This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 14, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35071 Filed 12-29-75;8:45 am]

[AB 7 (Sub-No. 19); Finance Docket No. 27754]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Abandonment of Line; Trackage Rights

In the matter of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company abandonment between Fairmont and Welcome, in Martin County, Minnesota, and trackage rights over a line of the Chicago and North Western Transportation Company between Fairmont and Welcome, Martin County, Minnesota.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the appended notice in a newspaper of general circulation in Martin County, Minn., on or before January 7, 1976, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 12th day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

[AB 7 (Sub-No. 19)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, ABANDONMENT BETWEEN FAIRMONT AND WELCOME, IN MARTIN COUNTY, MINNESOTA

FINANCE DOCKET NO. 27754

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY—TRACKAGE RIGHTS—OVER A LINE OF THE CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY BETWEEN FAIRMONT AND WELCOME, MARTIN COUNTY, MINNESOTA

The Interstate Commerce Commission hereby gives notice that by order dated December 12, 1975, it has been determined that the proposed acquisition of trackage rights by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company over 7.1 miles of track owned and operated by the Chicago and North Western Railroad Company between Fairmont and Welcome, Minn., and the concurrent abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of 6.0 miles of track between Fairmont and Welcome, Minn., if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the actions permit the transfer of rail operations from one line to an adjacent, parallel track. All existing local service will be maintained and the applicant will gain the use of a higher capacity track, permitting improved service. In the Commission's Service Order 120, dated December 19, 1974, the authority sought under these applications was granted on a temporary basis due to unserviceable track conditions. No significant adverse impacts have been reported as a result of that action.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 22, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35072 Filed 12-29-75;8:45 am]

[Notice No. 940]

ASSIGNMENT OF HEARINGS

DECEMBER 23, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138741 Sub-17, E. K. Motor Service, Inc., now assigned January 20, 1976, at Chicago, Illinois, will be held in Room 438, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 130324, American Travel, Inc., now assigned January 29, 1976 at Montpelier, Vermont, will be held on The Third Floor, Court Room Federal Bldg., Post Office & Courthouse.

MC 105566 Sub-108, Sam Tanksley Trucking, Inc., now assigned January 20, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 119767 Sub-331, Beaver Transport Co., now assigned January 26, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 16831 Sub-19, Mid Seven Transportation Company, now assigned January 22, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 111485 Sub 18, Paschall Truck Lines, Inc., application dismissed.

MC 135691 Sub 4, Dallas Carriers Corp., application dismissed.

MC 135691 Sub 5, Dallas Carriers Corp., application dismissed.

MC 135691 Sub 6, Dallas Carriers Corp., application dismissed.

MC-F 12264 and 99888 Sub-3, Mayfield Transfer & Storage Co., Inc.—Purchase (Portion)—Fred Olson Motor Service Company, now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 110683 Sub-101, Smith's Transfer Corporation, now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 10761 Subs-240, 246, 247, 249, 253, 254, 256, 257, 259, 260, Transamerican Freight Lines, Inc., now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 106603 Sub-140, Direct Transit Lines, Inc., now assigned February 2, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 123407 Sub-245, Sawyer Transport, Inc., now assigned February 3, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC-C 8807, Pacific Intermountain Express Co.—Investigation and Revocation of Certificates, now assigned February 5, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35077 Filed 12-29-75;8:45 am]

[Notice No. 148]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 30, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 19, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76197. By order of December 22, 1975 the Motor Carrier Board approved the transfer to Robert J. Dillon, Woodbridge, N.J., of Certificate No. MC-75194 issued by the Commission February 12, 1964, to Beverly Storage Co., Inc., New York, N.Y., authorizing the transportation of new and used furniture, except household goods as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in New York, New Jersey, and Connecticut. Alvin Altman, Esquire, Attorney for Transferor, Brodsky, Linett and Altman, 1776 Broadway, New York, N.Y. 10019. Mr. Robert B. Pepper, ICC Practitioner, Transferee's Representative, 168 Woodbridge Avenue, Highland Park, N.J. 08904.

No. MC-FC-76205. By order of December 22, 1975 Motor Carrier Board approved the transfer to Bell Trucking Company, P.O. Box 148, Youngstown, Ohio 44501, the Certificate in No. MC-72231* issued July 22, 1971, to J. W. Jones & Son Company, Youngstown, Ohio 44501 authorizing the transportation of: varied commodities, from, to or between points in Ohio, Pennsylvania, Illinois, Indiana, Michigan, New York and West Virginia. A. Charles Tell, 100 East Broad Street, Suite 1800, Columbus, Ohio 43215—Attorney for Transferee. Same for Transferor.

No. MC-FC-76219. By order entered December 22, 1975 the Motor Carrier Board approved the transfer to Fred W. Winkler, doing business as Grange Hall, Maiden Rock, Wis., of the operating rights set forth in Certificate No. MC-90208, issued April 21, 1964, to La Moine A. Mountin, Elmwood, Wis., authorizing the transportation of livestock, from specified points in Wisconsin to South St. Minn.; feed and farm machinery, from South St. Paul, Minn., to specified points in Wisconsin, over regular and irregular routes; and livestock and farm products, between points in the Towns of Rock Elm and Spring Lake, Pierce County, and Weston and Eau Galle, Dunn County, Wis., on the one hand, and, on the other, South St. Paul, Newport, Minneapolis, and St. Paul, Minn.; feed and salt, from South St. Paul, Newport, Minneapolis, and St. Paul, Minn., to points in the above-described Wisconsin territory; livestock and agricultural commodities, from points in the Towns of Rock Elm, El Paso, Salem, and Ellsworth, Pierce County, Wis., to Minneapolis, St. Paul, South St. Paul, Lake City, Red Wing and Newport, Minn.; and general commodities, with the usual exceptions, from Minneapolis, St. Paul, South St. Paul, Lake City, Red Wing and Newport, Minn., to points in the Wisconsin Towns specified immediately above; farm products, between Elmwood, Wis., and points except incorporated municipalities other than Elmwood, in the Towns of Union, Spring Lake, El Paso, and Salem, Pierce County, Wis., on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., general commodities, from Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., to Elmwood, Wis., and points except incorporated municipalities (other than Elmwood) in the Towns of Union, Spring Lake, El Paso and Salem, Pierce County, Wis.; and livestock, between Elmwood, Wis., and points except incorporated municipalities other than Elmwood, in the Towns of Union, Spring Lake, El Paso, and Salem, Pierce County, Wis., on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., over irregular routes. F. H. Kroeger, 1745 University Avenue, St. Paul, Minn., 55104, practioner for applicants.

No. MC-FC-76238. By order of December 22, 1975 the Motor Carrier Board approved the transfer to Bill Doody Bus Tours Travel House, Inc., D/B/A Bill Doody Bus Tours, Buffalo, New York, of License No. MC-12872, issued March 19, 1965, to Travel House of Buffalo, Inc., Buffalo, New York, authorizing it to engage in operations as a broker of passengers and their baggage, in special and charter operations, in round-trip, all-expense tours, beginning and ending at Buffalo, N.Y., and extending to points in the United States including Alaska and Hawaii. S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C., 20005, Attorney for Applicants.

No. MC-FC-76261. By order entered December 22, 1975 the Motor Carrier Board approved the transfer to Darrel P. Purdy, doing business as Purdy's Moving & Transfer, Janesville, Wis., of the operating rights set forth in Certificate No. MC-34597, issued January 3, 1968, to Leonard S. Vechinsky, doing business as Alwin Transfer, Janesville, Wis., authorizing the transportation of household goods, as defined by the Commission, between points in Rock County, Wis., on the one hand, and, on the other, points in Illinois. Edward Solie, Executive Building, Suite 100, 4513 Vernon Blvd., Madison, Wis. 53705, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-35076 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975

PART II:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

EMERGENCY RELIEF PROGRAM FOR HOMEOWNERS

Final Rule on Standby Program

Title 24—Housing and Urban Development

CHAPTER XV—MORTGAGE INSURANCE AND LOAN PROGRAMS UNDER THE EMERGENCY HOMEOWNERS' RELIEF ACT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-355]

PART 2700—EMERGENCY HOMEOWNERS' RELIEF PROGRAM

Final Rule on the Standby Program

• The purpose of Chapter XV is to describe and establish a standby program authorized by the Emergency Homeowners' Relief Act to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income. If it becomes necessary to implement the program, HUD would provide emergency relief under the standby program by coinsuring loans made by private lenders or by making direct loans to homeowners to assist them in making their mortgage payments. •

Notice was given on October 9, 1975, at 40 FR 47694 that the Secretary of Housing and Urban Development was proposing to add a new Chapter XV to Title 24 of the Code of Federal Regulations describing the requirements of the Emergency Homeowners' Relief Program in case it should be determined that economic conditions dictate the implementation of the standby program.

The Department of Housing and Urban Development has received nine responses to the October 9, 1975, publication. In addition, the Department received a number of letters from U.S. Senators, and Representatives and members of the general public which, though not intended to respond specifically to the notice of proposed rulemaking, addressed various aspects of the proposed program. All of these comments have been carefully reviewed and several changes have been incorporated in the final regulations as a result of the review. The principal changes are set forth below.

1. The term "substantial reduction in income" has been redefined in § 2700.5(s) to mean that a homeowner's income during the period of delinquency is less than 80 percent of his average gross monthly income during the 24-month period prior to the beginning of his involuntary unemployment or underemployment. This change, which raises the applicable percentage from 75 to 80 percent and effectively increases the amount of income a homeowner may have and still qualify, was made in order to take greater cognizance of the impact of inflation and to bring HUD's definition into line with the guidelines used by the Department of Labor.

2. The final program regulations require that a homeowner pay only 25 percent of his gross monthly income toward mortgage payments, instead of 35 percent as was specified in the proposed regulations. HUD decided to lower the monthly mortgage payment requirement again in an effort to compensate for the impact of inflation on the homeowner's income and in order to bring the Emergency Homeowners' Relief Program requirements more into line with other HUD-administered programs.

3. The Department decided to revise its definition of involuntary unemployment or underemployment to be consistent with the guidelines used by the Department of Labor. The Department of Labor's guidelines are more specific than those it originally proposed and HUD supports the use of consistent definitions by all Federal agencies whenever possible.

4. The Department has amended its proposed regulations to instruct lending institutions to presume that a homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of mortgage payments given certain factors outlined in § 2700.-110(d). HUD decided to adopt this presumption of program eligibility because it realized a difficult burden would be placed on lending institutions in forcing them to make this determination without specific criteria.

5. The regulations have been modified to clarify that HUD will consider applications by lenders for the allocation of insurance or direct loan authority in excess of the needs of its own mortgagors. This provision accommodates the fact that under certain circumstances lenders may be asked to provide assistance to other delinquent mortgagors if some lenders are unwilling to participate in the program. However, applications for insurance or direct loan authority are expected to be related primarily to the needs of the lending institution.

6. The section which describes the terms of the note in connection with emergency loans has been revised in order to make it clear to all lending institutions that the note may be accelerated at the option of the holder if the underlying first mortgage is in default after the emergency period has expired.

7. The phrase "to the best of his knowledge" has been added to the lending institution's certification on a number of the forms shown in the appendices to the final regulations. This phrase was added because of the extent to which lenders must rely on information supplied by the homeowner in determining eligibility under the Emergency Homeowners' Relief Program.

The revisions cited above incorporate to a significant extent a number of comments on the proposed regulations. Certain suggestions contained in the comments HUD received were incorporated in their entirety, while others were included only in part.

Major program issues which were included in the comments, but did not directly result in revisions to the proposed regulations are set forth below:

1. *Selection of the "trigger" rate.* A number of those who commented on the proposed regulations indicated that they considered that the "trigger" rate (1.20 percent for the composite delinquency index) was set too high. The Department reconsidered its initial decision to set the rate at 1.20 percent, but is still convinced that the rate is appropriate and that "widespread foreclosures and distress sales of homes" are not likely to develop unless the composite index reaches the trigger point. Moreover, HUD continues to believe that voluntary forbearance by lenders for mortgagors who cannot make their payments due to temporary adverse economic circumstances is preferable to the standby program.

2. *Regional versus national implementation.* Several comments received suggested that the Emergency Homeowners' Relief Program should be implemented on a regional rather than a national basis. Those who commented on this issue indicated that consideration should be given to regional and local housing markets with higher delinquency rates than the national average. The Department continues to believe that in view of the equity issues raised by a regional approach and because of severe data limitations, a national approach to the implementation of the Emergency Homeowners' Relief Program is necessary. The Department has just completed another review of the potential sources of regional data and again concluded that the data which are available do not provide satisfactory measures of the levels and trends in delinquencies and foreclosures on a local or regional basis.

3. *Discretionary authority of the Secretary.* Objections were raised to the fact that under the proposed regulations the standby program would not automatically be implemented even if the "trigger" rate is reached. The Department continues to consider it essential that the Secretary retain discretion even under those circumstances in order to determine whether such a rate portends increased foreclosures or, for example, simply indicates a statistical aberration or widespread voluntary forbearance. The Secretary will also consult with other Federal agencies before making a judgment as to implementation.

4. *Request for allocation authority.* A suggestion was made that lenders be allowed to submit an application for insurance or direct loan authority before the program is implemented so that they would be in a position to offer immediate relief to homeowners once the program is implemented. Realizing the need to provide prompt assistance to homeowners, HUD has made a considerable effort to develop a system which will permit lenders prompt access to insurance and direct loan authority if the program is implemented. Given this, and in view of the fact that a lender's request for program authority prior to actual implementation may bear little relationship to their actual needs at the time of implementation, it was decided not to incorporate this suggestion into the final program regulations.

5. *Risk under the direct loan program.* One respondent suggested that since lending institutions would be acting only as HUD's servicer under the direct loan program, HUD should assume 100 percent of the risk under this program. However, there are a number of reasons why HUD thinks that such servicers should bear a portion of the risk under the direct

loan program. First, the risk sharing feature of the direct loan program provides the lending institution with an incentive to see to it that appropriate underwriting standards are followed. Second, since the lending institution is a major beneficiary of the program, inasmuch as some of its delinquent loans will be brought current, it should be willing to share a portion of the risk. Finally, HUD feels it is necessary to include a risk provision in the direct loan program so as not to discourage the use of the coinsurance program.

6. *Title search*. Some lenders feel that it is prudent to require a title search as a condition for granting an emergency loan, and they feel that the cost of a title search should be recoverable from the homeowner. HUD, on the other hand, believes that the cost of a title search represents an unnecessary financial burden which a family applying for assistance under this program could ill afford to pay. The Department is willing to accept the added risk by not requiring a title search and instead accept the lender's judgment of the truthfulness of the borrower.

7. *Late charges*. One of those who commented suggested that lenders should be allowed to collect late charges in connection with the emergency loan. HUD has decided not to adopt this recommendation. Based on HUD's considerable experience with the use of late charges under some of the other programs it administers, the Department feels that the problems which might arise as a result of adding a late charge provision would far outweigh the possible benefits.

8. *Servicing fee for direct loans*. Some lending institutions indicated that since they would be acting as HUD's servicer under the direct loan program they should be entitled to a servicing fee. HUD, on the other hand, believes that any actions taken by the lending institutions on behalf of HUD under the Emergency Homeowners' Relief Program should be considered part of their normal servicing activity. In addition, since, as was pointed out earlier, lenders will benefit from the direct loan program, the Department sees no reason to pay the lending institution a fee for its participation in this program.

9. *Special repayment provision for low-income families*. A suggestion was made to allow low-income families to make their emergency loan principal repayments over a longer period of time or to allow these families to wait to begin principal repayments until after the first mortgage has been paid off. While HUD realizes that the repayment of the emergency loan may pose a greater problem to lower income families, eligibility for assistance under the coinsured and direct loans programs is predicated on the fact that the homeowner has a reasonable prospect of being able to repay both the emergency and delinquent loan once the temporary period of unemployment or underemployment has passed.

10. *Problems arising from long redemption periods*. One comment indicated that in Illinois homeowners would face foreclosure about 30 days after the date of a missed payment, because of the 1-year redemption period. However, § 2700.335(d) gives the Secretary authority to extend the time within which a claim must be submitted. Such extensions will be allowed to remedy problems arising in jurisdictions with especially long redemption periods. When the Secretary deems it appropriate, interest during the extension period will be allowed as part of the claim.

11. *Use of direct loan program*. A recommendation was made that use of the direct loan program should not be predicated on the fact that the lending institution cannot make coinsured emergency relief loans. HUD has decided to retain this provision in its final regulations because it believes that it is necessary to encourage lending institutions to use the coinsured loan program. The Department believes that this requirement is particularly appropriate in view of the limited funds available under the Emergency Homeowners' Relief Program and because the Federal Home Loan Bank Board and other Federal agencies have indicated their willingness to consider making advances to financial institutions for the purpose of making coinsured loans if the program is implemented.

After the proposed regulations were published, it was determined, on the basis of an opinion of HUD's General Counsel's Office, that in general all homes in areas having special flood hazards would be ineligible for assistance under the Emergency Homeowners' Relief Act, unless they are covered by flood insurance. Therefore, flood insurance in the amount of the emergency loan has been made a requirement of the program.

In addition, HUD has determined that servicers should handle unimportant litigation relating to the collection of direct loans. A provision to that effect has been included in the final rule, subject to approval of the Department of Justice.

The Department also decided to include an additional form in the final regulations. The income certification form (Appendix 8) was adopted as a guide for use by lenders/servicers, at their option, to document their determination that a homeowner has incurred a substantial reduction in income as defined in § 2700.5 (s) and is therefore eligible for assistance under the Emergency Homeowners' Relief Program.

Environmental and inflation impact statements relative to the subject amendments have been prepared and will be available for public inspection during normal business hours at the office of the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

In consideration of the foregoing, and pursuant to authority contained in Section 211 of the National Housing Act, 12 U.S.C. 1701 et seq., Chapter XV of Title 24 of the Code of Federal Regulations is added as follows:

AUTHORITY: Sec. 108(a), 12 U.S.C. 2707, 89 Stat. 252, Pub. Law 94-50

Subpart A—General

§ 2700.1 Purpose.

The purpose of this chapter is to describe and establish a standby program, authorized by the Emergency Homeowners' Relief Act, to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income. If it becomes necessary to implement the program, HUD would provide emergency relief under the standby program by coinsuring loans made by private lenders or by making direct loans to homeowners to assist them in making their mortgage payments. In the event that this emergency program is needed, coinsurance under Subpart D is intended to be the primary method of assistance.

§ 2700.5 Definitions.

For purposes of this chapter:

(a) "Act" means the Emergency Homeowners' Relief Act.

(b) "Delinquent mortgage" means a mortgage which is at least 3 months delinquent at the time of the application for assistance under this chapter and with respect to which such assistance is to be used or has been used to make payments.

(c) "Department" and "HUD" mean the Department of Housing and Urban Development.

(d) "Direct loan" means an emergency loan made pursuant to Subpart E with funds of the United States of America, evidenced by a note payable to the United States of America.

(e) "Emergency loan" means an emergency mortgage relief loan made pursuant to this chapter.

(f) "Family" means one or more persons related by blood, marriage, or operation of law, who occupy the same dwelling unit.

(g) "Finance charge" means the cost of credit as determined in 12 CFR § 226.4, a section in "Regulation Z" of the Federal Reserve System's regulations on Truth in Lending.

(h) "Financially unable to make full mortgage payments" means that a homeowner is unable to make his monthly mortgage payment with 25 percent of his gross monthly income and that his assets (excluding the equity in his principal residence, household furniture, equipment used in his trade, clothing and automobiles) have a current value not in excess of $5,000.

(i) "Gross monthly income" means the total monthly income, before taxes and other deductions, received by all members of the homeowner's family. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, food stamp benefits, and interest and dividend payments.

(j) "Homeowner" means a mortgagor or mortgagors who are in need of mortgage assistance pursuant to this chapter.

(k) "Investor" means a lending institution which owns a delinquent mortgage. The investor may also be the lender or servicer.

(l) "Involuntary unemployment or underemployment due to adverse economic conditions" means the status of a homeowner who is able to work full-time in work which is suitable for the homeowner on the basis of experience and training, who is available for and actively seeking such suitable work, and who is either totally unemployed or working part-time in any job, suitable or unsuitable, or working full-time in work which is unsuitable, but who has suffered a substantial reduction in income. (Registration with the local office of the state employment service will be considered one form of evidence of active search for work.)

(m) "Lender" means a lending institution which makes an emergency loan pursuant to Subpart D, or its assignee or successor in interest.

(n) "Mortgage" means any mortgage, deed of trust, executory land sales contract, conditional sales contract, or other form of security and the obligation secured thereby on a one- to four-family dwelling which is either real estate or a mobile home. It includes a mortgage on a condominium unit and a security interest in stock in a housing cooperative.

(o) "Monthly mortgage payment" means the monthly amount of principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums due to be paid under a homeowner's mortgage(s).

(p) "Secretary" means the Secretary of Housing and Urban Development.

(q) "Servicer" means a lending institution which services an emergency loan made by the Secretary pursuant to Subpart E.

(r) "Servicing institution" means the lending institution that services the delinquent mortgage. The servicing institution may also be the lender or servicer.

(s) "Substantial reduction in income" means that the homeowner's average gross monthly income during the period the homeowner is in arrears on the delinquent mortgage is less than 80 percent of his average gross monthly income during the 24 month period preceding the beginning of his involuntary unemployment or underemployment.

§ 2700.10 Determination of emergency.

(a) The Department has constructed a nationwide composite index of delinquencies of 60 days or more (including loans in the process of foreclosure) for mortgage loans on one- to four-family dwellings. It is a quarterly index which is based on a weighted average of delinquency rates published by: the Veterans Administration, the National Association of Mutual Savings Banks, the Mortgage Bankers Association of America, the American Life Insurance Association, and the U.S. League of Savings Associations. The rates are weighted according to the percentage of the long-term mortgage loans, held by the respective lender group represented by the data in each individual series at the end of each quarter.

(b) If the composite rate of delinquencies should reach 1.20 percent the Secretary will, after consultation with the Federal agencies that regulate institutions which make home mortgage loans, make a finding and determination as to whether the Act should be implemented. If the determination of the Secretary is not to implement the Act, and if the composite rate of delinquencies should continue at a level of 1.20 percent or above, the Secretary shall continue to consult with such agencies and shall issue such a finding and determination at the end of each 30 day period during which the rate is at or above the 1.20 percent level.

(c) If the Emergency Homeowners' Relief Program is activated pursuant to paragraph (b) of this section, the Secretary shall publish a notice thereof in the Federal Register, inviting lending institutions qualified under § 2700.105 that are interested in participating in the program to submit a request for an insurance or direct loan authority allocation in the form specified in Appendix 1. Such request shall also serve as an application for a contract of insurance pursuant to Subpart D, or for a contract to act as the Secretary's servicer pursuant to Subpart E, depending on the type of allocation requested. The allocation request may be based upon anticipated applications with respect to mortgages held by other institutions. In such a case, the requesting institution should indicate the basis for its estimate of the number of such mortgages and the amount of assistance which will be sought pursuant thereto. An allocation of insurance authority shall constitute acceptance by the Secretary of the lending institution's application for a contract of insurance, the terms of which are embodied in this chapter. Similarly, an allocation of direct loan authority shall constitute acceptance by the Secretary of the institution's application for a contract to act as the Secretary's servicer, the terms of which are embodied in this chapter.

(d) If, after the program is activited, the Secretary determines that the emergency conditions which led to the activation of the program have abated, no new emergency loans may be made. Furthermore, if an allocation is not used as the applicant represented that it would be used, all or part of the unused allocation may be rescinded by the Secretary. Moreover, no emergency loans may be made after June 30, 1976.

Subpart B—Eligibility

§ 2700.101 Eligible properties.

In order to qualify for an emergency loan under Subpart D or Subpart E of this part, the mortgaged property must:

(a) be the principal residence of the homeowner;

(b) be subject to a delinquent mortgage, as defined in § 2700.5, but not subject to liens having a total outstanding principal balance at the time of filing of the application for an emergency loan under this chapter in excess of $55,000, or such other amount as approved by the Secretary; and

(c) have flood insurance, pursuant to the National Flood Insurance Program, in an amount equal to at least the initial principal amount of the emergency loan, if the property is located in an area that has been identified by the Secretary at least one year before the origination of the emergency loan as an area having special flood hazards.

§ 2700.105 Eligible lending institutions.

(a) In order to participate in the Emergency Homeowners' Relief Program as a lender or servicer, a lending institution must be approved as a mortgagee pursuant to §§ 203.1 through 203.4 (except § 203.4(e)) of this title.

(b) Approval of a lending institution pursuant to paragraph (a) of this section may be withdrawn at any time by notice from the Secretary by reason of:

(1) the transfer of an insured loan to a nonapproved entity;

(2) the failure of a lending institution to submit the required annual audit report of its financial condition within 75 days of the close of its fiscal year; or

(3) the failure of a lending institution to comply with the regulations of this chapter.

Withdrawal of a lending institution's approval shall not affect the insurance on the loans accepted for insurance.

(c) All approved lending institutions are responsible for servicing of emergency loans in accordance with acceptable mortgage practices of prudent lending institutions.

§ 2700.110 Eligible homeowners.

In order to qualify for an emergency loan under Subpart D or Subpart E the homeowner must:

(a) be at least 3 months in arrears in his payments on the delinquent mortgage;

(b) have incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions;

(c) be financially unable to make full mortgage payments on his principal residence;

(d) have a reasonable prospect of being able to make the adjustments necessary for a full resumption of mortgage payments on the delinquent mortgage the month after the last advance under the emergency loan and for the repayment of the emergency loan pursuant to the terms of the note taken in connection with that loan (a favorable employment and credit history prior to the beginning of his current unemployment or underemployment will be considered one form of evidence of the homeowner having such a prospect);

(e) have not received another emergency loan pursuant to this chapter;

(f) have been notified that the investor intends to foreclose; and

(g) sign the application to be sent to the Secretary, as specified in Appendices 2 and 5 to this Part, which certifies that to the best of his knowledge the information in the application which the homeowner provided is accurate, that circumstances make it probable that there would be a foreclosure if emergency mortgage relief were not given, and that he is in need of such relief.

Subpart C—Terms of Emergency Loans

§ 2700.201 Eligible notes and mortgages.

(a) The note, mortgage and lending agreement, if any, in connection with an emergency loan pursuant to Subpart D or E of this part shall be in a form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

(b) The note evidencing the emergency loan shall bear the signature of the homeowner as maker, shall be valid and enforceable against him, and shall be complete and regular on its face.

(c) Loans shall be secured by an additional mortgage upon the property which shall be recorded at the time of the closing of the loan.

(d) The note, or a separate lending agreement which may be incorporated by reference in the note, shall provide for the disbursement of the loan proceeds within 12 months. However, the note or lending agreement shall provide that if at any time before the last disbursement under the emergency loan is made, the homeowner's average gross monthly income during the preceding 3 months has increased or decreased by 20 percent or more in relation to the gross monthly income of the homeowner at the time the loan amount was established, the homeowner must notify the lender or servicer within 30 days. In such a case, the emergency loan shall be recast with respect to the amount of principal and interest on the basis of the homeowner's new income in such a way as to satisfy the requirements of § 2700.205(a).

(e) The maximum first disbursement of the loan proceeds may be in an amount equal to the loan amount as determined under § 2700.205 divided by 12, times the number of months, not exceeding 12, that the delinquent mortgage is in arrears.

(f) The note shall provide for payments to principal in equal installments falling due monthly beginning no later than 12 months following the date of the last disbursement of loan proceeds.

(g) The note shall provide for payments of interest earned during the disbursement period and interest earned thereafter beginning no later than 6 months following the date of the last disbursement under the loan.

(h) The note shall contain a provision for acceleration of maturity, at the option of the holder, in the event of default on the emergency loan, as defined in § 2700.330(b) and § 2700.425(b).

(i) The maximum permissible maturity of the note is 10 years from the date of the note.

§ 2700.205 Loan amount.

(a) Subject to the limitation specified in paragraph (b) of this section, the principal amount of the loan, exclusive of finance charges, made under Subparts D and E of this part shall be equal to the lesser of:

(1) 12 times $250; or

(2) the sum of (i) 12 times the homeowner's monthly mortgage payment after 25 percent of his monthly income has been subtracted therefrom, and (ii) the fees allowed under §§ 2700.310(a) and 2700.415(a).

(b) The lender or servicer shall not approve an emergency loan when the outstanding balance, including delinquent interest, of the delinquent mortgage when added to the other liens against the mortgaged property, plus the maximum loan which may be advanced to the homeowner pursuant to this chapter, exceeds the value of the mortgaged property. (In determining the value of the property, the lender or servicer may rely upon previously obtained appraisals or other determinations of value of the property and need not obtain a current appraisal.)

§ 2700.210 Finance charges.

The maximum permissible finance charge, exclusive of fees and charges as provided in §§ 2700.310, and 2700.415, which may directly or indirectly be paid to or collected by the lender or the servicer in connection with an emergency loan transaction shall not exceed simple interest on the outstanding principal balance at the annual interest rate for FHA-insured home mortgages as specified in § 203.20 of this title at the time of the closing of the loan. No points or discounts of any kind may be assessed or collected in connection with an emergency loan transaction.

Subpart D—Coinsurance

§ 2700.301 Loan applications.

(a) Lending institutions which have contracts of insurance pursuant to § 2700.10(c) and this subpart are authorized to accept, process, and approve applications for emergency loans under this subpart. That authority includes making determinations relating to eligibility of the emergency loan, the homeowner, and the property under the provisions of this chapter.

(b) A lender may make an emergency loan on the terms specified in Subpart C if it is satisfied that the application meets all of the relevant requirements of this chapter. The lender shall prepare a note, loan agreement, if any, and mortgage as required by Subpart C of this part which it shall record upon the execution of those documents.

(c) On the last working day of the month during which a loan is closed, the lender shall submit to the Secretary an application for an insured loan in the form specified in Appendix 2 of this part, signed by the lender and homeowner, which certifies that: the lender, homeowner, and property meet the eligibility requirements of Subpart B of this part, that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first disbursement of the principal amount of the emergency loan has been paid or credited to the homeowner's account with the servicing institution.

§ 2700.305 Conditions of insurance.

When the requirements of this subpart have been complied with, the lender's insurance coverage under its insurance contract will apply to a particular loan as of the date of closing, if the lender has not exceeded the insurance authority allocation which the Secretary has given the lender pursuant to § 2700.10(c). When the investor is the lender, the insurance of the emergency loan pursuant to Subpart D shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan, to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the prior approval of the Secretary is obtained. From the effective date of the loan until the termination of the insurance with respect to that loan, the Secretary and the lender shall be bound by the provisions of this chapter as they relate to the loan.

§ 2700.310 Fees.

(a) The lender may collect from the homeowner during the year following the origination of the emergency loan the following fees or charges in conjunction with providing the emergency loan:

(1) A charge to compensate the lender for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(2) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan;

(3) An amount equal to the annual premium for flood insurance required by § 2700.101(c) (the lender shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual mortgage insurance premium required under § 2700.315.

(b) Subsequent to the year following the origination of the emergency loan and up to the termination of insurance under § 2700.325, the lender may collect from the homeowner the following fees and charges in connection with the emergency loan: an amount equal to the mortgage insurance premium required under § 2700.315.

§ 2700.315 Insurance premium.

(a) On March 1 of each year the insured shall pay to the Secretary an insurance premium equal to one-half of 1 percent of the average outstanding balance, during the previous calendar year, of all the emergency loans which the lender held during that period pursuant to this part.

(b) With respect to the payment provided for in paragraph (a) of this section, the lender shall submit a breakdown of the premium in the form prescribed in Appendix 3 to this part.

(c) Any adjustments of the insurance premium already paid in connection with an emergency loan the mortgage on which is transferred between insureds, shall be made by the insureds, except that any unpaid installments of the insurance premium shall be paid by the purchasing insured.

(d) There shall be no refund or abatement of any portion of the insurance premium except when the premium relates to a loan found to be ineligible. However, no refund shall be made unless a claim is denied by the Secretary or the ineligibility is reported by the insured promptly upon discovery and an application for refund is made. In no event shall charges be refunded when the application for refund is not made until after the loan is paid in full.

§ 2700.320 Servicing.

Servicing functions during the period that the loan is coinsured shall be performed by the lender or the servicing institution acting for the lender. The lender is responsible to the Secretary for proper servicing, even though the actual servicing is not performed by the lender.

§ 2700.325 Termination.

The insurance coverage and the insured lender's obligation to remit insurance premiums with respect to an emergency loan shall be terminated upon whichever of the following first occurs:

(a) the loan is paid in full;

(b) the lender acquires the property securing the loan and notifies the Secretary that no claim for insurance benefits has been or will be made;

(c) the homeowner and the lender jointly request termination; or

(d) the lender files an insurance claim pursuant to § 2700.335.

§ 2700.330 Default.

(a) If the homeowner fails to make a scheduled payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the emergency loan, if the delinquency remains uncorrected;

(2) The date the mortgaged property is sold before full repayment of the emergency loan; and

(3) The date a lien superior to that securing the emergency loan is foreclosed.

(c) If after default and prior to the foreclosure of the mortgage securing the emergency loan, the homeowner cures the default, the loan shall be treated as if a default had not occurred, provided the homeowner pays the lender for any expenses the lender incurred in connection with the lender's attempt to collect on the loan.

§ 2700.335 Claims.

(a) Claims for reimbursement for loss on an emergency loan shall be made on the form specified in Appendix 4 and executed by a duly qualified officer or agent of the insured. The claim shall be accompanied by the lender's complete credit and collection file, or a copy of such file certified by the lender to be a complete and exact copy of the file retained by the lender pertaining to the transaction.

(b) Claims may be filed upon the homeowner's default on the emergency loan.

(c) When the homeowner defaults on the emergency loan, the lender may elect to (1) proceed against the mortgage on the loan or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or (2) make a claim under its insurance contract without proceeding against the security or the note.

(d) Claims shall be filed on the last working day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency loan in which case no later than 1 year after the date of default, or such other time period as the Secretary approves. If at the time of default or at any time subsequent to the default a person primarily or secondarily liable for the repayment of a loan is a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the lender shall refrain from instituting foreclosure proceedings during the period which he is in military service and 3 months thereafter and that period shall be excluded in computing the time within which a claim for insurance benefits under this subpart may be made.

(e) An insured lender will be reimbursed for its losses on loans made in accordance with this chapter, in an amount equal to 90 percent of the sum of the following:

(1) The unpaid principal amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of claim;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses;

(4) Attorney's fees actually paid not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note, or (ii) 15 percent of the balance due on the note; and

(5) Up to $25 for expenses actually incurred in recording assignments of mortgages to the United States of America.

(f) The note and any mortgage held or judgment taken by the claimant must be assigned in its entirety and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall be likewise assigned to the United States of America. The assignment shall be in the form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

§ 2700.340 Payment of insurance benefits.

Upon receipt of a claim for insurance benefits which meets the requirements of § 2700.335 and the other provisions of this chapter, the Secretary shall make a payment of insurance benefits in cash to the claimant in an amount equal to the amount specified in § 2700.335(e), subject to the following limitation: the aggregate amount of insurance benefits payable by the Secretary to any lender shall not exceed 40 percent of the aggregate amount advanced by such lender pursuant to this subpart.

§ 2700.345 Administrative reports and examination.

At any time, the Secretary may call upon an insured lender for such reports as are deemed to be necessary in connection with the regulations of this chapter and may inspect the books or accounts of the lender as they pertain to the loans which are coinsured pursuant to this subpart.

§ 2700.350 Sale, assignment and pledge of insured loan.

(a) No lender may sell or otherwise dispose of any insured loan except pursuant to this section.

(b) An insured loan may be sold to a lending institution eligible under § 2700.105. Upon such sale, both the seller and the buyer shall notify the Secretary within 30 days.

(c) When an insured loan is sold to another lending institution eligible under § 2700.105, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance under this part, and the seller shall be released from its obligations under the contract of insurance.

(d) An assignment, pledge, or transfer of an insured loan not constituting an actual transfer of legal title, may be made by the lender to another eligible lending institution, subject to the following conditions:

(1) The assignor, pledgor or transferor shall remain the lender for purposes of the contract of insurance under this part.

(2) The Secretary shall have no obligation to recognize or deal with any party other than that lender with respect to the rights, benefits and obligations of the lender under the contract of insurance.

Notice to or approval of the Secretary is not required in connection with assignments, pledges, or transfers pursuant to this subsection.

Subpart E—Direct Loans

§ 2700.401 Participation by lending institutions.

A lending institution eligible under § 2700.105, which has a contract to act as the Secretary's servicer pursuant to § 2700.10(c) and this subpart, is authorized to accept, process and approve applications for direct loans under this subpart in the form specified in Appendix 5 to this part. That authority includes making determinations relating to the eligibility of the direct loan, homeowner, and property, pursuant to the provisions of this chapter. Direct loans, however, may only be made pursuant to this part when the investor cannot make an emergency loan under Subpart D of this part for one of the following reasons:

(a) the investor has a liquidity problem and cannot obtain advances as authorized by Section 113 of the Emergency Homeowners' Relief Act or by Section 10, 10b and 11 of the Federal Home Loan Bank Act; or

(b) other good reason, as determined by the Secretary.

§ 2700.405 Application for loan.

The agreement to process an application for a direct loan shall constitute an acceptance of the lending institution of the responsibility to act as the servicer of the Secretary with respect to that particular application. The servicer shall make a loan on behalf of the Secretary on the terms specified in Subpart C of this part if it is satisfied that the application meets all of the requirements of this chapter. The servicer shall prepare a note, loan agreement, if any, and mortgage in the form specified in § 2700.201. The servicer shall record the mortgage upon the closing of the loan. The servicer shall make the first advance of the loan, as provided for in § 2700.201(e), using its own funds. On the last working day of the month during which the loan is closed, the servicer shall submit to the Secretary a copy of the application signed by the agent and the homeowner certifying: that the agent, homeowner, and property qualify under Subpart B of this part; that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first advance of the emergency loan has been paid or credited to the homeowner's account with the servicing institution.

§ 2700.410 Transmittal of funds.

When the requirements of this part have been complied with, the Secretary will transmit to the servicer, pursuant to the monthly accounting prescribed in § 2700.420, the emergency loan proceeds as long as the agent has not exceeded the lending authority allocation which the Secretary has given the servicer pursuant to § 2700.10(c). When the investor is the servicer, the transmittal of funds under this section shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan, to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the Secretary's prior approval is obtained. From the processing of the application until the satisfaction of the debt or the final accounting pursuant to § 2700.435, the Secretary and the servicer shall be bound by the provisions of this chapter with respect to a particular direct loan.

§ 2700.415 Fees.

(a) The servicer may collect from the homeowner during the year following the origination of the emergency loan the following fees or charges in conjunction with providing the emergency loan:

(1) A charge to compensate the servicer for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(2) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan;

(3) An amount equal to the annual premium for flood insurance required by § 2700.101(c) (the servicer shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual premium required under § 2700.420(d).

(b) Subsequent to the year following the origination of the emergency loan and up to the final accounting on the loan under § 2700.435, the servicer may collect from the homeowner the following fees and charges: an amount equal to premium required under § 2700.420(d).

§ 2700.420 Servicing.

(a) Servicing functions during the period that the loan is outstanding shall be performed by the servicer.

(b) On the same day each month, while the servicer is servicing direct loans for the Secretary, the servicer shall submit a monthly accounting in the form prescribed in Appendix 6 to this part for all of the direct loans which it services. The accounting shall list the amount of funds which it advanced under direct loans during the previous calendar month. In addition, the accounting shall list the amount paid to the servicer under the direct loans serviced by the servicer during the previous calendar month.

(c) If, pursuant to the monthly accounting, the amount HUD owes the servicer exceeds the amount the servicer owes HUD, the Secretary shall remit the difference to the servicer as long as the Secretary finds the accounting in order. If, pursuant to the monthly accounting, the amount the servicer owes HUD exceeds the amount HUD owes the servicer, the servicer shall remit the difference when he submits the monthly accounting to the Secretary.

(d) In March of each year, the servicer, in addition to making its monthly accounting, shall pay to the Secretary a premium equal to one half of 1 percent of the average outstanding balance during the previous calendar year of all the direct loans it serviced during that period. That payment shall be accompanied by a breakdown of the premium in the form prescribed in Appendix 3 to this part.

§ 2700.425 Default.

(a) If the homeowner fails to make any payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the emergency loan, if the delinquency remains uncorrected;

(2) The date the mortgaged property is sold before full repayment of the emergency loan; and

(3) The date a lien superior to that securing the emergency loan is foreclosed

(c) If after default and prior to the foreclosure of the mortgage securing the emergency loan, the homeowner cures the default, the loan shall be treated as if the default had not occurred, provided the homeowner pays the servicer for any expenses the servicer incurred in connection with the servicer's attempt to collect on the loan.

§ 2700.430 Collection.

(a) If a homeowner defaults on a direct loan, the servicer shall elect to (1) proceed against the mortgage securing the loan or attempt to collect on the note and then to make an accounting and payment to the Secretary, as provided in § 2700.435, or (2) make an accounting and payment to the Secretary without proceeding against the mortgage or the note. Any collection-related litigation involving novel or important matters, as determined by the Secretary, shall be handled by the United States Attorney. In order to make such determinations, a copy of all documents filed with a court in connection with such litigation shall be sent to the Office of General Counsel, Room 10214, 451 7th Street, SW., Washington, D.C. 20410. The Department will inform the servicer if any litigation it is pursuing with respect to direct loans is deemed to involve novel or important matters.

(b) If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan in a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the servicer shall refrain from instituting foreclosure proceedings against the homeowner during the period he is in the military service and 3 months thereafter and that period shall be excluded in computing the time within which an accounting and payment are to be made pursuant to § 2700.435.

§ 2700.435 Payment to the Secretary.

