

go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Items which do not withstand 50 launderings shall be tested at the end of their useful service life with prior approval of the Consumer Product Safety Commission.

(ii) Washing shall be performed in accordance with sections 8.2.2 and 8.2.3 of AATCC Test Method 124-1996, using wash temperature V ( $60^{\circ} \pm 3^{\circ} \text{C}$ ,  $140^{\circ} \pm 5^{\circ} \text{F}$ ) specified in Table II of that method, and the water level, agitator speed, washing time, spin speed and final spin cycle specified for "Normal/Cotton Sturdy" in Table III. A maximum washer load shall be 3.64 Kg (8 pounds) and may consist of any combination of test samples and dummy pieces. Drying shall be performed in accordance with section 8.3.1(A) of that test method, Tumble Dry, using the exhaust temperature ( $66^{\circ} \pm 5^{\circ} \text{C}$ ,  $150^{\circ} \pm 10^{\circ} \text{F}$ ) and cool down time of 10 minutes specified in the "Durable Press" conditions of Table IV. Alternatively, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission. Such laundering is not required of items which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(iii) Items which are not susceptible to being laundered and are labeled "dry-clean only" shall be dry-cleaned by a procedure which has previously been found to be acceptable by the Consumer Product Safety Commission.

(iv) For the purpose of the issuance of a guarantee under section 8 of the act, finished sleepwear garments to be tested according to §1616.4(c) *Garment sampling*, need not be laundered or dry-cleaned provided all fabrics used in making the garments (except trim) have been guaranteed by the fabric pro-

ducer to be acceptable when tested according to §1616.4(b) *Fabric sampling*.

[40 FR 59917, Dec. 30, 1975; 41 FR 1061, Jan. 6, 1976, as amended at 46 FR 63252, Dec. 31, 1981; 64 FR 34538, June 28, 1999; 64 FR 61021, Nov. 9, 1999; 65 FR 12928, Mar. 10, 2000]

#### § 1616.6 Labeling requirements.

(a) All items of children's sleepwear shall be labeled with precautionary instructions to protect the items from agents or treatments which are known to cause significant deterioration of their flame resistance. If the item has been initially tested under §1616.5(c)(4) *Laundering*, after one washing and drying, it shall be labeled with instructions to wash before wearing. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

(b) [Reserved]

[40 FR 59917, Dec. 30, 1975, as amended at 61 FR 1117, Jan. 16, 1996]

### Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194.

#### § 1616.31 Labeling, recordkeeping, retail display and guaranties.

(a) *Definitions*. For the purpose of this section, the following definitions apply:

(1) *Standard* means the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74) (subpart A of part 1616 of this chapter) promulgated by the Consumer Product Safety Commission in the FEDERAL REGISTER of May 1, 1974 (39 FR 15214), and amended in the FEDERAL REGISTER of March 21, 1975 (40 FR 12811) (correction notice published for technical reasons on March 27, 1975, 40 FR 13547).

(2) *Children's sleepwear* means "children's sleepwear" as defined in §1616.2(a) of the Standard, that is, "any product of wearing apparel size 7 through 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition."

## § 1616.31

(3) *Item* means “item” as defined in § 1616.2(c) of the Standard, that is, “any product of children’s sleepwear or any fabric or related material intended or promoted for use in children’s sleepwear.”

(4) *Market or handle* means any one or more of the transactions set forth in section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(5) The definition of terms set forth in § 1616.2 of the Standard shall also apply to this section.

(b) *Labeling.* (1) Where any agent or treatment is known to cause deterioration of flame resistance or otherwise causes an item to be less flame resistant, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment; Provided:

(i) Where items required to be labeled in accordance with this paragraph are marketed at retail in packages, and the required label is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information, and

(ii) Where items are required to be labeled in accordance with this paragraph, the precautionary care and treatment instructions may appear on the reverse side of the permanent label if

(A) The precautionary care and treatment instructions are legible, prominent and conspicuous, and

(B) The phrase “Care Instructions On Reverse” or the equivalent appears permanently, prominently, conspicuously, and legibly on the side of the permanent label that is visible to the prospective purchaser when the item is marketed at retail, and

(C) The item which is so labeled is marketed at retail in such a manner that the prospective purchaser is able to manipulate the label so the entire text of the precautionary care and treatment instructions is visible and legible; however, where the label cannot be manipulated so the instructions are visible to the prospective purchaser and legible, the package must also be prominently, conspicuously and legibly labeled with the required pre-

## 16 CFR Ch. II (1–1–07 Edition)

cautionary care and treatment information or such information must appear prominently, conspicuously and legibly on a hang tag attached to the item.

