 415 282-2563

It is also possible for the specifics of the standard, including garment measurement protocols, to make a bad situation worse, by not even delivering a tight fit for children of the design age. Therefore, the Coalition Task Force believes it would be counter-productive and misleading to comment on those specifics.

We hope the Commissioners will someday see the validity of our position. Why put children at higher risk? Children need our protection. We appeal to the Commissioners to make the right choice: reverse the standard.

The SCSC appreciates this opportunity to comment and to recommend, once again, that in the case of children's sleepwear, the Commissioners act to restore a standard with proven effectiveness and so protect the safety of our children.

Respectfully submitted on behalf of the Safe Children's Sleepwear Coalition:

American Academy of Pediatrics, American Association for the Surgery of Trauma, American Burn Association, American College of Surgeons, American Public Health Association, Burn Foundation, Coalition for American Trauma Care, Eastern Association for the Surgery of Trauma, Emergency Nurses Association, National Association of Children's Hospitals and Related Institutions, National Fire Protection Association, Trauma Foundation

Gap Inc.

PRODUCT STANDARDS DEPARTMENT

345 Spear Street, 2nd Floor

San Francisco, CA 94105

Phone: (415) 427-6465

Fax: (415) 427-5242

FACSIMILE COVER PAGE

To: Margaret Neily 301-504-0121

From: Sara DeLuca

Date: August 5, 1998

Dear Ms. Neily:

Please find official comments from Gap Inc. regarding the May 21, 1998, CPSC proposed rule on the revision to its Children's Sleepwear Flammability Standards for the Tight-Fitting Garment Exemption.

I am sending the hard copy via Fed Ex today.

If you have any question, please call me directly at 415-427-6465.

Best regards,

Sara

Of Pages _____

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One Harrison Street
San Francisco, CA 94104
415 397 4400 tel

Gap Inc.

Gap
Banana Republic
Old Navy

July 31, 1998

Ms. Margaret Neily
Project Manager
Directorate for Engineering Sciences
Consumer Product Safety Commission
Washington, DC 20207

Dear Ms. Neily:

In response to the May 21, 1998, CPSC proposed rule on Revision to its Children's Sleepwear Flammability Standards for the Tight-Fitting Garment Exemption, Gap Inc. has the following comments.

Upper Arm

Gap Inc. proposes that the upper arm specification on baby garments, sizes 9-36 months, be increased by 1/4 inch. We have observed through garment fittings that the current specifications are not realistic for comfort and wearability. Gap Inc. does not believe the 1/4 inch increase would compromise the garment's safe design.

Moreover, Gap Inc. proposes a simpler methodology to conduct upper arm measurements which will accurately obtain the CPSC specifications. The alternative method simplifies the CPSC's three step process into two. By taking the measurement directly from the under arm seam, the same specification is achieved, but the methodology is easier to follow and less prone to error. Please see the attachment.

Chest

Currently, chest measurements are taken from arm pit to arm pit. Gap Inc. proposes that the chest measurement be taken one inch below the arm pit to arm pit line. Because the arm pit is a sewing point, the garment is prone to stretching in this area, compromising the accuracy of the measurement. The one inch modification will eliminate this inaccuracy.

"Hourglass" Silhouette

The CPSC prohibits the use of the "hourglass" silhouette for tops of girls' two-piece garments. Gap Inc. believes that the "hourglass" silhouette is needed for the fit and comfort of these types of garments. Requiring the hem sweep to be equal to or less than the specified waist dimension is difficult to comply with, especially when factories are already manufacturing garments toward the negative side of the manufacturing tolerances. The result is to exaggerate undersizing in the sweep to meet the waist

measurement, compromising comfort. Moreover, Gap Inc. has observed that as a result of the decreased sweep measurement, the garment rides up towards the waist. This bunching compromises the tight fitting safety concept. Gap Inc. proposes that the "hourglass" silhouette fit be reinstated for girls' sizes seven through fourteen, allowing the bottom sweep of the upper piece to be equal to or less than the hip measurement of the bottom. Gap Inc. proposes the "hourglass" silhouette also be reinstated for toddler sizes 2XL and 3XL for reasons of comfort and fit.