(a) Before the expiration of the period of 90 days after the date of default, unless the servicer proceeds against the mortgage in which case before the expiration of the period of one year after the date of default, or such other time period as the Secretary approves, the servicer shall transmit to the Secretary on the last working day of the month: (1) the complete credit and collection file pertaining to the emergency loan; and (2) the amount recovered less the sum of (i) uncollected court costs, including fees paid for issuing, serving and filing summonses and (ii) attorney's fees actually paid, not exceeding the lesser of (A) 25 percent of the amount collected by the attorney of the defaulted note, or (B) 15 percent of the balance due on the note.

(b) At the same time the servicer makes the transmittal as provided in paragraph (a) of this section, it shall share the loss on the loan by making a payment to the Secretary in an amount equal to 10 percent of the sum of the following:

(1) The unpaid principal amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of the final accounting;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses; and

(4) Attorney's fees actually paid, not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note or (ii) 15 percent of the balance due on the note.

Accompanying that payment shall be a final accounting of the loan in the form specified in Appendix 7 to this part and the note, mortgage securing the loan, and any judgment taken.

(c) Notwithstanding the provisions of paragraph (b) of this section, in the event that aggregate loss borne by the Secretary reaches 40 percent of the aggregate amount advanced by the servicer on behalf of the Secretary under this subpart, the servicer shall bear the burden of any loss in excess of that 40 percent by making an appropriate payment to the Secretary within the time period specified in paragraph (a) of this section.

§ 2700.440 Administrative reports and examinations.

The Secretary may at any time call for a report from any servicer on the delinquency status of the loans serviced by the servicer on behalf of the Secretary or call for such reports as may be deemed to be necessary in connection with the provisions of this chapter, or the Secretary may inspect the books or accounts of the servicer as they pertain to those loans.

Subpart F—Appendices

Appendix 1 - Application for Insurance or Direct Loan Authority Allocation - Application for Contract *Page 40*

HUD FORM NO. EHRA-
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT APPLICATION FOR INSURANCE OR DIRECT LOAN AUTHORITY ALLOCATION

Name and Address of Lending Institution:

Date of Application:

Mortgagee Reference Number:

Amount of Allocation Requested (See Note 2) $

Check one: ☐ Insurance authority under 24 CFR, Part 2700, Subpart D.
☐ Direct loan authority under 24 CFR, Part 2700, Subpart E.

FOR OFFICIAL USE ONLY

Amount of Allocation Approved: $

Authorized by *Date*

Send to:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

TOTAL MORTGAGE LOANS HELD BY MORTGAGEE 1/	
Amount of loans ($ in thousands)	$
Number of loans	
MORTGAGE LOANS IN PORTFOLIO WHICH ARE DELINQUENT 90 DAYS OR MORE:	
Amount of loans ($ in thousands)	$
Number of loans	
MORTGAGE LOANS FOR WHICH ALLOCATION IS REQUESTED 2/	
Loans held in Applicant's Name:	
Amount of loans ($ in thousands)	$
Number of loans	
Loans not held in Applicant's Name:	
Amount of loans ($ in thousands)	$
Number of loans	

1/ Includes all mortgage loans held whether serviced or not.
2/ The request for an allocation must be in full compliance with 24 CFR, Section 2700.10. (Request for allocation with respect to delinquent mortgages which the applicant does not hold should be accompanied by any documentation demonstrating the need for the allocation.)
NOTE: For the purpose of this form, mortgage loan means only those loans secured by mortgages as defined in 24 CFR, Section 2700.5

An application for an insurance authority allocation shall constitute an application for a contract of insurance pursuant to 24 CFR, Part 2700, Subpart D. An allocation of insurance authority allocation shall constitute acceptance by the Secretary of the applicant's application for a contract of insurance, the terms of which are embodied in 24 CFR, Chapter XV.
An application for direct loan authority allocation shall constitute an application for a contract to act as the Secretary's servicer pursuant to 24 CFR, Part 2700, Subpart E. An allocation of direct loan authority shall constitute acceptance by the Secretary of the applicant's application for a contract to act as the Secretary's servicer, the terms of which are embodied in 24 CFR, Chapter XV.

APPLICANT'S CERTIFICATION: The undersigned applicant certifies that to the best of his knowledge all statements in this application are true, correct and complete.

Signature /Title of Applicant *Date*

PLEASE ENCLOSE A SELF ADDRESSED ENVELOPE WITH THIS APPLICATION FORM

Appendix 2 - Application for Insured Loan *Page 41*

HUD FORM NO. EHRA-2
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR INSURED LOAN

Name and Address of Lending Institution:	*Date of Application:*
	Date of Allocation Approval:
	Mortgagee Reference Number:

Name and Address of Homeowner Requesting Relief (1):

Monthly mortgage payment (Principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums)	$
Total outstanding principal balance of all liens on the property	$
Amount of interest in arrears	$
Total amount in arrears	$
Number of months Delinquent	
Date of Notice of Intent to Foreclose	

Type of Mortgage in Default (Check one):

☐ *First Mortgage* ☐ *Other (Specify)*

HOMEOWNER'S INCOME & ASSETS PROFILE (2):

Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment	$
Average gross monthly income during period of delinquency	$
Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles)	$

EMERGENCY LOAN INFORMATION (3):

Date of initial disbursement of principal amount	
Amount of initial disbursement	$
Amount of subsequent monthly emergency loan disbursements	$
Total amount of emergency loan	$
Lending Institution's insurance authority allocation (in thousands)	$
Total insured loans made to date (include total amount of emergency loan listed above — in thousands)	$

NOTES: (1) The Homeowner must meet all eligibility requirements contained in 24 CFR, Section 2700.110.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j). (Also, see Appendix 8.)
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2700, Subpart C.

SEND TO:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

WARNING

Section 1001 of the U. S. Criminal Code (18 U. S. C.) provides in part: . . "*Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.*"

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that to the best of his knowledge circumstances make it probable that there will be a foreclosure without an emergency loan pursuant to 24 CFR, Chapter XV and that he is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions.

____
Signature of Homeowner

____
Date

LENDING INSTITUTION'S CERTIFICATION

The undersigned lending institution certifies that to the best of its knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned lending institution certifies that to the best of its knowledge the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of his mortgage payments. The undersigned lending institution also certifies that it has determined on _______________ (date) *THAT if the emergency loan were not granted, the investor would foreclose.*

____
Signature/Title of Official of Lending Institution

____
Date

NOTE: The lending institution may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the lending institution's file for submission to HUD with any claim made on the insured loan.

Appendix 3 - Premium Form *Page 42*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

COMPUTATION OF PREMIUM DUE HUD

☐ COINSURED LOAN ☐ DIRECT LOAN

1. NAME AND ADDRESS OF LENDER'S/SERVICER'S

2. MORTGAGEE REFERENCE NUMBER	3. ANNUAL PREMIUM PERIOD
☐☐☐☐ ☐☐☐ ☐☐	_______ *(Month and Year)* TO _______ *(Month and Year)*

4. TOTAL AMOUNT OF LOAN PRINCIPAL OUTSTANDING END OF EACH MONTH OF THE PREMIUM PERIOD

JANUARY	FEBRUARY	MARCH	APRIL
$	$	$	$
MAY	JUNE	JULY	AUGUST
$	$	$	$
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
$	$	$	$

5. ANNUAL PREMIUM COMPUTATION

a. Sum of Amounts Shown in Block 4	$
b. Average Loans Outstanding *(Line 5a ÷ 12)*	
c. Premium Remittance Enclosed *(Line 5b. X .005)*	$

WARNING

Section 1001 of the U. S. Criminal Code *(18 U.S.C.)* provides in part: "Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

6. CERTIFICATION

The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis for the computation of the annual premiums due for the loans insured by HUD or emergency mortgage relief payments serviced by the servicer identified above, and the information shown herein is true and correct to the best of his knowledge and belief.

DATE	TITLE OF OFFICIAL OF THE LENDER/SERVICER	SIGNATURE

HUD-326 (12-75)

Appendix 4 - Insurance Claim Form *Page 43*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

CLAIM ON DEFAULTED COINSURED LOAN

1. NAME AND ADDRESS *(Include ZIP Code)* OF LENDER		MORTGAGEE REFERENCE NUMBER	
2. AMOUNT OF CLAIM	3. DATE OF CLAIM	4. DATE OF DEFAULT	5. DATE OF FORECLOSURE
6. DATES OF MILITARY SERVICE *(If applicable under 24 CFR § 2700.335(e))*		7. FOR HUD USE ONLY CLAIM NUMBER	
8. PROPERTY LOCATION		9. NAME AND ADDRESS OF HOMEOWNER	

10. COMPUTATION OF CLAIM AMOUNT		
a. Unpaid Principal Balance of Loan	$	
b. Uncollected Interest to Date of Claim		
c. Sum of Principal and Interest Due *(a + b)*		
d. Less: Recoveries		
e. Net Loan Balance Due *(c − d)*		$
f. Court Costs		
g. Attorney s Fees *(as limited by 24 CFR § 2700.335(e))*		
h. Recording Expenses *(not to exceed $25)*		
i. Total Expenses *(f + g + h)*		
j. Total Loss on Loan *(e + i)*		
k. 90% of Loss on Loan *(.9 x j)*		
l. Aggregate Insurance Benefits Received to Date		
m. 40% of Aggregate Amount of Funds Advanced pursuant to 24 CFR, Part 2700. - Subpart D		
n. Amount of Claim *(the lesser of k or (m − l))*		$

WARNING

Section 1001 of the U. S. Criminal Code *(18 U.S.C.)* provides in part: "Whoever, in any matter within the jurisdiction of any department... of the United States knowingly and willfully ... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

CERTIFICATION

The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the claim on the insured loan for the property and homeowner identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

DATE	TITLE OF OFFICIAL OF THE LENDER	SIGNATURE

HUD-327 (12-75)

Appendix 5 - Application for Direct Loan

Page 44

HUD FORM NO. EHRA-5
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR DIRECT LOAN

Name and Address of Lending Institution:	*Date of Application:*
	Date of Allocation Approval:
	Mortgagee Reference Number:

Name and Address of Homeowner Requesting Relief (1):		**HOMEOWNER'S INCOME & ASSETS PROFILE (2):**	
		Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment	$
		Average gross monthly income during period of delinquency	$
Monthly mortgage payment (principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums)	$	*Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles)*	$
Total outstanding principal balance of all liens on the property	$	**EMERGENCY LOAN INFORMATION (3):**	
Amount of interest in arrears	$	*Date of initial disbursement of principal amount*	
Total amount in arrears	$	*Amount of initial disbursement*	$
Number of months delinquent		*Amount of subsequent monthly emergency loan disbursements*	$
Date of Notice of Intent to Foreclose		*Total amount of emergency loan*	$
Type of Mortgage in Default (Check one):		*Lending Institution's insurance authority allocation (in thousands)*	$
☐ *First Mortgage* ☐ *Other (Specify)*		*Total direct loans made to date (include total amount of emergency loan listed above ---- in thousands)*	$

NOTES: (1) The Homeowner must meet all eligibility requirements contained in 24 CFR, Section 2700.110.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j). (Also, see Appendix 8.)
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2700, Subpart C.

SEND TO:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

WARNING

Section 1001 of the U. S. Criminal Code (18 U. S. C.) provides in part . . . *"Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."*

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that to the best of his knowledge circumstances make it probable that there will be a foreclosure without an emergency loan pursuant to 24 CFR, Chapter XV and that he is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions.

____
Signature of Homeowner

Date: _______________________________

LENDING INSTITUTION'S CERTIFICATION

The undersigned lending institution certifies that to the best of its knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned lending institution certifies that to the best of its knowledge the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of his mortgage payments. The undersigned lending institution also certifies that it has determined on _______________ (date) *THAT if the emergency loan were not granted, the investor would foreclose.*

____
Signature/Title of Official of Lending Institution

Date: _______________________________

NOTE: The lending institution may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the lending institution's file for submission to HUD with final accounting made in connection with the direct loan.

Appendix 6 - Monthly Accounting of Direct Loans *Page 45*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

MONTHLY ACCOUNTING OF DIRECT LOAN ACCOUNT

1. SERVICER'S NAME, ADDRESS AND ZIP CODE

2. MORTGAGEE REFERENCE NUMBER

3. FOR MONTH OF

4. NUMBER OF LOANS OUTSTANDING

5. ACCRUED INTEREST *(Mar., June, Sept., & Dec. reports only)*

6. ANALYSIS OF AGGREGATE DIRECT LOAN PRINCIPAL ACCOUNT

a. Direct Loan Principal Balance Beginning of Month. . . . . $______

b. Direct Loan Disbursement During the Month . . . . ______

c. Total $______

d. Less: (1) Loan Principal Repayments During Month . . . . $______

(2) Transfers During Month of Accountability for Loans *(Principal Amount Only)* . . . . ______ ______

e. Direct Loan Principal Balance End of Month . . . . $______

7. COMPUTATION OF AMOUNTS DUE

	AMOUNT DUE HUD (1)	AMOUNT DUE SERVICER (2)
a. Net Principal Collections and Disbursements		
(1) If in Block 6, Line b is greater than Line d(1).		$______
(2) If in Block 6, Line d(1) is greater than Line b	$______	
b. Interest Included in Repayments	______	
c. Totals	$______	$______
d. (1) Amount Due HUD *(If Column 1 is greater)*.	______	
(2) Amount Due Servicer *(If Column 2 is greater)*		$______

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

8. CERTIFICATION: The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the monthly accounting on the direct loans serviced by the servicer identified above, the information shown herein is true and correct and is documented as required.

______ *Date*

______ *Signature and Title of Official of the Servicer*

HUD-328 (12-75)

Appendix 7 - Direct Loan Final Accounting *Page 46*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

TRANSFER OF ACCOUNTABILITY FOR DIRECT LOAN AND ACCRUED INTEREST

1. SERVICER'S NAME, ADDRESS AND ZIP CODE

3. *(HUD USE ONLY)*
Transfer No. ____________

4. DATE OF DEFAULT

5. DATE OF FORECLOSURE *(If applicable)*

2. MORTGAGEE REFERENCE NUMBER

6. DATES OF MILITARY SERVICE *(If applicable under 24 CFR § 2700.430(b))*

7. HOMEOWNER'S NAME, ADDRESS AND ZIP CODE

8. PROPERTY LOCATION

SCHEDULE I – COMPUTATION OF SERVICER'S SHARE OF LOSS ON LOAN

A. Unpaid Principal. . . . . $ ____________
B. Less: Recoveries. . . . . ____________
C. Net Amount . . . . ____________
D. Uncollected Interest . . . . ____________
E. Uncollected Court Costs *(Includes fees paid for issuing, servicing and filing summonses)* . . . . ____________
F. Attorney's Fees *(Schedule III, Line A)*. . . . . ____________
G. Sum of Lines C through F. . . . . ____________
H. 90% of Amount on Line G. . . . . ____________
I. Servicer's Share of Loss *(Line G – H)*. . . . .$ ____________

SCHEDULE II – COMPUTATION OF CEILING ON LOSS BEARABLE BY HUD

A. Aggregate Losses Borne by HUD before this Claim. . . . . $ ____________
B. 90% of Loss on Loan *(Schedule I, Line H)* . ____________
C. Sum of Lines A and B . . . . ____________
D. 40% of Aggregate Amount of Funds Advanced: Pursuant to 24 CFR, Part 2700 Subpart E. . . . . ____________
E. Additional Servicer's Loss *(Line C – D)[Not to be below zero)* . . . . . $ ____________

SCHEDULE III – COMPUTATION OF ATTORNEY'S FEES

A. Attorney's Fees *(not in excess of)*. . . . . . $ ____________
1. 25% of Amount Collected by Attorney. . ____________
2. 15% of Unpaid Principal Balance. . . . . ____________

SCHEDULE IV – COMPUTATION OF REMITTANCE DUE HUD

A. Servicer's Share of Loss on Loan *(Schedule I, Line I)*. . . . .$ ____________
B. Additional Servicer's Loss *(Schedule II, Line E)* . . . . ____________
C. Recoveries *(Not previously reported)* . . . . . ____________
D. Total $ ____________
E. Less:
1. Uncollected Court Costs. . $ ________
2. Attorney's Fees *(Sched. III)* ________
3. Total $ ____________
F. Remittance Due HUD . . . .$ ____________

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

CERTIFICATION: The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the final settlement on the direct loan for the property and homeowner identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

____________ Date

____________ Signature and Title of Official of the Servicer

HUD-329 (12-75)

Appendix 8 - Income Computation Form *Page 47*

HUD FORM NO. EHRA-8
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF PROGRAM
INCOME CERTIFICATION FORM

Lending Institution (Name, Address and ZIP Code):	Property Address:

Homeowner:

Husband			Age:
Wife:			Age:
Married: ☐ YES ☐ NO	Number of Years Married:	Number of Dependents:	Ages:

EMPLOYMENT

	OCCUPATION	NAME AND ADDRESS OF EMPLOYER	Average Number of Hours Worked per Week	Number of Years Worked
HUSBAND				
Present Employer				
Last Employer				
Part Time Employer				
WIFE				
Present Employer				
Last Employer				
Part Time Employer				

A. AVERAGE GROSS MONTHLY INCOME 24 MONTHS PRIOR TO INVOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT

Show income data rounded to the nearest dollar.	HUSBAND	WIFE	DEPENDENTS	OTHER	TOTAL
Gross Monthly Wages					
Social Security Payments					
Retirement Benefits					
Military & Veterans Disability Payments					
Unemployment Benefits					
Welfare Benefits					
Food Stamp Benefits					
Interest and Dividend Income					
Other Income					
TOTAL, ALL INCOME					

B. AVERAGE GROSS MONTHLY INCOME DURING PERIOD OF DELINQUENCY

Show income data rounded to the nearest dollar.	HUSBAND	WIFE	DEPENDENTS	OTHER	TOTAL
Gross Monthly Wages					
Social Security Payments					
Retirement Benefits					
Military & Veterans Disability Payments					
Unemployment Benefits					
Welfare Benefits					
Food Stamp Benefits					
Interest and Dividend Income					
Other Income					
TOTAL, ALL INCOME					

TOTAL CURRENT FAMILY INCOME AS A PERCENT TOTAL PRIOR FAMILY INCOME (Part B / Part A) .... %

NOTE: This form is intended to serve as a guide to assist the lending institution in arriving at the homeowner's gross income. The lending institution, however, is expected to exercise prudence in determining the family's gross, recurring monthly income.

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

Effective date. This regulation shall be effective on December 30, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-34748 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975

PART III:

CONSUMER PRODUCT SAFETY COMMISSION

■

FLAMMABLE FABRICS ACT

Revision and Recodification of Regulations

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

Deletion

Elsewhere in the FEDERAL REGISTER today the Consumer Product Safety Commission has published a notice transferring all sections of 16 CFR Part 302 to Subchapter D of 16 CFR Chapter II. Therefore, Part 302 of Title 16 is deleted.

Dated: December 22, 1975.

SADYE E. DUNN,
Secretary Consumer Product Safety Commission.

[FR Doc.75-34877 Filed 12-24-75;8:45 am]

SUBCHAPTER D—FLAMMABLE FABRICS ACT REGULATIONS

CODIFICATION AND TRANSFER OF REGULATIONS

In this document the Consumer Product Safety Commission codifies flammability standards, policy statements, and interpretations under the Flammable Fabrics Act and transfers rules and regulations under that act from Title 16, Code of Federal Regulations, Part 302 to Title 16, Code of Federal Regulations, Chapter II, Subchapter D.

On May 14, 1973 functions under the Flammable Fabrics Act (15 U.S.C. 1191–1204) were transferred to the Consumer Product Safety Commission pursuant to section 30 of the Consumer Product Safety Act (15 U.S.C. 2079). Previously the Department of Commerce, the Federal Trade Commission, and the Department of Health, Education, and Welfare had responsibilities under the Flammable Fabrics Act.

Under section 30(e) of the Consumer Product Safety Act all determinations, rules, and regulations in effect at the time of transfer of functions to the Consumer Product Safety Commission continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Consumer Product Safety Commission, by any court of competent jurisdiction, or by operation of law.

Therefore, the items codified and transferred in this notice include documents issued by the agencies that previously exercised functions under the act as well as documents issued by the Consumer Product Safety Commission. Various non-substantive corrections and editorial changes, including numbering changes, have been made in the process of this transfer and codification. However, the Consumer Product Safety Commission has made no substantive change in any of the documents that are codified or transferred in this notice.

DESCRIPTION OF DOCUMENT

Part 1602, Statements of Policy or Interpretation, contains a general enforcement policy statement (§ 1602.1), published by the CPSC on September 11, 1973 (38 FR 24923) and a policy on the exportation of non-complying goods (§ 1602.2) that was published by the Commission on December 5, 1975 (40 FR 56885).

Part 1603, which was entitled "Statements of Policy or Interpretation" is deleted. The clarification of the Standard for the Flammability of Clothing Textiles (CS 191-53) which appeared in 16 CFR 1603.1 has been transferred to Subpart C of Part 1610.

Part 1607, Procedures for the Development of Flammability Standards, is reprinted in this document for convenience, since it currently appears at Part 1607.

Part 1608 contains general rules and regulations under the Act, that were originally issued by the Federal Trade Commission and published at 16 CFR 302.1, and 302.9 through 302.13. These rules and regulations apply to all standards in effect under the Flammable Fabrics Act. The CPSC has made minor editorial revisions in these regulations in transferring them.

Other rules and regulations previously found at 16 CFR Part 302 have been transferred to the applicable Parts in Chapter II, Subchapter D, as described below.

Part 1609 is a reprint of the Flammable Fabrics Act of 1953, as amended in 1954 (Ch. 164, 67 Stat. 111, as amended, Ch. 833, 68 Stat. 770 (1954)). The Act was later amended and revised on December 14, 1967. However, the amendment contained a savings clause (Sec. 11, Pub. L. 90-189, 81 Stat. 568) that provided that the two flammability standards in effect under the Flammable Fabrics Act of 1953 as amended in 1954 were to continue in effect. These two flammability standards are Commercial Standard 191-53, Flammability of Clothing Textiles and Commercial Standard 192-53, General Purpose Vinyl Plastic Film. The two standards are printed at Parts 1610 and 1611 of this document.

In Subpart A of Part 1610, the CPSC codifies the Standard for the Flammability of Clothing Textiles (CS 191-53) which has not before been published in the Code of Federal Regulations. Into Subpart B, the CPSC has transferred 16 CFR 302.1-8 and 302.14, rules and regulations applicable to this Standard. In Subpart C, the CPSC transfers the clarification of the Standard, which was previously found at 16 CFR 1603.1.

Part 1611 contains the Standard for the Flammability of Vinyl Plastic Film (CS 192-53) which has not before been published in the Code of Federal Regulations. Subpart B of this Part contains rules and regulations applicable to this Standard, which were previously found at 16 CFR 302.1-8 and 302.14.

The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) and the rules, regulations, policies, and interpretations under the Standard are found at Part 1615. The rules and regulations, printed in Subpart B, were previously found at 16 CFR Part 302.19. Subpart C includes interpretations and policies under the standard.

Part 1616 contains, in subpart A, the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14, as amended (FF 5-74). Subpart B includes rules and regulations under the Standard that were previously published at 16 CFR 302.21. Subpart C includes interpretations and policies under the standard.

The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) is published at Subpart A of Part 1630. Subpart B includes rules and regulations under the Standard that were previously published at 16 CFR 302.15, and 302.17. Subpart C includes alternative washing procedures under the Standard approved by the Federal Trade Commission for hide rugs and wool flokati rugs. Section 1630.63 provides for the suspension of washing requirements for carpets and rugs with alumina trihydrate in the backing.

Part 1631 contains at Subpart A, the Standard for the Surface Flammability of Small Carpet and Rugs (FF 2-70). Subpart B includes rules and regulations under the Standard previously codified at 16 CFR 302.15 through 302.18. Subpart C contains alternative washing procedures under the Standard for hide rugs and wool flokati rugs.

The Standard for the Flammability of Mattresses (and Mattress Pads) (FF 4-72) is codified at Subpart A of Part 1632. Five alternate sampling plans under the standard are published in Subpart B. Rules and regulations under the standard which were previously published at 16 CFR 302.20 are published in Subpart C of Part 1632. Interpretations and policies under the Standard are published in Subpart D. Since no new requirements are added by this revision and transfer, notice and public procedure are not prerequisite to this issuance.

Therefore, in 16 CFR Chapter II, Subchapter D is revised as follows:

PART 1602—STATEMENTS OF POLICY OR INTERPRETATION

§ 1602.1 Enforcement policy.

(a) On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act, as amended (15 U.S.C. 1191-1204), were transferred to the Consumer Product Safety Commission pursuant to section 30(b) of the Consumer Product Safety Act (Pub. L. 92-573), 86 Stat. 1231 (15 U.S.C. 2079(b)).

(b) The Consumer Product Safety Commission intends to discharge its responsibilities under the Flammable Fabrics Act vigorously, expeditiously, and without compromise in order to protect the public from the hazards to life, health, and property caused by dangerously flammable products.

(c) The Consumer Product Safety Commission has determined that its enforcement policy for the Flammable Fabrics Act, will be to have available for use in each case the full range of enforcement procedures under that act without qualification or modification. Accordingly, notice is given that the Consumer Product Safety Commission hereby institutes an enforcement policy of using in each case arising under the Flammable Fabrics Act any and all appropriate enforcement procedures available under that act.

(d) In order to effectuate this policy, the above stated policy has been adopted and substituted for any conflicting determinations and policies of the Federal Trade Commission. The following determinations and policies of the Federal Trade Commission insofar as they apply to this Commission are terminated and set aside pursuant to section 30(e)(2) of the Consumer Product Safety Act (86 Stat. 1232 (15 U.S.C. 2079(e)(2))):

(1) The Federal Trade Commission's "Flammable Fabrics Enforcement Policy" published as a notice in the FEDERAL REGISTER of November 10, 1971 (36 FR 21544), as amended by a notice published April 25, 1973 (38 FR 10184), which was corrected May 8, 1973 (38 FR 11492).

(2) Any Federal Trade Commission policy or directive modifying or interpreting said Enforcement Policy, as amended.

(e) All other rules, regulations, orders, and determinations of the Federal Trade Commission under the Flammable Fabrics Act will continue in effect until modified, terminated, superseded, set aside, or repealed by the Consumer Product Safety Commission, by any court of competent jurisdiction, or by operation of law.

(Sec. 1, et seq., 81 Stat. 568-74 (15 U.S.C. 1191-1204, note under 1191))

EFFECTIVE DATE: This section became effective September 11, 1973. It was originally published as a notice on that date at 38 FR 24923.

§ 1602.2 Policy on exportation of noncomplying goods.

(a) On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Since the transfer of the administration of the Flammable Fabrics Act, questions have arisen as to when goods that do not comply with the act and with regulations promulgated thereunder may be exported from the United States. The Commission has therefore decided to articulate its policy as set forth in this section concerning the export of such products in order to eliminate unnecessary uncertainty from market decisions, from administrative proceedings and from other enforcement actions this Commission is taking and will take to implement the act and regulations and standards thereunder.

(b) *Definitions*. As used in this section:

(1) "act" means the Flammable Fabrics Act, as amended and revised (81 Stat. 568, 15 U.S.C. 1191-1204).

(2) "Export" or "exportation" means to carry or send goods out of the United States, Puerto Rico, or any territory or possession of the United States to any foreign nation.

(3) "Import" or "importation" means to carry or bring goods into the United States, Puerto Rico, or any territory or possession of the United States from any foreign nation. For the purposes of this section, goods are considered to have been imported into the United States when they have entered into the United States; that is, when they have moved from Customs custody into the customs territory of the United States.

(4) "Marketing or handling" of goods subject to the act means all actions described in section 3 of the act (15 U.S.C. 1192); that is, the manufacture for sale, sale, offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation or causing to be transported, in commerce, or sale or delivery after sale or shipment in commerce of any product, fabric, or related material subject to the act or the manufacture for sale, sale, or offering for sale of any product made of fabric or related material subject to the act and which has been shipped or received in commerce.

(c)(1) Section (3)(a) of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other things, the manufacture for sale, the sale, or offering for sale in commerce or the importation into the United States of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued under the act. Section 3(b) of the act prohibits the manufacture for sale, the sale, or the offering for sale, of any product made of fabric or related material which fails to conform to an applicable standard or regulation issued under the act and which has been shipped or received in commerce.

(2) Section 15(a) of the act (15 U.S.C. 1202) states that the act "does not apply to any fabric, related material, or product which is to be exported from the United States, if such fabric, related material, or product and any container in which it is enclosed bears a stamp or label stating that such fabric, related material, or product is intended for export and such fabric, related material, or product is in fact exported from the United States," with the exception that the act does apply to goods intended to be marketed to any installation of the United States located outside the United States.

(3) Section 15(b) of the act excludes from coverage "any fabric, related material, or product which is imported into the United States for dyeing, finishing, other processing, or storage in bond, and export from the United States," if certain requirements are met, with the exception that the act does apply to any such imported goods manufactured for sale, offered for sale, or intended for shipment to any installation of the United States located outside of the United States.

(d) The Federal Trade Commission did not consider the exemptions found in section 15 to apply to nonconforming goods which were intended for domestic distribution at the time of manufacture or original importation and which were not intended for exportation from the United States at the time they were manufactured or imported into the United States. The enforcement staff of the Consumer Product Safety Commission has been consistently following this policy.

(e) The Consumer Product Safety Commission now affirms the basic policy adopted by the FTC and by this § 1602.2 explicitly interprets section 15 of the act as exempting non-conforming goods for exportation only when the manufacturer or importer intends at the time of original manufacture or importation that such goods are to be exported from the United States, to other than an installation of the United States located outside the United States, and manifests that intent by marketing such goods for export and proceeds to export them. Therefore the exportation exemption found in section 15 cannot be claimed once any nonconforming product, fabric or related material or product made of nonconforming fabric or related material has originally been imported or marketed or handled domestically or shipped to a U.S. installation without bearing the required exportation label.

(f) The Flammable Fabrics Act has the dual objectives of discouraging the introduction of flammable goods into commerce and removing from the domestic marketplace flammable goods which have entered commerce. The act must be interpreted in such a way as to preserve its total deterrent value as well as the integrity of the authorities given to the Commission by Congress to eliminate the risk of injury to the public.

(g) If the act were interpreted as to permit a person subject to the act, who marketed or handled violative goods for domestic use, upon discovery of the violation, to export the nonconforming goods, the deterrent value of the act's prohibitions would be seriously reduced. The incentive the act gives a person to avoid the initial introduction of nonconforming goods into domestic channels of commerce would be reduced. Moreover such an interpretation would leave the public exposed to a continued risk of injury or property damage from products that did not comply with flammability standards. Such an interpretation would conflict with the Congressional intent to discourage the introduction of nonconforming goods into commerce and is not supported by any language in the act. It must therefore be rejected by this Commission in favor of an interpretation that precludes exportation of any noncomplying goods that were not intended for export at the time of original manufacture or importation, or which entered domestic commerce without the manifest intent of being exported (Section 15 of the Flammable Fabrics Act mandates a labeling requirement if the item was originally intended for export).

(h) In any enforcement action taken by this Commission, the person who markets or handles nonconforming goods shall not be allowed to export domestically made goods unless the intent to export them was previously manifested at the time of manufacture nor shall a person be allowed to export foreign made noncomplying goods which were imported into the United States, unless the intent to export them was previously manifested at the time of the original importation. The Commission may in certain instances allow persons subject to the act the opportunity to re-work the violative goods in order to bring them into conformity with the law and in such instances, as to imported goods, the importer may elect to return the goods to the foreign manufacturer to be reworked to bring them into conformity with the law. Otherwise, nonconforming goods shall be destroyed.

(Secs. 3, 5, 67 Stat. 111-112, 115, as amended 81 Stat. 568-569, 574; 15 U.S.C. 1192, 1202.)

PART 1607—PROCEDURES FOR THE DEVELOPMENT OF FLAMMABILITY STANDARDS

AUTHORITY: Secs. 1-17, 67 Stat. 111-115, as amended 81 Stat. 568-574; 15 U.S.C. 1191-1204.

§ 1607.1 Purpose.

The purpose of this Part 1607 is to prescribe procedures relating to the discharge of the responsibilities of the Consumer Product Safety Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193). See § 1607.2(a) for information identifying the act.

§ 1607.2 Definitions.

As used in this Part 1607—

(a) "act" means the Flammable Fabrics Act (15 U.S.C. 1191-1204) enacted June 30, 1953 (Pub. L. 83-88; 67 Stat. 111-115), amended August 23, 1954 (Pub. L. 83-629; 68 Stat. 770), and amended and revised December 14, 1967 (Pub. L. 90-189; 81 Stat. 568-574).

(b) "Commission" means the Consumer Product Safety Commission established by the Consumer Product Safety Act (Pub. L. 92-573, sec. 4, 86 Stat. 1210; 15 U.S.C. 2053).

(c) "Article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals.

(d) "Interior furnishing" means any type of furnishing made in whole or in part of fabric or related material and intended for use, or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accomodation.

(e) "Fabric" means any material (except fiber, filament, or yarn for other than retail sale) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended for use, or which may reasonably be expected to be used, in any product as defined in paragraph (g) of this section.

(f) "Related material" means paper, plastic, rubber, synthetic film, or synthetic foam that is intended for use, or that may reasonably be expected to be used, in any product as defined in paragraph (g) of this section.

(g) "Product" means any article of wearing apparel or interior furnishing.

(h) "Person" means an individual, partnership, corporation, association, or any other form of public or business organization.

(i) "Flammability standard" means any standard (including conditions and manner of testing) or other regulation, including any labeling regulation, or any revision or amendment thereto, relating to the flammability of a fabric, related material, or product.

(j) "Written comments" means legible comments, data, arguments, views, or other information, submitted in writing (preferably in five copies) by interested persons for the public record.

§ 1607.3 Transfer of functions.

Effective May 14, 1973, section 30(b) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2079(b)) transferred functions under the Flammable Fabrics Act from the Federal Trade Commission and the Departments of Commerce and Health, Education, and Welfare to the Consumer Product Safety Commission.

§ 1607.4 Records of proceedings.

Records of the Commission relating to rulemaking proceedings, available for public inspection and copying in accordance with 5 U.S.C. 552 or other applicable laws or regulations, may be obtained at the Office of the Secretary, Consumer Product Safety Commission, 10th floor, 1750 K Street NW., Washington, D.C. 20207. Interested persons may obtain copies upon payment of the prescribed fees.

§ 1607.5 Authority of the Commission to obtain testimony or records by regulation or subpoena.

(a) Section 4(c) of the act authorizes the Commission to obtain from any person by regulation, or subpoena issued pursuant thereto, such information in the form of testimony, books, records, or other writings as is pertinent to any findings or determinations that the Commission is required or authorized to make under the act.

(b) All information reported to or otherwise obtained by the Commission pursuant to section 4(c) of the act that contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential for the purposes of 18 U.S.C. 1905 and withheld from the public record. Such information, however, may be disclosed to other officers or employees concerned with carrying out the provisions of the act or disclosed when relevant to any proceeding under the act. Any information submitted to the Commission that contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 should be so identified clearly and should set forth adequate justification for its inclusion in this category. All such information should be submitted separately from comments for the public record.

§ 1607.6 Advance notice of finding that a flammability standard may be needed.

Whenever the Commission finds on the basis of investigations or research conducted under the authority of section 14 of the act that a flammability standard for a fabric, related material, or product may be needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage, the Commission shall publish a notice in the FEDERAL REGISTER declaring that such standard may be needed and stating concisely the basis therefor.

§ 1607.7 Proceedings for development of a proposed flammability standard.

(a) Whenever a notice is published under § 1607.6, the Commission shall also publish simultaneously a notice in the FEDERAL REGISTER instituting proceedings for the development of an appropriate flammability standard and inviting interested persons to submit written comments to the Commission relative to:

(1) The finding published under § 1607.6 that a flammability standard may be needed; and

(2) The terms or substance of a flammability standard that might be adopted in the event that a final finding is made by the Commission that such a flammability standard is needed.

(b) Written comments shall be postmarked or delivered within 30 days after publication of a notice under this section, unless specified otherwise. All materials considered relevant to any statement of fact or argument should be submitted with such written comments.

(c) To obtain additional information for the development of a proposed flammability standard and to protect the public interest, the Commission may invite the views of local, State, and Federal agencies and other interested persons and may provide interested persons an opportunity for oral presentation, as provided in 5 U.S.C. 553(c), which may include an informal oral hearing.

§ 1607.8 Publication of proposed flammability standard.

(a) As soon as practicable following the conclusion of the initial proceedings under § 1607.7, the Commission shall publish in the FEDERAL REGISTER:

(1) A notice withdrawing its finding that a new or amended flammability standard may be needed (in no event, however, shall the withdrawal preclude the conduct of further investigation or research under section 14 of the act or preclude the initiation of another proceeding regarding the same or similar subject matter under the procedures in this part); or

(2) A notice proposing a flammability standard.

(b) The notice of a proposed flammability standard under paragraph (a)(2) of this section shall include:

(1) The provisions of such proposed flammability standard, stated in objective terms; and

(2) The preliminary findings of the Commission, together with a concise statement of the basis therefor, that such a flammability standard:

(i) Is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage;

(ii) Is reasonable, technologically practicable, and appropriate; and

(iii) Is limited to fabrics, related materials, or products that have been determined to present such unreasonable risks.

§ 1607.9 Participation of interested persons in rulemaking proceedings.

(a) Within 30 days (unless specified otherwise) after publication of a notice under § 1607.8 proposing a flammability standard in the FEDERAL REGISTER, interested persons may participate in the rulemaking proceedings in accordance with 5 U.S.C. 553 by submitting written comments relevant to the proposed flammability standard.

(b) The Commission may solicit comments from local, State, and Federal agencies and other interested persons and may give interested persons an opportunity for oral presentation, as provided in 5 U.S.C. 553, to assure development of an appropriate standard and to protect the public interest.

§ 1607.10 Informal public oral hearings.

(a) At its discretion, the Commission may include in the notice of a proposed flammability standard, published in the FEDERAL REGISTER under § 1607.8, an invitation to interested persons to participate in an informal oral hearing under 5 U.S.C. 553. If the published notice does not provide for such hearing, any interested person may request in writing, within 15 days after publication of such notice, an informal oral hearing under 5 U.S.C. 553. Upon receipt by the Commission of such a request, the Commission shall grant the request and publish in the FEDERAL REGISTER a notice of an informal public oral hearing at least twenty (20) days in advance of the hearing.

(b) Sections 556 and 557 of 5 U.S.C. do not apply to hearings held under this section. Unless specified otherwise, such hearings shall be informal, nonadversary proceedings (no formal pleadings or adverse parties). A stenographic transcript of such hearings and any exhibits submitted thereat shall be made a part of the public record.

(c) A hearing held under this section shall be conducted by a presiding officer designated by the Commission and empowered to establish reasonable procedures governing conduct of the hearing.

§ 1607.11 Adoption of a final flammability standard.

(a) The Commission shall consider all oral and written comments and other materials received in accordance with any proceedings under this Part 1607. Comments filed after expiration of the designated time periods may be considered insofar as practicable.

(b) As soon as practicable after considering the comments and other material under paragraph (a) of this section and after consulting with the National Advisory Committee for the Flammable Fabrics Act, the Commission shall publish in the FEDERAL REGISTER either:

(1) A document promulgating a flammability standard, stated in objective terms, and presenting the Commission's findings with respect to the requirements of section 4(b) of the act with a concise statement of the basis for such findings; or

(2) A notice terminating, suspending, or amending the instant proceedings for the adoption of the flammability standard concerned.

(c) In no event shall notice of the termination or suspension of proceedings under this section operate to preclude the conduct of further investigation or research under section 14 of the act or to preclude the initiation of another proceeding regarding the same or similar subject matter under these procedures.

§ 1607.12 Effective date.

Each flammability standard promulgated under this Part 1607 shall become effective 12 months after publication in the FEDERAL REGISTER, unless the Commission finds for good cause shown that an earlier or later effective date is in the public interest. Any such finding by the Commission will be published in the FEDERAL REGISTER with a concise statement of the basis for such finding.

§ 1607.13 Exemption for items in inventory.

Each flammability standard promulgated in accordance with this Part 1607 shall exempt fabrics, related materials, or products in inventory or with the trade as of the date that such standard becomes effective. If the Commission finds, however, that any such fabric, related material, or product is so highly flammable as to be dangerous when used by consumers for the purposes for which intended, the Commission may, under such conditions as it prescribes, withdraw or limit the exemption for such fabric, related material, or product. Any such finding by the Commission will be published in the FEDERAL REGISTER with a concise statement of the facts upon which the finding is based.

§ 1607.14 Petition for rulemaking.

(a) Any interested person may petition the Commission to issue, amend, or revoke a flammability standard or the procedural rules established in this Part 1607.

(b) Each petition filed under this section shall:

(1) Be submitted, preferably in five copies, to the Consumer Product Safety Commission, Office of the Secretary, 1750 K Street NW., Washington, D.C. 20207.

(2) Set forth the text or substance of the proposed flammability standard or procedural rule, or proposed amendment thereto, or specify the flammability standard or procedural rule the petitioner seeks to have revoked, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner in support of the action sought.

(c) Unless the Commission specifies otherwise, no public hearing, argument, or other proceeding shall be held on a petition before its disposition. If the Commission determines that a petition does not justify rulemaking, it shall deny the petition. If the Commission determines that a petition contains adequate justification, it shall take appropriate action in accordance with the provisions of the act including, where necessary, the institution of proceedings to consider the issuance, amendment, or repeal of the flammability standard or procedural rule concerned.

(d) The Commission shall notify each petitioner, in writing, of the action taken on his petition.

(e) The filing of a petition under this section does not of itself stay the effective date of any flammability standard or procedural rule concerned.

PART 1608—GENERAL RULES AND REGULATIONS UNDER THE FLAMMABLE FABRICS ACT

Sec.

AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570, 15 U.S.C. 1194, unless otherwise noted.

§ 1608.0 Scope.

The rules and regulations in this Part are applicable to all standards issued under the Flammable Fabrics Act.

§ 1608.1 Terms defined.