(2) If the item has been initially tested under § 1616.5(c)(4) of the Standard after one washing and drying, it shall be prominently, permanently, conspicuously and legibly labeled with instructions to wash before wearing.

(3) Where any fabric or related material intended or promoted for use in children’s sleepwear subject to the Standard is sold or intended for sale to the ultimate consumer for the purpose of conversion into children’s sleepwear, each bolt, roll, or other unit shall be labeled with the information required by this section. Each item or fabric or related material sold to an ultimate consumer must be accompanied by a label, as prescribed by this section, which can by normal household methods be permanently affixed by the ultimate consumer to any item of children’s sleepwear made from such fabric or related material.

(4)(i) Where items required to be labeled in accordance with paragraphs (b)(2), and/or, (b)(3) of this section and fabrics required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by paragraph (b)(7) of this section; or

(B) There must be a garment style identification that is prominent, conspicuous, and legible and readily visible to the prospective purchaser, either on a label or hang tag attached to the garment design or on the garment packages. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of

garments that form all or part of one or more GPU's and the style may include any number of garments the manufacturer chooses. Style identification means any numbers, letters, or combination thereof that are sufficient to identify the garments of the style and may include information such as color, season or size. If this option B is selected, in any recall of noncomplying items from a particular GPU.

(1) The garment manufacturer must recall the entire style(s) from all customers who purchased garments of the style(s) of which the GPU is part. However, retailers may elect to return only garments from the particular GPU necessitating the recall rather than the entire style(s) or portions of style(s) being recalled; and

(2) Within 48 hours of a written request, the garment manufacturer must supply to the Commission any samples in its possession of garments from the GPU, as requested. As required of all persons subject to this section, the garment manufacturer must also, within the time requested, supply to the Commission the names of any customers who purchased during a specified period of time, garments from the GPU (or the style(s) of which the GPU is a part) and supply access to all records required under the Standard and this section.

(5) Samples, swatches, or specimens used to promote or effect the sale of items subject to the Standard shall be labeled in accordance with this section with the information required by this section: Except that such information may appear on accompanying promotional materials attached to fabric samples, swatches or specimens used to promote the sale of fabrics to garment manufacturers. This requirement shall not apply, however, to samples, swatches, or specimens prominently, permanently, conspicuously, truthfully and legibly labeled: "Flammable, Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear; Sizes 7 through 14 (FF 5-74)."

(6) [Reserved]

(7) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign

to each item a unit identification (number, letter or date, or combination thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit under the Standard. The letters "GPU" and "FPU" may be used to designate a garment production unit identification and fabric production unit identification, respectively, at the option of the labeler. In addition to the requirements prescribed by this paragraph (b)(7), the requirements prescribed by paragraph (b)(4) of this section must be met for items marketed at retail in packages.

(i) Each garment subject to the Standard shall bear a label with minimum dimension of 1.3 centimeters (0.5 inch) by 1.9 centimeters (0.75 inch) containing the appropriate garment production unit identification for that garment in letters which are clear, conspicuous, and legible, and in a color which contrasts with the background of the label, or shall have such information stamped on the garment itself in letters which are clear, conspicuous, and legible, and in a color which contrasts with the background, and at least 2.54 centimeters (1 inch) in every direction from any other information. The stamp or label containing the garment production unit identification must be of such construction, and affixed to the garment in such a manner, as to remain on or attached to the garment, and legible and visible throughout its intended period of use.