Enforcement

Gap Inc. has adjusted to CPSC's zero positive tolerance by adopting an additional tolerance to ensure compliance with the tight fitting specification. However, because of the high variability inherent in manufacturing knitted products, clarification regarding CPSC's enforcement policy is necessary to further set quality assurance guidelines. Specifically, please advise the sample size and tolerance to be applied in enforcement testing.

Thank you for your consideration.

Sincerely,



Gregory I. Poole
Vice President, Product Standards and
Quality Assurance

Attachment

Upper Arm Measurement: CPSC Versus Alternative Method

CPSC Method

Extend line up from sideseam (A to B) to shoulder point C. Chart distance from C to D based off CPSC recommendations (see below for size-based recommendations). Draw a line parallel to the sleeve to reach point E. The distance from D to E is the upper arm measurement.

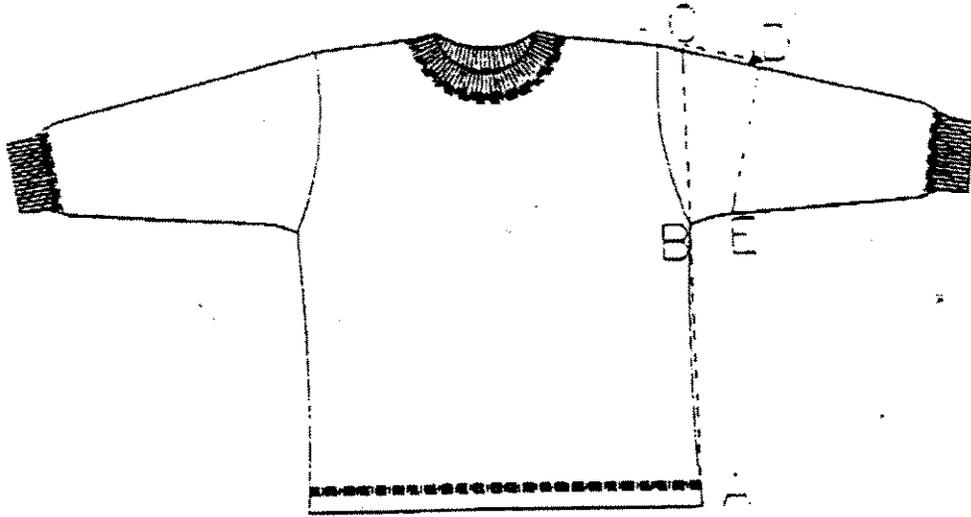
Distance from C to D: Example of CPSC recommendations.

Size (boys)	2 to 3	4 to 5	6 to 7	8	10	12
Distance from C to D recommended by CPSC	2 7/8"	3 1/2"	4"	4 5/8"	4 7/8"	5 1/8"

Proposed Alternative Method

Measure directly out from under arm (point B) to point E using predetermined size-based specifications. From point E, draw a line parallel to sleeve to obtain upper arm measurement. This method yields the same upper arm measurement as the recommended CPSC method.

Size (boys)	2 to 3	4 to 5	6 to 7	8	10	12	14
CPSC distance from point C to D	2 7/8"	3 1/2"	4"	4 5/8"	4 7/8"	5 1/8"	5 3/8"
Alternative method: distance from point B to E	1 1/2"	2 1/8"	2 5/8"	3 1/4"	4"	4 3/4"	5 1/2"
Resulting upper arm measurement from both methods	3"	3 3/8"	3 3/4"	4"	4 1/8"	4 3/8"	4 1/2"





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Regional Burn Center

March 3, 1998

The Honorable Thomas H. Moore, Commissioner
United States Consumer Products Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Dear Commissioner Moore:

Memorial Medical Center
800 North Rutledge
Springfield, Illinois 62781
217-788-3325
FAX: 217-788-5563

■

Prevention

Care

Teaching

Research

Rehabilitation

We have recently been made aware of the Consumer Product Safety Commission's decision to relax the flammability standards for children's sleepwear. In our work here at the Regional Burn Center at Memorial Medical Center, we have seen, first hand, a reduction in the severity of burn injuries to children since the sleepwear flammability standards were implemented almost twenty-five years ago. It is the Commission's responsibility under the Flammable Fabrics Act to protect the public against unreasonable risk of fire leading to injury and death. Available injury and death data shows that the standard was working. The data show that there have been few injuries or deaths involving ignition of children's sleepwear since enactment of the standard.

The extensive consumer education promised to the public by the CPSC regarding the risk of non-flame resistant sleepwear is lacking. This lack of consumer education, as promised by the apparel industry manufacturers, makes it difficult for parents to make informed decisions about purchasing sleep apparel for their children. The requirement for clear and conspicuous warning labels has been removed from the amendments and makes it difficult for consumers to differentiate between flame resistant and non-flame resistant garments at the point of sale. As a



Regional Burn Center

regulatory agency, the CPSC has the responsibility to provide clear, concise, and accurate information to consumers.

As members of the Burn Team at Memorial Medical Center, who deal with pain, suffering, and monetary costs of burn injuries daily, we urge you to please reconsider this matter and reenact the previous standards. The standards were clearly working to prevent the death and disfigurement of many children. Something that was working so well to prevent disfigurement and death of our children should not be changed.

Memorial Medical Center
800 North Rutledge
Springfield, Illinois 62781
217-788-3325
FAX: 217-788-5563

Enclosed you will find the signature of our burn team members who wholeheartedly support the reenactment of the **Flammable Fabrics Act**.

Sincerely,

- Prevention
- Care
- Teaching
- Research
- Rehabilitation

- | | |
|--------------------------------|------------------------------------|
| 1. <u>[Signature]</u> BSN CCPN | 16. <u>[Signature]</u> RD |
| 2. <u>[Signature]</u> RN II | 17. <u>[Signature]</u> DCC, Chopte |
| 3. <u>[Signature]</u> BSN | 18. <u>[Signature]</u> LSW |
| 4. <u>[Signature]</u> RN, BC | 19. <u>[Signature]</u> RN |
| 5. <u>[Signature]</u> | 20. <u>[Signature]</u> Tech II |
| 6. <u>[Signature]</u> | 21. <u>[Signature]</u> a/c |
| 7. <u>[Signature]</u> RN | 22. <u>[Signature]</u> LNA |
| 8. <u>[Signature]</u> Tech | 23. <u>[Signature]</u> |
| 9. <u>[Signature]</u> RN | 24. <u>[Signature]</u> RN |
| 10. <u>[Signature]</u> | 25. <u>[Signature]</u> Tech |
| 11. <u>[Signature]</u> | 26. <u>[Signature]</u> RN |
| 12. <u>[Signature]</u> | 27. <u>[Signature]</u> Tech |
| 13. <u>[Signature]</u> | 28. <u>[Signature]</u> |
| 14. <u>[Signature]</u> RN/RS | 29. <u>[Signature]</u> |
| 15. <u>[Signature]</u> MPT | 30. _____ |

Date

4/24/98

640
OK 2/6/98

The Honorable Thomas H. Moore, Commissioner
United States Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner Moore:

As a member of the Berks County Chapter of Safe Kids I am increasingly concerned about the impact of CPSC's 1996 decision to relax the flammability standards for children's sleepwear. Relaxation of this standard will put infants and children at a higher risk for injury from burns.

CPSC was established to set and monitor standards for product safety, along with educating the public about such safety. Available injury and death data demonstrates that the sleepwear standard, adopted in the early 1970's, was working to reduce burn death and injury to children. Please reverse your 1996 decision and restore this standard.