As used in the rules and regulations in this Subchapter D, unless the context otherwise specifically requires:

(a) The term "act" means the Flammable Fabrics Act, sec. 1 et seq., 67 Stat. 111–115, as amended, 68 Stat. 770, 81 Stat. 568–74 (15 U.S.C. 1191–1204, note under 1191).

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the act.

(e) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1608.2 Form of separate guaranty.

The forms which follow are suggested forms of separate guaranties under section 8 of the act for use by guarantors residing in the United States. Representations contained in these suggested forms of separate guaranties with respect to reasonable and representative tests may be based upon a guaranty received and relied upon in good faith by the guarantor, tests performed by or for a guarantor, or class tests, where permitted under these rules. Where the forms are used as part of an invoice or other paper relating to the marketing or handling of products, fabrics, or related materials subject to the act, wording may be varied to limit the guaranty to specific items in such invoice or other paper. The name, address of the guarantor, and date on the invoice or other paper will suffice to meet the signature, address, and date requirements indicated on the forms.

(a) *General form.*

The undersigned hereby guarantees that reasonable and representative tests, made in accordance with procedures prescribed and applicable standards or regulations issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, show that the product, fabric, or related material covered and identified by, and in the form delivered under this document conforms to the applicable standard or regulation issued, amended, or continued in effect.

Date: ________________ ________________
Name
____
Address

(b) *Form for guaranty based on guaranty.*

Based upon a guaranty received, the undersigned hereby guarantees that reasonable and representative tests, made in accordance with procedures prescribed pursuant to the Flammable Fabrics Act, as amended, show that the product, fabric, or related material covered and identified by, and in the form delivered under this document conforms to the applicable standard or regulation issued, amended, or continued in effect.

Date: ________________ ________________
Name
____
Address

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

§ 1608.3 Continuing guaranties.

(a) Any person residing in the United States may file with the Bureau of Compliance of the Consumer Product Safety Commission a continuing guaranty under section 8 of the act applicable to any product, fabric, or related material marketed or handled by such person. When filed with the Commission, a continuing guaranty shall be fully executed in duplicate and execution of each copy shall be acknowledged before a notary public. Forms for use in preparing continuing guaranties to be filed with the Commission will be supplied by the Bureau of Compliance of the Commission upon request. To remain in effect, such guaranties must be renewed every 3 years and at such other times as any change occurs in the legal business status of the person filing the guaranty. It is therefore required that any person who has filed a continuing guaranty with the Commission shall promptly advise the Commission in writing of any change in the legal status of the guarantor or in the address of the guarantor's principal office and place of business. Representations contained in the prescribed form of continuing guaranty with respect to reasonable and representative tests may be based upon (1) a guaranty received and relied upon in good faith by the guarantor, (2) tests performed by or for a guarantor, or (3) class tests, where permitted under these rules.

(b) The following is the prescribed form of continuing guaranty for filing with the Commission:

CONTINUING GUARANTY UNDER THE FLAMMABLE FABRICS ACT FOR FILING WITH CONSUMER PRODUCT SAFETY COMMISSION

The undersigned, ____________________, a ________________________ residing in the
(Corporation, partnership, proprietorship)
United States and having principal office and place of business at____________________
(Street and number)
____________, ________________________,
(City) (State or territory, ZIP code)
and being engaged in the marketing or handling of products, fabrics, or related materials subject to the Flammable Fabrics Act, as amended, and regulations thereunder,

Hereby guarantee(s) that with regard to all the products, fabrics, or related materials [described as follows:____________________
____
____]

(If guaranty is limited to certain products, fabrics, or related materials, list the general categories here. If guaranty is not so limited, leave these lines blank.)

hereafter marketed or handled by the undersigned, and for which flammability standards have been issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, reasonable and representative tests as prescribed by the Consumer Product Safety Commission have been performed, which shows that the products, fabrics, or related materials conform to such of the above-mentioned flammability standards as are applicable thereto.

Dated, signed, and executed this __ day of ______, 19__, at______________________.
(City)
____
(State or Territory)

________________	________________
(Impression of corporate seal, if corporation.)	(Name under which business is conducted.)
(If firm is a partnership list partners below.)	________________
________________	(Signature of proprietor, partner, or authorized official of corporation.)
________________	

State of________________ } ss
County of_______________ }

On this __ day of ______, 19__, before me personally appeared the said ____________,
(Signer of guaranty)
proprietor, partner (strike nonapplicable words) ________________________________
(If corporation, give title of signing official)
of __________, to me personally known, and
(Firm name)
acknowledged the execution of the foregoing instrument on behalf of the firm, for the uses and purposes therein stated.

	________________
(Impression of notary seal required here.)	Notary Public in and for County of__________ State of__________ My commission expires __________

(c) Any person who has a continuing guaranty on file with the Commission may, during the effective period of the guaranty, give notice of such fact by setting forth on the invoice or other paper covering the marketing or handling of the product, fabric, or related material guaranteed the following:

Continuing guaranty under the Flammable Fabrics Act filed with the Consumer Product Safety Commission.

Provided, however, That such statement may not be used where the guaranty is limited and the invoice or other paper covers any product, fabric, or related material, subject to a flammability standard under the act, which is not covered by the guaranty because of its limited nature.

(d) Any person who falsely represents that he has a continuing guaranty on file with the Commission when such is not a fact, or who falsely represents that a limited continuing guaranty he does have on file with the Commission covers any product, fabric, or related material when such is not the case, shall be deemed to have furnished a false guaranty under section 8(b) of the act.

(e) Any seller residing in the United States may give a continuing guaranty under section 8 of the act to a buyer applicable to any product, fabric, or related material sold or to be sold to said buyer by seller. All such continuing guaranties shall be fully executed in duplicate and execution of each copy shall be acknowledged before a notary public. To remain in effect, such guaranties must be renewed every 3 years and at such other times as any change occurs in the legal business status of the person giving the guaranty. Representations contained in the prescribed form of continuing guaranty from seller to buyer with respect to reasonable and representative tests may be based upon (1) a guaranty received and relied upon in good faith by the guarantor, (2) tests performed by or for a guarantor, or (3) class tests, where permitted under these rules.

(f) The following is the prescribed form of continuing guaranty from seller to buyer:

CONTINUING GUARANTY FROM SELLER TO BUYER UNDER THE FLAMMABLE FABRICS ACT

The undersigned, ______________________, a ______________________________________

(Corporation, partnership, proprietorship) residing in the United States and having its principal office and place of business at

_____________, ___________________________,

(Street and number)

_____________, ___________________________,

(City) (State or Territory and ZIP code) and being engaged in the marketing or handling of products, fabrics, or related materials subject to the Flammable Fabrics Act, as amended, and Regulations thereunder,

Hereby guarantee(s) to ________________,

(Name and address)

buyer, that with regard to all the products, fabrics, or related materials [described as follows: ___________________________________

(If guaranty is limited to certain prod-

____

ucts, fabrics, or related materials, list the

____

general categories here. If guaranty is not so _______________________________] hereafter

limited, leave these lines blank.)

sold or to be sold to buyer by the undersigned, and for which flammability standards have been issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, reasonable and representative tests as prescribed by the Consumer Product Safety Commission have been performed which show that the products, fabrics, or related materials, at the time of their shipment or delivery by the undersigned, conform to such of the above-mentioned flammability standards as are applicable thereto.

Dated, signed, and executed this ______ day of __________ 19____, at __________________,

__________________, (City)

(State or Territory)

	____________________
(Impression of corporate seal, if corporation.)	(Name under which business is conducted.)
	____________________
(If firm is a partnership list partners below.)	(Signature of proprietor, partner, or authorized official of corporation.)
____________________	
____________________	
____________________	
____________________	

STATE OF________________, ss:
*County of*________________,

On this ______ day of ____________, 19____, before me personally appeared the said ______________________, proprietor, partner (Signer of guaranty) (Strike non-applicable words) ________________________________

(If corporation, give title of signing official) of ____________________________________

(Firm name), to me personally known, and acknowledged the execution of the foregoing instrument on behalf of the firm, for the uses and purposes therein stated.

	____________________
(Impression of notary seal required here.)	Notary Public in and for County of__________ State of__________ My commission expires __________

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194; section 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

§ 1608.4 Guaranties furnished by nonresidents of the U.S. no bar to prosecution.

A guaranty furnished under section 8 of the act by a person who is not a resident of the United States may not be relied upon as a bar to prosecution under section 7 of the act for a violation of section 3 of the act.

§ 1608.5 Salvage operations of common carriers and others.

For the purposes of this act the ordinary course of business of common carriers, contract carriers or freight forwarders, as referred to in section 11 of the act, shall not include the marketing or handling of products, fabrics, or related materials subject to the act in the course of performance of salvage or lien realizing operations.

§ 1608.6 Reference to guaranty by Government prohibited.

No representation nor suggestion shall be made in advertising or otherwise marketing or handling products, fabrics or related materials subject to the act that the act, the Government, or any branch thereof, guarantees, in any manner that such product, fabric, or related material conforms to a flammability standard in effect under the act.

PART 1609—TEXT OF THE FLAMMABLE FABRICS ACT OF 1953, AS AMENDED IN 1954, PRIOR TO 1967 AMENDMENT AND REVISION

§ 1609.1 Text of the Flammable Fabrics Act of 1953, as amended in 1954.

The following is the text of the Flammable Fabrics Act of 1953, ch. 164, 67 Stat. 111, as amended, ch. 833, 68 Stat. 770 (1954):

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2(d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191-53, textiles free from nap, pile, tufting, flock or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning when the time of flame spread is less than three and one-half seconds. [Approved August 23, 1954.]

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8(b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of Section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any persion is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in the United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8(b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

CODIFICATION NOTE: Part 1610 is a codification of the previously unpublished standard for flammability of clothing textiles, Commercial Standard 191-53, issued by the Department of Commerce, effective on January 30, 1953. This flammability standard became mandatory through section 4(a) of the Flammable Fabrics Act, as amended in 1954, and remains in effect due to the savings clause (section 11) of Pub. L. 90-189. 16 CFR Part 1609 contains the text of the Flammable Fabrics Act of 1953, as amended in 1954.

Subpart A—The Standard

AUTHORITY: Sec. 5, Pub. L. 83-88, 67 Stat. 112, as amended, 68 Stat. 770 (15 U.S.C. 1193); sec. 11, Pub. L. 90-189, 81 Stat. 568.

NOTE: All fabrics of natural or regenerated cellulose, as well as certain types of finished and unfinished fabrics made from other natural or synthetic fibers, are combustible. Some combustible fabrics, when used for clothing, are potentially dangerous to the wearer because of the speed and intensity of flame with which those fabrics burn and their ease of ignition, and because of the design of the garment. Two of these factors, the ease of ignition and the speed of flame spread, can be measured with the instrument described herein.

It is suggested that measurement of these two factors, together with visual observation of flame intensity, will permit the separation of various fabrics into three classes of flammability, thus assisting in a judgment of fabric suitability for clothing.

§ 1610.1 Purpose.

The purpose of this standard is to reduce danger of injury and loss of life by providing, on a national basis, standard methods of testing and rating the flammability of textiles and textile products for clothing use, thereby discouraging the use of any dangerously flammable clothing textiles.

§ 1610.2 Scope.

(a) The standard provides methods of testing the flammability of clothing and textiles intended to be used for clothing,[1] [a] [b] establishes three classes of flammability, sets forth the requirements which textiles shall meet to be so classified, and warns against the use of those textiles which have burning characteristics unsuitable for clothing.

(b) *Specific exceptions.*—This standard shall not apply to—

(1) Hats, gloves, and footwear [c]

(2) Interlining fabrics [3]

§ 1610.3 Requirements.

(a)(1) *Normal flammability, Class 1.*—This class shall include textiles which meet the minimum requirements set forth in paragraph (a)(1)(i) or paragraph (a)(1)(ii) of this section. Textiles meeting these requirements are generally accepted by the trade as having no unusual burning characteristics.

(i) *Textile without nap, pile, tufting, flock, or other type of raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4 shall be classified as Class 1, normal flammability, when the time of flame spread is 4 seconds [d] or more.

(ii) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 1, normal flammability, when the time of flame spread is more than 7 seconds, or when they burn with a rapid surface flash (from 0 to 7 seconds), provided the intensity of the flame is so low as not to ignite or fuse the base fabric.

(2) *Intermediate flammability, Class 2.*—This class shall include textiles which meet the minimum requirements set forth in paragraph (a)(2)(i) of this section. Textiles meeting these requirements are recognized by the trade as having flammability characteristics between normal and rapid and intense burning.

(i) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 2, intermediate flammability, when the time of flame spread is from 4 to 7 seconds, both inclusive, and the base fabric ignites or fuses.

(3) *Rapid and intense burning, Class 3.*—This class shall include textiles which have burning characteristics as described in paragraphs (a)(3)(i) and (a)(3)(ii) of this section. Such textiles are considered dangerously flammable and recognized by the trade as being unsuitable for clothing because of their rapid and intense burning.

(i) *Textiles free from nap, pile, tufting, flock, or other type of raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds.[e]

(ii) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e) when tested as described in § 1610.4 shall be classified as Class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds and when the intensity of flame is such as to ignite or fuse the base fabric.

§ 1610.4 Methods of test.

(a)(1) *Number and size of specimens required.*—Five specimens, each measuring 2 by 6 inches, are required for each test.

(2) For textiles without a raised-fiber surface the long dimension shall be that

[1] Hereinafter, "clothing and textiles intended to be used for clothing" shall be referred to as "textiles."

[a] All the numbered footnotes are from the original printing by the Department of Commerce. All the lettered footnotes are new.

[b] Refer to sections 2 and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609, for the scope of the Standard.

[c] Refer to sections 2(d) and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609 for exceptions to this exception.

[3] Interlining fabrics are not considered dangerously flammable when used as interlinings. When used for other purposes they should be tested and rated the same as any other fabrics.

[d] On August 23, 1954, the Flammable Fabrics Act was amended, changing the test for the time of flame spread for plain-surfaced fabrics, provided in paragraphs 3.1.1.1 (now § 1610.3(a)(1)(i)) and 3.1.3.1 (now § 1610.(a)(3)(i)), by reducing the burning time from 4 to 3½ seconds. For the purpose of the administration of that act, therefore, the 3½ second burning time for plain-surface fabrics is applicable.

[e] See footnote d.

in which they burn most rapidly, and the more rapidly burning surface shall be tested. To establish the long dimension and the surface, preliminary tests are made as described in paragraph (g) of this section, with specimens cut in different directions.

(3) For textiles having a raised-fiber surface, the direction of the lay of the surface fibers shall be parallel with the long dimension of the specimens. For this type of textiles with varying depths of pile, tufting, etc., the specimens are taken from that part and tested on that surface which has the fastest rate of burning.

(4) If the specimens in the preliminary test, when tested as described in paragraph (g) of this section, do not ignite or are very slow burning, or should have a fire-retarding finish, a swatch large enough to provide the specimens required for the test, with allowance for shrinkage in dry cleaning and washing, is subjected to the dry cleaning and washing procedures described in paragraph (d) and (e) of this section. The specimens for the flammability test are then taken from it.

(5) The specimens required for testing, each 2 by 6 inches, are marked out on the back (or under side) of each sample with the long dimension in the direction in which burning is most rapid, as established in the preliminary trials. The end of the specimen toward which and on the face of which burning is most rapid is identified by attaching a staple to it. The specimens are then cut out.

FIGURE 1.—Specimen showing staple.

(b) *Flammability tester.*[6]—The flammability tester consists of a draft-proof ventilated chamber enclosing a standardized ignition medium, sample rack, and automatic timing device.

(1) *Draft-proof chamber with vented top (A, fig. 2).*—This metal chamber prevents air circulation around the specimen rack and flame, but permits free ventilation for rapid oxidation. The chamber is 14½ inches wide, 8½ inches deep, and 14 inches high. There are 12 half-inch holes equidistant along the rear of the top closure. A ventilating strip is provided at the base of the sliding glass door in the front of the apparatus.

(2) *Specimen rack (B, fig. 2).*—The specimen rack provides supports for the frames in which the specimens are mounted. The angle of inclination is 45°. Two guide pins projecting downward from the center of the base of the rack travel in slots provided in the floor of the chamber so that adjustment can be made for the thickness of the specimen in relation to the flame front. A stop is provided in the base of the chamber to assist in adjusting the position of the rack.

(3) *Specimen holder (C, fig. 2).*—The specimen holder consists of two $\frac{1}{16}$ inch matched metal plates with clamps mounted along the sides, between which the specimen is fixed. The plates are slotted and loosely pinned for alinement. The two plates of the holder cover all but 1½ inches of the width of the specimen for its full length. The specimen holder is supported in the draft-proof chamber on the rack at an angle of 45°. Five specimen holders are provided.

(4) *Indicating finger (D, fig. 2).*—The forepart of this finger touches the specimen when the rack is adjusted. By means of this finger the thickness of the specimen is compensated for in the throw of the gas nozzle.

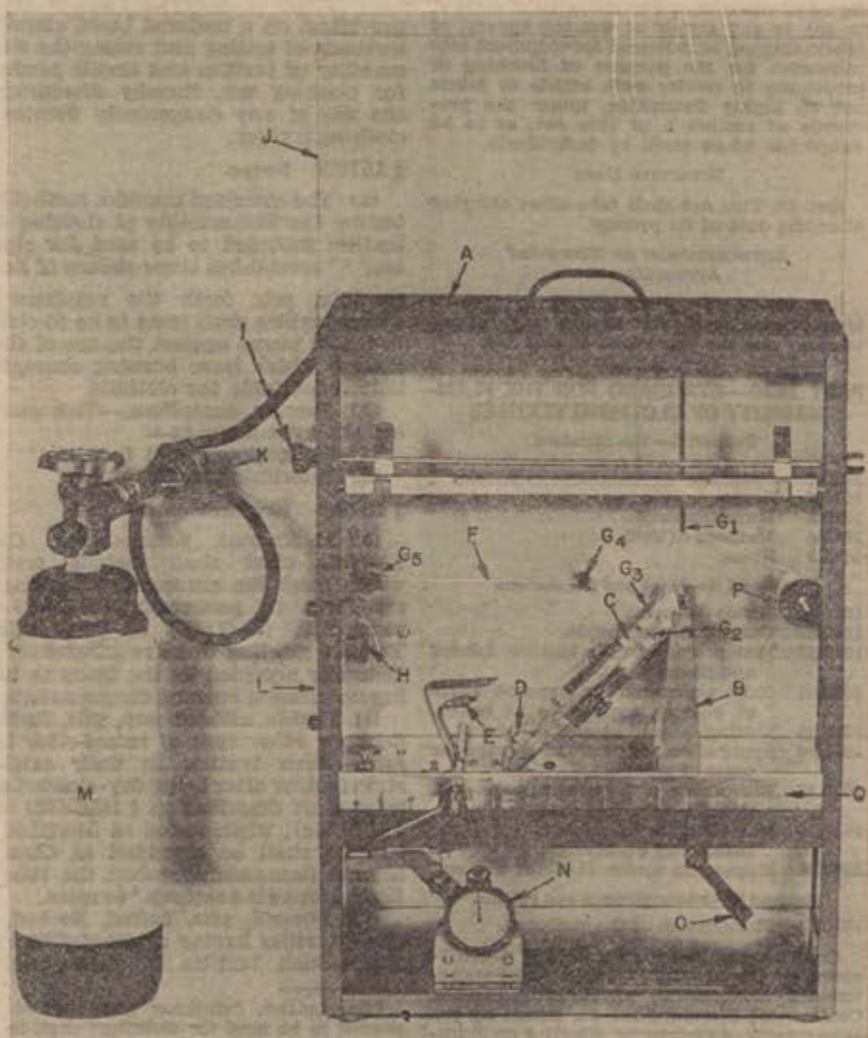

FIGURE 2.—Flammability tester.[7]

(5) *Control knobs (not shown).*—There are two of these knobs which hold the rack in test position. The knobs can be reached under the stage of the cabinet and permit forward and backward movements of the rack when loosened.

(6) *Ignition medium (E, fig. 2).*—The ignition medium consists of a spring-motor-driven gas jet formed around a 26-gage hypodermic needle. A trigger located in the front of the apparatus serves to wind the spring-motor when the machine is placed in operation. The gas jet is protected by a copper shield.

(7) *Stop cord (F, fig. 2).*—This cord, stretched from the spool (*P*, fig. 2) through suitable thread guides provided on the specimen frame and chamber walls, permits the lacing of the cord in the proper position exactly 5 inches from

[6] This apparatus is manufactured by the United States Testing Co., 1415 Park Avenue, Hoboken, N.J. Blueprints of working plans for the manufacture of this apparatus are available, at a nominal charge, from the above-named company.

[7] This is a new photograph of the flammability tester which reflects the clarification of the stop cord position, set out at § 1610.61(c)(1). References in the text have been changed to correspond with the new photograph, and therefore the letters in the new figure 2 do not entirely correspond to the old figure 2, which appeared in the earlier printings. The letter changes are: (new:old) E:F, F:G, G_5:H, H:I, I:J, J:K, K:L, L:V, G_4:Q, Q:R.

the point where the center of the ignition flame impinges on the test specimen. The stop cord consists of a No. 50 mercerized sewing thread and measures the rise and spread of the flame from the test specimen.

(8) *Pulley or eye* (G_1, *fig. 2*).—The pulley or eye is the support and guide for the stop cord.[3]

(9) *Stop weight* (*H, fig. 2*).—The weight, attached by means of a clip to the stop cord, in dropping actuates the stop motion.

(10) *Slide door control* (*I, fig. 2*).—This knob moves the catch mechanism used to hold the sliding door in an open position for insertion of test specimen racks.

(11) *Slide door* (*J, fig. 2*).—A glass door in its normal position slides in the grooves at the front of the cabinet.

(12) *Fuel-control valve* (*K, fig. 2*).—This valve consists of a sensitive control device for regulating the fuel supply at the tank. The valve ends in a ½-inch male connection for attachment to the standard butane tank of 2 pounds capacity.

(13) *Flow meter.* (*L, fig. 2*).—A flow meter is used to bring the fuel supply to test level by means of the control valve. The flow meter consists of a U-shaped glass tube cut into the gas line in a manner to register the gas pressure delivered to the microburner. Attached to the case wall behind the flow meter is a movable metal plate with two parallel horizontal lines properly spaced for the desired flame length. When the pressure is off, the plate is so regulated that the liquid level in both sides of the U-shaped tube meets the lower line. When the test is made the pressure is so adjusted that the higher liquid level in the U-shaped tube meets the upper line.

(14) *Butane, c.p., container*[4] (*M, fig. 2*).—This fuel supply is a No. 4 cylinder of c.p. butane.

(15) *Stopwatch and timing mechanism* (*N, fig. 2*).—This watch, by means of special attachments, is actuated to a start by connection with the gas jet (E, fig. 2). A driving mechanism on rear of cabinet (*S*, fig. 2) moves the gas jet to its most forward position and automatically starts the timing at the moment of flame impact. The falling weight (H, fig. 2), when caused to move by severance of cord (F, fig. 2), stops the watch. Timing is read directly.

(16) *Starting lever* (*O, fig. 2*).—This lever is operated from left to right in one stroke and is released to operate the gas jet.

(17) *Cord supply* (*P, fig. 2*).—This supply, consisting of a spool of No. 50 mercerized cotton sewing thread, is fastened to the side of the chamber and can be withdrawn by releasing the thumbscrew holding same in position.

(18) *Cord loop* (G_1, *fig. 2*).—At a point behind the stop cord (F, fig. 2), on the rear panel, there is installed another loop to draw the cord away from directly over the flame.

(19) *Draft ventilator strip* (*Q, fig. 2*).—A draft ventilator strip is placed across the front opening, sealing the space between the sliding door when in lowered position and the base on which the grid rack is attached.

(c) *Brushing device.*[5, h]

(1) This device consists of a baseboard over which a smaller carriage is drawn. This carriage runs on parallel tracks attached to the edges of the upper surface of the baseboard. The brush is hinged with pin hinges at the rear edge of the baseboard and rests on the carriage vertically with a pressure of 150 grams.

(2) The brush consists of two rows of stiff nylon bristles mounted with the tufts in a staggered position. The bristles are 0.016 inch in diameter and 0.75 inch in length. There are 20 bristles per

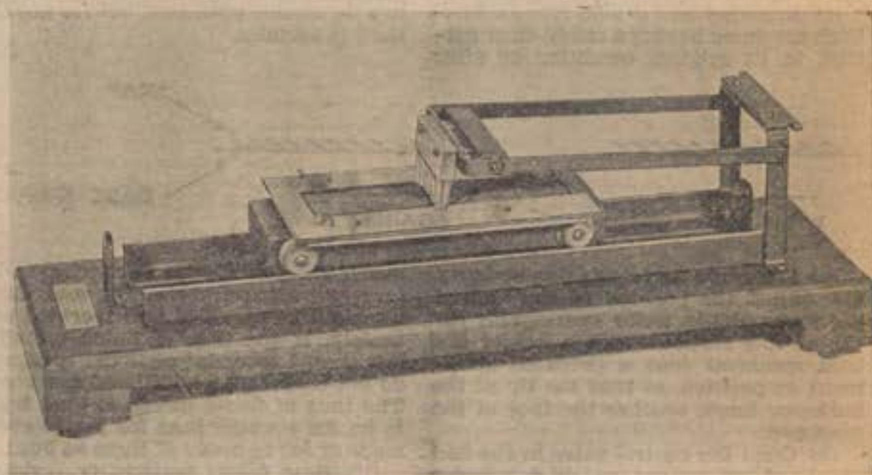

FIGURE 3.—Brushing device.[i]

tuft and 4 tufts per inch. A clamp is attached to the forward edge of the movable carriage to permit holding the specimen on the carriage during the brushing operation.

(3) After the specimen has been put in place on the carriage and fastened by means of the clamp, the brush is raised, the carriage pushed to the dear, and the brush lowered to the face of the specimen. The carriage is then drawn forward by hand at a uniform rate.

(d) *Dry cleaning.*—A swatch from each sample, as mentioned in paragraph (a)(4) of this section, shall be subjected to the following dry-cleaning procedure.

(1) *Apparatus.*—The apparatus is a cylinder, preferably of metal, approximately 13 inches high and about 8¾ inches in diameter (capacity 3 gallons). The cylinder is mounted in a vertical position on an axis which is inclined 50° to the axis of the cylinder, and is rotated about this axis at a speed of 45 to 50 revolutions per minute.

(2) *Cleaning procedure.*—The apparatus is filled approximately one-third with perchlorethylene to which is added 270 ml of dry-cleaning soap.[6] The swatches and sufficient suitable worsted cloth,[7] in pieces of approximately 12 by 12 inches, to make a total dry load of 1 pound are placed in the apparatus. It is operated for 25 minutes. The solution is poured out, the apparatus refilled to approximately one-third with fresh perchlorethylene without soap, and the apparatus is operated for an additional 5 minutes. This last operation is repeated three times. The swatches are then removed and the excess solvent removed from the swatches by any convenient means, such as rolling them between two layers of turkish toweling or between two layers of absorbent paper. They are then permitted to dry at room temperature.

(e) *Washing procedure.* — The swatches, after being subjected to the

[3] Other guides are specifically identified as the skyhook (G_1), the L-shaped guides (G_2, G_3) and a pigtail guide (G_4). See § 1610.61(c)(1) for a clarification of the stop cord position.

[4] Butane, c.p. No. 4 cylinders containing 2 pounds of butane may be obtained from, among others, the Matheson Co., Inc., East Rutherford, N.J.

[5] This device is manufactured by the United States Testing Co., 1415 Park Avenue, Hoboken, N.J.

[h] See § 1610.61(c)(2) for a clarification of the brushing technique for fabric with raised-fiber surfaces.

[i] See footnote h; This picture is a reproduction of the figure published in the original standard, and does not truly represent the Commission's interpretation of the proper position of the specimen during the brushing procedure (§ 1610.61(c)(2)). Specifically, the specimen in the picture appears to be below the level of the upper half of the specimen holder while the clarification requires the specimen to be placed above this level. Also, § 1610.61(c)(1) allows for the use of L-shaped guides.

[6] The soap shall be made by dissolving 56 grams of caustic potash (KOH) in 100 ml of water. The potassium hydroxide solution shall be poured slowly, with constant stirring, into a mixture of 340 grams of oleic acid, 400 ml of Stoddard solvent (Commercial Standard CS3-40 grade), and 100 ml of tertiary butyl alcohol or an equal quantity of butyl cellosolve.

[7] A suitable worsted test fabric known as Moth Test cloth may be obtained from Testfabrics, Inc., 55 Van Dam St., New York 13, N.Y.

dry-cleaning procedure (paragraph (d) of this section), shall then be immersed and worked gently for 5 minutes in a bath of soft water in which 0.5-percent neutral chip soap has been dissolved. The volume of the bath shall be 30 times the weight of the swatches and the temperature shall be between 95° and 100° F. The swatches shall then be rinsed twice in water at 80° F., extracted, and dried. The individual specimens, each 2 by 6 inches, are then cut out as described in paragraph (a)(5) of this section and tested as described in paragraphs (f) and (g) of this section.

(f) *Brushing and drying specimens.*—Each specimen having a raised-fiber surface, in its original condition or after dry cleaning and washing, is placed on the brushing device carriage (paragraph (c) of this section) and drawn under the brush once against the lay of the raised-fiber surface (see fig. 4). Other specimens do not require brushing. All specimens are clamped individually in the specimen holders of the flammability tester (paragraph (b)(3) of this section), with the staple on top and the stapled end at the closed end of the holder. They are then dried in a horizontal position in an oven for 30 minutes at 221° F (105° C), removed from the oven, and placed over anhydrous calcium chloride in a desiccator until cool, but for not less than 15 minutes.

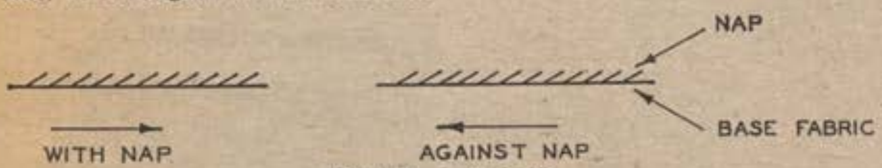

FIGURE 4.—Lay of nap.

(g) *Procedure for testing flammability.* (1) Adjust the position of the rack of the flammability tester (paragraph (b)(2) of this section) with a holder and trial specimen (not a prepared specimen) in position, so that the tip of the indicator finger touches the face of the specimen.

(2) Open the control valve in the fuel supply. Allow approximately 5 minutes for the air to be drawn from the fuel line, ignite the gas and adjust the flame to a length of ⅝ inch, measured from its tip to the opening in the gas nozzle.

(3) Remove the mounted specimen from the desiccator and place it in position on the rack in the chamber of the apparatus.

(4) See that the stop cord (No. 50 cotton sewing thread) is strung through the guides in the upper plate of the specimen holder across the top of the specimen, and through the guides at the rear of the chamber over the guide ring, and that the weight is hooked in place close to and just below the guide ring. Set the stop watch at zero. Close the door of the apparatus. Conduct the test in a draft-free room with the apparatus at room temperature.

(5) Bring the starting lever over to the extreme right and release it. This starts the timing mechanism and applies the flame to the specimen for a period of 1 second. This should be done within 45 seconds of the time the specimen was removed from the desiccator. Timing is automatic, starting upon application of the flame and ending when the weight is released by the burning of the stop cord.

(6) Record the time of flame spread (reading of stop watch) of each specimen and note whether the base of each specimen having a raised-fiber surface is ignited or fused to a point where the damage is apparent from the bottom of the specimen.

(7) *Results.* (i) *Time of flame spread.*—The time of flame spread of the textile is taken as an average time for 5 specimens. Results of tests of specimens before and after dry cleaning and washing shall be recorded and reported separately. If the time of flame spread is less than 4 seconds [2] or if the specimens do not burn, test 5 additional specimens. The time of flame spread is then taken to be the average time for the 10 specimens or for as many of them as burn.

(ii) *Base fabric ignition or fusing.*—Base fabric ignition or fusing of textiles having raised-fiber surfaces shall be reported when the base fabric of more than 1 of the 5 (or 2 of the 10) specimens tested ignites or fuses.[3]

(8) *Reporting results.*—The reported result shall be the flammability before or after dry cleaning and washing, whichever is the lower; and, based on this result, the textile shall be placed in the proper classification as given in § 1610.3.

§ 1610.5 Notes.

The methods of test and classifications outlined herein agree with all essential requirements of the Standard Test Method for Flammability of Clothing Textiles, of the American Association of Textile Chemists and Colorists.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 15 U.S.C. 1194, unless otherwise noted.

NOTE: An interpretation, with respect to Ornamental Veils or Veilings, issued by the Federal Trade Commission at 32 F.R. 11850, Aug. 17, 1967, provides as follows:

Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a "covering for the neck, face, or shoulders" as would, under the first proviso of section 2(d) of the Flammable Fabrics Act, cause the hat to be included within the definition of the term "article of wearing apparel" where such ornamental millinery veils or veilings do not extend more than nine (9) inches from the tip of the crown of the hat to which they are attached and do not extend more than two (2) inches beyond the edge of the brim of the hat.

Where hats are composed entirely of ornamental millinery veils or veilings such hats will not be considered as subject to the Flammable Fabrics Act if the veils or veilings from which they are manufactured were not more than nine (9) inches in width and do not extend more than nine (9) inches from the tip of the crown of the completed hat.

§ 1610.31 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The term "act" means the "Flammable Fabrics Act" (approved June 30, 1953, Pub. Law 88, 83d Congress, 1st sess., 15 U.S.C. 1191; 67 Stat. 111) as amended, 68 Stat. 770, August 23, 1954.

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories, and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended in 1967.

(e) The terms "uncovered or exposed part" of an article of wearing apparel as used in section 4(a) of the act, mean that part of such article of apparel which might during normal wear be open to flame or other means of ignition.

NOTE: The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel, and thus subject to the act.

(f) The term "textile fabric" means any coated or uncoated material subject to the act, except film and fabrics having a nitro-cellulose fiber, finish, or coating, which is woven, knitted, felted or otherwise produced from any natural or man-made fiber, or substitute therefor, or combination thereof, of two inches or more in width, and which is in a form or condition ready for use in wearing apparel.

(g) The term "plain surface textile fabric" means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces.

(h) The term "raised surface textile fabric" means any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap, or tufting.

(i) The term "film" means any non-rigid, unsupported plastic, rubber or

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[2] In the Flammable Fabrics Act, Congress adopted CS 191-53 as the Commercial Standard to be applied under the law.

On August 23, 1954, the Flammable Fabrics Act was amended, changing the test for the time of flame spread for plain-surfaced fabrics, provided in paragraphs 3.1.1.1 and 3.1.3.1 [codified as §§ 1610.3(a)(1)(i) and 1610.3(a)(3)(i)], by reducing the burning time from 4 to 3½ seconds.

For the purposes of the administration of that act, therefore, the 3½-second burning time for plain-surfaced fabrics is applicable.

[3] See § 1610.61(c)(3) for a clarification of the criterion for a classification of Class 3.

other synthetic or natural film or sheeting, subject to the act, or any combination thereof, including transparent, translucent, and opaque material, whether plain, embossed, molded, or otherwise surface treated, which is in a form or condition ready for use in wearing apparel, and shall include film or sheeting exceeding 10 mils in thickness.

(j) The term "test" means the application of the relevant test method prescribed in the procedures provided under section 4(a) of the act.

(k) The term "initial test" means tests made under the procedures prescribed in section 4(a) of the act of specimens taken from two separate pieces of a textile fabric, or textile fabric with a nitrocellulose fiber, finish or coating, having the same weight, construction and finish type, or from two separate runs of film having the same formula, finish, color, and thickness.

(l) The term "finish type" means a particular finish, but does not include such variables as changes in color, pattern, print, or design, or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types would be starch finishes, resin finishes or parchmentized finishes.

(m) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1610.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4 (a) of the act, is so highly flammable as to be dangerous when worn by individuals.

§ 1610.33 Test procedures for textile fabrics and film.

(a)(1) All textile fabrics (except those with a nitro-cellulose fiber, finish or coating) intended or sold for use in wearing apparel, and all such fabrics contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such articles of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in Subpart A of this Part, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53".

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, coated fabrics, except those with a nitrocellulose coating, may be tested under the procedures outlined in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53", and if such coated fabrics do not exhibit a rate of burning in excess of that specified in § 1611.3 they shall not be deemed to be so highly flammable as to be dangerous when worn by individuals.

(b) All film, and textile fabrics with a nitro-cellulose fiber, finish or coating intended or sold for use in wearing apparel, and all film and such textile fabrics referred to in this rule which are contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such film or such textile fabrics or any uncovered or exposed part of such articles of wearing apparel exhibit a rate of burning in excess of that specified in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53."

§ 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

§ 1610.35 Testing certain classes of fabrics.

(a) Any textile fabric intended for use in, or used, or contained in an article of wearing apparel, which in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not, upon test made under the procedures outlined in Subpart A of Part 1610 be dry cleaned or washed as prescribed by §§ 1610.4(d) and 1610.4(e) if such fabric and article of wearing apparel when marketed or handled are marked or labeled in a clear and legible manner stating "Fabric will be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to is bridal illusion.

(b) A coated fabric need not, upon test under the procedures outlined in Subpart A of Part 1610, be dry cleaned as set forth in § 1610.4(d).

(c) In determining whether a textile fabric having a raised-fiber surface, which surface is to be used in the covered or unexposed parts of articles of wearing apparel, is so highly flammable as to be dangerous when worn by individuals, only the opposite surface or surface intended to be exposed need be tested under the applicable procedures set forth in section 4(a) of the act, providing an invoice or other paper covering the marketing or handling of such fabric is given which clearly designates that the raised-fiber surface is to be used only in the covered or unexposed parts of articles of wearing apparel.

(d) A textile fabric which is less than six inches in width need only, upon test under the procedures outlined in Subpart A of Part 1610, be tested in a lengthwise direction.

§ 1610.36 Applications of act to particular types of products.

(a) Fabrics intended or sold for processing into interlinings or other covered or unexposed parts of articles of wearing apparel shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended end use: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition and intended end use of such fabrics, and any person manufacturing articles of wearing apparel containing such fabrics maintains records which show the acquisition, and use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(b) Fabrics intended or sold for use in those hats, gloves, and footwear which are excluded under the definition of articles of wearing apparel in section 2(d) of the act shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended use in such products: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition, and intended end use of such fabrics, and any person manufacturing hats, gloves, or footwear containing such fabrics maintains records which show the acquisition, end use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the Act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(c) Except as provided in paragraph (d) of this section, handkerchiefs not exceeding a finished size of twenty-four (24) inches on any side or not exceeding five hundred seventy-six (576) square inches in area are not deemed "articles of wearing apparel" as that term is used in the act.

(d) Handkerchiefs or other articles affixed to, incorporated in, or sold as a part of articles of wearing apparel as decoration, trimming, or for any other purpose, are considered an integral part of such articles of wearing apparel, and the articles of wearing apparel and all parts thereof are subject to the provisions of the act. Handkerchiefs or other articles intended or sold to be affixed to, incorporated in or sold as a part of articles of wearing apparel as aforesaid constitute "fabric" as that term is defined in section 2(e) of the act and are subject to the provisions of the act which such handkerchiefs or other articles constitute textile fabrics as the term "textile fabric" is defined in § 1610.31(f).

(e) Where an article of wearing apparel has a raised-fiber surface which is intended for use as a covered or unexposed part of the article of wearing apparel but the article of wearing apparel is, because of its design and construction, capable of being worn with the raised-fiber surface exposed, such raised-fiber surface shall be considered to be an uncovered or exposed part of the article of wearing apparel. Examples of the type of products referred to in this paragraph are athletic shirts or so-called "sweat shirts" with a raised-fiber inner side.

NOTE.—An interpretation to § 302.0(c) issued by the Federal Trade Commission, 30 F.R. 16106, Dec. 28, 1965, provides as follows:

"§ 1610.36(c) does not exclude products from the act on the sole basis of the size, description or designation of such product.

"If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type or any other product of a finished type appears to be likely to be used as a covering for the head, neck, face, shoulders, or any part thereof, or otherwise appears likely to be used as an article of clothing, garment, or costume, such product is not a handkerchief and constitutes an article of wearing apparel as defined in and subject to the provisions of the Flammable Fabrics Act, irrespective of its size, or its description or designation as a handkerchief or any other term."

§ 1610.37 Reasonable and representative tests under section 8 of the act.

EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4(a) of the act show that the fabric covered by the guaranty, or used, or contained in the wearing apparel, is not, under the provisions of section 4(a) of the act, so highly flammable as to be dangerous when worn by individuals.

While one establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, or the merchandise involved, would nevertheless, remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act, as well as the injunction and condemnation procedures under section 6 of the act.

The furnishing of guaranties is not mandatory under the act. The purpose of this rule is to establish minimum requirements for the reasonable and representative tests on which guaranties may be based.

(a) The following shall constitute reasonable and representative tests, as that term is used in section 8 of the act, for those textile fabrics which by reason of their composition, construction, finish type or weight may be tested upon a class basis. The word "class" as used in this section means a category of textile fabrics having certain general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized by the trade. In certain instances the use of class tests is restricted by this section to a particular textile fabric of the same fiber composition, construction and finish type. The results of such class tests may be used by any person as a basis for furnishing guaranties under section 8 of the act on all textile fabrics of the same class.

(1) *Plain surface textile fabrics weighing two ounces or more per square yard.* (i) One test of nay plain surface textile fabric weighing two ounces or more per square yard, exclusive of metallic ornamentation, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(2) *Plain surface textile fabrics weighing less than two ounces per square yard.* (i) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric exhibits a burning time of 3.5 seconds or more, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than three months thereafter while in production. If, after four consecutive interval production tests have been made, none of such test results show the flame spread to have been less than 4.5 seconds, no further tests of such class of fabric need be made.