(ii) The fabric production unit identification shall appear in letters at least 0.4 centimeter (one-sixth of an inch) in height against a contrasting background on each label that relates to such fabric and is required by the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) and the regulations thereunder (16 CFR 303.1 through 303.45) or by the Wool Products Labeling Act of 1939 (15 U.S.C. 68-68j) and the regulations thereunder (16 CFR 300.1 through 300.35). When the information required by the Textile Fiber Products Identification Act or by the Wool Products Labeling Act of 1939 appears on an invoice used in lieu of labeling, the fabric

production unit identification required by this section may be placed clearly, conspicuously, and legibly on the same invoice in lieu of labeling.

(8) All items complying with the Standard and manufactured on or after May 1, 1975, through May 1, 1978, shall bear a label which states "Flame-resistant. U.S. Standard FF 5-74." The label must be prominent, conspicuous, and legible and readily visible at the point of sale to ultimate consumers. The label statement may be attached to the item itself, on a hang tag attached to the item, or on a package enclosing the item. The label need not be affixed permanently. The letters of the label must be at least 0.4 centimeter (one-sixth of an inch) in height and in a color which contrasts with the background of the label.

(c) [Reserved]

(d) *Records—manufacturers, importers, or other persons initially introducing items into commerce—(1) General.* Every manufacturer, importer, or other person (such as a converter) initially introducing into commerce items subject to the Standard, irrespective of whether guaranties are issued under paragraph (e) of this section, shall maintain written and physical records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear, or fabrics or related materials intended or promoted for use in children's sleepwear, to the sale and delivery of the finished items and from the specific finished item to the manufacturing records. Such records shall show with respect to such items:

(i) Details, description and identification of any and all sampling plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan(s) and must relate the sampling plan(s) to the actual items produced, marketed, or handled. This requirement is not limited by other provisions of this paragraph (d).

(ii) Garment production units or fabric production units of all garments or fabrics marketed or handled. The records must relate to an appropriate production unit identification on or af-

fixed to the item itself in accordance with paragraph (b)(7) of this section, and the production unit identification must relate to the garment production unit or fabric production unit.

(iii) Test results and details of all tests performed, both prototype and production, including char lengths of each specimen tested, average char lengths of the samples required to be tested, details of the sampling procedure employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedures and sampling plan specified by the Standard or authorized alternate sampling plan.

(iv) Disposition of all failing or rejected items. Such records must demonstrate that the items were retested or reworked and retested in accordance with the Standard prior to sale or distribution and that such retested or reworked and retested items comply with the Standard, or otherwise show the disposition of such items.

(v) Fiber content and manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Data and test results relied on as a basis for inclusion of different colors or different print patterns of the same fabric as a single fabric or garment production unit under §1616.4(a)(2) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under §1616.5(c)(4) of the Standard and any quantities issued or received relating to laundering as well as details of the laundering procedure utilized.

(viii) Identification, composition, and details of application of any flame retardant treatments employed. All prototype and production records shall relate to such information.

(ix) Date and quantity of each sale or delivery of items subject to the Standard (except the date of sale to an ultimate consumer) and the name and address of the purchaser or recipient (except an ultimate consumer). The items involved in each sale or delivery shall be identified by production unit or by style. A style is a garment design or

grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more garment production units and the style may include any number of garments the manufacturer chooses. If a person subject to the requirements of paragraph (d) of this section maintains sales records which identify the items sold or delivered by style, and if recall of one or more production units subject to the Standard is required, that person in recalling such production units shall notify all purchasers of items of the style in which such production unit or units were manufactured. Retailers may elect to return all items of the style involved, or all items of the production units subject to recall.

(2) *Fabrics.* In addition to the information specified in paragraph (d)(1) of this section, the written and physical records maintained with respect to each fabric production unit shall include (i) finished fabric samples sufficient to repeat the fabric sampling procedure required by § 1616.4 of the Standard for each production unit marketed or handled; and (ii) records to relate the samples to the actual fabric production unit. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the sampling and testing of any production unit in accordance with the Standard shall be furnished from these records within the time specified in the written request.

(3) *Garments—prototype testing.* In addition to the records specified in paragraph (d)(1) of this section, the following written and physical records shall be maintained with respect to the garment prototype testing required by the Standard:

(i) Specification, fiber content, and details of construction on all seams, fabrics, threads, stitches, and trims used in each garment style or type upon which prototype testing was performed, relating the same to such garment style or type and to all production units to which such prototype testing is applicable.