Many of us have been concerned from the beginning that the "tight-fit" requirement and the educational campaign promised in return for relaxing the standard would not protect children wearing non-flame-resistant sleepwear from burn injury. The apparel industry has failed to agree on labeling or tight-fitting requirements or design and implement the promised educational campaign. As a regulating agency, CPSC has the responsibility of providing clear, concise, accurate information to consumers to help them make safe choices when choosing sleepwear. Now, it is virtually impossible for consumers to judge the relative safety of such sleepwear garments in the marketplace.

As a member of Berks County Chapter of Safe Kids I am frequently reminded of the pain, suffering and cost of burn injury, and the life-long impact of burn injury on young children. I urge you to reconsider your decision and restore the previous children's sleepwear flammability standard. There was no need to change a standard which played such an important role in preventing injury, death and disfigurement in young children.

Sincerely,


Denise M. Drobnick
State Farm Agent

April 28, 1998

6-15-88
4/21/98

The Honorable Thomas H. Moore, Commissioner
United States Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner Moore:

As a member of the Board of Governors of Shriners Burns Hospital in Galveston, Texas and Assistant Chairman of the Hospital Committee of Akdar Temple in Tulsa, Oklahoma, I am increasingly concerned about the impact of CPSC's 1996 decision to relax the flammability standards for children's sleepwear. Relaxation of this standard will put infants and children at a higher risk for injury from burns.

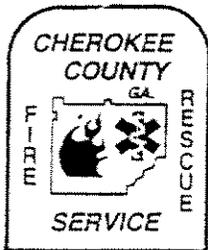
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Sincerely,


Don J. Holt



CHEROKEE COUNTY
FIRE SAFETY EDUCATION COMMITTEE



6724 Bells Ferry Road
Woodstock, Georgia 30189
770.926.7155
Fax 770.516.7811

April 29, 1998

The Honorable Thomas H. Moore, Commissioner
United States Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner Moore:

As a fire safety educator, I am increasingly concerned about the impact of CPSC's 1996 decision to relax the flammability standards for children's sleepwear. Relaxation of this standard will put infants and children at a higher risk for injury from burns.

CPSC was established to set and monitor standards for product safety, along with educating the public about such safety. Available injury and death data demonstrates that the sleepwear standard, adopted in the early 1970's, was working to reduce burn death and injury to children. Please reverse your 1996 decision and restore this standard.

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As a member of the fire service, I am frequently reminded of the pain, suffering and cost of burn injury, and the life-long impact of burn injury on young children. I urge you to reconsider your decision and restore the previous children's sleepwear flammability standard. There was no need to change a standard which played such an important role in preventing injury, death and disfigurement in young children.

Sincerely,
Captain Ann Segers



650K / OS
5/28/98
D

MONROE COUNTY EMERGENCY SERVICES

507 Montpelier Avenue
FORSYTH, GA 31029

CHIEF WARRING R. DOLES
Director

Phone 912/994-7004
Phone 912/994-7024
FAX 912/994-7055

May 1, 1998

Commissioner Thomas Hill Moore
US CSPC, 4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner:

As a concerned parent, grandparent, Fire Chief and Director of Emergency Services, I urge you to reconsider your position on relaxing the standard on children sleep wear.

I have seen first hand what can happen when a child or an adult sleep wear catches on fire. The sight is not a pleasant one to the healthcare provider not to speak of the pain and trauma that the patient experiences. I see no sound reason to put children in jeopardy either financially or otherwise. The past standard has provided us with good protection for our children and should be left as is.

I employ you to change your position on reestablishing the past standard on children sleep wear flammability. Nothing is more valuable than our children.

If I can be of service to you or any of your staff, please do not hesitate to contact me.