(ii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, none of the specimens ignite, such initial test may suffice for any fabric of the same fiber composition, construction and finish type.

(iii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric ignites but the flame is extinguished before the stop cord is burned, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than one year thereafter while in production.

(3) *Certain raised fiber surface textile fabrics.* (i) When a test of any raised fiber surface textile fabric which has a dense cut pile of uniform short length or looped yarns, does not exhibit a surface flash and does not ignite, such test shall suffice for any such fabric having a dense cut pile of the same length or the same looped yarns and of the same fiber composition, construction and finish type. Examples of the types of fabrics referred to are velvets, velveteens, velours, and corduroys.

(ii) One test of any raised fiber surface textile fabric, the raised fiber surface of which consists of not less than ninety percentum (90%) protein fiber, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(iii) When, on the initial test of any raised surface textile fabric which has a surface composed of looped yarns, such fabric exhibits a burning time in excess of 12 seconds, such test may suffice for any such fabric having the same looped yarns and of the same fiber composition, construction and finish type. An example of the type of fabric referred to is "terry cloth".

(b) Raised fiber surface textile fabrics: When, on the initial test of a raised fiber surface textile fabric, such fabric:

(1) (i) Falls within Class 2 as provided in § 1610.3(a)(2)(i), the fabric shall be tested at least once at intervals of not more than one month while in production, or if the production exceeds 50,000 yards per month, the fabric shall be tested thereafter every 50,000 yards or fraction thereof.

(ii) If, after two such intervals, production tests have been made, the test results do not show the flame spread to have been less than 4 seconds, with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than three months while in production, or if the production exceeds 100,000 yards per three months, the fabric shall be tested thereafter every 100,000 yards or fraction thereof.

(2) Has a flame spread in excess of 7 seconds with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(3) Has a surface flash, but the base fabric does not ignite nor fuse, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(4) Does not have a surface flash and does not ignite, the initial test shall suffice.

(c) When, on initial test a film or a textile fabric with a nitro-cellulose fiber, finish or coating, does not exhibit a burning rate in excess of 1.2 inches per second, one test each year thereafter while in production shall be deemed reasonable and representative tests for such film or textile fabric.

(d) Reasonable and representative tests of fabrics and fabrics contained in articles of wearing apparel, subject to the act, produced prior to the effective date of the act, and which have not been tested under the applicable requirements of paragraphs (a), (b), or (c) of this section, shall be an initial test for each class of such fabrics, and such tests shall be applicable to all fabrics having the same fiber composition, construction and finish type.

(e) In the case of articles of wearing apparel which are not made from fabrics but directly from yarns, the fabrics contained in such articles of wearing apparel shall be tested by the testing requirements provided in paragraphs (a) and (b) of this section.

(f) Where fabrics or fabrics contained in articles of wearing apparel have not been tested when in production by the applicable testing requirements provided in paragraphs (a), (b) or (c) of this section, one test of each such fabrics shall be made every 10,000 yards or fraction thereof, or of the fabric contained in one of every 5,000 of such articles of wearing apparel or fraction thereof, and these shall be deemed reasonable and representative tests of such fabrics.

(g) In the case of textile fabrics or textile fabrics contained in articles of wearing apparel having an appliqued, overstitched, or embroidered type of design, of a loop, pile, nap, or tufted construction, tests shall be conducted according to paragraph (b) of this section on each type of applique, overstitch, or embroidery.

(h) If tests of any textile fabric made subsequent to the initial test show a burning time of another category, then such fabric shall be tested thereafter under the testing requirements of such changed time.

(i) The application of this section, insofar as it relates to the testing of plain surface textile fabrics or such fabrics contained in articles of wearing apparel weighing two ounces or more per square yard, shall be limited to fabrics made of fibers in use or capable of being used as of May 31, 1954. Such fabrics weighing two ounces or more per square yard made in whole or in part of fibers developed and used subsequent to May 31, 1954, shall be tested in accordance with the testing requirements set out in paragraph (a)(2) of this section.

§ 1610.38 Maintenance of records by those furnishing guaranties.

(a) In order to properly administer and enforce section 8 of the act relating to guaranties, it is required that any person furnishing either a separate or continuing guaranty who has made the tests prescribed by the act and regulations shall keep and maintain records of such tests. The records to be maintained shall show:

(1) The style or range number, fiber composition, construction and finish type of each textile fabric and each textile fabric (including those with a nitrocellulose fiber, finish or coating) used or contained in an article of wearing apparel covered by the guaranty, including a swatch of the fabric tested.

(2) The stock or formula number, color, thickness and general description of each film or film used in an article of wearing apparel covered by the guaranty, including a sample of the film tested.

(3) The results of the actual tests made on the textile fabric and film or the fabric and film used or contained in an article of wearing apparel.

(b) Persons furnishing guaranties based upon class tests shall maintain records showing:

(1) Identification of the class test.

(2) Fiber composition, construction and finish type of the fabrics, or the fabrics used or contained in articles of wearing apparel so guaranteed.

(3) A swatch of each class of fabrics guaranteed.

(c) Persons furnishing guaranties based upon guaranties received by them shall maintain records showing:

(1) The guaranty received and identification of the fabrics or fabrics contained in articles of wearing apparel guaranteed in turn by them.

(d) The records referred to in this section shall be preserved for a period of three years from the date the tests were performed, or in the case of paragraph (c) of this section the guaranties were furnished.

(e) Any person furnishing a guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

§ 1610.39 Shipments under section 11 (c) of the act.

(a) The invoice or other paper relating to the shipment or delivery for shipment in commerce of articles of wearing apparel or textile fabrics for the purpose of finishing or processing to render them not so highly flammable as to be dangerous when worn by individuals, shall contain a statement disclosing such purpose.

(b) An article of wearing apparel or textile fabric shall not be deemed to fall within the provisions of section 11(c) of the act as being shipped or delivered for shipment in commerce for the purpose of finishing or processing to render such article of wearing apparel or textile fabric not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, unless the shipment or delivery for shipment in commerce of such article of wearing apparel or textile fabric is made direct to person engaged in the business of processing or finishing textile products for the prearranged purpose of having such article of apparel or textile fabric processed or finished to render it not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, and any person shipping or delivering for shipment the article of wearing apparel or fabric in commerce for such purpose maintains records which establish (1) that the textile fabric or article of wearing apparel has been shipped for appropriate flammability treatment, and (2) that such treatment has been completed, as well as records to show the disposition of such textile fabric or article of wearing apparel subsequent to the completion of such treatment.

(c) The importation of textile fabrics or articles of wearing apparel may be considered as incidental to a transaction involving shipment or delivery for shipment for the purpose of rendering such textile fabrics or articles of wearing apparel not so highly flammable under the provisions of section 4 of the act, as to be dangerous when worn by individuals, if:

(1) The importer maintains records which establish (i) that the imported textile fabrics or articles of wearing apparel have been shipped for appropriate flammability treatment, and (ii) that such treatment has been completed, as well as records to show the disposition of such textile fabrics or articles of wearing apparel subsequent to the completion of such treatment.

(2) The importer, at the time of importation, executes and furnishes to the Bureau of Customs an affidavit stating:

These fabrics (or articles of wearing apparel) are dangerously flammable under the provisions of section 4 of the Flammable Fabrics Act, and will not be sold or used in their present condition but will be processed or finished by the undersigned or by a duly authorized agent so as to render them not so highly flammable under the provisions of section 4 of the Flammable Fabrics Act, as to be dangerously flammable when worn by individuals. The importer agrees to maintain the records required by 16 CFR 1610.39 (c)(1).

(3) The importer, if requested to do so by the Bureau of Customs, furnishes an adequate specific-performance bond conditioned upon the complete discharge of the obligations assumed in subparagraph (1) and (2) of this paragraph.

NOTE: The purpose of section 11(c) is only to permit articles of wearing apparel or textile fabrics which are dangerously flammable to be shipped or delivered for shipment in commerce for the purpose of treatment or processing to render them not dangerously flammable. Section 11(c) does not in any other respect limit the force and effect of sections 3, 6, 7, and 9 of the act. In particular, section 11(c) does not authorize the sale or offering for sale of any article of wearing apparel or textile fabric which is in fact dangerously flammable at the time of sale or offering for sale, even though the seller intends to ship the article for treatment prior to delivery to the purchaser or has already done so. Moreover, under section 3 of the act a person is liable for a subsequent sale or offering for sale if, despite the purported completion of treatment to render it not dangerously flammable, the article in fact remains dangerously flammable.

Subpart C—Interpretations and Policies

§ 1610.61 Clarification of flammability standard for clothing textiles (CS 191–53).

(a) *Background.* (1) The Flammable Fabrics Act, which became effective July 1, 1954 (Public Law 83–88, 67 Stat. 111–15), adopted Commercial Standard 191–53 as a mandatory flammability standard to be applied under that act (CS 191–53 had been a voluntary commercial standard, entitled "Commercial Standard 191–53, Flammability of Clothing Textiles," which became effective January ?0, 1953).

(2) On August 23, 1954, the Flammable Fabrics Act was amended (68 Stat. 770) to reduce the burning time for flame spread as provided in CS 191–53.

(3) As amended and revised December 14, 1967 by Public Law 90-189 (81 Stat. 568-74), the Flammable Fabrics Act no longer specifically referred to CS 191-53; however, Public Law 90-189 contained a "savings clause" (section 11), which continued the applicability of any standard effective under the act theretofore until superseded or modified. No such change occurred thereafter to CS 191-53 which, accordingly, continues to be a mandatory flammability standard under the act.

(b) *Need for clarification*. It has been brought to the attention of the Consumer Product Safety Commission that lack of clarity in CS 191-53 regarding (1) the positioning of the stop cord, (2) the technique for brushing fabrics with raised-fiber surface, and (3) the criterion for failure of a fabric with a raised-fiber surface results in variations in the way tests are conducted or results are interpreted under the standard, thereby making both compliance with and enforcement of the standard under the Flammable Fabrics Act needlessly contentious.

(c) *Clarifying interpretations*. To alleviate this situation, the Consumer Product Safety Commission adopts the following interpretations on these subjects for CS 191-53:

(1) *Stop cord*. The stop cord shall be three-eighths of an inch above and parallel to the lower surface of the top plate of the specimen holder. This condition can be achieved easily and reproducibly with the use of L-shaped guides and an additional thread guide popularly referred to as a "sky hook." The essential condition, however, is the uniform height of three-eighths of an inch for the stop cord and not the number, placement, or design of the thread guides.

(2) *Brushing*. Brushing of a specimen shall be performed with the specimen mounted in a specimen holder. The purpose of the metal plate or "template" on the carriage of the brushing device is to support the specimen during the brushing operation. Accordingly, such template should be one-eighth of an inch thick.

(3) *Criterion for failure*. In the case of those fabrics having a raised-fiber surface for which a flame spread time of less than 4 seconds occurs and is the result of surface burning (sometimes referred to as "surface flash"), the additional finding of base fabric ignition or fusion that is required to establish a failure shall have to be associated with the propagating surface flame and not the igniting flame.

(Sec. 1 et seq., 67 Stat. 111-15, as amended 68 Stat. 770, 81 Stat. 568-74 (15 U.S.C. 1191-1204, note under 1191).)

PART 1611—STANDARD FOR THE FLAMMABILITY OF VINYL PLASTIC FILM

Subpart A—The Standard

Subpart B—Rules and Regulations

CODIFICATION NOTE: Part 1611 is a codification of the previously unpublished flammability standard for vinyl plastic film which was derived from part of the requirements of Commercial Standard 192-53, issued by the Department of Commerce, effective on May 22, 1953. This flammability standard became mandatory through section 4(a) of the Flammable Fabrics Act, as amended in 1954, and remains in effect due to the savings clause (section 11) of Pub. L. 90-189. Paragraph 3.11 of the Commercial Standard, referred to in the 1954 act, has been codified as § 1611.3 16 CFR Part 1609 contains the text of the Flammable Fabrics Act of 1953, as amended in 1954.

Subpart A—The Standard

AUTHORITY: Sec. 4, Pub. L. 83-88, 67 Stat. 112, as amended, 68 Stat. 770 (15 U.S.C. 1193); sec. 11, Pub. L. 90-189, 81 Stat. 568.

§ 1611.1 Purpose and scope.

The purpose of this standard is to promulgate a minimum standard for flammability of vinyl plastic film which are subject to the requirements of the Flammable Fabrics Act.

§ 1611.2 General description of products covered.

The material covered is nonrigid, unsupported, vinyl plastic film, including transparent, translucent, and opaque material, whether plain, embossed, molded or otherwise surface treated.[a]

[a] Refer to sections 2 and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609 for the scope of this standard. The vinyl plastic film covered by Commercial Standard 192-53, as promulgated by the Secretary of Commerce was vinyl plastic film 10 mils and less in thickness (see § 1.3 of the voluntary standard). After CS 191-53 and CS 192-53 were made mandatory by section 4 of the act, the Federal Trade Commission clarified the scope of the standards in rules and regulations now found at §§ 1611.31(i) and 1611.33(b) (formerly 16 CFR 302.1(a)(9) and 302.3(b)).

§ 1611.3 Flammability—general requirement.

The rate of burning shall not exceed 1.2 in./sec as judged by the average of five determinations lengthwise and five determinations transverse to the direction of processing, when the material is tested with the SPI flammability tester in accordance with the method described in § 1611.4.

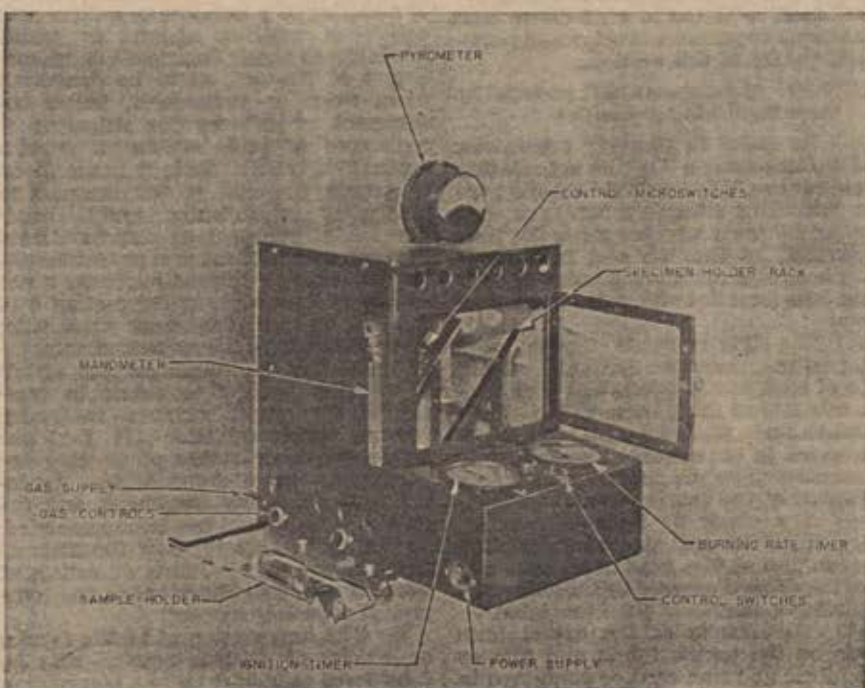


FIGURE 1.—SPI flammability tester.

§ 1611.4 **Flammability test.**

(a) *Apparatus and materials.*—The apparatus shall be constructed essentially as shown in figure 1 and shall consist of the following:

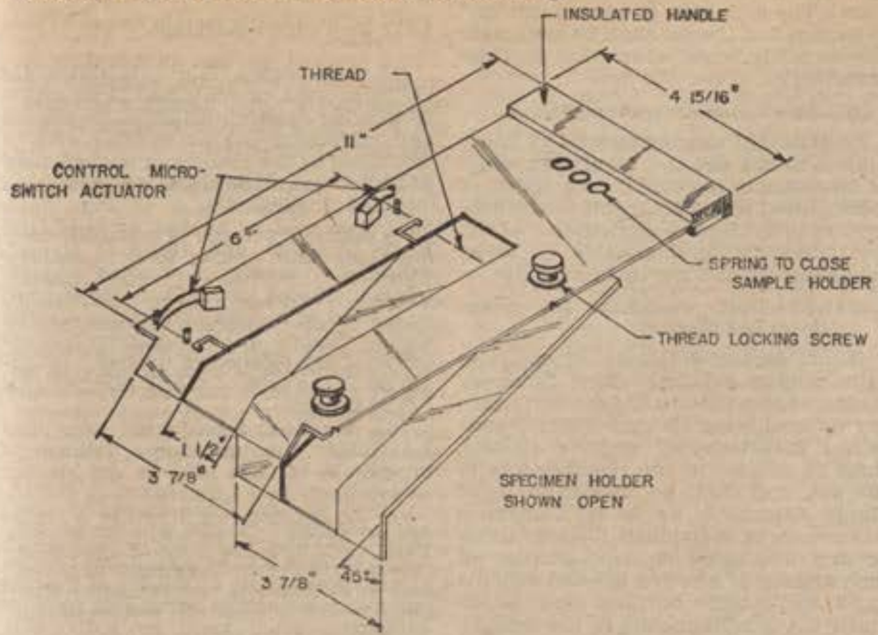


FIGURE 2.—Specimen holder.

(1) *Specimen holder.*—(i) A removable, flat, specimen-holding rack, the upper and lower sections of which are separate, shall have the shape and dimensions shown in figure 2 (sketch of sample-holding rack). The specimen is supported by tight closure of the upper and lower sections around the sides of the specimen. The center section of the rack contains an open U-shaped area in which burning of the specimen takes place. At the open end of the rack the forked sides are at an angle of 45° for the last inch. Thus, when the rack is slid into the cabinet on runners mounted at a 45° angle, the bent portion of the specimen adjacent to the igniter flame is vertical and the remainder is at 45°.

(ii) The switch actuators consist of suitable springs mounted on the side of the rack, one just beyond the curved portion at the open end, and the other at the closed end of the U-shaped holder. The springs are depressed and held in position prior to ignition by means of cotton thread suitably wound across the specimen and securely attached to the rack. As flame reaches these threads, the springs are released, thus activating the microswitches of the stop clocks.

(2) *Igniter flame.*—The igniter flame shall be produced at the tip of a No. 22 hypodermic needle jet. The igniter shall be so located in the cabinet that the tip of the needle is $\frac{5}{16}$ in. from the surface of the specimen when the specimen rack is in place.

(3) *Cabinet.*—The cabinet shall protect the igniter flame and specimen from air currents during tests, yet contain a suitable door or window for visual operation, provision for inserting the specimen holder, and adjustable vents to supply sufficient air for combustion of the specimen. It should also be capable of rapid ventilation following a test so that all combustion products can be removed between tests. A hood may be used if its exhaust fan is turned off during the test.

(4) *Timing mechanism.*—The burning rate shall be determined by a stop clock through microswitches mounted on the specimenholder rack. The clock is started when the specimen flame burns the first thread, and is stopped when the thread at the upper end of the holder, 6 in. from the first thread, burns apart. The timing mechanism shall be capable of indicating time interval to 0.1 second.

(5) *Butane.*—Unless otherwise specified, butane gas shall be used for the igniter flame.

(6) *Thread.*—J. & P. Coats heavy-duty white cotton thread.

(7) *Microburner.*

(b) *Test specimens.* (1) Test specimens shall be 3 in. in width and 9 in. in length. They shall be free from folds or wrinkles. Five specimens from each direction (machine and transverse) of a given material shall be tested.

(2) *Conditioning.*—The conditioning procedure shall conform to the requirements of procedure B of ASTM D618, Tentative Methods of Conditioning Plastics and Electrical Insulating Materials for Testing.

(c) *Procedure.* (1) After preparing the specimens, the holder shall be threaded so as to depress the switch actuators (springs) at least $\frac{1}{4}$ in. from the edge of the holder. Each actuator shall be separately threaded, the thread passing down through the J-slots and under the upper jaws so that the thread is adjacent to the specimen when the holder is closed.

(2) The specimen shall be inserted into the holder so that it extends down into the lock springs and is held firmly between the two wires at the open end of the burning channel. These wires insure that the end of the specimen is always the correct distance from the igniter flame. The sample shall be free from wrinkles or distortion when the holder is closed. The specimen should not extend beyond the outer edge of the lower plate, otherwise the rack may not slide freely on the slide channel on introducing it into the cabinet.

(3) Prior to introducing the specimen and holder into the cabinet, both electical switches shall be set for automatic timing. The needle valve regulating the butane flow shall be adjusted to provide a $\frac{1}{2}$-in. flame. (When the specimen is in place its surface is $\frac{5}{16}$ in. from the tip of the needle and the flame is just barely flattened against the specimen. This can be checked by using a specimen made of asbestos in place of a plastic specimen.).

(4) With the hood fan off, clocks zeroed, and the flame adjusted as mentioned, the door is closed and the specimen holder is then inserted at a constant rate. The holder should be allowed to slide down the rails by gravity, taking about one-half second to travel the length of the slide. Any hesitation in bringing the specimen holder fully into burning position may cause erroneous ignition results.

(5) The burning time shall be read from the stop clock and the rate of burning calculated. Results that deviate from the mean value of all tests should be rejected if the deviation of the doubtful value is more than five times the average deviation from the mean obtained by excluding the doubtful value. Such doubtful values shall be discarded and retests made.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 15 U.S.C. 1194, unless otherwise noted.

NOTE: An interpretation, with respect to Ornamental Veils or Veilings, issued by the Federal Trade Commission at 32 F.R. 11850, Aug. 17, 1967, provides as follows:

Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a "covering for the neck, face, or shoulders" as would, under the first proviso of section 2(d) of the Flammable Fabrics Act, cause the hat to be included within the definition of the term "article of wearing apparel" where such ornamental millinery veils or veilings do not extend more than nine (9) inches from the tip of the crown of the hat to which they are attached and do not extend more than two (2) inches beyond the edge of the brim of the hat.

Where hats are composed entirely of ornamental millinery veils or veilings such hats will not be considered as subject to the Flammable Fabrics Act if the veils or veilings from which they are manufactured were not more than nine (9) inches in width and do not extend more than nine (9) inches from the tip of the crown of the completed hat.

§ 1611.31 **Terms defined.**

As used in this part, unless the context otherwise specifically requires:

(a) The term "act" means the "Flammable Fabrics Act" (approved June 30, 1953, Pub. Law 88, 83d Congress, 1st sess., 15 U.S.C. 1191; 67 Stat. 111), as amended, 68 Stat. 770, August 23, 1954.

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended in 1967.

(e) The terms "uncovered or exposed part" of an article of wearing apparel as used in section 4(a) of the act, mean that part of such article of apparel which might during normal wear be open to flame or other means of ignition.

NOTE: The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel, and thus subject to the act.

(f) The term "textile fabric" means any coated or uncoated material subject to the act, except film and fabrics having a nitro-cellulose fiber, finish, or coating, which is woven, knitted, felted or otherwise produced from any natural or man-made fiber, or substitute therefore, or combination thereof, of two inches or more in width, and which is in a form or condition ready for use in wearing apparel.

(g) The term "plain surface textile fabric" means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces.

(h) The term "raised surface textile fabric" means any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap, or tufting.

(i) The term "film" means any non-rigid, unsupported plastic, rubber or other synthetic or natural film or sheeting, subject to the act, or any combination thereof, including transparent, translucent, and opaque material, whether plain, embossed, molded, or otherwise surface treated, which is in a form or condition ready for use in wearing apparel, and shall include film or sheeting exceeding 10 mils in thickness.

(j) The term "test" means the application of the relevant test method prescribed in the procedures provided under section 4(a) of the act.

(k) The term "initial test" means tests made under the procedures prescribed in section 4(a) of the act of specimens taken from two separate pieces of a textile fabric, or textile fabric with a nitro-cellulose fiber, finish, or coating, having the same weight, construction and finish type, or from two separate runs of film having the same formula, finish, color, and thickness.

(l) The term "finish type" means a particular finish, but does not include such variables as changes in color, pattern, print, or design, or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types would be starch finishes, resin finishes or parchmentized finishes.

(m) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1611.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the act, is so highly flammable as to be dangerous when worn by individuals.

§ 1611.33 Test procedures for textile fabrics and film.

(a)(1) All textile fabrics (except those with a nitro-cellulose fiber, finish or coating) intended or sold for use in wearing apparel, and all such fabrics contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such articles of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in Subpart A of this Part, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53".

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, coated fabrics, except those with a nitro-cellulose coating, may be tested under the procedures outlined in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53", and if such coated fabrics do not exhibit a rate of burning in excess of that specified in § 1611.3 they shall not be deemed to be so highly flammable as to be dangerous when worn by individuals.

(b) All film, and textile fabrics with a nitro-cellulose fiber, finish or coating intended or sold for use in wearing apparel, and all film and such textile fabrics referred to in this rule which are contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such film or such textile fabrics or any uncovered or exposed part of such articles of wearing apparel exhibit a rate of burning in excess of that specified in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53."

§ 1611.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

§ 1611.35 Testing certain classes of fabrics.

(a) Any textile fabric intended for use in, or used, or contained in an article of wearing apparel, which in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not, upon test made under the procedures outlined in Subpart A of Part 1610, be dry cleaned or washed as prescribed by §§ 1610.4(d) and 1610.4(e) if such fabric and article of wearing apparel when marketed or handled are marked or labeled in a clear and legible manner stating "Fabric will be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to is bridal illusion.

(b) A coated fabric need not, upon test under the procedures outlined in Subpart A of Part 1610, be dry cleaned as set forth in § 1610.4(d).

(c) In determining whether a textile fabric having a raised-fiber surface, which surface is to be used in the covered or unexposed parts of articles of wearing apparel, is so highly flammable as to be dangerous when worn by individuals, only the opposite surface or surface intended to be exposed need be tested under the applicable procedures set forth in section 4(a) of the act, providing an invoice or other paper covering the marketing or handling of such fabric is given which clearly designates that the raised-fiber surface is to be used only in the covered or unexposed parts of articles of wearing apparel.

(d) A textile fabric which is less than six inches in width need only, upon test under the procedures outlined in Subpart A of Part 1610, be tested in a lengthwise direction.

§ 1611.36 Application of act to particular types of products.

(a) Fabrics intended or sold for processing into interlinings or other covered or unexposed parts of articles of wearing apparel shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended end use: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition and intended end use of such fabrics, and any person manufacturing articles of wearing apparel containing such fabrics maintains records which show the acquisition, and use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(b) Fabrics intended or sold for use in those hats, gloves, and footwear which are excluded under the definition of articles of wearing apparel in section 2(d) of the act shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended use in such products: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition, and intended end use of such fabrics, and any person manufacturing hats, gloves, or footwear containing such fabrics maintains records which show the acquisition, end use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(c) Except as provided in paragraph (d) of this section, handkerchiefs not exceeding a finished size of twenty-four (24) inches on any side or not exceeding five hundred seventy-six (576) square inches in area are not deemed "articles of wearing apparel" as that term is used in the act.

(d) Handkerchiefs or other articles affixed to, incorporated in, or sold as a part of articles of wearing apparel as decoration, trimming, or for any other purpose, are considered an integral part of such articles of wearing apparel, and the articles of wearing apparel and all parts thereof are subject to the provisions of the act. Handkerchiefs or other articles intended or sold to be affixed to, incorporated in or sold as a part of articles of wearing apparel as aforesaid constitute "fabric" as that term is defined in section 2(e) of the act and are subject to the provisions of the act which such handkerchiefs or other articles constitute textile fabrics as the term "textile fabric" is defined in § 1611.31(f).

(e) Where an article of wearing apparel has a raised-fiber surface which is intended for use as a covered or unexposed part of the article of wearing apparel but the article of wearing apparel is, because of its design and construction, capable of being worn with the raised-fiber surface exposed, such raised-fiber surface shall be considered to be an uncovered or exposed part of the article of wearing apparel. Examples of the type of products referred to in this paragraph are athletic shirts or so-called "sweat shirts" with a raised fiber inner side.

NOTE: An interpretation to § 302.6(c) issued by the Federal Trade Commission, 30 FR 16106, Dec. 28, 1965, provides as follows:

"§ 1611.36(c) does not exclude products from the act on the sole basis of the size, description or designation of such product.

"If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type or any other product of a finished type appears to be likely to be used as a covering for the head, neck, face, shoulders, or any part thereof, or otherwise appears likely to be used as an article of clothing, garment, or costume, such product is not a handkerchief and constitutes an article of wearing apparel as defined in and subject to the provisions of the Flammable Fabrics Act, irrespective of its size, or its description or designation as a handkerchief or any other term."

§ 1611.37 Reasonable and representative tests under section 8 of the act.

EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4(a) of the act show that the fabric covered by the guaranty, or used, or contained in the wearing apparel, is not, under the provisions of section 4 (a) of the act, so highly flammable as to be dangerous when worn by individuals.

While one establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, or the merchandise involved, would nevertheless, remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act, as well as the injunction and condemnation procedures under section 6 of the act.

The furnishing of guaranties is not mandatory under the act. The purpose of this rule is to establish minimum requirements for the reasonable and representative tests on which guaranties may be based.

(a) The following shall constitute reasonable and representative tests, as that term is used in section 8 of the act, for those textile fabrics which by reason of their composition, construction, finish type or weight may be tested upon a class basis. The word "class" as used in this section means a category of textile fabrics having certain general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized by the trade. In certain instances the use of class tests is restricted by this section to a particular textile fabric of the same fiber composition, construction and finish type. The results of such class tests may be used by any person as a basis for furnishing guaranties under section 8 of the act on all textile fabrics of the same class.

(1) *Plain surface textile fabrics weighing two ounces or more per square yard*. (i) One test of any plain surface textile fabric weighing two ounces or more per square yard, exclusive of metallic ornamentation, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(2) *Plain surface textile fabrics weighing less than two ounces per square yard*. (i) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric exhibits a burning time of 3.5 seconds or more, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than three months thereafter while in production. If, after four consecutive interval production tests have been made, none of such test results show the flame spread to have been less than 4.5 seconds, no further tests of such class of fabric need be made.

(ii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, none of the specimens ignite, such initial test may suffice for any fabric of the same fiber composition, construction and finish type.

(iii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric ignites but the flame is extinguished before the stop cord is burned, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than one year thereafter while in production.

(3) *Certain raised fiber surface textile fabrics*. (i) When a test of any raised fiber surface textile fabric which has a dense cut pile of uniform short length or looped yarns, does not exhibit a surface flash and does not ignite, such test shall suffice for any such fabric having a dense cut pile of the same length or the same looped yarns and of the same fiber composition, construction and finish type. Examples of the types of fabrics referred to are velvet, velveteens, velours, and corduroys.

(ii) One test of any raised fiber surface textile fabric, the raised fiber surface of which consists of not less than ninety percentum (90%) protein fiber, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(iii) When, on the initial test of any raised surface textile fabric which has a surface composed of looped yarns, such fabric exhibits a burning time in excess of 12 seconds, such test may suffice for any such fabric having the same looped yarns and of the same fiber composition, construction and finish type. An example of the type of fabric referred to is "terry cloth".

(b)) Raised fiber surface textile fabrics: When, on the initial test of a raised fiber surface textile fabric, such fabric:

(1)(i) Falls within Class 2 as provided in § 1610.3(a)(2)(i), the fabric shall be tested at least once at intervals of not more than one month while in production, or if the production exceeds 50,000 yards per month, the fabric shall be tested thereafter every 50,000 yards or fraction thereof.

(ii) If, after two such intervals, production tests have been made, the test results do not show the flame spread to have been less than 4 seconds, with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than three months while in production, or if the production exceeds 100,000 yards per three months, the fabric shall be tested thereafter every 100,000 yards or fraction thereof.

(2) Has a flame spread in excess of 7 seconds with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(3) Has a surface flash, but the base fabric does not ignite nor fuse, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(4) Does not have a surface flash and does not ignite, the initial test shall suffice.

(c) When, on initial test a film or a textile fabric with a nitro-cellulose fiber, finish or coating, does not exhibit a burning rate in excess of 1.2 inches per second, one test each year thereafter while in production shall be deemed reasonable and representative tests for such film or textile fabric.

(d) Reasonable and representative tests of fabrics and fabrics contained in articles of wearing apparel, subject to the act, produced prior to the effective date of the act, and which have not been tested under the applicable requirements of paragraphs (a), (b), or (c) of this section, shall be an initial test for each class of such fabrics, and such tests shall be applicable to all fabrics having the same fiber composition, construction and finish type.

(e) In the case of articles of wearing apparel which are not made from fabrics but directly from yarns, the fabrics contained in such articles of wearing apparel shall be tested by the testing requirements provided in paragraphs (a) and (b) of this section.

(f) Where fabrics or fabrics contained in articles of wearing apparel have not been tested when in production by the applicable testing requirements provided in paragraphs (a), (b) or (c) of this section, one test of each such fabrics shall be made every 10,000 yards or fraction thereof, or of the fabric contained in one of every 5,000 of such articles of wearing apparel or fraction thereof, and these shall be deemed reasonable and representative tests of such fabrics.

(g) In the case of textile fabrics or textile fabrics contained in articles of wearing apparel having an appliqued, overstitched, or embroidered type of design of a loop, pile, nap, or tufted construction, tests shall be conducted according to paragraph (b) of this section on each type of applique, overstitch, or embroidery.

(h) If tests of any textile fabric made subsequent to the initial test show a burning time of another category, then such fabric shall be tested thereafter under the testing requirements of such changed time.

(i) The application of this section, insofar as it relates to the testing of plain surface textile fabrics or such fabrics contained in articles of wearing apparel weighing two ounces or more per square yard, shall be limited to fabrics made of fibers in use or capable of being used as of May 31, 1954. Such fabrics weighing two ounces or more per square yard made in whole or in part of fibers developed and used subsequent to May 31, 1954, shall be tested in accordance with the testing requirements set out in paragraph (a)(2) of this section.

§ 1611.38 Maintenance of records by those furnishing guaranties.

(a) In order to properly administer and enforce section 8 of the act relating to guaranties, it is required that any person furnishing either a separate or continuing guaranty who has made the tests prescribed by the act and regulations shall keep and maintain records of such tests. The records to be maintained shall show:

(1) The style or range number, fiber composition, construction and finish type of each textile fabric and each textile fabric (including those with a nitrocellulose fiber, finish or coating) used or contained in an article of wearing apparel covered by the guaranty, including a swatch of the fabric tested.

(2) The stock or formula number, color, thickness and general description of each film or film used in an article of wearing apparel covered by the guaranty, including a sample of the film tested.

(3) The results of the actual tests made on the textile fabric and film or the fabric and film used or contained in an article of wearing apparel.

(b) Persons furnishing guaranties based upon class tests shall maintain records showing:

(1) Identification of the class test.

(2) Fiber composition, construction and finish type of the fabrics, or the fabrics used or contained in articles of wearing apparel so guaranteed.

(3) A swatch of each class of fabrics guaranteed.

(c) Persons furnishing guaranties based upon guaranties received by them shall maintain records showing:

(1) The guaranty received and identification of the fabrics or fabrics contained in articles of wearing apparel guaranteed in turn by them.

(d) The records referred to in this section shall be preserved for a period of three years from the date the tests were performed, or in the case of paragraph (c) of this section the guaranties were furnished.

(e) Any person furnishing a guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

§ 1611.39 Shipments under section 11 (c) of the act.

(a) The invoice or other paper relating to the shipment or delivery for shipment in commerce of articles of wearing apparel or textile fabrics for the purpose of finishing or processing to render them not so highly flammable as to be dangerous when worn by individuals, shall contain a statement disclosing such purpose.

(b) An article of wearing apparel or textile fabric shall not be deemed to fall within the provisions of section 11(c) of the act as being shipped or delivered for shipment in commerce for the purpose of finishing or processing to render such article of wearing apparel or textile fabric not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, unless the shipment or delivery for shipment in commerce of such article of wearing apparel or textile fabric is made direct to person engaged in the business of processing or finishing textile products for the prearranged purpose of having such article of apparel or textile fabric processed or finished to render it not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, and any person shipping or delivering for shipment the article of wearing apparel or fabric in commerce for such purpose maintains records which establish (1) that the textile fabric or article of wearing apparel has been shipped for appropriate flammability treatment, and (2) that such treatment has been completed, as well as records to show the disposition of such textile fabric or article of wearing apparel subsequent to the completion of such treatment.

(c) The importation of textile fabrics or articles of wearing apparel may be considered as incidental to a transaction involving shipment or delivery for shipment for the purpose of rendering such textile fabrics or articles of wearing apparel not so highly flammable under the provisions of section 4 of the act, as to be dangerous when worn by individuals, if:

(1) The importer maintains records which establish (i) that the imported textile fabrics or articles of wearing apparel have been shipped for appropriate flammability treatment, and (ii) that such treatment has been completed, as well as records to show the disposition of such textile fabrics or articles of wearing apparel subsequent to the completion of such treatment.

(2) The importer, at the time of importation, execute and furnishes to the Bureau of Customs an affidavit stating:

> These fabrics (or articles of wearing apparel) are dangerously flammable under the provisions of section 4 of the Flammable Fabrics Act, and will not be sold or used in their present condition but will be processed or finished by the undersigned or by a duly authorized agent so as to render them not so highly flammable under the provisions of section 4 of the Flammable Fabrics Act, as to be dangerously flammable when worn by individuals. The importer agrees to maintain the records required by 16 CFR 1610.39 (c)(1).

(3) The importer, if requested to do so by the Bureau of Customs, furnishes an adequate specific-performance bond conditioned upon the complete discharge of the obligations assumed in subparagraph (1) and (2) of this paragraph.

NOTE: The purpose of section 11(c) is only to permit articles of wearing apparel or textile fabrics which are dangerously flammable to be shipped or delivered for shipment in commerce for the purpose of treatment or processing to render them not dangerously flammable. Section 11(c) does not in any other respect limit the force and effect of sections 3, 6, 7, and 9 of the act. In particular, section 11(c) does not authorize the sale or offering for sale of any article of wearing apparel or textile fabric which is in fact dangerously flammable at the time of sale or offering for sale, even though the seller intends to ship the article for treatment prior to delivery to the purchaser or has already done so. Moreover, under section 3 of the act a person is liable for a subsequent sale or offering for sale if, despite the purported completion of treatment to render it not dangerously flammable, the article in fact remains dangerously flammable.

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Subpart A—The Standard

Subpart A—The Standard

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

EFFECTIVE DATE: This standard became effective July 28, 1972. It was originally published as a notice on July 21, 1972 (37 FR 14624), and corrected on September 21, 1972 (31 FR 19662).

§ 1615.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under the act for setting standards (Part 1607 of this chapter) the following definitions apply for the purposes of this Standard:

(a) "Children's Sleepwear" means any product of wearing apparel up to and including size 6X, 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.

(b) "Size 6X" means the size defined as 6X in Department of Commerce Voluntary Product Standard, previously identified as Commercial Standard, CS 151–50 "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers, and Children."[1]

(c) "Item" means any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear.

(d) "Trim" means decorative materials, such as ribbons, laces, embroidery, or ornaments. This definition does not include (1) individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover in aggregate a total of more than 20 square inches of the item, or (2) functional materials (findings), such as zippers, buttons, or elastic bands, used in the construction of garments.

(e) "Test Criteria" means the maximum char length and residual flame time which a sample or specimen may exhibit in order to pass an individual test.

(f) "Char Length" means the distance from the original lower edge of the specimen exposed to the flame in accordance with the procedure specified in § 1615.4 *Test procedure* to the end of the tear or void in the charred, burned, or damaged area, the tear being made in accordance with the procedure specified in § 1615.4(g)(2).

(g) "Residual Flame Time" is defined as the time from removal of the burner from the specimen to the final extinction of molten material or other fragments flaming on the base of the cabinet.

(h) "Afterglow" means the continuation of glowing of parts of a specimen after flaming has ceased.

(i) "Fabric Piece" (Piece) means a continuous, unseamed length of fabric, one or more of which make up a unit.

(j) "Fabric Production Unit" (Unit) means any quantity of finished fabric up to 5,000 linear yards for normal sampling or 10,000 linear yards for reduced sampling which has a specific identity that remains unchanged throughout the Unit except for color or print pattern as specified in § 1615.4(b). For purposes of this definition, finished fabric means fabric in its final form after completing its last processing steps as a fabric except for slitting.

(k) "Garment Production Unit" (Unit) means any quantity of finished garments up to 500 dozen which have a specific identity that remains unchanged throughout the Unit except for size, trim, findings, color, and print patterns as specified in § 1615.4(b).

(l) "Sample" means five test specimens.

(m) "Specimen" means an 8.9 x 25.4 cm. (3.5 x 10 in.) section of fabric. For garment testing the specimen will include a seam or trim.

§ 1615.2 Scope and application.

(a) This Standard provides a test method to determine the flammability of items as defined in § 1615.1(c).

(b) All items as defined in § 1615.1(c) are subject to requirements of this standard.

(c) The flammability standards for clothing textiles and vinyl plastic film, Parts 1610 and 1611 of this Chapter, are superseded by this Part 1615 insofar as they apply to items defined in § 1615.1 (c).

§ 1615.3 General requirements.

(a) *Summary of Test Method.* Five conditioned specimens, 8.9 x 25.4 cm. (3.5 x 10 in.), are suspended one at a time vertically in holders in a prescribed cabinet and subjected to a standard flame along their bottom edge for a specified time under controlled conditions. The char length and residual flame time are measured.

(b) *Test Criteria.* The test criteria when the testing is done in accordance with § 1615.4 *Test procedure* are:

(1) *Average Char Length.* The average char length of five specimens shall not exceed 17.8 cm. (7.0 in.).

(2) *Full Specimen Burn.* No individual specimen shall have a char length of 25.4 cm. (10 in.).

(3) *Residual Flame Time.* No individual specimen shall have a residual flame time greater than 10 seconds.

§ 1615.4 Test procedure.