(ii) Samples sufficient to repeat the prototype tests required by § 1616.4 of the Standard for all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such

samples to the records, required by this paragraph (d), including the information required by paragraph (d)(3)(i) of this section. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the testing of any prototype specimens identical to those specimens that were actually tested pursuant to the Standard shall be furnished from these records within the time specified in that written request.

(iii) A complete untested garment from each style or type of garment marketed or handled.

(iv) Remains of all physical specimens tested in accordance with the prototype testing required by § 1616.4 of the Standard, relating such samples to the records required by this paragraph (d), including information required by paragraph (d)(3)(i) of this section.

(4) *Garments—production testing.* In addition to the records required by paragraph (d)(1) of this section, written and physical records shall be maintained and shall show with respect to each garment production unit:

(i) Source and fabric production unit identification of all fabrics subject to testing used in each garment production unit.

(ii) Identification and appropriate reference to all prototype records and prototype tests applicable to each production unit.

(iii) Any guaranty relied upon to demonstrate that the fabric utilized in such garments meets the laundering requirements of the Standard.

(iv) Data sufficient to show that tested samples were selected from the production unit at random from regular production.

(v) Written data that will enable the Commission to obtain and test garments under any applicable compliance market sampling plan.

(5) *Record retention requirements.* The records required by this paragraph (d) shall be maintained for 3 years, except that records relating to prototype testing shall be maintained for as long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(e) *Tests for guaranty purposes.* Reasonable and representative tests for the

## § 1616.32

purpose of issuing a guaranty under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard.

(f) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

[40 FR 59917, Dec. 30, 1975, as amended at 49 FR 3064, Jan. 24, 1984; 61 FR 1117, Jan. 16, 1996]

### **§ 1616.32 Method for establishment and use of alternate laundering procedures under section 5(c)(4)(ii) of the standard.**

(a) *Scope.* (1) Section 1616.5(c)(4)(ii) of the Standard for the Flammability of Children's Sleepwear in sizes 7-14 (16 CFR 1616.5(c)(4)(ii)) requires that all fabrics and certain garments subject to the standard be tested for flammability as produced (or after one washing and drying) and after the items have been washed and dried 50 times in machines, using the procedure specified in AATCC Test Method 124-1996.<sup>7</sup> This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an al-

<sup>7</sup> AATCC Test Method 124-1996 "Appearance of Fabrics after Repeated Home Laundering," Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 73, 1997, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

## 16 CFR Ch. II (1-1-07 Edition)

ternate laundering procedure is equivalent to the procedure specified in the standard.

(2) This rule provides the procedures to be followed by persons seeking Commission approval for alternate laundering procedures. It also provides the criteria the Commission will use in evaluating the applications.

(3) The alternate laundering procedures provided for in this section apply only to procedures under section 5(c)(4)(ii) of the standard and shall not be used for determining whether different colors or different print patterns of the same fabric may be included in a single fabric or garment production unit.

(4) As used in this section, fabric means fabric or related material promoted or intended for use in children's sleepwear made to identical specifications and containing the same identity while in production.

(b) *Application procedure.* (1) Applicants seeking approval for use of an alternate laundering procedure under § 1616.5(c)(4)(ii) of the standard must submit the following information in writing to the Assistant Executive Director for Compliance, Consumer Product Safety Commission, Washington, DC 20207:

(i) A detailed description of the proposed alternate laundering procedure, and a 6 in. by 6 in. swatch of the fabric or garment for which the procedure is proposed,

(ii) Upon request of the Commission staff, any other information concerning the procedure and/or any machine used in connection with it,

(iii) With regard to each fabric or garment for which an alternate laundering procedure is sought, test data comparing twenty test specimens washed and dried by the proposed alternate laundering procedure and twenty specimens tested in accordance with the 50-wash and dry cycle procedure required in section 5(c)(4)(ii) of the standard. (For purposes of applications, similar fabrics or garments of different finishes shall be considered as different fabrics or garments and therefore separate test results must be submitted). Each group of twenty specimens upon which these data are based must be cut