Respectfully,

Chief Warring R. Doles
Director



Wayne State University

Detroit Receiving Hospital
and University Health Center

(313) 745-3484

May 6, 1998

Commissioner Thomas Hill Moore
US CPSC
4330 East-West Highway
Bethesda, MF 20814

Dear Commissioner Moore:

This letter will hopefully direct your attention and influence your recent CPSC decision to relax the flammability standards for children's sleepwear. America's children have been protected from the risk of fire and crippling burn injury from their sleepwear for the last 25 years since Congress enacted those standards.

Burn injury and death statistics have shown that the sleepwear standards work and save children's lives from fire and burn injuries. The relaxed CPSC standards put children at a high risk. The educational and awareness programs promised by CPSC last year have been postponed. As a regulatory agency, the CPSC is responsible for accurate and precise recommendations to the parents buying this flammable sleepwear.

As the Trauma Outreach Specialist from a Level I Trauma Center, in a major U.S. city, I strongly urge you to reconsider the issue and reinstate the previous safe standards before one child has to suffer as a result of your decision.

Sincerely,

A handwritten signature in cursive script that reads "Dawn Marie Lang".

Dawn Marie Lang, B.S.
Trauma Outreach Specialist
Detroit Receiving Hospital

DL/sr



BUREAU OF HEALTH
245 North 6th Street
Allentown, PA 18102-4128



Alliance Hall
(610) 437-7702
FAX (610) 437-8799

City of Allentown

May 14, 1998

The Honorable Thomas H. Moore, Commissioner
United States Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Commissioner Moore:

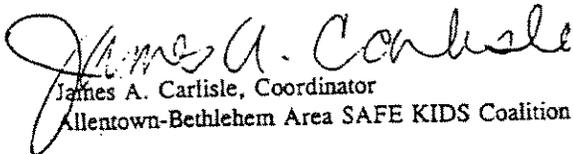
As Coordinator of the Allentown-Bethlehem Area SAFE KIDS Coalition, I was directed by the Coalition to express our concern about the impact of CPSC's 1996 decision to relax the flammability standards for children's sleepwear. Relaxation of this standard will put infants and children at a higher risk for injury from burns.

CPSC was established to set and monitor standards for product safety, along with educating the public about such safety. Available injury and death data demonstrated that the sleepwear standard, adopted in the early 1970's, was working to reduce burn death and injury to children. Please reverse your 1996 decision and restore this standard.

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As a member of the Coalition and of the Injury Prevention Program of the Allentown Health Bureau, I am frequently reminded of the pain, suffering and cost of burn injury, and the life-long impact of burn injury on young children. I urge you to reconsider your decision and restore the previous children's sleepwear flammability standard. There was no need to change a standard which played such an important role in preventing injury, death and disfigurement in young children.

Sincerely,


James A. Carlisle, Coordinator
Allentown-Bethlehem Area SAFE KIDS Coalition

xc: Tom Morgan, Associate Director of Health
Daniel Dillard, Executive Director, Burn Prevention Foundation
Kate Schaffer, National Field Organizer, National SAFE KIDS Campaign
Anne Franchak, Executive Director, PA SAFE KIDS Coalition
Members of the Allentown-Bethlehem SAFE KIDS Coalition

JC:cy(moore.let)





6/20/98
6/20/98

El Dorado County Fire Prevention Officer's Association

P.O. Box 807, Camino, California 95709
Bus: 916-644-9630 Fax: 916-644-9636

May 26, 1998

U.S. Consumer Product Safety Commission
Washington, DC 20207

RE: Safe Children's Sleepwear Coalition

To Whom It May Concern,

The El Dorado County Fire Prevention Officer's Association is an organization devoted to the safety of the people of El Dorado County in California. Our members represent fire service organizations from the private sector to local, state, and federal governmental fire agencies.

Our organization has learned that your agency has voted to relax the fire safety standards for children's sleepwear. Our association is unanimously against the relaxing of such standards and urges your agency to revisit your decision and keep our children safe from fire.

The children of today are our leaders of tomorrow, let's make sure they're here do to the leading.

Thank you for your cooperation,

Wayne Trumbly, President
El Dorado County
Fire Prevention Officer's Assoc.