(a) *Apparatus*—(1) *Test Chamber.* The test chamber shall be a steel cabinet with inside dimensions of 32.9 cm. (12 15/16 in.) wide, 32.9 cm. (12 15/16 in.) deep, and 76.2 cm. (30 in.) high. It shall have a frame which permits the suspension of the specimen holder over the center of the base of the cabinet at such a height that the bottom of the specimen holder is 1.7 cm. (¾ in.) above the highest point of the barrel of the gas burner specified in paragraph (c) of this section and perpendicular to the front of the cabinet. The front of the cabinet shall be a close fitting door with a glass insert to permit observation of the entire test. The cabinet floor shall be covered with a piece of asbestos paper, whose length and width are approximately 2.5 cm. (1 in.) less than the cabinet floor dimensions and whose thickness is a nominal 0.3 cm. (⅛ in.). A piece of asbestos paper at least 15.2 x 15.2 cm. (6 x 6 in.) and of nominal thickness of 0.15 cm. (1/16 in.) or less shall be used to catch the drips or other fragments and this latter paper shall be changed after each specimen which drips has been tested. The cabinet to be used in this test method is illustrated in Figure 1 and detailed in Engineering Drawings, Nos. 1 to 7.

(2) *Specimen Holder.* The specimen holder is designed to permit suspension of the specimen in a fixed vertical position and to prevent curling of the specimen when the flame is applied. It shall consist of two U-shaped 0.20 cm. (14 ga. USS) thick steel plates, 42.2 cm. (16⅝ in.) long, and 8.9 cm. (3.5 in.) wide, with aligning pins. The openings in the plates shall be 35.6 cm. (14 in.) long and 5.1 cm. (2 in.) wide. The specimen shall be fixed between the plates, which shall be held together with side clamps. The holder to be used in this test method is illustrated in Figure 2 and detailed in Engineering Drawing No. 7.

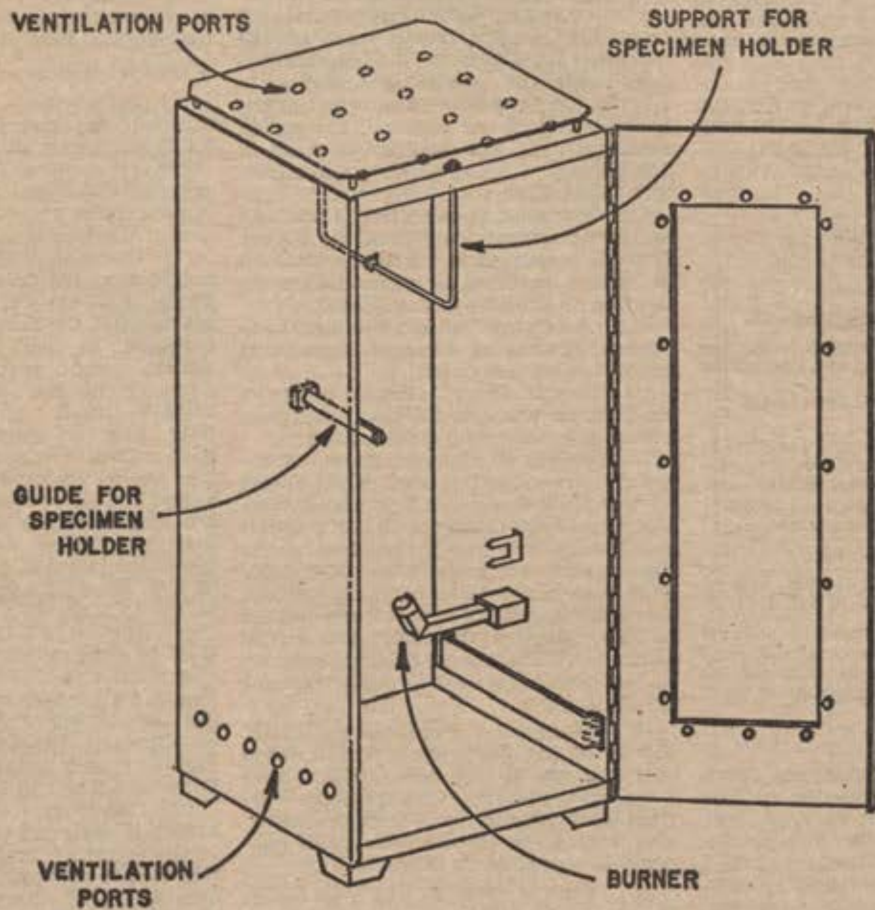
(3) *Burner.* The burner shall be substantially the same as that illustrated in Figure 1 and detailed in Engineering Drawing No. 6. It shall have a tube of 1.1 cm. (0.43 in.) inside diameter. The input line to the burner shall be equipped with a needle valve. It shall have a variable orifice to adjust the height of the flame. The barrel of the burner shall be at an angle of 25° from the vertical. The burner shall be equipped with an adjustable stop collar so that it may be positioned quickly under the test specimen. The burner shall be connected to the gas source by rubber or other flexible tubing.

[1] Copies available from the National Technical Information Service, 5285 Port Royal Street, Springfield, VA 22151.

(4) *Gas Supply System*. There shall be a pressure regulator to furnish gas to the burner under a pressure of 129±13 mm. Hg (2½±¼ lbs. per sq. in.) at the burner inlet.

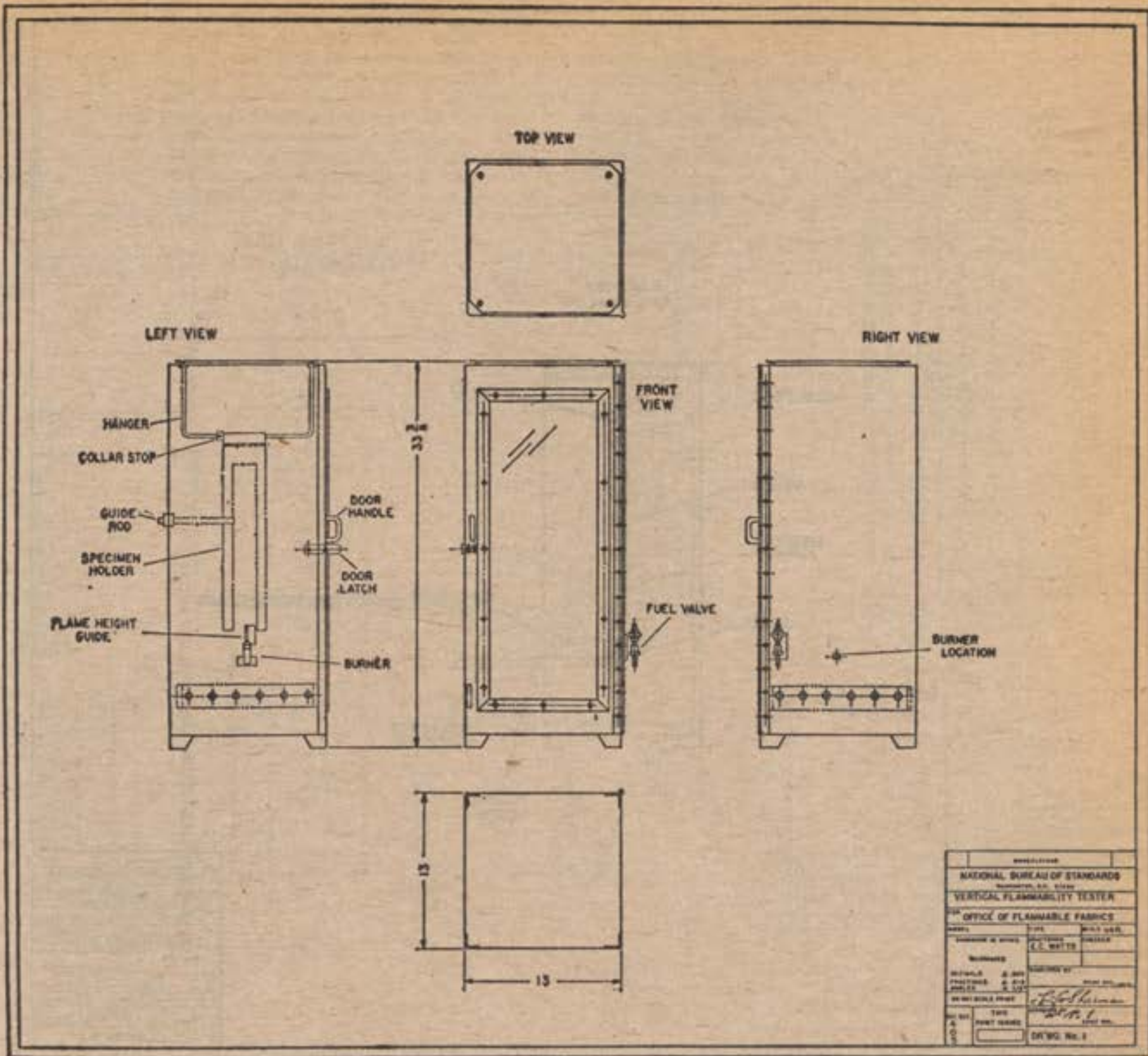
(5) *Gas*. The gas shall be at least 97 percent pure methane.

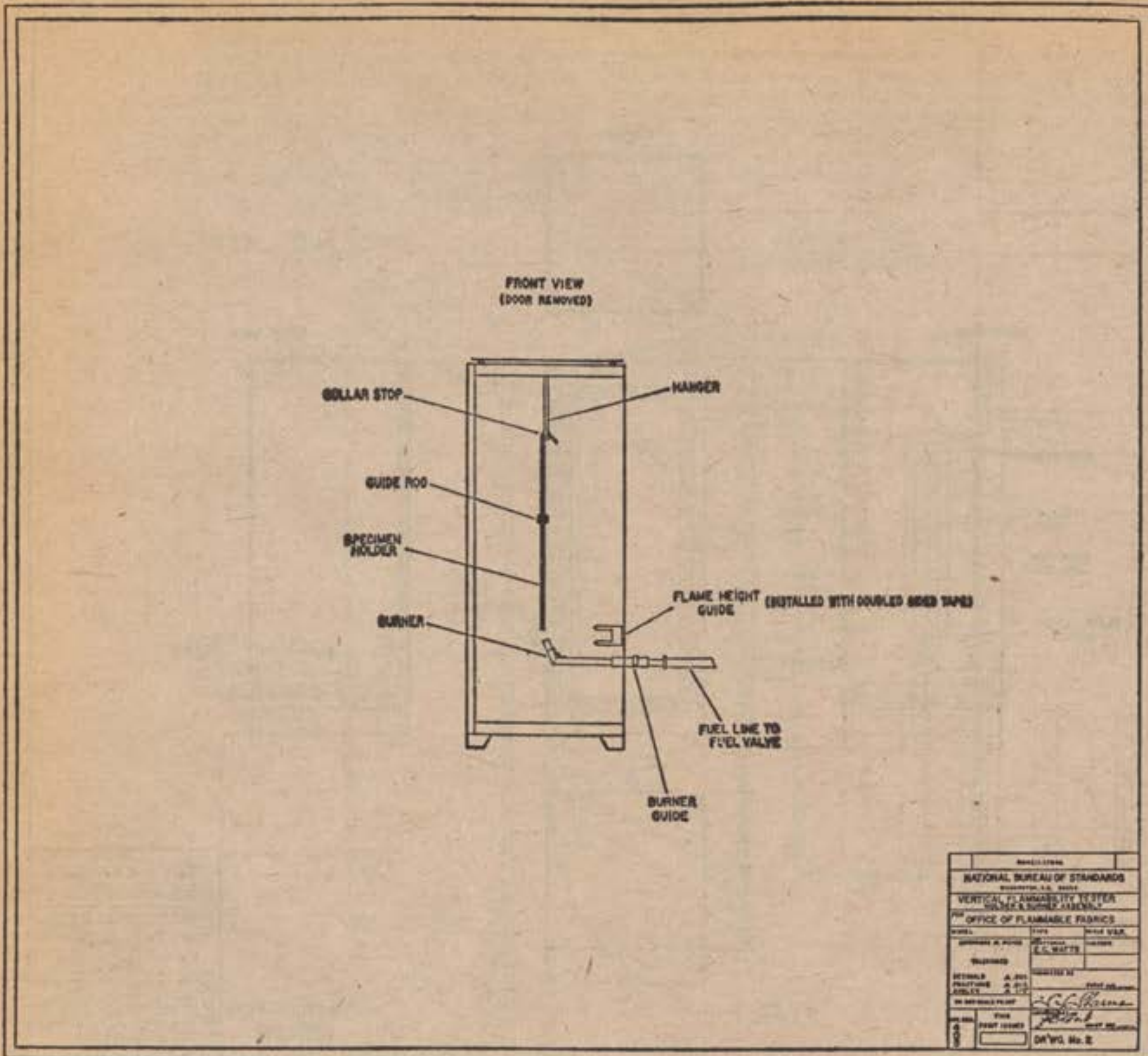
(6) *Hooks and Weights*. Metal hooks and weights shall be used to produce a series of loads for char length determinations. Suitable metal hooks consist of No. 19 gauge steel wire, or equivalent, made from 7.6 cm. (3 in.) lengths of the wire, bent 1.3 cm. (0.5 in.) from one end to a 45° angle hook. The longer end of the wire is fastened around the neck of the weight to be used and the other in the lower end of each burned specimen to one side of the burned area. The requisite loads are given in Table 1.

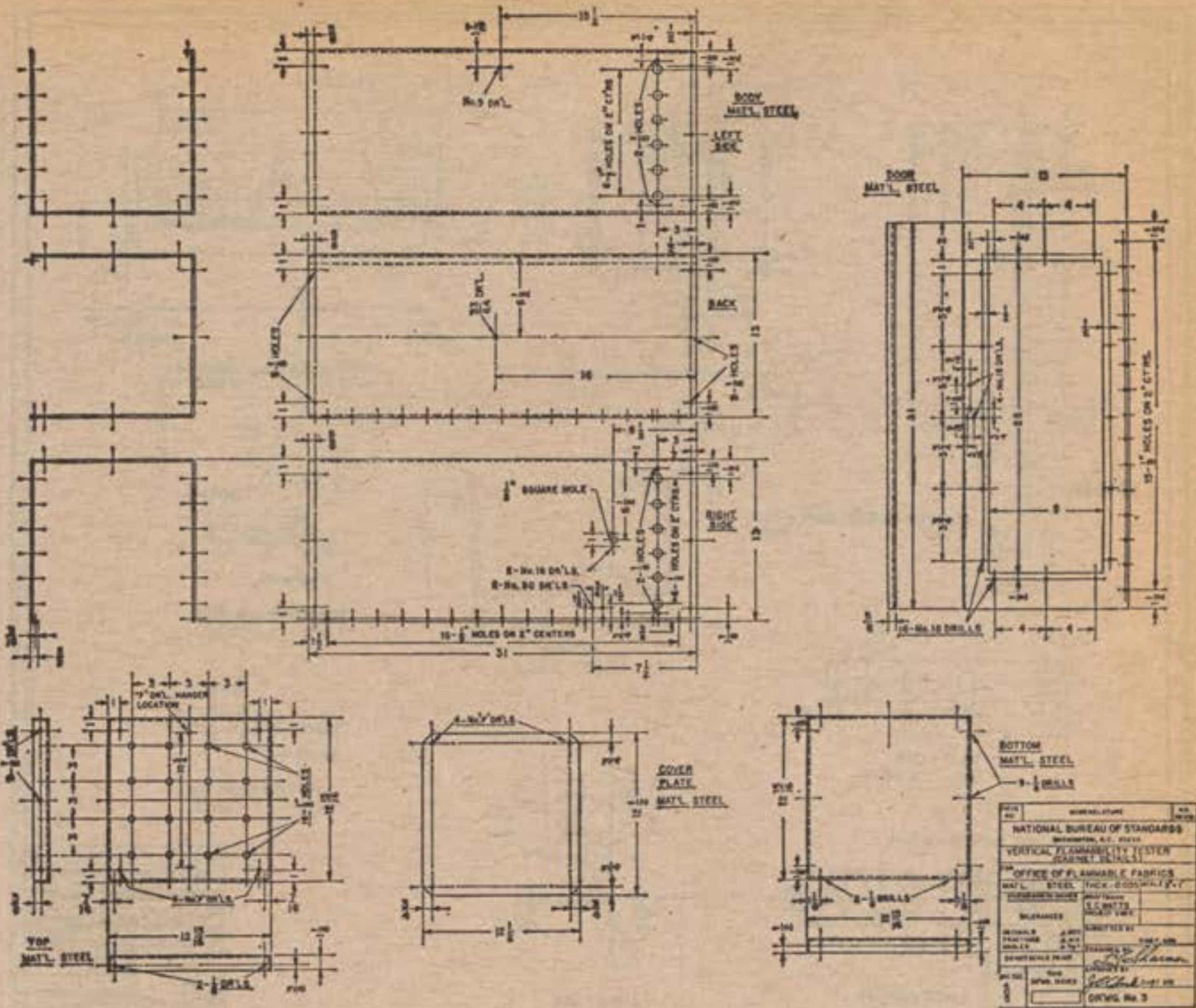


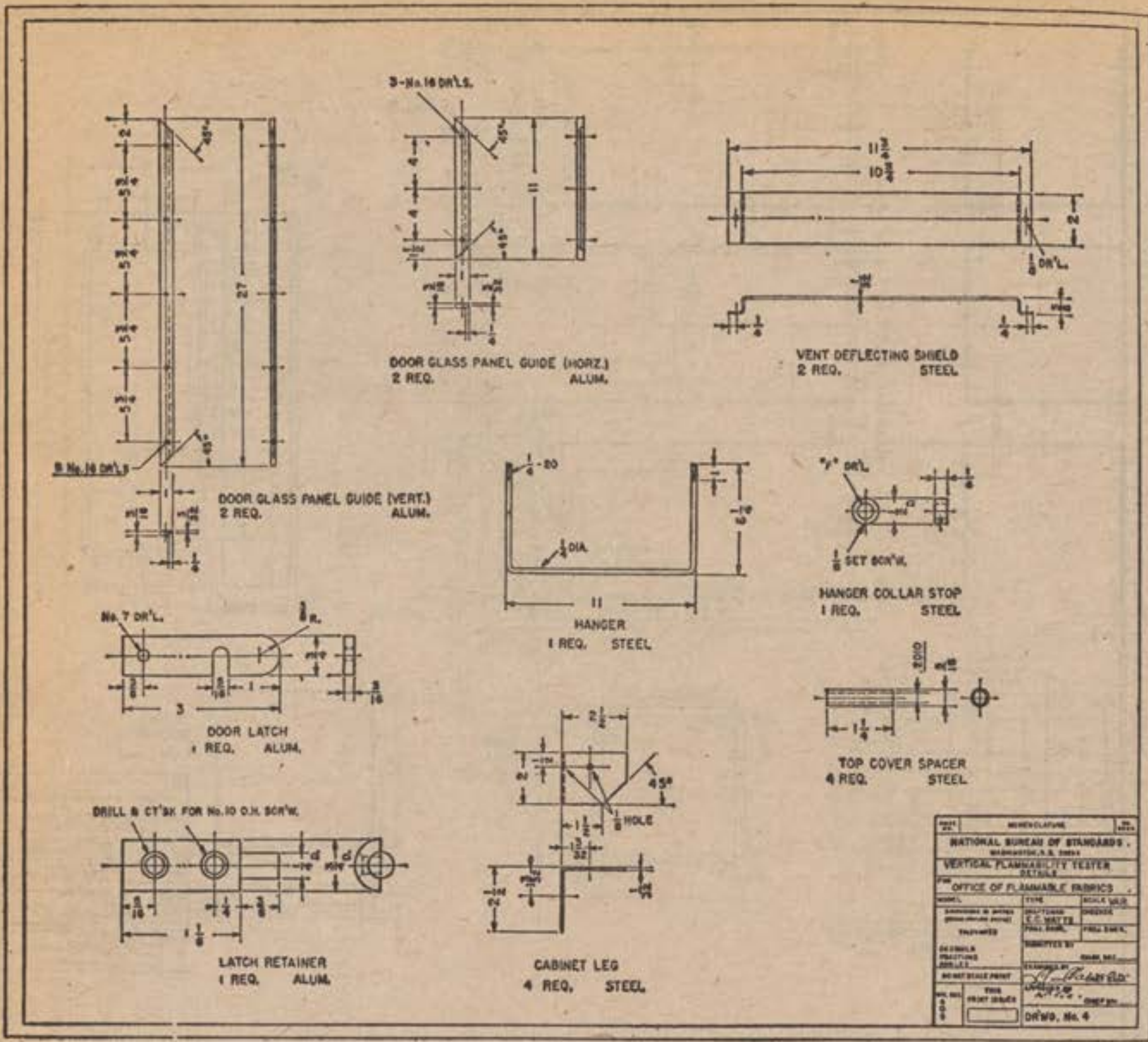
VERTICAL TEST CABINET

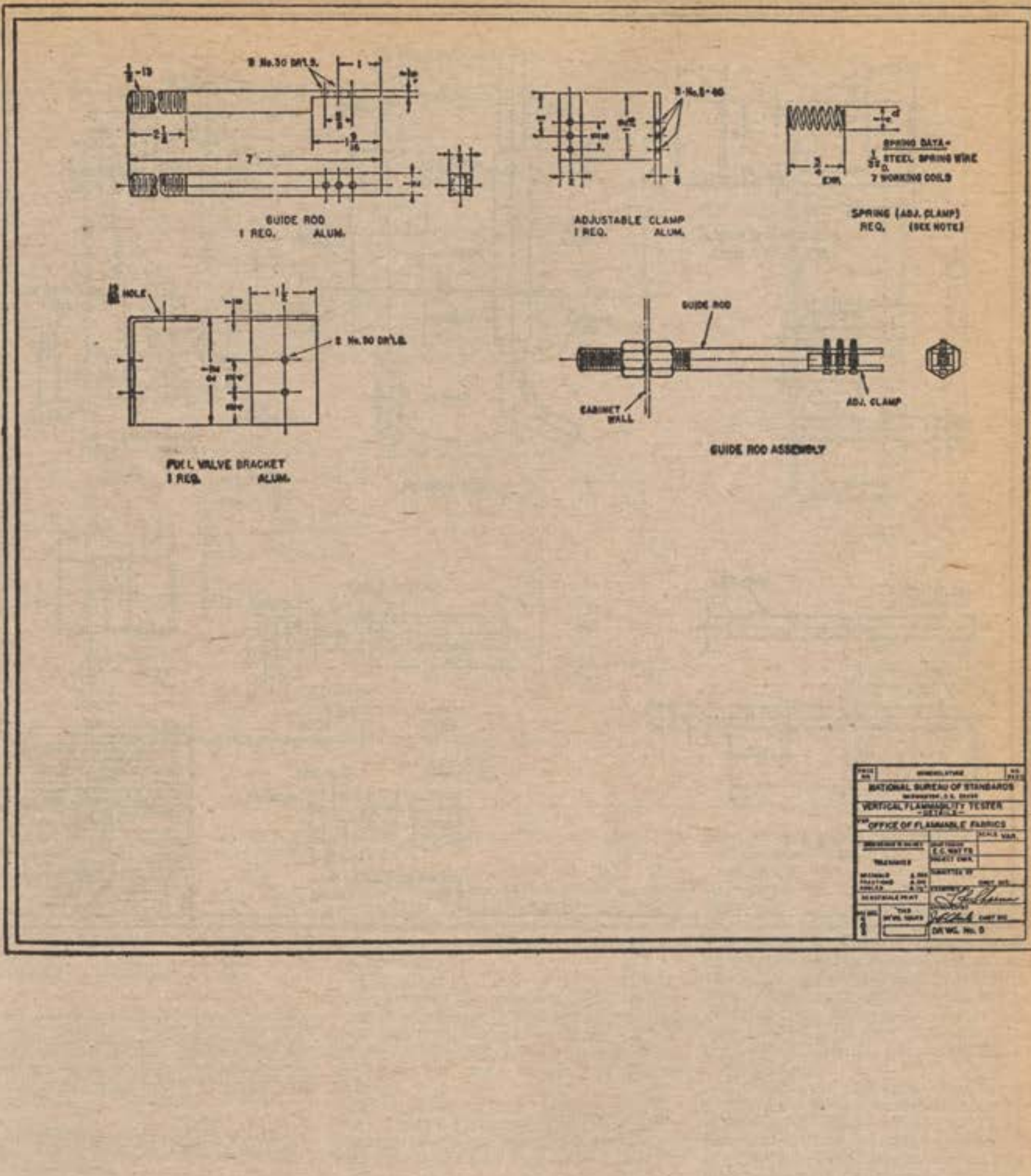
FIGURE I

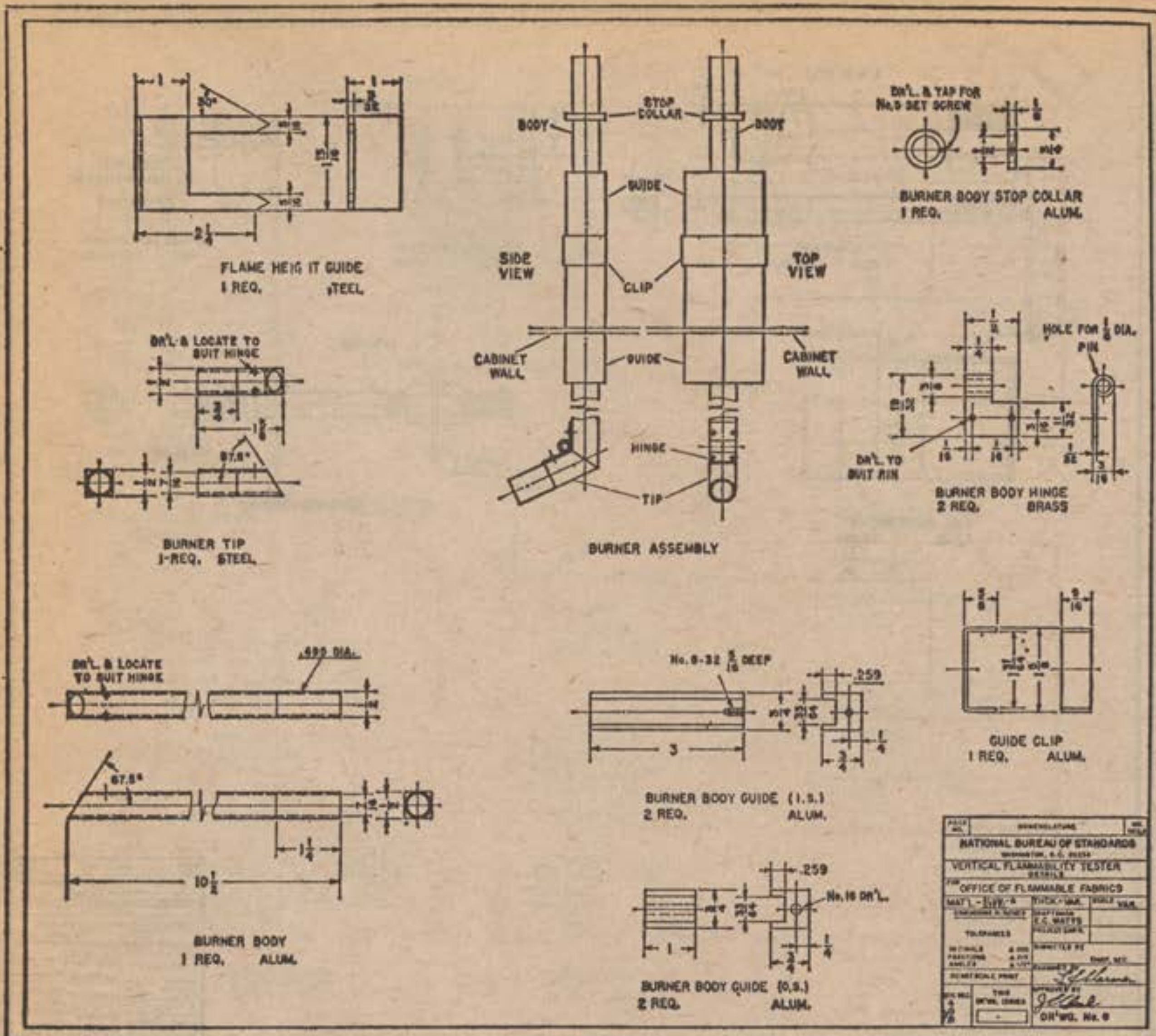

TOP VIEW
LEFT VIEW
RIGHT VIEW
FRONT VIEW
HANGER
COLLAR STOP
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
BURNER
DOOR HANDLE
DOOR LATCH
FUEL VALVE
BURNER LOCATION
13
13
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
E.C. WATTS
DR'WG. No. 1


FRONT VIEW
(DOOR REMOVED)
COLLAR STOP
HANGER
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
(INSTALLED WITH DOUBLED SIDED TAPE)
BURNER
FUEL LINE TO FUEL VALVE
BURNER GUIDE
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
E. C. WATTS
DR'WG. No. 2


BODY
MAT'L. STEEL
LEFT SIDE
BACK
RIGHT SIDE
SQUARE HOLE
HOLES ON 2" CENTERS
31
DOOR
MAT'L. STEEL
TOP
MAT'L. STEEL
HANGER LOCATION
COVER PLATE
MAT'L. STEEL
BOTTOM
MAT'L. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
MAT'L. STEEL
DRWG No. 3


DOOR GLASS PANEL GUIDE (VERT.)
2 REQ. ALUM.
DOOR GLASS PANEL GUIDE (HORZ.)
2 REQ. ALUM.
VENT DEFLECTING SHIELD
2 REQ. STEEL
HANGER
1 REQ. STEEL
HANGER COLLAR STOP
1 REQ. STEEL
DOOR LATCH
1 REQ. ALUM.
TOP COVER SPACER
4 REQ. STEEL
DRILL & CT'SK FOR No. 10 O.H. SCR'W.
LATCH RETAINER
1 REQ. ALUM.
CABINET LEG
4 REQ. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
DR'WG. No. 4


GUIDE ROD
1 REQ. ALUM.
ADJUSTABLE CLAMP
1 REQ. ALUM.
SPRING DATA
STEEL SPRING WIRE
7 WORKING COILS
SPRING (ADJ. CLAMP)
REQ. (SEE NOTE)
HOLE
FUEL VALVE BRACKET
1 REQ. ALUM.
GUIDE ROD
CABINET WALL
ADJ. CLAMP
GUIDE ROD ASSEMBLY
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
DRWG. No. D


FLAME HEIGHT GUIDE
1 REQ. STEEL
BURNER TIP
1-REQ. STEEL
BURNER ASSEMBLY
SIDE VIEW
TOP VIEW
STOP COLLAR
BODY
GUIDE
CLIP
CABINET WALL
HINGE
TIP
BURNER BODY STOP COLLAR
1 REQ. ALUM.
BURNER BODY HINGE
2 REQ. BRASS
BURNER BODY
1 REQ. ALUM.
BURNER BODY GUIDE (I.S.)
2 REQ. ALUM.
BURNER BODY GUIDE (O.S.)
2 REQ. ALUM.
GUIDE CLIP
1 REQ. ALUM.
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS

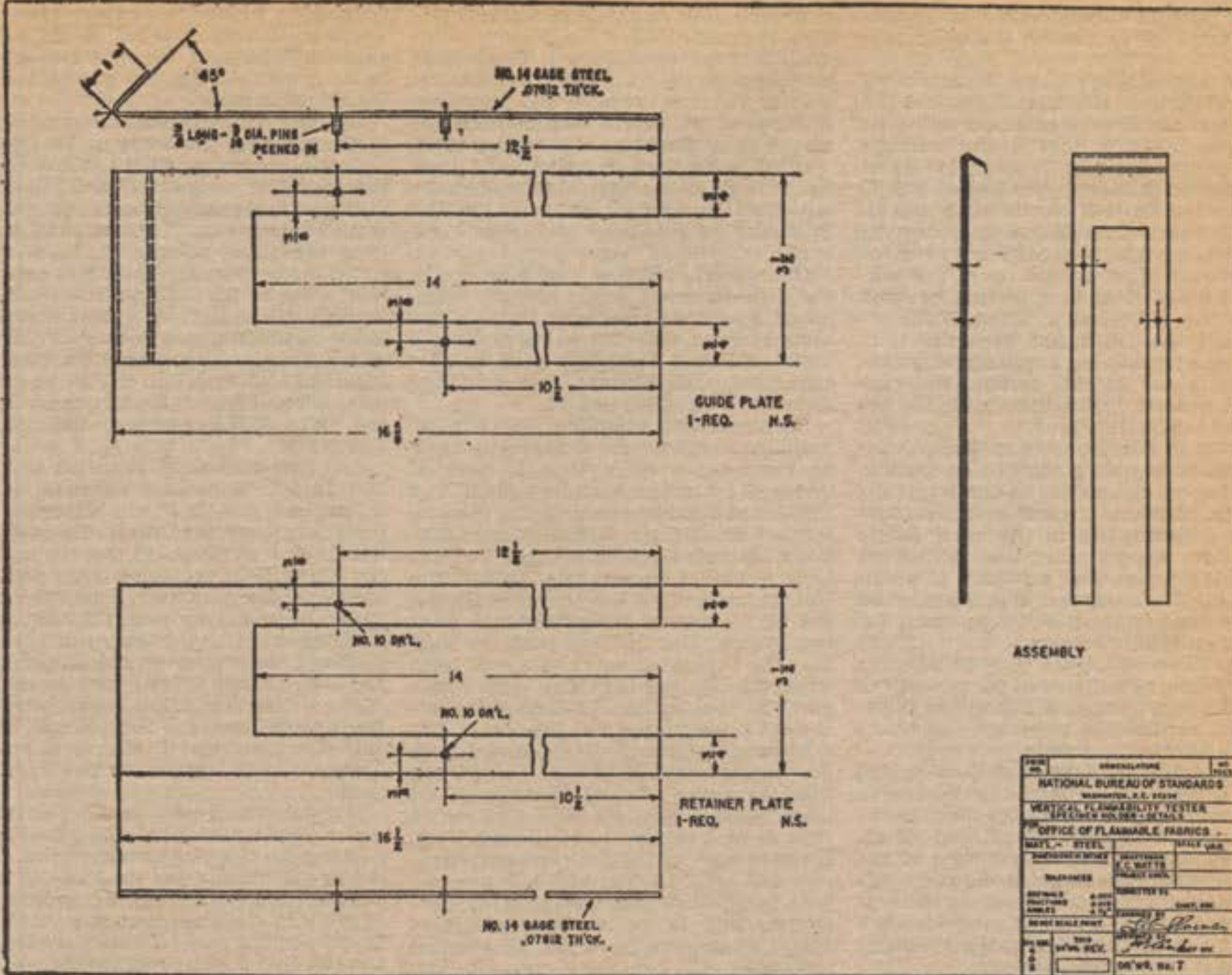


TABLE 1.—*Original fabric weight*[1]

Grams per square meter	Ounces per square yard	Loads	
		Grams	Pounds
Less than 101	Less than 3	54.4	0.12
101 to 207	3 to 6	113.4	.25
207 to 338	6 to 10	226.8	.50
Greater than 338	Greater than 10	340.2	.75

[1] Weight of the original fabric, containing no seams or trim, is calculated from the weight of a specimen which has been conditioned for at least 8 h at 21±1.1° C (70±2° F) and 65±2 pct relative humidity. Shorter conditioning times may be used if the change in weight of a specimen in successive weighings made at intervals of not less than 2 h does not exceed 0.2 pct of the weight of the specimen.

(7) *Stopwatch*. A stopwatch or similar timing device shall be used to measure time to 0.1 second.

(8) *Scale*. A linear scale graduated in millimeters or 0.1 inch divisions shall be used to measure char length.

(9) *Circulating Air Oven*. A forced circulation drying oven capable of maintaining the specimens at 105±2.8° C. (221±5° F.), shall be used to dry the specimen while mounted in the specimen holders.[2]

(10) *Desiccator*. An air-tight and moisture-tight desiccating chamber shall be used for cooling mounted specimens after drying. Anhydrous silica gel shall be used as the desiccant in the desiccating chamber.

(11) *Hood*. A hood or other suitable enclosure shall be used to provide a draft-free environment surrounding the test chamber. This enclosure shall have a fan or other suitable means for exhausting smoke and/or toxic gases produced by testing.

(b) *Specimens and sampling—General*. (1) The test criteria of § 1615.3(b) shall be used in conjunction with the following fabric and garment sampling plan, or any other approved by the Consumer Product Safety Commission that provides at least the equivalent level of fire safety to the consumer. Alternate sampling plans submitted for approval shall have operating characteristics such that the probability of Unit acceptance at any percentage defective does not exceed the corresponding probability of Unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability.

(2) Different colors or different print patterns of the same fabric may be included in a single Fabric or Garment Production Unit, provided such colors or print patterns demonstrate char lengths and residual flame times that are not significantly different from each other as determined by previous testing of at least three Samples from each color or print pattern to be included in the Unit.

(3) Garments with different trim and findings may be included in a single Garment Production Unit providing the

[2] Option 1 of ASTM, D2654-67T, "Method of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven (1970 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103).

other garment characteristics are identical except for size, color, and print pattern.

(4) For fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to fiber, yarns, or fabrics, the laundering requirement of paragraph (g)(4) of this section is met on subsequent Fabric Production Units if results of testing an initial Fabric Production Unit demonstrate acceptability according to the requirements of paragraph (c) of this section, Normal Sampling, both before and after the appropriate laundering.

(5) If the fabric has been shown to meet the laundering requirement, paragraph (g)(4) of this section, the garments produced from that fabric are not required to be laundered.

(6) Each Sample (five specimens) for all Fabric Sampling shall be selected so that two specimens are in one fabric direction (machine or cross-machine) and three spcimens are in the other fabric direction except for the additional Sample selected after a failure, in which case, all five specimens shall be selected in the same fabric direction in which the specimen failure occurred.

(7) Fabric Samples may be selected from fabric as outlined in paragraph (c) of this section entitled Fabric Sampling, or, for verification purposes, from randomly selected garments.

(8) Multilayer fabrics shall be tested with a hem of approximately 2.5 cm. (1 in.) sewn at the bottom edge of the specimen with a suitable thread and stitch. The specimen shall include each of the components over its entire length. Garments manufactured from multilayer fabrics shall be tested with the edge finish at the bottom edge of the specimen which is used in the garment.

(c) *Specimens and Sampling—Fabric Sampling.* A Fabric Production Unit (Unit) is either accepted or rejected in accordance with the following plan:

(1) *Normal Sampling.* Select one Sample from the beginning of the first Fabric Piece (Piece) in the Unit and one Sample from the end of the last Piece in the Unit, or select a sample from each end of the Piece if the Unit is made up of only one Piece. Test the two selected Samples. If both Samples meet all the Test Criteria of § 1615.3(b), accept the unit. If either or both of the Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If two or more of the individual specimens, from the 10 selected specimens fail the 25.4 cm. (10 in.) char length, .3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the Unit. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the Piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional Sample passes all the test criteria, accept the Unit. If this additional Sample fails any part of the test criteria, reject the Unit.

(2) *Reduced Sampling.* (i) The level of sampling required for fabric acceptance may be reduced provided the preceding 15 Units of the fabric have all been accepted using the Normal Sampling plan.

(ii) The Reduced Sampling plan shall be the same as for Normal Sampling except that the quantity of fabric in the Unit may be increased to 10,000 linear yards.

(iii) Select and test two Samples in the same manner as in Normal Sampling. Accept or reject the Unit on the same basis as with Normal Sampling.

(iv) Reduced Sampling shall be discontinued and Normal Sampling resumed if a Unit is rejected.

(3) *Tightened Sampling.* The level of sampling required for acceptance shall be increased when a Unit is rejected under the Normal Sampling plan. The Tightened Sampling shall be the same as Normal Sampling except that one additional Sample shall be selected and cut from a middle Piece in the Unit. If the Unit is made up of less than two Pieces, the Unit shall be divided into at least two Pieces. The division shall be such that the Pieces produced by the division shall not be smaller than 100 linear yards or greater than 2,500 linear yards. If the Unit is made up of two Pieces, the additional Sample shall be selected from the interior end of one of the Pieces. Test the three selected Samples. If all three selected Samples meet all the test criteria of § 1615.3(b), accept the Unit. If one or more of the three selected Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If two or more of the individual specimens from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the unit. If only one individual specimen, of the 15 selected Specimens fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the same Piece in which the failure occurred, all five to be taken in the fabric direction in which the Specimen failure occurred. If this additional Sample passes all the test criteria, accept the Unit. If this additional Sample fails any part of the test criteria, reject the Unit. Tightened Sampling may be discontinued and Normal Sampling resumed after five consecutive Units have all been accepted using Tightened Sampling. If Tightened Sampling remains in effect for 15 consecutive Units, production of the specific fabric in Tightened Sampling must be discontinued until that part of the process or component which is causing failure has been identified and the quality of the end product has been improved.

(4) *Disposition of Rejected Units.* (i) The Piece or Pieces which have failed and resulted in the initial rejection of the Unit may not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a) except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures in Tightened Sampling.

(ii) The remainder of a rejected Unit, after removing the Piece or Pieces the failure of which resulted in Unit rejection, may be accepted if the following test plan is successfully concluded at all required locations. The required locations are those adjacent to each such failed Piece. (Required locations exist on both sides of the "Middle Piece" tested in Tightened Sampling if failure of that Piece resulted in Unit rejection.) Failure of a Piece shall be deemed to have resulted in Unit rejection if Unit rejection occurred and a Sample or specimen from the Piece failed any test criterion of § 1615.3(b).

(iii) The Unit should contain at least 15 Pieces for disposition testing after removing the failing Pieces. If necessary for this purpose, the Unit shall be demarcated into at least 15 approximately equal length Pieces unless such division results in Pieces shorter than 100 linear yards. In this latter case, the Unit shall be demarcated into roughly equal length Pieces of approximately 100 linear yards each. If such a division results in five Pieces or less in the Unit for each failing Piece after removing the failing Pieces, only the individual Piece retest procedure (described subsequently) may be used.