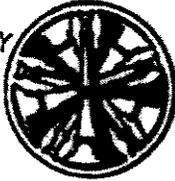
WET/sw

The Connecticut Fire Chiefs' Association, Inc.

ORGANIZED 1902

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION

1998 NOV -3 A 10:47



Office of the Secretary

Sadye Dunn, Sect'y
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20207

October 29, 1998

Dear Ms. Dunn:

It is the recommendation of the Connecticut Fire Chiefs' Association that the Consumer Product Safety Commission reverse its 1996 recommendation to lessen the fire retardant standard for children's sleepware and revert to the 1975 standard.

Very truly yours,

Edward F. Haber

Edward F. Haber

Secretary

Connecticut Fire Chiefs' Association, Inc.

346 Spruce Brook Road

Berlin, Connecticut 06037-3726

(860) 828-3778



United States
CONSUMER PRODUCT SAFETY COMMISSION
 Washington, D.C. 20207

CPSA (a)(b) ←
 8/6/98 No Mfrs/PrvtLblrs or
 Products Identified
 Excepted by _____
 Firms Notified,
 Comments Processed.

MEMORANDUM

DATE: August 4, 1998

TO : ES

Through: Sadye E. Dunn, Secretary

FROM : Martha Kosh
 Records Assistant

SUBJECT: Proposed Clarification of Statement of Policy,
 Children's Sleepwear Flammability Standards, 16 CFR
 1615 and 1616; 63FR 27885, May 21, 1998

ATTACHED ARE COMMENTS ON THE CF98-2a

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CF98-2a-1	7/23/98	Phillip Wakelyn Ph.D. Senior Scientist, Environmental Health & Safety	National Cotton Council of America 1521 New Hampshire Ave NW Washington, DC 20036



1521 New Hampshire Avenue, NW • Washington, DC 20036
(202) 745-7805 • FAX (202) 483-4040

6663 dy 8/6/98

PRODUCERS • GINNERS • WAREHOUSEMEN • MERCHANTS • CRUSHERS • COOPERATIVES • MANUFACTURERS

July 23, 1998

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Re: Comments of the National Cotton Council to CPSC's proposed clarification of
Statement of Policy, Children's Sleepwear Flammability Standards,
16CFR 1615 and 1616 (63FR 27885, May 21, 1998)

These comments are submitted by the National Cotton Council (NCC) in response to CPSC's May 21, 1998 (63FR 27885) request for comments on Statement of Policy, Standards for Flammability of Children's Sleepwear. NCC is the central trade association of the American cotton industry. NCC members include producers of over 75% of the U.S. cotton and cotton processing industries.

NCC has been actively involved with the children's sleepwear issue since the standards were promulgated in the 1970's and since the CPSC started the process to amend the Children's Sleepwear Flammability Standards sizes 0-6x (16CFR 1615) and sizes 7-14 (16CFR 1616) in 1992, which resulted in the September 1996 amendments. It is very important that the "Statement of Policy" clarifies that garments sized for infants nine months of age or younger and "tight-fitting" sleepwear for children older than nine months that comply with the requirements of 16CFR 1615 and 1616 be considered and recognized as complying sleepwear and that these garments be allowed to be marketed and promoted as sleepwear. NCC is pleased that the proposed "Statement of Policy" clarifies that these items are indeed complying sleepwear.

NCC strongly supports CPSC's amending the policy statement on flammability of children's sleepwear so that infant garments and "tight-fitting" garments that comply with the definitions and requirements of 16CFR 1615 and 1616 can be marketed and promoted as sleepwear with other complying sleepwear. This is necessary because it would be confusing to the consumer not to allow all complying sleepwear to be similarly marketed and promoted as sleepwear.

We appreciate the CPSC's consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "P. J. Wakelyn".

Phillip J. Wakelyn, Ph.D.
Senior Scientist, Environmental Health and Safety