(iv) Select and cut a Sample from each end of each adjoining Piece beginning adjacent to the Piece which failed. Test the two Samples from the Piece. If both Samples meet all the test criteria of § 1615.3(b), the Piece is acceptable. If one or both of the two selected Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), the Piece is unacceptable. If two or more of the individual Specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), the Piece is unacceptable. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the Piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional Sample passes all the test criteria, the Piece is acceptable. If this additional Sample fails any part of the test criteria, the Piece is unacceptable.

(v) Continue testing adjoining Pieces until a Piece has been found acceptable. Then continue testing adjoining Pieces until three successive adjoining Pieces, not including the first acceptable Piece, have been found acceptable or until five such Pieces not including the first acceptable Piece, have been tested, whichever occurs sooner. Unless three successive adjoining Pieces have been found acceptable among five such Pieces, testing shall be stopped and the entire Unit rejected without further testing. If three successive Pieces have been found acceptable among five such Pieces, accept the three successive acceptable Pieces and the remaining Pieces in the Unit.

(vi) Alternatively, individual Pieces from a rejected Unit containing three or more Pieces may be tested and accepted or rejected on a Piece-by-Piece basis according to the following plan, after removing the Piece or Pieces, the failure of which resulted in Unit rejection. Select four Samples (two from each end) from the Piece. Test the four selected Samples. If all four Samples meet all the Test Criteria of § 1615.3(b), accept the Piece. If one or more of the Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the Piece. If two or more of the individual Specimens, from the 20 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(1), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the Piece. If only one individual specimen, from the 20 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select two additional Samples from the same end of the Piece in which the failure occurred. If these additional two Samples meet all the Test Criteria of § 1615.3(b), accept the Piece. If one or both of the two additional Samples fail any part of the Test Criteria, reject the Piece.

(vii) The Pieces of a Unit rejected after retesting may not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a) except after reworking to improve the flammability characteristics, and subsequent retesting in accordance with the procedures set forth in Tightened Sampling.

(5) *Records*. Records of all Unit sizes, test results, and the disposition of rejected Pieces and Units must be maintained by the manufacturer upon the effective date of this Standard. Rules and regulations may be established by the Consumer Product Safety Commission.

(d) *Specimens and Sampling—Garment Sampling*. (1)(i). The garment sampling plan is made up of two parts: (1) Prototype Testing and (2) Production Testing. Prior to production, prototypes must be tested to assure that the design characteristics of the garments are acceptable. Garment Production Units (Units) are then accepted or rejected on an individual Unit basis.

(ii) Edge finishes such as hems and binding are excluded from testing except that when trim is used on an edge the trim must be subjected to prototype testing. Seams attaching findings are excluded from testing.

(2) *Prototype Testing*. Preproduction prototypes of a garment style or type shall be tested to assure that satisfactory garment specifications in terms of flammability are set up prior to production.

(i) *Seams*. Make three Samples (15 specimens) using the longest seam type and three Samples using each other seam type 10 inches or longer that is to be included in the garment. Prior to testing, assign each specimen to one of the three Samples. Test each set of three Samples and accept or reject each seam design in accordance with the following plan:

(A) If all three Samples meet all the test criteria of § 1615.3(b), accept the seam design. If one or more of the three Samples fail the 17.8 cm (7 in.) average char length criterion, § 1615.3(b)(1), reject the seam design. If three or more of the individual Specimens from the 15 selected specimens fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the seam design. If only one of the individual specimens from the 15 selected specimens fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the seam design.

(B) If two of the individual specimens from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, §1615.3(b)(3), select three more Samples (15 specimens) and retest. If all three additional Samples meet all the test criteria of § 1615.3(b) accept the seam design. If one or more of the three additional Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the seam design. If two or more of the individual specimens, from the 15 selected specimens, fail the (2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the seam design. If only one of the individual specimens from the 15 selected specimens, fails the 25.4 cm. (10 in.) char length § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the seam design.

(ii) *Trim*. (A) Make three Samples (15 specimens) from each type of trim to be included in the garment. Specimens shall be prepared by sewing or attaching the trim to the center of the vertical axis of an appropriate section of untrimmed fabric, beginning the sewing or attachment at the lower edge of each specimen. The sewing or attachment shall be made in the manner in which the trim is to be attached in the garment.

(B) Sewing or otherwise attaching the trim shall be done with thread or fastening material of the same composition and size to be used for this purpose in the garment and using the same stitching or seam type. The trim shall be sewn or fastened the entire length of the specimen. Prior to testing, assign each specimen to one of the three Samples. Test the sets of three Samples and accept or reject the type of trim and design on the same basis as seam design.

(3) *Production Testing*. A Unit is either accepted or rejected according to the following plan:

(i) (A) From each Unit select at random sufficient garments and cut three Samples (15 specimens) from the longest seam type. No more than five specimens may be cut from a single garment. Prior to testing, assign each specimen to one of the three Samples. All specimens cut from a single garment must be included in the same Sample. Test the three selected Samples. If all three Samples meet all the test criteria of § 1615.3(b), accept the Unit. If one or more of the three Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If four or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criterion, §1615.3(b)(3), reject the Unit. If three or less of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2) and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the Unit.

(B) (*1*) If the garment under test does not have a 10-inch seam in the largest size in which it is produced, the following selection and testing procedure shall be followed.

(*2*) Select and cut specimens 8.9 cm. (3.5 in.) wide by the maximum available seam length, with the seam in the center of the specimen and extending the entire specimen length. Cut three Samples (15 specimens). These specimens shall be placed in specimen holders so that the bottom edge is even with the bottom of the specimen holder and the seam begins in the center of the bottom edge. Prior to testing, assign each specimen to one of the three Samples. All specimens cut from a single garment must be included in the same Sample.

(*3*) Test the three Samples. If all three Samples pass the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), and if three or less individual specimens fail by charring the entire specimen length and/or exceeding the 10 second residual flame time criterion, § 1615.3(b)(3), accept the Unit. If the Unit is not accepted in the above test, three Samples (15 specimens) of the longest seam type shall be made using fabric and thread from production inventory and sewn on production machines by production operators. The individual fabric sections prior to sewing must be no larger than 20.3 x 63.3 cm. (8 in. x 25 in.) and must be selected from more than one area of the base fabric. Test the three prepared Samples. Accept or reject the Unit as described previously in this subsection.

(4) *Disposition of Rejected Units*. Rejected Units shall not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a), except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures set forth in garment production testing.

(5) *Records*. Records of all Unit sizes, test results, and the disposition of rejected Units must be maintained by the manufacturer upon the effective date of this standard. Rules and regulations may be established by the Consumer Product Safety Commission.

(e) *Specimens and Sampling—Compliance Market Sampling Plan*. Sampling plans for use in market testing of items covered by this Standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production Unit to exist only when it is shown, with a high level of statistical confidence, those production Units represented by tested items which fail such plans will, in fact, fail this standard. Production units found to be non-complying under the provisions of paragraph (e) of this section shall be deemed not to conform to this Standard. The Consumer Product Safety Commission may publish such plans in the FEDERAL REGISTER.

(f) *Mounting and conditioning of specimens.* (1) The specimens shall be placed in specimen holders so that the bottom edge of each specimen is even with the bottom of the specimen holder. Mount the specimen in as close to a flat configuration as possible. The sides of the specimen holder shall cover 1.9 cm. (¾ in.) of the specimen width along each long edge of the specimen, and thus shall expose 5.1 cm. (2 in.) of the specimen width. The sides of the specimen holder shall be clamped with a sufficient number of clamps or shall be taped to prevent the specimen from being displaced during handling and testing. The specimens may be taped in the holders if the clamps fail to hold them. Place the mounted specimens in the drying oven in a manner that will permit free circulation of air at 105° C. (221° F.) around them for 30 minutes.[3]

(2) Remove the mounted specimens from the oven and place them in the desiccator for 30 minutes to cool. No more than five specimens shall be placed in a desiccator at one time. Specimens shall remain in the desiccator no more than 60 minutes.

(g) *Testing*—(1) *Burner adjustment.* With the hood fan turned off, use the needle valve to adjust the flame height of the burner to 3.8 cm. (1½ in.) above the highest point of the barrel of the burner. A suitable height indicator is shown in Engineering Drawing No. 6 and Figure 1.

(2) Specimen Burning and Evaluation. (i) One at a time, the mounted specimens shall be removed from the desiccator and suspended in the cabinet for testing. The cabinet door shall be closed and the burner flame impinged on the bottom edge of the specimen for 3.0 ± 0.2 seconds.[4] Flame impingement is accomplished by moving the burner under the specimen for this length of time, and then removing it. If flaming drips or fragments are evident, measure the residual flame time to the nearest 0.1 second.

(ii) When afterglow has ceased, remove the specimen from the cabinet and holder, and place it on a clean flat surface. Fold the specimen lengthwise along a line through the highest peak of the charred or melted area; crease the specimen firmly by hand. Unfold the specimen and insert the hook with the correct weight as shown in Table 1 in the specimen on one side of the charred area 6.4 mm. (¼ in.) from the lower edge.

(iii) Tear the specimen by grasping the other lower corner of the fabric and gently raising the specimen and weight clear of the supporting surface.[5] Measure the char length as the distance from the end of the tear to the edge of the specimen exposed to the flame. After testing each specimen, vent the hood and cabinet to remove the smoke and/or toxic gases.

(3) *Report.* Report the value of char length, in centimeters (inches), and the residual flame time, in seconds, for each specimen, as well as the average char length for each set of five specimens.

(4) *Laundering.* (i) The procedures described under paragraphs (b) through (g) of this section shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to AATCC Test Method 124–1969.[6] Items which do not withstand 50 launderings shall be tested at the end of their useful service life.

(ii) Washing procedure 6.2(III), with a water temparture of $60° \pm 2.8°$ C. (140 $\pm 5°$ F.), and drying procedure 6.3.2(B), shall be used. Maximum load shall be 3.64 Kg. (8 pounds) and may consist of any combination of test samples and dummy pieces. 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 "dryclean only" shall be drycleaned 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 paragraphs (b) through (e) of this section need not be laundered or drycleaned provided all fabrics used in making the garments (except trim) have been guaranteed by the fabric producer to be acceptable when tested according to paragraphs (b) through (e) of this section.

§ 1615.5 **Labeling requirements.**

(a) *Care labels.* 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 deterioration of their flame resistance. If the item has been initially tested under § 1615.4(g)(4) 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) *Temporary Requirement for Noncomplying Items.* Items of noncomplying children's sleepwear which are manufactured during the 12 months following the effective date of the standard shall, prior to introduction into commerce, be prominently, permanently, and conspicuously labeled with the following statement: "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3–71.) Should not be worn near sources of fire." Such labels should be in accordance with the rules and regulations established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112–113, as amended, 81 Stat. 570, 15 U.S.C. 1194, unless otherwise noted.

§ 1615.31 **Labeling, recordkeeping, advertising, retail display and guaranties.**

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

(1) "Standard" means the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of this Part) promulgated by the Secretary of Commerce in the FEDERAL REGISTER of July 29, 1971 (36 FR 14062), and amended by him in the FEDERAL REGISTER of July 21, 1972 (37 FR 14624).

(2) "Children's sleepwear" means "children's sleepwear" as defined in § 1615.1(a) of the Standard; that is, "any product of wearing apparel up to and including size 6X, 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."

(3) "Item" means "item" as defined in § 1615.1(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) "Marketing or handling" or "marketed or handled" 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 definitions of terms set forth in § 1615.1 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 en-

[3] If the specimens are moist when received, permit them to air dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing." ("1970 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.)

[4] If more than 15 seconds elapse between removal of a specimen from the desiccator and the initial flame impingement, that specimen shall be reconditioned prior to testing.

[5] A figure showing how this is done is given in AATCC 34–1969, Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

[6] Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

hances the flammability characteristics of an item, 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.

(2) If the item has been initially tested under § 1615.4(g)(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) Any item manufactured, imported, or otherwise marketed or handled that is not in compliance with the Standard and that was manufactured between July 29, 1972, and July 29, 1973, shall, prior to introduction into commerce, be prominently, permanently, conspicuously, and legibly labeled with the statement "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3-71). Should not be worn near sources of fire."

(4) Where any fabric or related material intended or promoted for use in children's sleepwear 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 of fabric or related material sold to an ultimate consumer must be accompanied by a label, as prescribed by this section, that 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.

(5) Where items required to be labeled in accordance with paragraphs (b) (2), (3), and (4) of this section are marketed at retail in packages, and the required label is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

(6) 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 paragraph (b)(6) of this section shall not apply, however, to samples, swatches, or specimens prominently, permanently, conspicuously, truthfully, and legibly labeled with the statement "Flammable. Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear, DOC FF 3-71."

(7) The information required on labels by this section shall be set forth separately from any other information appearing on the same label. Other information, representations, or disclosures not required by this action but placed on the same label with information required by this section, or placed on other labels elsewhere on the item, shall not interfere with the information required by this section. No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(8) 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 identification 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.

(i) Where fabrics required to be labeled or stamped in accordance with 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 information required by this section.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(8) of this section are marketed at retail in packages and the required label or stamp is not readily visible to the prospective purchasers:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by 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 garments 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 put 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) 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.

(iii) Each garment subject to the Standard shall bear a label with minimum dimensions 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.

(iv) The fabric production unit identification shall appear in letters at least 0.4 centimeters (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 Product 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.

(c) *Advertisements*. (1) All advertisements for noncomplying items of children's sleepwear manufactured between July 29, 1972 (the effective date of the Standard), and July 29, 1973, that are subject to the Standard and that are being offered for sale to consumers through direct mail, catalogs, telephone solicitation, or under any other circumstances where the consumer in the ordinary course of dealing is not afforded an opportunity to inspect the label before receiving the item, shall contain a clear and conspicuous disclosure of the statement "Flammable (Does Not Meet Standard for the Flammability of Children's Sleepwear, DOC FF 3-71). Should not be worn near sources of fire."

(2) All other advertisements for noncomplying items subject to the Standard shall contain a clear and conspicuous disclosure of the statement "Flammable—Read the Label."

(d) *Segregation of complying and noncomplying items by retailer*. Every person who sells noncomplying items (as defined in § 1615.1(c) of the Standard and paragraph (b)(3) of this section at retail stores or other establishments open to the general public where goods are offered for sale shall:

(1) Display the items which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and identify such complying items with at least one sign, with black letters at least 2.5 centimeters (one inch) in height against a solid white background, bearing the statement: "Flame Resistant. Complies With Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(2) Display all other items of children's sleepwear, sizes 0 through 6X, at a separate location within the store and identify these items with at least one sign, with black letters at least 2.5 centimeters (1 inch) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(3) Segregate those items of children's sleepwear, sizes 0 through 6X, which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that they shall not be located within 91 centimeters (36 inches) of any other items of children's sleepwear, size 0 through 6X, when displayed for sale to consumers.

(e) *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 (f) 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 paragraph (e) of this section.

(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 affixed to the item itself in accordance with paragraph (b)(8) 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 and residual flame time of each specimen tested, average char length 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 § 1615.4(b) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under § 1615.4(g)(4) of the Standard and any guaranties 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 such 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 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 § 1615.31(e) 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 unit or units subject to recall.

(2) *Fabrics.* In addition to the information specified in paragraph (e)(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 § 1615.4 (b) through (e) 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 § 1615.4 (b) through (e) of the Standard shall be furnished from these records within the time specified in that written request.

(3) *Garments—prototype testing.* In addition to the records specified in paragraph (e)(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 § 1615.4 (b) through (e) of the Standard for all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such samples to the records required by paragraph (e) of this section including the information required by paragraph (e)(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 § 1615.4 (b) through (e) of the Standard, relating such samples to the records required by paragraph (c) of this section including information required by paragraph (e)(3)(i) of this section.

(4) *Garments—production testing.* In addition to the records required by paragraph (e)(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 paragraph (e) of this section 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.

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

(g) *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.

Subpart C—Interpretations and Policies

AUTHORITY: Secs. 1-17, 67 Stat. 111-15, as amended, 81 Stat. 568-74; 15 U.S.C. 1191-1204.

§ 1615.62 Policy and interpretation relative to items in inventory or as to recordkeeping requirements.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) (Subpart A of this Part) was published in the FEDERAL REGISTER on July 29, 1971, at 36 FR 14062 et seq., and amended in the FEDERAL REGISTER of July 21, 1972 (37 FR 14624). The Notice of Standard provided at 36 FR 14063 that "Items in inventory or with the trade on the effective date of the Standard are exempt. All concerned parties shall be required to maintain records that these items offered for sale after the effective date of the Standard are eligible for the exemption."

(b) The Children's Sleepwear Standard was amended on July 21, 1972, at 37 FR 14624 et seq. to incorporate a sleepwear sampling plan therein and to make certain nonsubstantive technical corrections as to the test equipment. The effective date remained the same. In issuance of such amendment the Notice of Amendment specified at 37 FR 14625 that "It is emphasized that the only substantive change made to the standard involves the amendment necessary to include the sampling plan."

(c) The Notice of Amendment did not repeat the language in the original 1971 Notice of Standard relative to items in inventory or as to recordkeeping requirements.

(d) Questions have arisen under this standard as to the application of the standard to goods manufactured outside the United States prior to the effective date of the standard on July 29, 1972, as to whether a person claiming the exemption specified in the standard must maintain records showing eligibility for exemption from the standard.

(e) In the Commission's view, the provisions of the July 29, 1971, Notice of Standard as to exemption of items of children's sleepwear in inventory or with the trade on the effective date of the standard and as to the necessity of maintenance of records to show eligibility for such exemption are in full force and effect.

NOTE: This policy was published by the Federal Trade Commission on January 31, 1973 (38 FR 3014). It continues in effect.

§ 1615.63 Policy regarding garment production unit identification.

No provision of § 1615.31(b)(8) prohibits placement of a garment production unit identification on a label containing other information. Provided, however, that when the garment production unit identification appears on a label containing other information, provisions of § 1615.31(b)(7) require that the garment production unit identification must be set forth separately from any other information appearing on the same label, and that information not required by the applicable enforcement regulation § 1615.31, but placed on the same label with the garment production unit identification, shall not interfere with the garment production unit identification.

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5-74)

Subpart A—The Standard

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

EFFECTIVE DATE: This standard became effective May 1, 1975. It was originally published as a notice on May 1, 1974 (39 FR 15210), amended March 21, 1975 (40 FR 12838), and corrected March 27, 1975 (40 FR 13547).

§ 1616.1 Scope and application.

(a) This Standard provides a test method to determine the flammability of children's sleepwear, sizes 7 through 14 and fabric or related material intended or promoted for use in such children's sleepwear.

(b) All sleepwear items as defined in § 1616.2(c), are subject to the requirements of this Standard.

(c) Children's sleepwear items which meet all the requirements of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) (Subpart A of Part 1615 of this Chapter) are in compliance with this Standard. FF 3-71 was issued July 29, 1971 (36 FR 14062), and amended July 21, 1972 (37 FR 14624).

(d) As used in this Standard, "pass" and "fail" refer to the test criteria for specimens while "accept" and "reject" refer to the acceptance or rejection of a production unit under the sampling plan.

(e) The flammability standards for clothing textiles and vinyl plastic film, Parts 1610 and 1611 of this Chapter, are superseded by this Part 1616 insofar as they apply to items defined in § 1616.2(c).

§ 1616.2 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 2, 81 Stat. 568; 15 U.S.C. 1191) and the procedures under that Act for setting standards (Part 1607 of this Chapter), the following definitions apply for the purposes of this Standard:

(a) "Children's sleepwear" means any product of wearing apparel size 7 through size 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. Underwear and diapers are excluded from this definition.

(b) "Sizes 7 through 14" means the sizes defined as 7 through 14 in Department of Commerce Voluntary Product Standards PS 54-72 and PS 36-70, previously identified as Commercial Standards, CS 153-48, "Body Measurements for the Sizing of Girls' Apparel" and CS 155-50, "Body Measurements for the Sizing of Boys' Apparel", respectively.[1]

(c) "Item" means any product of children's sleepwear or any fabric of related material intended or promoted for use in children's sleepwear.

(d) "Trim" means decorative materials, such as ribbons, laces, embroidery, or ornaments. This definition does not include (1) individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover in aggregate a total of more than 20 square inches of the item or (2) functional materials (findings), such as zippers, buttons or elastic bands, used in the construction of garments.

(e) "Test criteria" means the average char length and the maximum char length which a sample of specimen may exhibit in order to pass an individual test.

(f) "Char length" means the distance from the original lower edge of the specimen exposed to the flame in accordance with the procedure specified in § 1616.5 *Test procedure* to the end of the tear or void in the charred, burned, or damaged area, the tear being made in accordance with the procedure specified in § 1615.5

[1] Copies available from the National Technical Information Service, 5285 Port Royal Street, Springfield VA 22151.

(c) (2) *Specimen burning and evaluation.*

(g) "Afterglow" means the continuation of glowing of parts of a specimen after flaming has ceased.

(h) "Fabric piece" (piece) means a continuous, unseamed length of fabric, one or more of which make up a unit.

(i) "Fabric production unit" (unit) means any quantity of finished fabric up to 4,600 linear m. (5,000 linear yds.) for Normal Sampling or 9,200 linear m. (10,000 linear yds.) for Reduced Sampling which has a specific identity that remains unchanged throughout the unit except for color or print pattern as specified in § 1616.4(a). For purposes of this definition, finished fabric means fabric in its final form after completing its last processing step as a fabric except for slitting.

(j) "Garment production unit" (unit) means any quantity of finished garments up to 500 dozen which have a specific identity that remains unchanged throughout the unit except for size, trim, findings, color, and print patterns as specified in § 1616.4(a).

(k) "Sample" means five test specimens.

(l) "Specimen" means an 8.9±0.5 x 25.4±0.5 cm. (3.5±0.2 x 10±0.2 in.) section of fabric. For garment testing, the specimen will include a seam or trim.

§ 1616.3 General requirements.

(a) *Summary of test method.* Conditioned specimens are suspended one at a time vertically in holders in a prescribed cabinet and subjected to a standard flame along their bottom edges for a specified time under controlled conditions. The char lengths are recorded.

(b) *Test criteria.* The test criteria when the testing is done in accordance with § 1616.4 *Sampling and acceptance procedures* and § 1616.5 *Test procedures* are:

(1) *Average char length.* The average char length of five specimens shall not exceed 17.8 cm. (7.0 in.).

(2) *Full-specimen burn.* No individual specimen shall have a char length of 25.4±0.5 cm. (10±0.2 in.).

(c) Details of the number of specimens which must meet the above test criteria for unit acceptance is specified in § 1616.4.

§ 1616.4 Sampling and acceptance procedures.

(a) *General.* (1) The test criteria of § 1616.3(b) shall be used in conjunction with the following fabric and garment sampling plan. The Consumer Product Safety Commission may consider and approve other sampling plans that provide at least the equivalent level of fire safety to the consumer, provided such alternate sampling plans have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. Alternate sampling plans approved for one manufacturer may be used by other manufacturers without prior Consumer Product Safety Commission approval.

(2) Different colors or different print patterns of the same fabric may be included in a single fabric or garment production unit, provided such colors or print patterns demonstrate char lengths that are not significantly different from each other as determined by previous testing of at least three samples from each color or print pattern to be included in the unit.

(3) Garments with different trim and findings may be included in a single garment production unit provided the other garment characteristics are identical except for size, color, and print pattern.

(4) For fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to polymer, fiber, yarns, or fabrics, the laundering requirement of § 1616.5(c)(4) is met on subsequent fabric production units if results of testing an initial fabric production unit demonstrate acceptability according to the requirements of paragraph (b) of this section, *Normal sampling*, both before and after the appropriate laundering.

(5) If the fabric has been shown to meet the laundering requirement, § 1616.5(c)(4), the garments produced from that fabric are not required to be laundered prior to testing.

(6) Each sample, (five specimens), for Fabric Sampling shall be selected so that two specimens are in one fabric direction (machine or cross-machine) and three specimens are in the other fabric direction, except for the additional sample selected after a failure, in which case all five specimens shall be selected in the fabric direction in which the specimen failure occurred.

(7) Fabric samples may be selected from fabric as outlined in paragraph (b) of this section, *Fabric sampling* or, for verification purposes, from randomly selected garments.

(8) Multi-layer fabrics shall be tested with a hem of approximately 2.5 cm. (1 in.) sewn at the bottom edge of the specimen with a suitable thread and stitch. The specimen shall include each of the components over its entire length. Garments manufactured from multi-layer fabrics shall be tested with the edge finish which is used in the garment at the bottom edge of the specimen.

(b) *Fabric sampling.* A fabric production unit (unit) is either accepted or rejected in accordance with the following plan:

(1) *Normal sampling.* Select one sample from the beginning of the first fabric piece (piece) in the unit and one sample from the end of the last piece in the unit, or select a sample from each end of the piece if the unit is made up of only one piece. Test the two selected samples. If both samples meet all the test criteria of § 1616.3(b), accept the unit. If either or both of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails any part of the test criteria, reject the unit.

(2) *Reduced sampling.* (i) The level of sampling required for fabric acceptance may be reduced provided the preceding 15 units of the fabric have all been accepted using the Normal Sampling Plan.

(ii) The reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of fabric in the unit may be increased to 9,200 linear m. (10,000 linear yds.)

(iii) Select and test two samples in the same manner as in Normal Sampling. Accept or reject the unit on the same basis as with Normal Sampling.

(iv) Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(3) *Tightened sampling.* Tightened sampling shall be used when a unit is rejected under the Normal Sampling Plan. The Tightened Sampling shall be the same as Normal Sampling except that one additional sample shall be selected and cut from a middle piece in the unit. If the unit is made up of less than two pieces, the unit shall be divided into at least two pieces. The division shall be such that the pieces produced by the division shall not be smaller than 92 linear m. (100 linear yds.) or greater than 2,300 linear m. (2,500 linear yds.). If the unit is made up of two pieces, the additional sample shall be selected from the interior end of one of the pieces. Test the three selected samples. If all three selected samples meet all the test criteria of § 1616.3(b), accept the unit. If one or more of the three selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If two or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If only one individual specimen, from the 15 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the same piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails any part of the test criteria, reject the unit. Tightened Sampling may be discontinued and Normal Sampling resumed after five consecutive units have all been accepted using Tightened Sampling. If Tightened Sampling remains in effect for 15 consecutive units, production of the specific fabric in Tightened Sampling must be discontinued until that part of the process or component which is causing failure has been iden-

tified and the quality of the end product has been improved.

(4) *Disposition of rejected units.* (i) The piece or pieces which have failed and resulted in the initial rejection of the unit may not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the (Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X) (FF 3-71) (Subpart A of Part 1615 of this Chapter) except after reworking to improve the flammability characteristics and subsequent retesting and acceptance in accordance with the procedures in *Tightened Sampling.*

(ii) The remainder of a rejected unit, after removing the piece or pieces, the failure of which resulted in unit rejection, may be accepted if the following test plan is successfully concluded at all required locations. The required locations are those adjacent to each such failed piece. (Required locations exist on both sides of the "Middle Piece" tested in Tightened Sampling if failure of that piece resulted in unit rejection). Failure of a piece shall be deemed to have resulted in unit rejection if unit rejection occurred and a sample or specimen from the piece failed any test criterion of § 1616.3(b).

(iii) The unit should contain at least 15 pieces for disposition testing after removing the failing pieces. If necessary for this purpose, the unit shall be demarcated into at least 15 approximately equal length pieces unless such division results in pieces shorter than 92 linear m. (100 linear yds.). In this latter case, the unit shall be demarcated into roughly equal length pieces of approximately 92 linear m. (100 linear yds.) each. If such a division results in five pieces or less in the unit for each failing piece after removing the failing pieces, only the individual pieces retest procedure [described in paragraph (b)(4)(vi) of this section] may be used.

(iv) Select and cut a sample from each end of each adjoining piece beginning adjacent to the piece which failed. Test the two samples from the piece. If both samples meet all the test criteria of § 1616.3(b), the piece is acceptable. If one or both of the two selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), the piece is unacceptable. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), the piece is unacceptable. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, the piece is acceptable. If this additional sample fails any part of the test criteria, the piece is unacceptable.

(v) Continue testing adjoining pieces until a piece has been found acceptable. Then continue testing adjoining pieces until three successive adjoining pieces, not including the first acceptable piece, have been found acceptable or until five such pieces, not including the first acceptable piece, have been tested, whichever occurs sooner. Unless three successive adjoining pieces have been found acceptable among five such pieces, testing shall be stopped and the entire unit rejected without further testing. If three successive pieces have been found acceptable among five such pieces, accept the three successive acceptable pieces and the remaining pieces in the unit.

(vi) (A) Alternately, individual pieces from a rejected unit containing three or more pieces may be tested and accepted or rejected on a piece by piece basis according to the following plan, after removing the piece or pieces, the failure of which resulted in unit rejection.

(B) Select four samples (two from each end) from the piece. Test the four selected samples. If all four samples meet all the test criteria of § 1616.3(b), accept the piece. If one or more of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the piece. If two or more of the individual specimens, from the 20 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the piece. If only one individual specimen, from the 20 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select two additional samples from the same end of the piece in which the failure occurred. If these additional two samples meet all the test criteria of § 1616.3(b), accept the piece. If one or both of the two additional samples fail any part of the test criteria, reject the piece.

(vii) The pieces of a unit rejected after retesting may not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) (Subpart A of Part 1615 of this chapter) except after reworking to improve the flammability characteristics, and subsequent retesting in accordance with the procedures set forth in *Tightened Sampling.*

(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of the Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(c) *Garment sampling.* (1) (i). The Garment Sampling Plan is made up of two parts: (1) Prototype Testing and (2) Production Testing. Prior to production, prototypes must be tested to assure that the design characteristics of the garment are acceptable. Garment production units (units) are then accepted or rejected on an individual unit basis.

(ii) Edge finishes such as hems, except in multi-layer fabrics, and binding are excluded from testing except that when trim is used on an edge the trim must be subjected to prototype testing. Seams attaching findings are excluded from testing.

(2) *Prototype testing.* Pre-production prototype testing of each seam and trim specification to be included in each garment in a garment production unit shall be conducted to assure that garment specifications meet the flammability requirements of the Standard prior to production.

(i) *Seams.* Make three samples (15 specimens) using the longest seam type and three samples using each other seam type 10 inches or longer that is to be included in the garment. For purposes of recordkeeping, prior to testing, assign each specimen to one of the three samples. Test each set of three samples and accept or reject each seam design in accordance with the following plan:

(A) If all three samples meet all the test criteria of § 1616.3(b), accept the seam design. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the seam design. If three or more of the individual specimens from the 15 selected specimens fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the seam design. If only one of the individual specimens from the 15 selected specimens fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the seam design.

(B) If two of the individual specimens; from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select three more samples (15 specimens) and retest. If all three additional samples meet all the test criteria of § 1616.3(b), accept the seam design. If one or more of the three additional samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the seam design. If two or more of the individual specimens, from the 15 selected additional specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the seam design. If only one of the individual specimens, from the 15 selected additional specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the seam design.

(ii) *Trim*—(A) Make three samples (15 specimens) from each type of trim to be included in the garment. Specimens shall be prepared by sewing or attaching the trim to the center of the vertical axis of an appropriate section of untrimmed fabric, beginning the sewing or attachment at the lower edge of each specimen. The sewing or attachment shall be made in the manner in which the trim is to be attached to the garment.

(B) Sewing or otherwise attaching the trim shall be done with thread or fastening material of the same composition and size to be used for this purpose in the garment and using the same stitching or seam type or other attaching procedure. The trim shall be sewn or fastened the entire length of the specimen. Prior to testing, assign each specimen to one of the three samples. Test the sets of three samples and accept or reject the type of trim and design on the same basis as seam design.

(3) *Production testing.* A unit is either accepted or rejected according to the following plan:

(i) *Normal sampling.* (A) From each unit, select at random sufficient garments and cut three samples (15 specimens) from the longest seam type. No more than five specimens may be cut from a single garment. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample. Test the three selected samples. If all three samples meet all the test criteria of § 1616.3(b), accept the unit. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If four or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If three or less of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the unit.

(B) If the garment under test does not have a seam at least 10 inches long in the largest size in which it is produced, the following selection and testing procedure shall be followed:

(*1*) Select and cut specimens 8.9 cm. (3.5 in.) wide by the maximum available seam length, with the seam in the center of the specimen and extending the entire specimen length. Cut three samples (15 specimens). These specimens shall be placed in specimen holders so that the bottom edge is even with the bottom edge of the specimen holder and the seam begins in the center of the bottom edge. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample.

(2) Test the three samples. If all three samples pass the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), and if three or fewer individual specimens fail by charring the entire specimen length, accept the unit. If the unit is not accepted in the above test, three samples (15 specimens) of the longest seam type shall be made using fabric and thread from production inventory and sewn on production machines by production operators. The individual fabric sections prior to sewing must be no larger than 20.3 x 63.3 cm. (8 x 25 in.) and must be selected from more than one area of the base fabric. Test the three prepared samples. Accept or reject the unit as described previously in this subsection.

(ii) *Reduced sampling.* (A) The level of sampling required for garment acceptance may be reduced provided the previous 15 units of the garments have all been accepted using the Normal Sampling Plan. The Reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of garments under test may be increased to up to two production units containing garments which have the same specific identity except for size, trim, findings, color, and print patterns as specified in paragraph (a) of this section.

(*B*) Select and test three samples in the same manner as in Normal Sampling. Accept or reject both units on the same basis as with Normal Sampling. Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(4) *Disposition of rejected units.* Rejected units shall not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71) (Subpart A of Part 1615 of this chapter) except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures set forth in *Garment production testing* [Paragraph (c)(3) of this section].

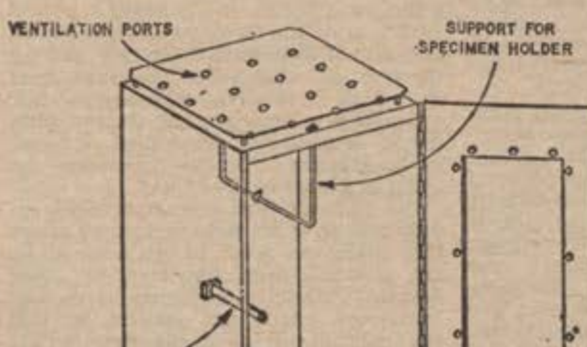
(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of this Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(d) *Compliance market sampling plan.* Sampling plans for use in market testing of items covered by this Standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such plans will, in fact, fail this Standards. Production units found to be noncomplying under the provisions of paragraph (d) of this section, shall be deemed not to conform to this Standard. The Consumer Product Safety Commission may publish such plans in the FEDERAL REGISTER.

§ 1616.5 Test procedure.

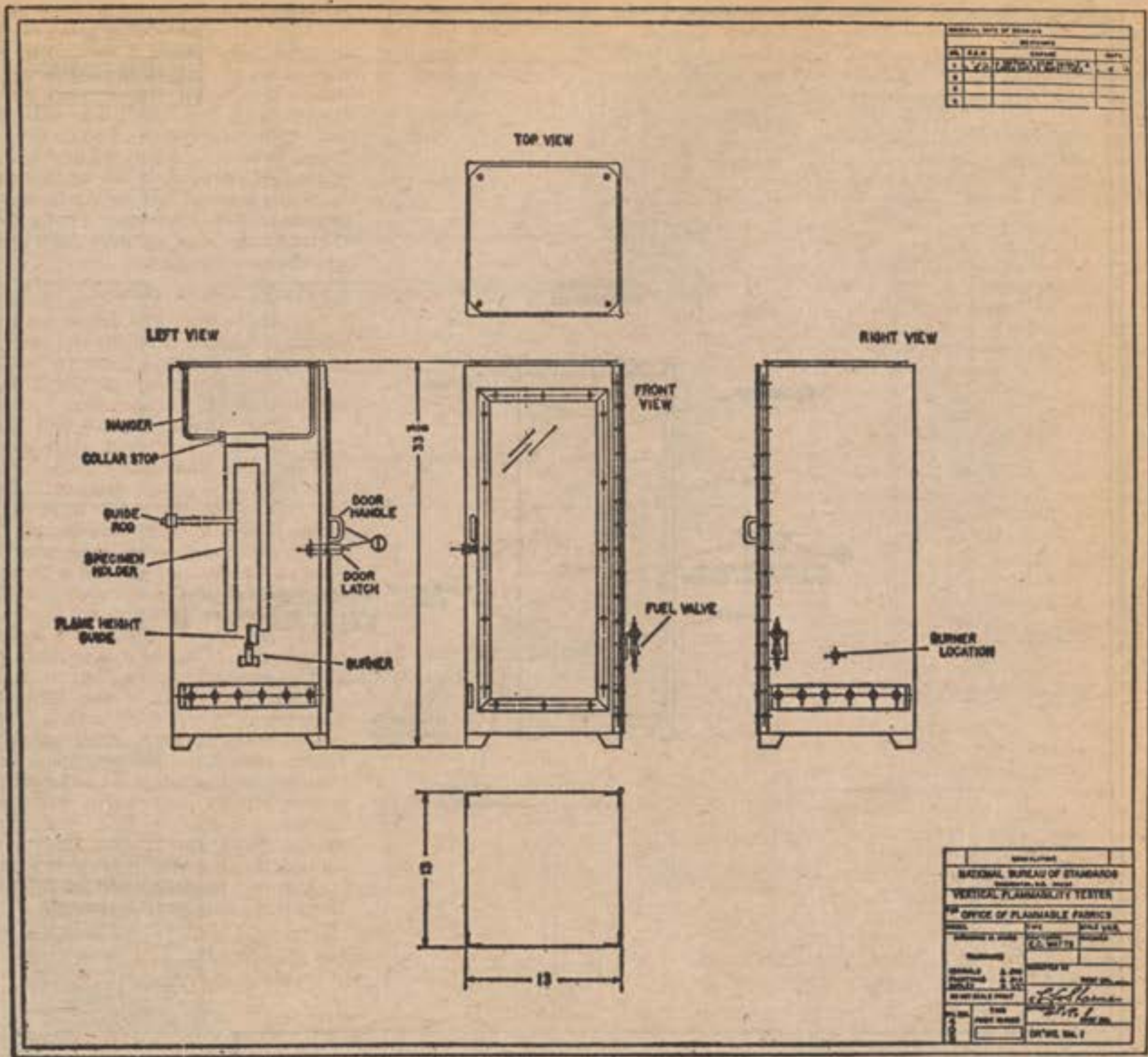
(a) *Apparatus.* The following test apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Product Safety Commission.

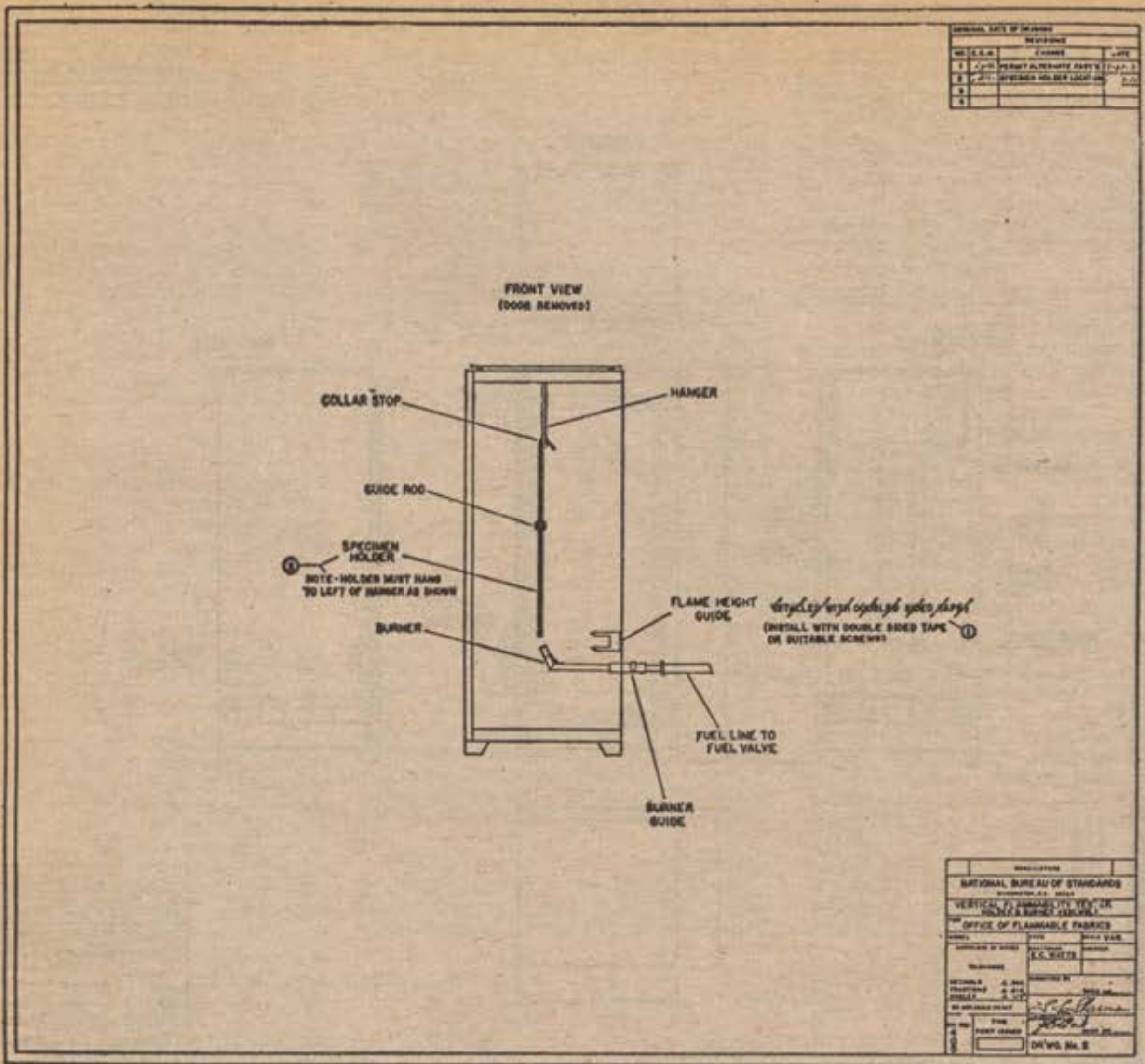
(1) *Test chamber.* The test chamber shall be a steel cabinet with inside dimensions of 32.9 cm. ($12\frac{15}{16}$ in.) wide, 32.9 cm. ($12\frac{15}{16}$ in.) deep and 76.2 cm. (30 in.) high. It shall have a frame which permits the suspension of the specimen holder over the center of the base of the cabinet at such a height that the bottom of the specimen is 1.7 cm. ($\frac{3}{4}$ in.) above the highest point of the barrel of the gas burner specified in paragraph (a)(3) of this section, *Burner* and perpendicular to the front of the cabinet. The front of the cabinet shall be a close-fitting door with a transparent insert to permit observation of the entire test. The cabinet floor may be covered with a piece of asbestos paper, whose length and width are approximately 2.5 cm. (1 in.) less than the cabinet floor dimensions. The cabinet to be used in this test method is illustrated in Figure 1 and detailed in Engineering Drawings, Numbers 1 through 7.

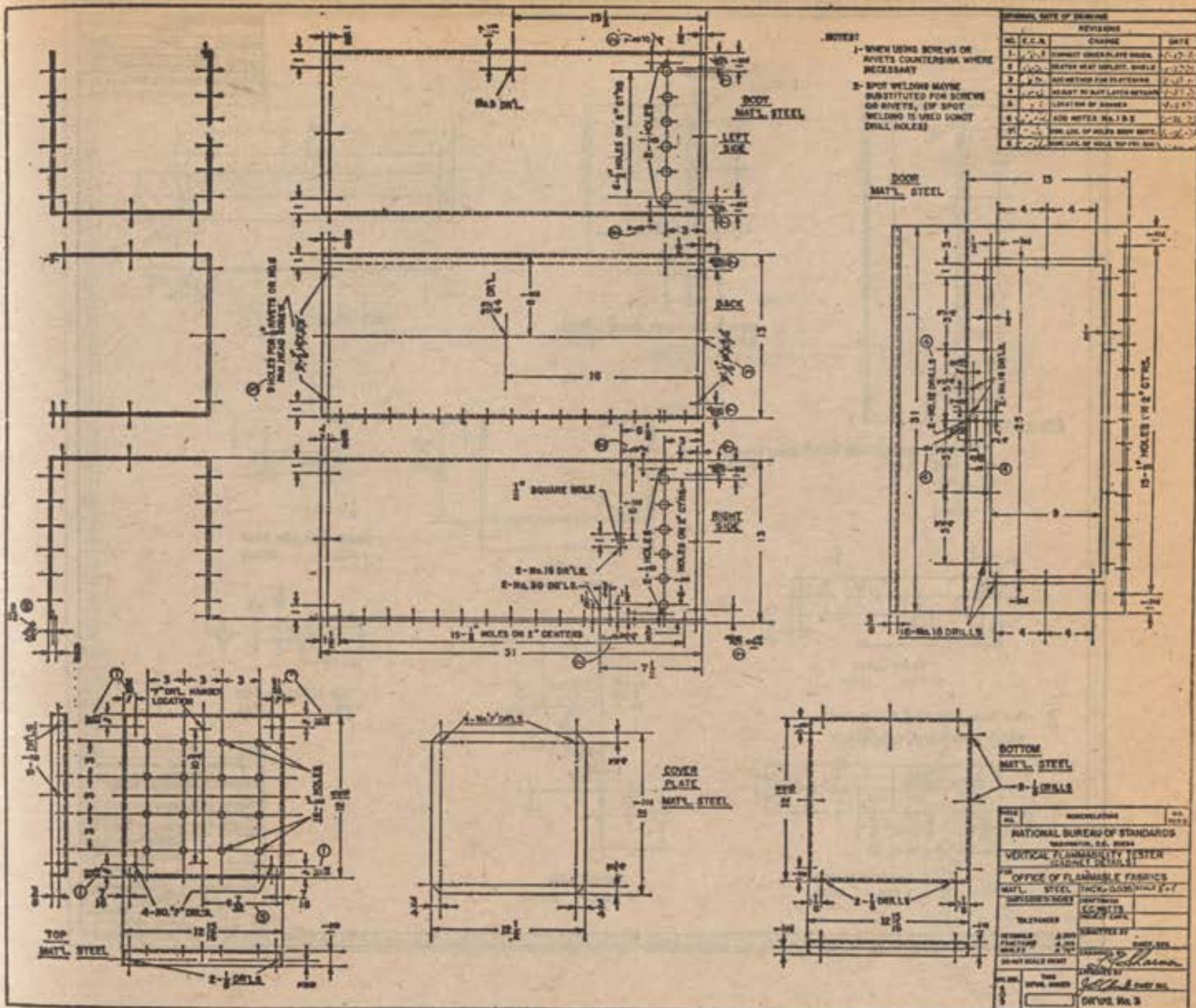


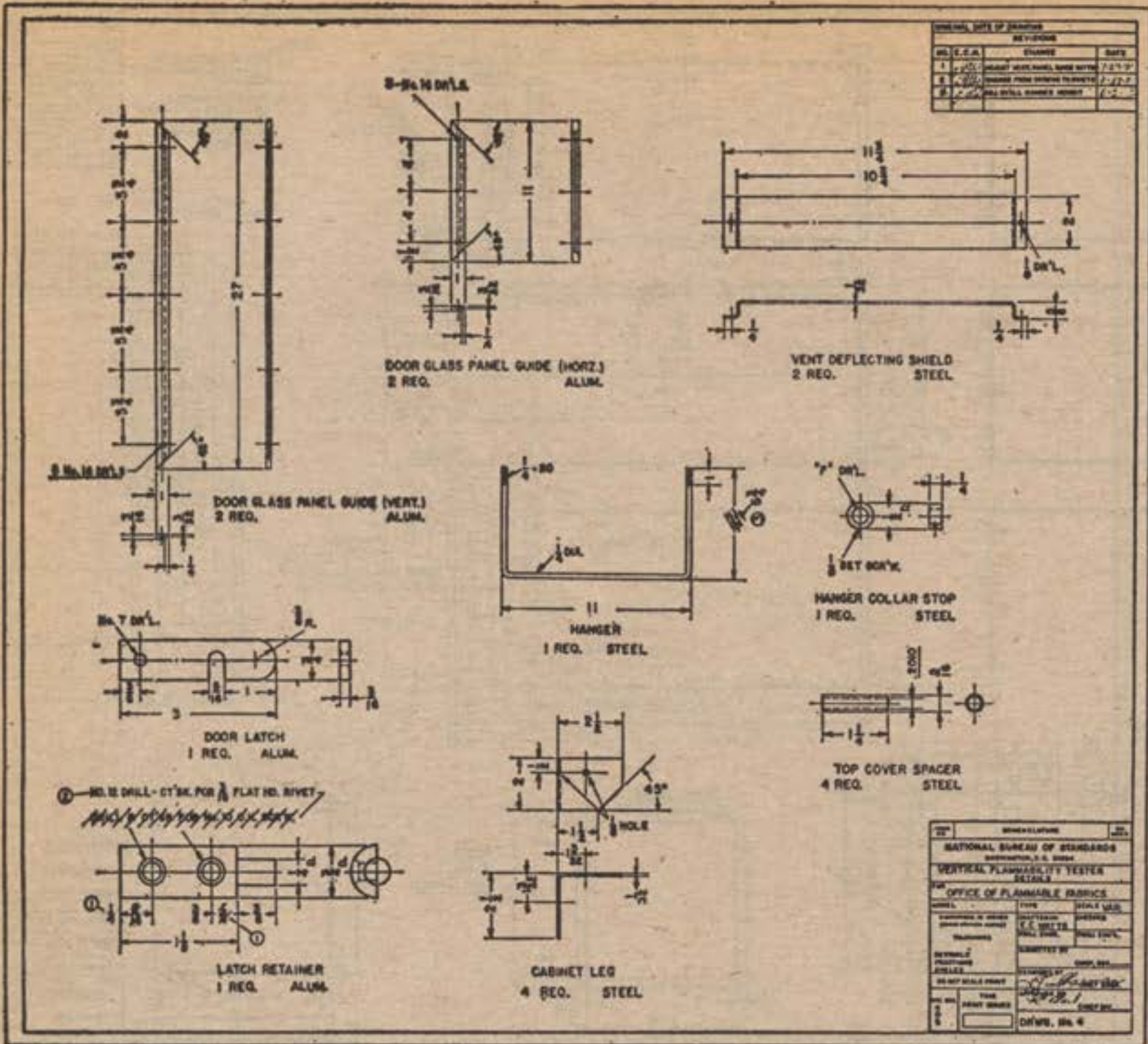
VERTICAL TEST CABINET
FIGURE 1

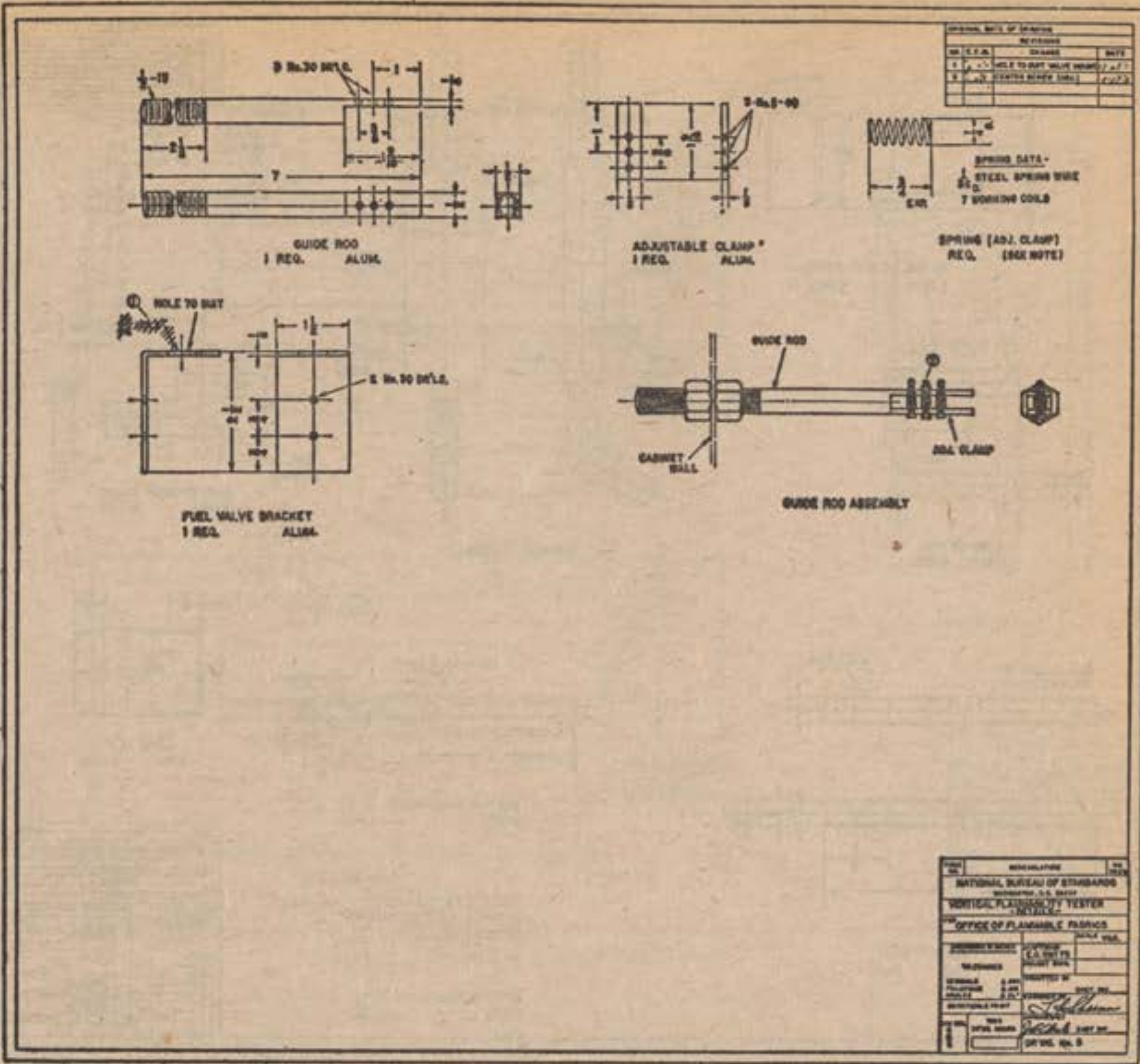
SPECIMEN HOLDER
FIGURE 2

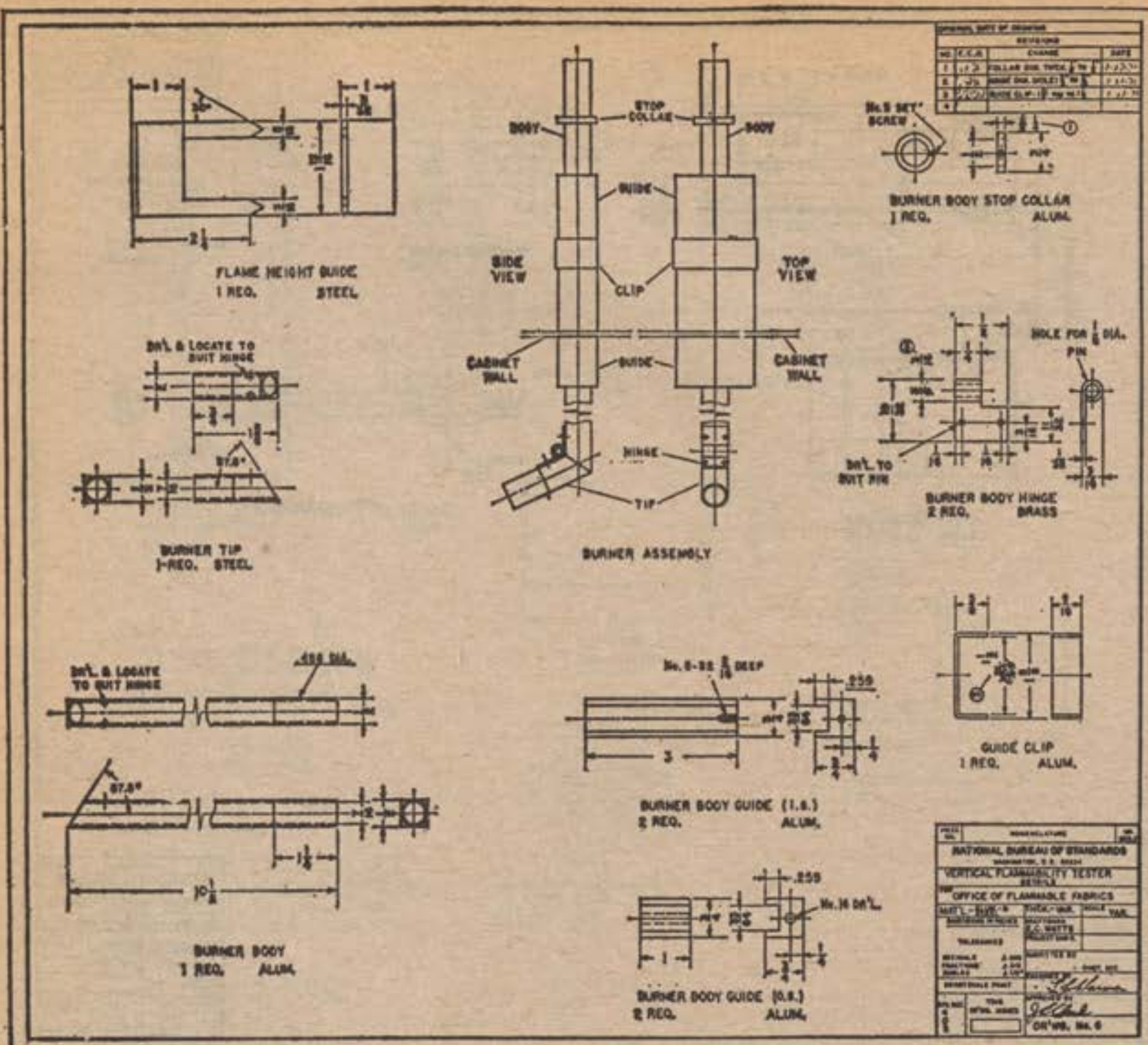

TOP VIEW
LEFT VIEW
RIGHT VIEW
FRONT VIEW
HANGER
COLLAR STOP
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
BURNER
DOOR HANDLE
DOOR LATCH
FUEL VALVE
BURNER LOCATION
13
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS

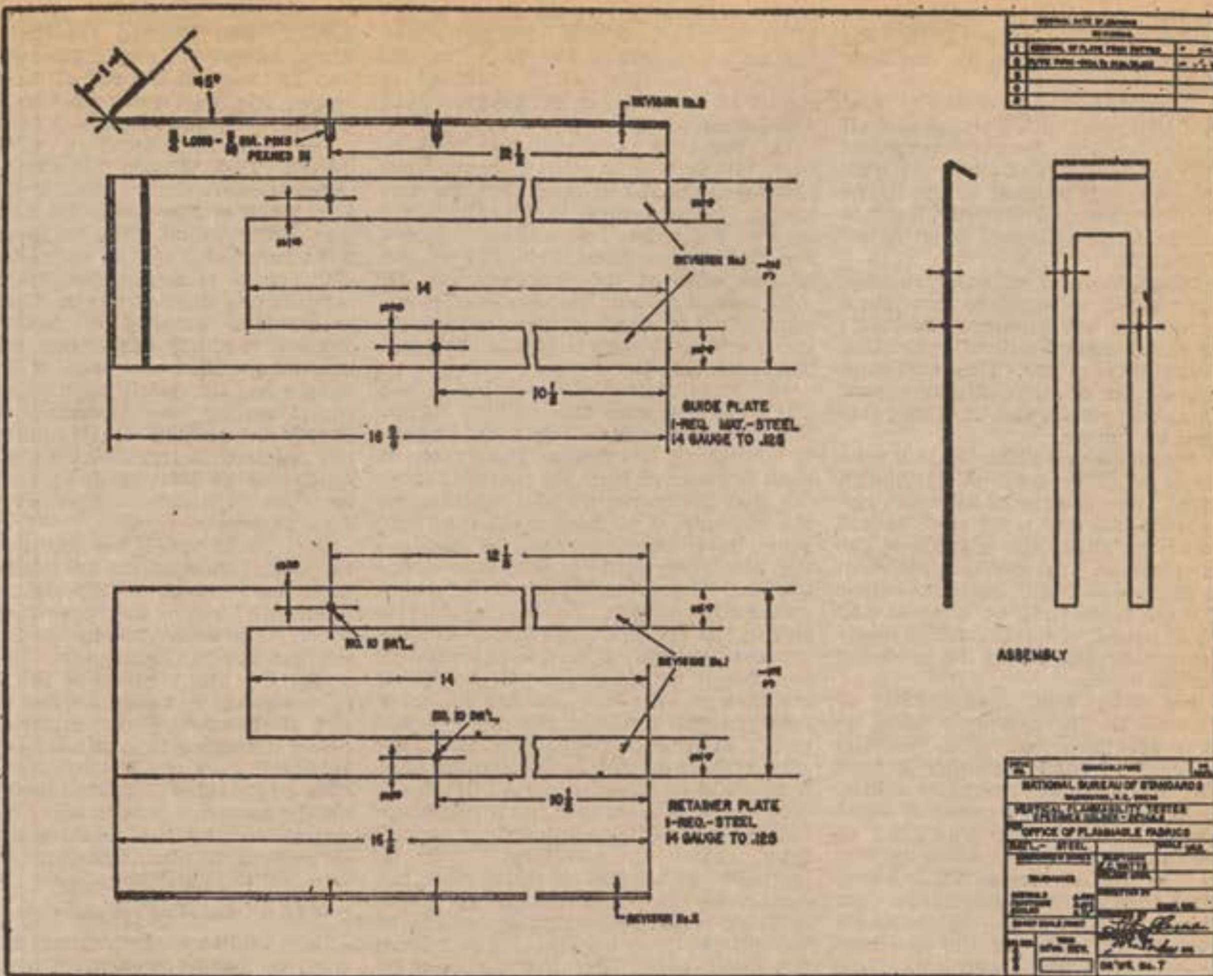

FRONT VIEW
(DOOR REMOVED)
COLLAR STOP
HANGER
GUIDE ROD
SPECIMEN HOLDER
NOTE-HOLDER MUST HANG TO LEFT OF HANGER AS SHOWN
FLAME HEIGHT GUIDE
(INSTALL WITH DOUBLE SIDED TAPE OR SUITABLE SCREWS)
BURNER
FUEL LINE TO FUEL VALVE
BURNER GUIDE
NATIONAL BUREAU OF STANDARDS
OFFICE OF FLAMMABLE FABRICS


NOTES:
1- WHEN USING SCREWS OR RIVETS COUNTERSINK WHERE NECESSARY
2- SPOT WELDING MAY BE SUBSTITUTED FOR SCREWS OR RIVETS, (IF SPOT WELDING IS USED DO NOT DRILL HOLES)
REVISIONS
BODY
MAT'L. STEEL
LEFT SIDE
BACK
RIGHT SIDE
DOOR
MAT'L. STEEL
TOP
MAT'L. STEEL
COVER PLATE
MAT'L. STEEL
BOTTOM
MAT'L. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
MAT'L. STEEL
DR'WG. No. 3


DOOR GLASS PANEL GUIDE (VERT.)
2 REQ. ALUM.
DOOR GLASS PANEL GUIDE (HORZ.)
2 REQ. ALUM.
VENT DEFLECTING SHIELD
2 REQ. STEEL
HANGER
1 REQ. STEEL
HANGER COLLAR STOP
1 REQ. STEEL
DOOR LATCH
1 REQ. ALUM.
TOP COVER SPACER
4 REQ. STEEL
LATCH RETAINER
1 REQ. ALUM.
CABINET LEG
4 REQ. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS


GUIDE ROD
1 REQ. ALUM.
ADJUSTABLE CLAMP*
1 REQ. ALUM.
SPRING DATA-
STEEL SPRING WIRE
7 WORKING COILS
SPRING (ADJ. CLAMP)
REQ. (SEE NOTE)
HOLE TO SUIT
FUEL VALVE BRACKET
1 REQ. ALUM.
GUIDE ROD
CABINET WALL
ADJ. CLAMP
GUIDE ROD ASSEMBLY
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS


FLAME HEIGHT GUIDE
1 REQ. STEEL
BURNER TIP
1-REQ. STEEL
BURNER ASSEMBLY
SIDE VIEW
TOP VIEW
BODY
STOP COLLAR
GUIDE
CLIP
CABINET WALL
HINGE
TIP
BURNER BODY STOP COLLAR
1 REQ. ALUM.
BURNER BODY HINGE
2 REQ. BRASS
GUIDE CLIP
1 REQ. ALUM.
BURNER BODY
1 REQ. ALUM.
BURNER BODY GUIDE (I.S.)
2 REQ. ALUM.
BURNER BODY GUIDE (O.S.)
2 REQ. ALUM.
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS



[FR Doc.74-9712 Filed 4-30-74;8:45 am]

(2) *Specimen holder*. The specimen holder to be used in this test method is detailed in Engineering Drawing Number 7. It is designed to permit suspension of the specimen in a fixed vertical position and to prevent curling of the specimen when the flame is applied. The specimen shall be fixed between the plates, which shall be held together with side clamps.

(3) *Burner*. The burner shall be the same as that illustrated in Figure 1 and detailed in Engineering Drawing Number 6. It shall have a tube of 1.1 cm. (0.43 in.) inside diameter. The input line to the burner shall be equipped with a needle valve. It shall have a variable orifice to adjust the height of the flame. The barrel of the burner shall be at an angle of 25 degrees from the vertical. The burner may be equipped with an adjustable stop collar so that it may be positioned quickly under the test specimen. The burner shall be connected to the gas source by rubber or other flexible tubing.

(4) *Gas supply system*. There shall be a pressure regulator to furnish gas to the burner under a pressure of 103–259 mm. Hg. (2–5 lbs. per sq. in.) at the burner inlet. (*Caution*. Precautionary laboratory practices must be followed to prevent the leakage of methane. Methane is a flammable gas which can be explosive when mixed with air and exposed to a source of ignition, and can cause asphyxiation because of the lack of air.)

(5) *Gas*. The gas shall be at least 97 percent pure methane.

(6) *Hooks and weights*. Metal hooks and weights shall be used to produce a series of loads for char length determinations. Suitable metal hooks consist of No. 19 gauge steel wire, or equivalent, made from 7.6 cm. (3 in.) lengths of the wire, bent 1.3 cm. (0.5 in.) from one end to a 45-degree angle hook. The longer end of the wire is fastened around the neck of the weight to be used and the other in the lower end of each burned specimen to one side of the burned area. The requisite loads are given in Table 1.

TABLE 1.—*Original fabric weight* [1]

Grams per square meter	Ounces per square yard	Loads	
		Grams	Pounds
Less than 101	Less than 3	54.4	0.12
101 to 207	3 to 6	113.4	.25
207 to 338	6 to 10	226.8	.50
Greater than 338	Greater than 10	340.2	.75

[1] Weight of the original fabric, containing no seams or trim, is calculated from the weight of a specimen which has been conditioned for at least 8 hr at 21±1.1° C (70±2° F) and 65±2 pct relative humidity. Shorter conditioning times may be used if the change in weight of a specimen in successive weighings made at intervals of not less than 2 hr does not exceed 0.2 pct of the weight of the specimen.

(7) *Stopwatch*. A stopwatch or similar timing device shall be used to measure time to 0.1 second.

(8) *Scale*. A linear scale graduated in mm. or 0.1-inch divisions shall be used to measure char length.

(9) *Circulating air oven*. A forced circulation drying oven capable of main-

taining the specimens at 105±2.8° C. (221±5° F.), shall be used to dry the specimen while mounted in the specimen holders.[3]

(10) *Desiccator*. An air-tight and moisture-tight desiccating chamber shall be used for cooling mounted specimens after drying. Anhydrous silica gel with an indicator shall be used as the desiccant in the desiccating chamber. Replace or reactivate the desiccant when it becomes inactive.

(11) *Hood*. A hood or other suitable enclosure shall be used to provide a draft-protected environment surrounding the test chamber without restricting the availability of air. This enclosure shall have a fan or other suitable means for exhausting smoke and/or toxic gases produced by testing.

(12) *Extinguishing plates*. Extinguishing plates shall be used to extinguish afterglow. The plates shall be metal, approximately 35.6 cm. x 5.1 cm. (14 x 2 in.) which fit within the opening of the specimen holder. The bottom plate shall be the thickness of the specimen holder and the top plate shall be at least 0.32 cm. (⅛ in.) thick. A suitable metal specimen mounting block may be used for the bottom plate.

(b) *Mounting and conditioning of specimens*—(1) The specimens shall be placed in specimen holders so that the bottom edge of each specimen is even with the bottom of the specimen holder. Mount the specimen in as close to a flat configuration as possible. The sides of the specimen holder shall cover 1.9 cm. (¾ in.) of the specimen width along each long edge of the specimen, and thus shall expose 5.1 cm. (2 in.) of the specimen width. The sides of the specimen holder shall be clamped with a sufficient number of clamps or shall be taped to prevent the specimen from being displaced during handling and testing. The specimens may be taped in the holders if the clamps fail to hold them. Place the mounted specimens in the drying oven in a manner that will permit free circulation of air at 105° C. (221° F.) around them for 30 minutes.[4]

(2) Remove the mounted specimens from the oven and place them in the desiccator for 30 minutes to cool. No more than five specimens shall be placed in a desiccator at one time. Specimens shall remain in the desiccator no more than 60 minutes.

(c) *Testing*—(1) *Burner adjustment*. With the hood fan turned off, use the needle valve to adjust the flame height of the burner to 3.8 cm. (1½ in.) above the highest point of the barrel of the burner. A suitable height indicator is shown in Engineering Drawing Number 6 and Figure 1.

(2) *Specimen burning and evaluation*. (i) One at a time, the mounted specimens shall be removed from the desiccator and suspended in the cabinet for testing. The cabinet door shall be closed and the burner flame impinged on the bottom edge of the specimen for 3.0 ±0.2 seconds.[5] Flame impingement is accomplished by moving the burner under the specimen for this length of time, and then removing it.

(ii) When flaming has ceased, remove the specimen from the cabinet, except for specimens which exhibit afterglow. If afterglow is evident, the specimen shall be removed from the cabinet 1 minute after the burner flame is impinged on the specimen if no flaming exists at that time. Upon removal from the cabinet, the afterglow shall be promptly extinguished. The afterglow shall be extinguished by placing the specimen while still in the specimen holder on the bottom extinguishing plate and immediately covering it with the top plate until all evidence of afterglow has ceased. After removing the specimen from the cabinet and, if appropriate, extinguishing afterglow, remove it from the holder and place it on a flat clean surface. Fold the specimen lengthwise along a line through the highest peak of the charred or melted area; crease the specimen firmly by hand. Unfold the specimen and insert the hook with the correct weight as shown in Table 1 in the specimen on one side of the charred area 6.4 mm. (¼ in.) from the lower edge. Tear the specimen by grasping the other lower corner of the fabric and gently raising the specimen and weight clear of the supporting surface.[6] Measure the char length as the distance from the end of the tear to the original lower edge of the specimen exposed to the flame. After testing each specimen, vent the hood and cabinet to remove the smoke and/or toxic gases.

(3) *Report*. Report the value of char length, in centimeters (or inches), for each specimen, as well as the average char length for each set of five specimens.

(4) *Laundering*. (i) The procedures described under § 1616.4 *Sampling and acceptance procedures*, § 1616.5(b) *Conditioning and mounting of specimens*, and (c) *Testing*, shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to the laundering procedure in AATCC Test Method 124-1969.[7] Items which do not withstand 50 launderings may be tested at the end of their useful service life with prior approval of the Consumer Product Safety Commission.

(ii) Washing procedure 6.2(III) of AATCC Test Method 124-1969, with a water temperature of 60±2.8° C. (140±5° F.) and drying procedure 6.3.2(B) of that Test method, shall be used. Maximum load shall be 3.64 kg. (8 lbs.) and may consist of any combination of test samples and dummy pieces. Alternately, 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 producer to be acceptable when tested according to § 1616.4(b) *Fabric sampling*.

§ 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) All items of children's sleepwear in sizes 7 through 14 complying with this Standard (including those items that comply with FF 3-71) 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, 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.

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[3] Procedure 1(1.1.1) of ASTM D 2654-71 "Standard Methods of Test for moisture content and moisture regain of textile material," describes a satisfactory oven (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103).

[4] If the specimens are moist when received, permit them to air dry in laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776-67, "Conditioning Textiles and Textile Products for Testing". (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.)

[5] If more than 30 seconds elapse between removal of a specimen from the desiccator and the initial flame impingement, that specimen shall be reconditioned prior to testing.

[6] A figure showing how this is done is given in AATCC Test method 34-1969, "Fire Resistance of Textile Fabrics," Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

[7] Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

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."

(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.

(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 or stamped in accordance with paragraphs (b)(1), (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) The information required on labels by this section shall be set forth separately from any other information appearing on the same label. Other information, representations, or disclosures not required by this section but placed on the same label with information required by this section, or placed on other labels elsewhere on the item, shall not interfere with the information required by this section. No person, other than the ultimate consumer, shall remove, mutilate, or cause or participate in the removal or mutilation of any label required by this section to be affixed to any item.

(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 Product 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) *Segregation of complying and non-complying items by retailer.* Every person who sells non-complying items (as defined in § 1616.2(c) of the Standard and paragraph (a)(3) of this section) at retail stores or other establishments open to the general public where goods are offered for sale shall:

(1) Display the items which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and identify such complying items with at least one sign, with black letters at least 2.5 centimeters (one inch) in height against a solid white background, bearing the statement "Flame resistant. Complies with the Standard for the Flammability of Children's Sleepwear (FF 5-74)."

(2) Display all other items of children's sleepwear, sizes 7 through 14, at a separate location within the store and identify these items with at least one sign, with black letters at least 2.5 centimeters (1 inch) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5-74)."

(3) Segregate those items of children's sleepwear, sizes 7 through 14, which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that they shall not be located within 91 centimeters (36 inches) of any other items of children's sleepwear, sizes 7 through 14, when displayed for sale to consumers.

(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 affixed 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 sufficent 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 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.

EFFECTIVE DATE. This section became effective May 1, 1975.

Subpart C—Interpretations and Policies

AUTHORITY: Secs. 1–17, 67 Stat. 111–15, as amended, 81 Stat. 568–74; 15 U.S.C. 1191–1204.

§ 1616.61 Enforcement policy.

(a) It is the policy of the Consumer Product Safety Commission that all items of children's sleepwear in sizes 7 through 14 (including garments and fabric or related material intended or promoted for use in such children's sleepwear) are subject to the Standard FF 5–74 (Subpart A of this Part) unless the manufacturing process has ended before May 1, 1975. The manufacturing process is deemed to end, for the purposes of the Standard, at the time the item is completely assembled, all functional materials have been affixed, and labeling of a permanent nature has been stamped, sewn, or otherwise permanently affixed to the item. Affixing of temporary price or promotional information or the packaging of items of sleepwear (including garments and fabrics or related material intended or promoted for use in such sleepwear) does not affect the date on which the manufacturing process is deemed to end.

(b) All items of children's sleepwear in sizes 7 through 14 (including garments and fabric or related material intended or promoted for use in such children's sleepwear) which are in inventory or with the trade on the effective date of Standard FF 5–74 are exempt from the requirements of the Standard. For domestically-made items of children's sleepwear in sizes 7 through 14 to be considered "in inventory or with the trade" on the effective date of the Standard, the manufacturing process must have ended prior to May 1, 1975. For foreign-made items of children's sleepwear in sizes 7 through 14 to be considered "in inventory or with the trade" on the effective date of the Standard, the manufacturing process must have ended and the goods must have been entered into the United States before May 1, 1975.

EFFECTIVE DATE: This policy became effective March 21, 1975. It was originally published as a notice on that date at 40 FR 12839.

§ 1616.62 Policy regarding retail display requirements for items.

For purposes of the retail display and identification requirements of § 1616.31 (c), and for those purposes only, any item which was manufactured before May 1, 1975, and for which a retailer has documentary evidence of compliance with all sampling and testing requirements of the Standard (FF 5–74) (Subpart A of this Part), will be deemed to be a complying item notwithstanding the absence of an affirmative label to indicate compliance with the Standard as required by § 1616.6(b) of the Standard and § 1616.31(b) (8), or the absence of a garment production unit identification or style identification which meets all requirements of §§ 1616.31(b) (4) and (7), provided that such an item complies with all other labeling requirements of § 1616.31(b).

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

§ 1616.63 Policy regarding garment production unit identification.

No provision of 16 CFR 1616.31(b) (7) prohibits placement of a garment production unit identification on a label containing other information. Provided, however, that when the garment production unit identification appears on a label containing other information, provisions of § 1616.31(b) (6) require that the garment production unit identification must be set forth separately from any other information appearing on the same label, and that information not required by the applicable enforcement regulation (§ 1616.31), but placed on the same label with the garment production unit identification, shall not interfere with the garment production unit identification.

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

§ 1616.64 Policy regarding recordkeeping requirements.

No provision of the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5–74) (Subpart A of this Part) or of the enforcement regulations at § 1616.31 prohibits the utilization of fabric which was manufactured before May 1, 1975, and which was not manufactured in production units, in the manufacture of children's sleepwear garments which are subject to the Standard. When such fabric is utilized in the manufacture of such garments, the inability of the garment manufacturer to record the fabric production unit identification of such fabric does not constitute a violation of § 1616.31(d) (4) (i).

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49538.

PART 1630—STANDARD FOR THE SURFACE FLAMMABILITY OF CARPETS AND RUGS (FF 1–70)

Subpart A—The Standard

Subpart A—The Standard

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

EFFECTIVE DATE: This standard became effective April 16, 1971. It was orginally published as a notice on April 16, 1970 (35 FR 6211).

§ 1630.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under that act for setting standards (Part 1607 of this Chapter), the following definitions apply for the purposes of this Standard:

(a) "Acceptance Criterion" means that at least seven out of eight individual specimens of a given carpet or rug shall meet the test criterion as defined in this Standard.

(b) "Test Criterion" means the basis for judging whether or not a single specimen of carpet or rug has passed the test, i.e., the charred portion of a tested specimen shall not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) "Carpet" means any type of finished product made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used as a floor covering which is exposed to traffic in homes, offices, or other places of assembly or accommodation, and which may or may not be fastened to the floor by mechanical means such as nails, tacks, barbs, staples, adhesives, and which has one dimension greater than 1.83 m. (6 ft.) and a surface area greater than 2.23 m^2 (24 sq. ft.). Products such as "carpet squares", with one dimension less than 1.83 m. (6 ft.) and a surface area less than 2.23 m^2 (24 sq. ft.), but intended to be assembled upon installation into assemblies which may have one dimension greater than 1.83 m. (6 ft.) and a surface area greater than 2.23 m^2 (24 sq. ft.), are included in this definition. Mats, hides with natural or synthetic fibers, and other similar products in the above defined dimensions are included in this definition, but resilient floor coverings such as linoleum, asphalt tile and vinyl tile are not.

(d) "Rug" means the same as carpet and shall be accepted as interchangeable with carpet.

(e) "Traffic Surface" means a surface of a carpet or rug which is intended to be walked upon.

(f) "Timed Burning Tablet" (pill) means the methenamine tablet, weighing approximately 0.149 gram (2.30 grains), sold as Product No. 1588 in Catalog No. 79, December 1, 1969, by the Eli Lilly Company of Indianapolis, Ind. 46206, or an equal tablet.

(g) "Fire-Retardant Treatment" means any process to which a carpet or rug has been exposed which significantly decreases the flammability of that carpet or rug and enables it to meet the acceptance criterion of this Standard.

§ 1630.2 Scope and application.

(a) This Standard provides a test method to determine the surface flammability of carpets and rugs when exposed to a standard small source of ignition under carefully prescribed draft-protected conditions. It is applicable to all types of carpets and rugs used as floor covering materials regardless of their method of fabrication or whether they are made of natural or synthetic fibers or films, or combinations of or substitutes for these.

(b) One of a kind, carpet or rug, such as an antique, an Oriental, or a hide, may be excluded from testing under this Standard pursuant to conditions established by the Consumer Product Safety Commission.

§ 1630.3 General requirements.

(a) *Summary of test method.* This method involves the exposure of each of eight conditioned, replicate specimens of a given carpet or rug to a standard igniting source in a draft-protected environment, and measurement of the proximity of the charred portion to the edge of the hole in the prescribed flattening frame.

(b) *Test criterion.* A specimen passes the test if the charred portion does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) *Acceptance criterion.* At least seven of the eight specimens shall meet the test criterion in order to conform with this Standard.

§ 1630.4 Test procedure.

(a) *Apparatus*—(1) *Test chamber.* The test chamber shall consist of an open top hollow cube made of noncombustible material[1] with inside dimensions 30.48 x 40.48 x 30.48 cm. (12 x 12 x 12 in.) and a minimum of 6.35 (¼ in.) wall thickness. The flat bottom of the box shall be made of the same material as the sides and shall be easily removable. The sides shall be fastened together with screws or brackets and taped to prevent air leakage into the box during use.

NOTE: A minimum of two chambers and two extra bottoms is suggested for efficient operation.

(2) *Flattening frame.* A steel plate, 22.86 x 22.86 cm. (9 x 9 in.), 6.35 mm. (¼ in.) thick with a 20.32 cm. (8 in.) diameter hole in its center is required to hold the carpet or rug flat during the course of the test. It is recommended that one be provided for each test chamber.

(3) *Standard igniting source.* No. 1588 methenamine timed burning tablet or an equal tablet. These tablets shall be stored in a desiccator over a desiccant for 24 hours prior to use. (Small quantities of absorbed water may cause the tablets to fracture when first ignited. If a major fracture occurs, any results from that test shall be ignored, and it shall be repeated.)

(4) *Test specimens.* Each test specimen shall be a 22.86 x 22.86 cm. (9 x 9 in.) section of the carpet or rug to be tested. Eight specimens are required.

(5) *Circulating air oven.* A forced circulation drying oven capable of removing the moisture from the specimens when maintained at 105° C. (221° F.) for 2 hours.[2]

(6) *Desiccating cabinet.* An airtight and moisture tight cabinet capable of holding the floor covering specimens horizontally without contacting each other during the cooling period following drying, and containing silica gel desiccant.

(7) *Gloves.* Nonhygroscopic gloves (such as rubber polyethylene) for handling the sample after drying, and raising the pile on specimens prior to testing.

(8) *Hood.* A hood capable of being closed and having its draft turned off during each test and capable of rapidly removing the products of combustion following each test. The front or sides of the hood should be transparent to permit observation of the tests in progress.

(9) *Mirror.* A small mirror mounted above each test chamber at an angle to permit observation of the specimen from outside of the hood.

(10) *Vacuum cleaner.* A vacuum cleaner to remove all loose material from each specimen prior to conditioning. All surfaces of the vacuum cleaner contacting the specimen shall be flat and smooth.

[1] 6.35 mm (¼ in.) cement asbestos board is a suitable material.

[2] Option 1 of ASTM D 2654-67T, "Methods of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven. ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

(b) *Sampling*—(1) (i) *Selection of samples.* Select a sample of the material representative of the lot and large enough to permit cutting eight test specimens 22.86 x 22.86 cm. (9 x 9 in.), free from creases, fold marks, delaminations, or other distortions. The test specimens should contain the most flammable parts of the traffic surface at their centers. The most flammable area may be determined on the basis of experience or through pretesting.

(ii) If the carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or oversized specimens thereof shall be washed, prior to cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists [washing procedure 6.2 (III) with a water temperature of 60°±2.8° C. (140°±5° F.), drying procedure 6.3.2(B), maximum load 3.64 kg. (8 pounds)],[3] or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively, the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(2) *Cutting.* Cut eight 22.86±0.64 cm. (9±¼ in.) square specimens of each carpet or rug to be tested to comply with paragraph (b)(1) of this section.

(c) *Conditioning.* (1) Clean each specimen with the vacuum cleaner until it is free of all loose ends left during the manufacturing process and from any material that may have been worked into the pile during handling.[4] Care must be exercised to avoid "fuzzing" of the pile yarn.

(2) Place the specimens in the drying oven in a manner that will permit free circulation of the air at 105° C. (221° F.) around them for 2 hours.[5] Remove the specimens from the oven with gloved hands and place them horizontally in the desiccator with traffic surface up and free from contact with each other until

[3] Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 45, 1969, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

[4] The vacuum cleaning described is not intended to simulate the effects of repeated vacuum cleaning in service.

[5] If the specimens are moist when received, permit them to air-dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776-67, "Conditioning Textiles and Textile Products for Testing." ("1969 Book of ASTM Standards", Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

cooled to room temperature, but in no instance less than 1 hour.

(d) *Testing*. (1) Place the test chamber in the draft-protected environment (hood with draft off) with its bottom in place. Wearing gloves, remove a test specimen from the desiccator and brush its surface with a gloved hand in such a manner as to raise its pile. Place the specimen on the center of the floor of the test chamber, traffic surface up, exercising care that the specimen is horizontal and flat. Place the flattening frame on the specimen and position a methenamine tablet on one of its flat sides in the center of the 20.32 cm. (8 in.) hole.

(2) Ignite the tablet by touching a lighted match or an equivalent igniting source carefully to its top. If more than 2 minutes elapse between the removal of the specimen from the desiccator and the ignition of the tablet, the conditioning must be repeated.

(3) Continue each test until one of the following conditions occurs:

(i) The last vestige of flame or glow disappears. (This is frequently accompanied by a final puff of smoke.)

(ii) The flaming or smoldering has approached within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(4) When all combustion has ceased, ventilate the hood and measure the shortest distance between the edge of the hole in the flattening frame and the charred area. Record the distance measured for each specimen.

(5) Remove the specimen from the chamber and remove any burn residue from the floor of the chamber. Before proceeding to the next test, the floor must be cooled to normal room temperature or replaced with one that is at normal room temperature.

(e) *Report*. The number of specimens of the eight tested in which the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame shall be reported.

(f) *Interpretation of results*. If the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point for at least seven of the eight specimens, the carpet or rug meets the acceptance criterion.

§ 1630.5 Labeling.

If the carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T" pursuant to conditions established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112, as amended by 81 Stat. 570; 15 U.S.C. 1194.

§ 1630.31 Reasonable and representative tests and recordkeeping requirements.

[EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to criminal prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product, fabric, or related material guaranteed was manufactured, or from whom it was received; to the effect that reasonable and representative tests made in accordance with applicable flammability standards show that the product, fabric, or related material covered by the guaranty conforms with such standards.

[While a person establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he and/or the merchandise involved, would nevertheless remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act as well as injunction and condemnation procedures under section 6 thereof. A guarantor derives no immunity of any kind, civil or criminal, from the issuance of his own guaranty or performance of the reasonable and representative tests prescribed by this section.

[The furnishing of guaranties is not mandatory under the act. The purpose of this section is to establish minimum requirements for reasonable and representative tests upon which guaranties may be based. The section does not have any legal effect beyond that specified in section 8 of the act.]

(a) For the purposes of this section the following definitions apply:

(1) "Standard" means the standards in Subpart A of this Part.

(2) "Test" means a test as prescribed by the Standard.

(3) "Acceptance criterion" means "acceptance criterion" as defined in the Standard.

(4) "Test criterion" means "test criterion" as defined in the Standard.

(5) "Carpet" and "rug" mean "carpet" and "rug" as defined in the Standard.

(6) "Quality of machine-made carpets or rugs" means any line of carpets or rugs, essentially machine-made, which are substantially alike in all respects, including, as applicable, constructional units (needles, pitch, rows, shot, stitches, and weight), dye class, dyestuff, dyeing application method, gage, pile levels, pile height, average pile thickness, pile weight, pile yarn, total thickness, total weight, tufts, tuft length, tuft bind, warp yarn, filler yarn, yarn ends per needle, loop length, backing, back coating, primary backing, secondary backing, backing thickness, backing fabric count, backing warp and filler yarns, including stuffer and dead frame yarns, backing weight, fiber and/or other materials content, and fire retardant treatment received including the specifications and quantity of chemicals used.

(7) "Quality of handmade or hide carpets or rugs" means any line of carpets or rugs which are essentially handmade and/or are essentially hides and which are alike in all respects, including those specified in paragraph (a)(6) of this section, where applicable, except that such carpets or rugs may vary where unavoidable and/or may vary because of natural variations in hides of the same type, so long as such variations do not affect flammability.

(b) The tests set forth in paragraphs (c), (d), (e), and (f) of this section are reasonable and representative tests with regard to any carpets or rugs or qualities thereof to which they apply, except, however, that any test of any quality, whenever performed, which does not show a meeting of the acceptance criterion of the Standard shall be considered the reasonable and representative test for that quality and no guaranty with respect thereto shall be issued after the performance of such test. Immediately before conditioning and testing, each carpet or rug specimen tested pursuant to this section shall be in the form in which the carpet or rug or quality thereof which it represents is sold or offered for sale to the ultimate consumer.

(c) Reasonable and representative tests with respect to any quality of machine-made carpets or rugs are (1) at least one test performed upon commencement of production, importation, or other receipt thereof, (2) at least one test performed after production, importation, or other receipt of the first 25,000 linear yards of the quality, and (3) at least one test after production, importation, or other receipt of every 50,000 linear yards of the quality thereafter. Except, however, that tests need be performed only after production, importation, or receipt of each additional 100,000 linear yards of the quality, so long as all 24 specimens required to be tested in a complete series of three required tests immediately preceding any given test (eight out of eight specimens in each of the three preceding tests) meet the test criterion, rather than seven out of eight specimens, as permitted under the acceptance criterion of the Standard.

(d) Reasonable and representative tests with respect to any quality of handmade or hide carpets or rugs are at least one test performed upon the commencement of production, importation, or other receipt thereof and at least one test after production, importation, or other receipt of every 10,000 square yards of the quality thereafter.

(e) Reasonable and representative tests of a one-of-a-kind carpet or rug, machine made, handmade, or hide, is one test thereof or one test of an identical representative sample.

(f) Guaranties for carpets or rugs in inventory upon the effective date of the Standard may be issued in the same manner as other guaranties are issued. Reasonable and representative tests with respective to qualities of such carpets or rugs are at least one test performed upon approximately the first linear yard and one test thereafter for each 25,000 linear yards of a quality of machine-made carpets or rugs and at least one test performed upon approximately the first square yard and thereafter for each 10,000 square yards of a category of hand-made or hide carpets or rugs, in the order of the production, importation, or receipt by the guarantor of that quality.

(g) Any person issuing a guaranty for one or more carpets or rugs or qualities thereof based on reasonable and representative tests, shall maintain the following records for a period of 3 years from the date the tests were performed, or in the case of paragraph (h) of this section, the date the guaranties were furnished. These records must be maintained in the United States by a person subject to section 3 of the act:

(1) All identifying numbers, symbols, etc., manufacturing specifications including all other information described in paragraph (a)(6) of this section, as applicable, and source of products or raw materials used therein.

(2) A physical sample of each carpet or rug or quality thereof covered by the guaranty at least 6 inches by 6 inches in size (36 square inches).

(3) The original or a copy of the report of each test performed for purposes of the guaranty (whether or not such report shows a meeting of the acceptance criterion) which shall disclose the date of the test, the results, and sufficient information to clearly identify the carpet or rug tested.

(4) A record applicable to each test in paragraph (g)(3) of this section showing the approximate yardage at which it was performed. Records otherwise required to be maintained in linear yards may be maintained in square yards on the basis of 4 square yards equals 1 linear yard.

(h) Persons furnishing guaranties based on guaranties received by them shall maintain records showing the guaranty received and identification of the carpet or rug or quality thereof guaranteed in turn by them.

(i) Any person furnishing a carpet or rug guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

(Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570, 15 U.S.C. 1194; sec. 8, 67 Stat. 114, as amended, 81 Stat. 572, 15 U.S.C. 1197)

EFFECTIVE DATE: This section became effective July 20, 1971.

§ 1630.32 Carpets and rugs with fire-retardant treatment.

(a) For the purposes of this section the following definitions apply:

(1) "Carpet" and "rug" mean "carpet" and "rug" as defined in § 1630.31(c).

(2) "Fire-retardant treatment" means "fire-retardant treatment" as defined in the standard in Subpart A of this Part.

(b) If a carpet or rug or small carpet or rug is manufactured, imported, or otherwise marketed or handled which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, the letter "T" shall be set forth legibly and conspicuously, and shall appear at all times, on each label and/or invoice relating thereto pursuant to the requirements of the Textile Fiber Products Indentification Act, 15 U.S.C. section 70, et seq., and the rules and regulations thereunder, whether or not such letter "T" appears elsewhere on said product. Samples, pieces, rolls, or squares used to promote or effect the sale of such carpet or rug are subject to the aforementioned requirements. As provided in the applicable portions of the aforesaid Act and the rules and regulations thereunder, where a carpet or rug or a small carpet or rug: which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, is sold to an ultimate consumer and was either custom made or commercially installed for such consumer, the labeling required by this section shall not apply with respect to the carpet or rug if an invoice or other paper relating thereto, containing the letter "T", legibly and conspicuously written, is delivered to the consumer in due course of business.

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

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194)

EFFECTIVE DATE: This section became effective January 22, 1973.

Subpart C—Washing Procedures

AUTHORITY: Secs. 4, 5, 67 Stat. 112, as amended, 81 Stat. 561-570; 15 U.S.C. 1193, 1194.

§ 1630.61 Hide carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On February 10, 1972 (37 FR 3010) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 1-70 for testing the flammability of shearling and hide rugs that (1) consist of natural wool or hair attached to the hide with no synthetic fibers and (2) have been treated with a fire-retardant finish. The notice of approval was corrected on March 17, 1972 (37 FR 5676). This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any hide carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH OR DRY CLEAN

This rug has been treated with a flame retardant. To keep rug attractive and clean use the following methods:

To eliminate loose dirt or dust, vacuum or shake pelt outdoors.

For spot cleaning, use water dampened cloth and rub lightly in one direction.

DO NOT USE DETERGENTS OR OTHER STAIN REMOVERS

(d) The alternative procedure is as follows: The test specimens shall be cut to size 9'' x 9'' before the procedure is initiated.

(1) Shake specimen vigorously to remove any loose fibers, dust and possible accumulated debris.

(2) Place specimen on a solid flat surface and anchor or hold firmly while conducting the test.

(3) Select an operating applicator consisting of a rod at least 2'' in diameter and 9'' long composed of nonabsorbant material such as glass or plastic.

(4) Select sufficient cloth to form at least five layers when wrapped around the operating applicator. The cloth shall be of the type known as "Crockmeter Test Cloth" as specified in Note 8.3 of AATCC Test Method 8-1969.

(5) Immerse cloth in water (100°F.) until thoroughly wetted.

(6) Manually wring out the cloth to remove all excess water and wrap around the operating applicator.

(7) Immediately with light pressure, stroke entire surface of specimen with the wrapped operating applicator in one direction only along the natural "lay" of the hair structure for ten complete strokes.

(8) Place test specimen in a circulating drying oven maintained at 212°F. until dry.

(9) Repeat the above procedure 10 times using a fresh or clean cloth each time.

(10) After 10 successive cycles of washing and drying the dried specimens shall be subjected to the testing procedures (pill test) as outlined in FF 1-70.

(e) This washing procedure and labeling provision are subject to revision or revocation should it be determined that such procedure is inadequate to fully protect the public.

§ 1630.62 Wool flokati carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On September 7, 1972 (37 FR 18122) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 1-70 for testing the flammability of wool flokati carpets and rugs. This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any wool flokati carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH IN HOME MACHINE OR DRY CLEAN—AVOID RUBBING OR BRUSHING WHILE DAMP.

This Flokati carpet or rug has been treated with a flame retardant. To maintain this flame retardant and to keep the carpet attractive and clean, use the following methods.

1. Vacuum (using suction head without rotating brush) or shake the rug (depending upon size) to remove loose dirt.

2. Home laundering: Place in bath tub or other suitable receptacle in solution of home detergent and lukewarm water (approximately 105° F.). Immerse face down and gently knead back of rug to remove soil. Rinse in lukewarm water (approximately 105° F.) until detergent is removed. Rug may then be rinsed again in cool water to improve appearance of face if desired. Line dry. Shake while damp to restore surface and fluff up fibers.

3. Spot cleaning: Remove greasy stains with a household grease remover. Remove soluble stains with lukewarm water (approximately 105° F.) and detergent by immersing spot in a pan and kneading the back of rug. Rinse thoroughly in lukewarm water. Line or floor dry. Shake while damp to restore surface and fluff up fibers.

4. Commercial cleaning: Use Roll-A-Jet equipment (or equivalent) with water not exceeding 105° F. Avoid use of excessive pressure or reciprocating brushes. Drying temperatures should not exceed 200° F.

(d) The alternative procedure is as follows:

(1) Cut test specimens to an oversize of 12'' x 12'' before the procedure is initiated.

(2) Vacuum specimens or shake vigorously to remove any loose fibers, dust or possible accumulated debris.

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2'' with a wash solution of 1½ grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 124-1967 (or equivalent) per liter of water preheated to 105° F. Knead the back of the specimen with hand for 1 minute. Water level and temperature should be maintained for each specimen.

(4) Thoroughly rinse specimen face down with warm water at 105° F. for 1 minute under a faucet with strong pressure.

(5) Remove excess liquor by use of a wringer, hydroextractor or gentle hand squeezing and dry in circulating air oven at 200° F. until dry.

(6) Repeat the above procedure 10 times using fresh detergent and fresh water for each set of eight specimens.

(7) Subject the dry specimens to the test procedures in FF 1-70.

(e) This washing procedure and labeling provisions are subject to revocation should it be determined that such procedure is inadequate to fully protect the public.

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

(a)(1) The Standard for the Surface Flammability of Carpets and Rugs (FF 1-70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(2) Section 1630.5 of the Standard provides that if a carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T."

(b) On April 10, 1972, the Federal Trade Commission, which then had responsibility for enforcement of the Flammable Fabrics Act, announced that the use of alumina trihydrate in adhesives, foams, or latexes in carpet backings or elsewhere in the backings will be considered as a fire-retardant treatment. Therefore, the provisions of §§ 1630.4(b)(1)(ii) and 1630.5 of the Standard apply to carpets with alumina trihydrate in the backings. This interpretation continues in effect.

(c) On May 19, 1972, the Federal Trade Commission published a notice in the FEDERAL REGISTER (37 FR 10104) temporarily suspending the washing requirements under FF 1-70 for carpets and rugs containing alumina trihydrate in the backing. This temporary suspension was extended a number of times. On March 28, 1973 the Federal Trade Commission proposed in the FEDERAL REGISTER (38 FR 8101) an alternative laundering procedure for such carpets and rugs and gave notice that the suspension of the laundering requirement was extended until the completion of the proceeding to establish an alternative laundering procedure. The suspension continues in effect.

PART 1631—STANDARD FOR THE SURFACE FLAMMABILITY OF SMALL CARPETS AND RUGS; (FF 2-70)

Subpart A—The Standard

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

EFFECTIVE DATE: This standard became effective December 29, 1971. It was originally published as a notice on December 29, 1970 (35 FR 19702).

§ 1631.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under that act for setting standards (Part 1607 of this chapter), the following definitions apply for the purposes of this Standard:

(a) "Acceptance Criterion" means that at least seven out of eight individual specimens of a small carpet or rug shall meet the test criterion as defined in this Standard.

(b) "Test Criterion" means the basis for judging whether or not a single specimen of small carpet or rug has passed the test, i.e., the charred portion of a tested specimen shall not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) "Small Carpet" means any type of finished product made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used as a floor covering which is exposed to traffic in homes, offices, or other places of assembly or accommodation, and which may or may not be fastened to the floor by mechanical means such as nails, tacks, barbs, staples, adhesives, and which has no dimension greater than 1.83 m. (6 ft.) and an area not greater than 2.23 m.² (24 sq. ft.). Products such as "Carpet Squares" with dimensions smaller than these but intended to be assembled upon installation, into assemblies which may have dimensions greater than these, are excluded from this definition. They are, however, included in the Standard for the surface flammability of carpets and rugs (FF 1-70) (Subpart A of Part 1630 of this Chapter). Mats, hides with natural or synthetic fibers, and other similar products are included in this definition if they are within the defined dimensions, but resilient floor coverings such as linoleum, asphalt tile and vinyl tile are not.

(d) "Small Rug" means, for the purposes of this Standard, the same as small carpet and shall be accepted as interchangeable with small carpet.

(e) "Traffic Surface" means a surface of a small carpet or rug which is intended to be walked upon.

(f) "Timed Burning Tablet" (pill) means the methenamine tablet, weighing approximately 0.149 grams (2.30 grains), sold as Product No. 1588 in Catalog No. 79, December 1, 1969, by the Eli Lilly Company of Indianapolis, Ind. 46206, or an equal tablet.

(g) "Fire - Retardant Treatment" means any process to which a small carpet or rug has been exposed which significantly decreases the flammability of that small carpet or rug and enables it to meet the acceptance criterion of this Standard.

§ 1631.2 Scope and application.

This Standard provides a test method to determine the surface flammability of small carpets and rugs when exposed to a standard small source of ignition under carefully prescribed draft-protected conditions. It is applicable to all types of small carpets and rugs used as floor covering materials regardless of their method of fabrication or whether they are made of natural or synthetic fibers or films, or combinations of, or substitutes for these.

One of a kind small carpet or rug, such as an antique, an Oriental or a hide, may be excluded from testing under this Standard pursuant to conditions established by the Consumer Product Safety Commission.

§ 1631.3 General requirements.

(a) *Summary of test method.* This method involves the exposure of each of eight conditioned, replicate specimens of a small carpet or rug to a standard igniting source in a draft-protected environment and measurement of the proximity of the charred portion to the edge of the hole in the prescribed flattening frame.

(b) *Test criterion.* A specimen passes the test if the charred portion does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) *Acceptance criterion.* At least seven of the eight specimens shall meet the test criterion in order to conform with this Standard.

§ 1631.4 Test procedure.

(a) *Apparatus*—(1) *Test chamber.* The test chamber shall consist of an open top hollow cube made of noncombustible material[1] with inside dimensions 30.48 x 30.48 x 30.48 cm. (12 x 12 x 12 in.) and a minimum of 6.35 mm. (¼ in.) wall thickness. The flat bottom of the box shall be made of the same material as the sides and shall be easily removable. The sides shall be fastened together with screws or brackets and taped to prevent air leakage into the box during use.

NOTE: A minimum of two chambers and two extra bottoms is suggested for efficient operation.

(2) *Flattening frame.* A steel plate, 22.86 x 22.86 cm. (9 x 9 in.) 6.35 mm. (¼ in.) thick with a 20.32 cm. (8 in.) diameter hole in its center is required to hold the specimen flat during the course of the test. It is recommended that one be provided for each test chamber.

(3) *Standard igniting source.* No. 1588 methenamine timed burning tablet or an equal tablet. These tablets shall be stored in a desiccator over a desiccant for 24 hours prior to use. (Small quantities of absorbed water may cause the tablets to fracture when first ignited. If a major fracture occurs, any results from that test shall be ignored, and it shall be repeated.)

(4) *Test specimens.* Each test specimen shall be a 22.86 x 22.86 cm. (9 x 9 in.) section of the small carpet or rug to be tested. Eight specimens are required.

(5) *Circulating air oven.* A forced circulation drying oven capable of removing the moisture from the specimens when maintained at 105° C. (221° F.) for 2 hours.[2]

(6) *Desiccating cabinet.* An airtight and mosture tight cabinet capable of holding the floor covering specimens horizontally without contacting each other during the cooling period following drying, and containing silica gel desiccant.

(7) *Gloves.* Nonhygroscopic gloves (such as rubber or polyethylene) for handling the sample after drying and raising the pile on specimens prior to testing.

(8) *Hood.* A hood capable of being closed and having its draft turned off during each test and capable of rapidly removing the products of combustion following each test. The front or sides of the hood should be transparent to permit observation of the tests in progress.

(9) *Mirror.* A small mirror mounted above each test chamber at an angle to permit observation of the specimen from outside the hood.

(10) *Vacuum cleaner.* A vacuum cleaner to remove all loose material from each specimen prior to conditioning. All surfaces of the vacuum cleaner contacting the specimen shall be flat and smooth.

(b) *Sampling*—(1) *Selection of samples.* (i) Select a sample of the material representative of the lot and large enough to permit cutting eight test specimens 22.86 x 22.86 cm. (9 x 9 in.) free from creases, fold marks, delaminations or other distortions. The representative sample of material may require the use of more than one small carpet or rug. The test specimens should contain the most flammable parts of the traffic surface at their centers. The most flammable area may be determined on the basis of experience or through pretesting.

(ii) If the small carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or oversized specimens thereof shall be washed, prior to cutting of test specimens, either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists [washing procedure 6.2 (III) with a water temperature of 60±2.8° C (140±5° F.), drying procedure 6.3.2(B), maximum load 3.64 kg (8 pounds)],[3] or such number of times under such other washing and drying procedures as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively, the selected sample or oversized specimens thereof may be washed, drycleaned, or shampooed 10 times, prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of small carpet or rug in service.

(2) *Cutting.* Cut eight 22.86±0.64 cm. 9±¼ in.) square specimens of each small carpet or rug to be tested to comply with paragraph (b)(1) of this section.

(c) *Conditioning.* (1) Clean each specimen with the vacuum cleaner until it is free of all loose ends left during the manufacturing process and from any material that may have been worked into the pile during handling.[4] Care must be exercised to avoid "fuzzing" of the pile yarn.

(2) Place the specimens in a drying oven in a manner that will permit free circulation of the air at 105° C. (221° F.) around them for 2 hours.[5] Remove the

[1] 6.35 mm. (¼ in.) cement asbestos board is a suitable material.

[2] Option 1 of ASTM D 2654-67T, "Methods of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven. ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.)

[3] Technical Manual of the American Association of Textile Chemists and Colorists, vol. 45, 1969, published by AATCC, Post Office Box 12215, Research Triangle Park, NC 27709.

[4] The vacuum cleaning described is not intended to simulate the effects of repeated vacuum cleaning in service.

[5] If the specimens are moist when received, permit them to air-dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776-67, "Conditioning Textiles and Textile Products for Testing." ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

specimens from the oven with gloved hands and place them horizontally in the desiccator with traffic surface up and free from contact with each other until cooled to room temperature, but in no instance less than 1 hour.

(d) *Testing.* (1) Place the test chamber in the draft-protected environment (hood with draft off) with its bottom in place. Wearing gloves, remove a test specimen from the desiccator and brush its traffic surface with a gloved hand in such a manner as to raise its pile. Place the specimen on the center of the floor of the test chamber, traffic surface up, exercising care that the specimen is horizontal and flat. Place the flattening frame on the specimen and position a methenamine tablet on one of its flat sides in the center of the 20.32 cm. (8 in.) hole.

(2) Ignite the tablet by touching a lighted match or an equivalent igniting source carefully to its top. If more than 2 minutes elapse between the removal of the specimen from the desiccator and the ignition of the tablet, the conditioning must be repeated.

(3) Continue each test until one of the following conditions occurs:

(i) The last vestige of flame or glow disappears. (This is frequently accompanied by a final puff of smoke.)

(ii) The flaming or smoldering has approached within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(4) When all combustion has ceased, ventilate the hood and measure the shortest distance between the edge of the hole in the flattening frame and the charred area. Record the distance measured for each specimen.

(5) Remove the specimen from the chamber and remove any burn residue from the floor of the chamber. Before proceeding to the next test, the floor must be cooled to normal room temperature or replaced with one that is at normal room temperature.

(e) *Report.* The number of specimens of the eight tested in which the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame shall be reported.

(f) *Interpretation of results.* If the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point for at least seven of the eight specimens, the small carpet or rug meets the acceptance criterion.

§ 1631.5 Labeling requirements.

(a) If a small carpet or rug does not meet the acceptance criterion, it shall, prior to its introduction into commerce, be permanently labeled, pursuant to rules and regulations established by the Consumer Product Safety Commission with the following statement: FLAMMABLE (FAILS U.S. DEPARTMENT OF COMMERCE STANDARD FF 2-70): SHOULD NOT BE USED NEAR SOURCES OF IGNITION.

(b) If a small carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570; 15 U.S.C. 1194, unless otherwise noted.

§ 1631.31 Reasonable and representative tests and recordkeeping requirements.

EXPLANATION: Section 8 of the Act, among other things, provides that no person shall be subject to criminal prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product, fabric, or related material guaranteed was manufactured, or from whom it was received, to the effect that reasonable and representative tests made in accordance with applicable flammability standards show that the product, fabric, or related material covered by the guaranty conforms with such standards.

[While a person establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, and/or the merchandise involved, would nevertheless remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act as well as injunction and condemnation procedures under section 6 thereof. A guarantor derives no immunity of any kind, civil or criminal, from the issuance of his own guaranty or performance of the reasonable and representative tests prescribed by this section.

[The furnishing of guaranties is not mandatory under the act. The purpose of this section is to establish minimum requirements for reasonable and representative tests upon which guaranties may be based. The section does not have any legal effect beyond that specified in section 8 of the act.]

(a) For the purposes of this section the following definitions apply:

(1) "Standard" means the Standard in Subpart A of this Part.

(2) "Test" means a test as prescribed by the Standard.

(3) "Acceptance criterion" means "acceptance criterion" as defined in the Standard.

(4) "Test criterion" means "test criterion" as defined in the Standard.

(5) "Carpet" and "rug" mean "carpet" and "rug" as defined in the Standard.

(6) "Quality of machine-made carpets or rugs" means any line of carpets or rugs, essentially machine-made, which are substantially alike in all respects, including, as applicable, constructional units (needles, pitch, rows, shot, stitches, and weight), dye class, dyestuff, dyeing application method, gage, pile levels, pile height, average pile thickness, pile weight, pile yarn, total thickness, total weight, tufts, tuft length, tuft bind, warp yarn, filler yarn, yarn ends per needle, loop length, backing, back coating, primary backing, secondary backing, backing thickness, backing fabric count, backing warp and filler yarns, including stuffer and dead frame yarns, backing weight, fiber and/or other materials content, and fire retardant treatment received including the specifications and quantity of chemicals used.

(7) "Quality of handmade or hide carpets or rugs" means any line of carpets or rugs which are essentially handmade and/or are essentially hides and which are alike in all respects, including those specified in paragraph (a)(6) of this section, where applicable, except that such carpets or rugs may vary where unavoidable and/or may vary because of natural variations in hides of the same type, so long as such variations do not affect flammability.

(b) The tests set forth in paragraphs (c), (d), (e), and (f) of this section are reasonable and representative tests with regard to any carpets or rugs or qualities thereof to which they apply, except, however, that any test of any quality, whenever performed, which does not show a meeting of the acceptance criterion of the Standard shall be considered the reasonable and representative test for that quality and no guaranty with respect thereto shall be issued after the performance of such test. Immediately before conditioning and testing, each carpet or rug specimen tested pursuant to this section shall be in the form in which the carpet or rug or quality thereof which it represents is sold or offered for sale to the ultimate consumer.

(c) Reasonable and representative tests with respect to any quality of machine-made carpets or rugs are (1) at least one test performed upon commencement of production, importation, or other receipt thereof, (2) at least one test performed after production, importation, or other receipt of the first 25,000 linear yards of the quality, and (3) at least one test after production, importation, or other receipt of every 50,000 linear yards of the quality thereafter. Except, however, that tests need be performed only after production, importation, or receipt of each additional 100,000 linear yards of the quality, so long as all 24 specimens required to be tested in a complete series of three required tests immediately preceding any given test (eight out of eight specimens in each of the three preceding tests) meet the test criterion, rather than seven out of eight specimens, as permitted under the acceptance criterion of the Standard.

(d) Reasonable and representative tests with respect to any quality of handmade or hide carpets or rugs are at least one test performed upon the commencement of production, importation, or other receipt thereof and at least one test after production, importation, or other receipt of every 10,000 square yards of the quality thereafter.

(e) Reasonable and representative tests of a one-of-a-kind carpet or rug, machine made, handmade, or hide, is one test thereof or one test of an identical representative sample.

(f) Guaranties for carpets or rugs in inventory upon the effective date of the Standard may be issued in the same manner as other guaranties are issued. Reasonable and representative tests with respect to qualities or such carpets or rugs are at least one test performed upon approximately the first linear yard and one test thereafter for each 25,000 linear yards of a quality of machine-made carpets or rugs and at least one test performed upon approximately the first square yard and thereafter for each 10,000 square yards of a category of hand-made or hide carpets or rugs, in the order of the production, importation, or receipt by the guarantor of that quality.

(g) Any person issuing a guaranty for one or more carpets or rugs or qualities thereof based on reasonable and representative tests, shall maintain the following records for a period of 3 years from the date the tests were performed, or in the case of paragraph (h) of this section, the date the guaranties were furnished. These records must be maintained in the United States by a person subject to section 3 of the act:

(1) All identifying numbers, symbols, etc., manufacturing specifications including all other information described in paragraph (a)(6) of this section, as applicable, and source of products or raw materials used therein.

(2) A physical sample of each carpet or rug or quality thereof covered by the guaranty at least 6 inches by 6 inches in size (36 square inches).

(3) The original or a copy of the report of each test performed for purposes of the guaranty (whether or not such report shows a meeting of the acceptance criterion) which shall disclose the date of the test, the results, and sufficient information to clearly identify the carpet or rug tested.

(4) A record applicable to each test in paragraph (g)(3) of this section showing the approximate yardage at which it was performed. Records otherwise required to be maintained in linear yards may be maintained in square yards on the basis of 4 square yards equals 1 linear yard.

(h) Persons furnishing guaranties based on guaranties received by them shall maintain records showing the guaranty received and identification of the carpet or rug or quality thereof guaranteed in turn by them.

(i) Any person furnishing a carpet or rug guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. section 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

EFFECTIVE DATE: This section became effective July 20, 1971.

§ 1631.32 Reasonable and representative tests and recordkeeping requirements—additional requirements.

(a) Persons issuing guaranties under section 8(a) of the act for small carpets and rugs subject to FF 2-70 shall be subject to all of the requirements of § 1631.31 except as provided in paragraph (b) of this section.

(b) In lieu of performing tests and maintaining records on the basis of linear yards or square yards as provided in § 1631.31 persons furnishing warranties for small carpets and rugs subject to FF 2-70 shall perform tests and maintain records on the basis of units of carpets or rugs, with "unit" being defined as a single carpet or rug, or on the basis of square yards. At least one test shall be performed upon commencement of production, importation, or other receipt of such small carpet or rug and every 25,000 units or square yards thereafter.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. section 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

EFFECTIVE DATE: This section became effective January 22, 1973.

§ 1631.33 Carpets and rugs with fire-retardant treatment.

(a) For the purposes of this section the following definitions apply:

(1) "Small carpet" and "small rug" means "small carpet" and "small rug" as defined in § 1631.1(c).

(2) "Fire-retardant treatment" means "fire-retardant treatment" as defined in the Standard in Subpart A of this Part.

(b) If a carpet or rug or small carpet or rug is manufactured, imported, or otherwise marketed or handled which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, the letter "T" shall be set forth legibly anu conspicuously, and shall appear at all times, on each label and/or invoice relating thereto pursuant to the requirements of the Textile Fiber Products Indentification Act, 15 U.S.C. section 70, et seq., and the rules and regulations thereunder, whether or not such letter "T" appears elsewhere on said product. Samples, pieces, rolls, or squares used to promote or effect the sale of such carpet or rug are subject to the aforementioned requirements. As provided in the applicable portions of the aforesaid Act and the rules and regulations thereunder, where a carpet or rug or a small carpet or rug which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, is sold to an ultimate consumer and was either custom made or commercially installed for such consumer, the labeling required by this section shall not apply with respect to the carpet or rug if an invoice or other paper relating thereto, containing the letter "T", legibly and conspicuously written, is delivered to the consumer in due course of business.

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

EFFECTIVE DATE: This section became effective January 22, 1973.

§ 1631.34 Small carpets and rugs not meeting acceptance criterion.

(a) If any small carpet or rug as defined in the Standard for the Surface Flammability of Small Carpets and Rugs (pill test) FF 2-70, is manufactured, imported, or otherwise marketed or handled and does not meet the acceptance criterion of such standard, it shall, prior to its introduction into commerce, be legibly and conspicuously labeled with a permanent label which sets forth the following statement:

"FLAMMABLE (FAILS U.S. DEPARTMENT OF COMMERCE STANDARD FF 2-70): SHOULD NOT BE USED NEAR SOURCES OF IGNITION."

The required cautionary statement may be set out on or affixed to the small carpet or rug on the same label as the fiber content label required to be affixed under the Textile Fiber Products Identification Act, if said label is permanent, or said statement shall be set forth on a separate permanent label on or affixed to the small carpet or rug in immediate proximity to the said required label under the Textile Fiber Products Identification Act. A label on the front of a small carpet or rug shall be considered to be in immediate proximity to a label on the back, provided they are directly opposite each other and are in immediate proximity to the edge of the small carpet or rug.

(b) Such cautionary statements shall also appear in a conspicuous manner in all advertisements in which said small carpets or rugs are being offered for sale through direct mail, telephone solicitation, or under any other circumstances where the consumer, in the ordinary course of dealing, will not have an opportunity to inspect the label before receiving the merchandise. The phrase "Flammable—Read The Label" shall conspicuously appear in all other advertisements of small carpets or rugs which do not meet the acceptance criterion of the standard.

(c) The information required by this section shall be set forth separately from any other information, representations, or disclosures appearing on the same label or elsewhere on the small carpet or rug, and any such other information, representations, or disclosures shall in no way interfere with, minimize, detract from, or conflict with the information required by this section.

(d) Samples, swatches, or specimens used to promote or effect the sale of small carpets or rugs shall be labeled with the information required by this section, in addition to the label required to be affixed to the small carpets or rugs.

(e) Where small carpets or rugs are marketed at retail in packages, and the labeling information required by this section is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section.

(f) No person, other than the ultimate consumer, shall remove, mutilate, or cause or participate in the removal or mutilation of any affixed labeling information required by this section.

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

Subpart C—Washing Procedures

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

§ 1631.61 Hide carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70) at § 1631.4(b) (1) (ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On February 10, 1972 (37 FR 3010) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 2-70 for testing the flammability of shearling and hide rugs that (1) consist of natural wool or hair attached to the hide with no synthetic fibers and (2) have been treated with a fire-retardant finish. The notice of approval was corrected on March 17, 1972 (37 FR 5676). This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any hide carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH OR DRY CLEAN

This rug has been treated with a flame retardant. To keep rug attractive and clean use the following methods:

To eliminate loose dirt or dust, vacuum or shake pelt outdoors.

For spot cleaning, use water dampened cloth and rub lightly in one direction.

DO NOT USE DETERGENTS OR OTHER STAIN REMOVERS

(d) The alternative procedure is as follows: The test specimens shall be cut to size 9" x 9" before the procedure is initiated.

(1) Shake specimen vigorously to remove any loose fibers, dust and possible accumulated debris.

(2) Place specimen on a solid flat surface and anchor or hold firmly while conducting the test.

(3) Select an operating applicator consisting of a rod at least 2" in diameter and 9" long composed of nonabsorbent material such as glass or plastic.

(4) Select sufficient cloth to form at least five layers when wrapped around the operating applicator. The cloth shall be of the type known as "Crockmeter Test Cloth" as specified in Note 8.3 of AATCC Test Method 8-1969.

(5) Immerse cloth in water (100° F.) until thoroughly wetted.

(6) Manually wring out the cloth to remove all excess water and wrap around the operating applicator.

(7) Immediately, with light pressure, stroke entire surface of specimen with the wrapped operating applicator in one direction only along the natural "lay" of the hair structure for ten complete strokes.

(8) Place test specimen in a circulating drying oven maintained at 212° F. until dry.

(9) Repeat the above procedure 10 times using a fresh or clean cloth each time.

(10) After 10 successive cycles of washing and drying the dried specimens shall be subjected to the testing procedures (pill test) as outlined in FF 2-70.

(e) This washing procedure and labeling provision are subject to revision or revocation should it be determined that such procedure is inadequate to fully protect the public

§ 1631.62 Wool flokati carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70 at § 1631.4(b) (1) (ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On September 7, 1972 (37 FR 18122) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 2-70 for testing the flammability of wool flokati carpets and rugs. This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any wool flokati carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH IN HOME MACHINE OR DRY CLEAN—AVOID RUBBING OR BRUSHING WHILE DAMP

This Flokati carpet or rug has been treated with a flame retardant. To maintain this flame retardant and to keep the carpet attractive and clean, use the following methods.

1. Vacuum (using suction head without rotating brush) or shake the rug (depending upon size) to remove loose dirt.

2. Home laundering: Place in bath tub or other suitable receptacle in solution of home detergent and lukewarm water (approximately 105° F.). Immerse face down and gently knead back of rug to remove soil. Rinse in lukewarm water (approximately 105° F.) until detergent is removed. Rug may then be rinsed again in cool water to improve appearance of face if desired. Line dry. Shake while damp to restore surface and fluff up fibers.

3. Spot cleaning: Remove greasy stains with a household grease remover. Remove soluble stains with lukewarm water (approximately 105° F.) and detergent by immersing spot in a pan and kneading the back of rug. Rinse thoroughly in lukewarm water. Line or floor dry. Shake while damp to restore surface and fluff up fibers.

4. Commercial cleaning: Use Roll-A-Jet equipment (or equivalent) with water not exceeding 105° F. Avoid use of excessive pressure or reciprocating brushes. Drying temperatures should not exceed 200° F.

(d) The alternative procedure is as follows:

(1) Cut test specimens to an oversize 12" x 12" before the procedure is initiated.

(2) Vacuum specimens or shake vigorously to remove any loose fibers, dust or possible accumulated debris.

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2" with a wash solution of 1½ grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 12—1967 (or equivalent) per liter of water preheated to 105° F. Knead the back of the specimen with hand for 1 minute. Water level and temperature should be maintained for each specimen.

(4) Thoroughly rinse specimen face down with warm water at 105° F. for 1 minute under a faucet with strong pressure.

(5) Remove excess liquor by use of a wringer, hydroextractor or gentle hand squeezing and dry in circulating air oven at 200° F. until dry.

(6) Repeat the above procedure 10 times using fresh detergent and fresh water for each set of eight specimens.

(7) Subject the dry specimens to the test procedures in FF 2-70.

(e) This washing procedure and labeling provisions are subject to revocation should it be determined that such procedure is inadequate to fully protect the public.

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES (AND MATTRESS PADS) (FF4–72)

AUTHORITY: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193, unless otherwise noted.

Subpart A—The Standard

EFFECTIVE DATE: This standard became effective June 22, 1973. It was originally published as a notice on June 8, 1973 (38 FR 15095).

§ 1632.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191) and the procedures under that act for setting standards (16 CFR Part 1607), the following definitions apply for the purpose of this standard.

(a) "Mattress" means a ticking filled with a resilient material used alone or in combination with other products and intended or promoted for sleeping upon. This definition includes, but is not limited to, mattress pads, adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, convertible sofa bed mattresses, corner group mattresses, daybed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses. This definition excludes sleeping bags, pillows, mattress foundations such as box springs, liquid and gaseous filled tickings such as water beds and air mattresses, upholstered furniture such as chaise lounges, drop-arm love seats, press-back lounges, push-back sofas, sleep lounges, sofa beds (including jackknife sofa beds), sofa lounges (including glide-outs), studio couches, and studio divans (including twin studio divans and studio beds), and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads. See § 1632.6, Glossary of terms, for definition of the above.

(b) "Ticking" means the outermost layer of fabric or related material that encloses the mattress core and upholstery materials.

(c) "Core" means the main support system that may be present in a mattress, such as springs, foam, or hair block.

(d) "Upholstery material" means all material, either loose or attached, between the ticking or between the ticking and the core of the mattress, if a core is present.

(e) "Tape edge" (edge) means the seam or border edge of a mattress.

(f) "Quilted" means stitched through the ticking and one or more layers of upholstery material.

(g) "Tufted" means buttoned or laced through the ticking and upholstery material and/or core.

(h) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress size. If it has been shown as a result of prototype qualification testing that a material has not influenced the ignition resistance of the mattress prototype, substitution of another material for such material shall not be deemed a difference in materials for purposes of prototype definition. If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a dimensional or other change in that material shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such dimensional or other change will not reduce the ignition resistance of the mattress prototype.

(i) "Mattress type" means mattresses sharing a method of assembly, such as tufted, multineedle continuous quilt, deep panel quilt, and smooth top, and all materials affecting cigarette ignition, but excluding differences in mattress size. More than one mattress prototype may be included in a single mattress type, provided each prototype has the same method of assembly.

(j) "Production unit" (unit) means a quantity of mattresses of one mattress type. This quantity is predetermined by the mattress manufacturer subject to the maximum number specified in the applicable parts of § 1632.4(b) *Specimen and Sampling*. No mattress completed while other mattresses of the same type are in production shall be excluded from the production unit to which such other mattresses are assigned.

(k) "Surface" means one side of a mattress which is intended for sleeping upon and which can be tested.

§ 1632.2 Scope and application.

(a) This standard provides a test method to determine the ignition resistance of a mattress when exposed to a lighted cigarette.

(b) All mattresses, as defined in § 1632.1(a), are subject to the requirements of this standard.

(c) Mattresses which are subject to the coverage of the Motor Vehicle Safety Standard, No. 302, subject: "Flammability of Interior Materials—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses" (36 FR 290), issued by the National Highway Traffic Safety Administration, are excluded from coverage under this standard, unless also intended or promoted for uses included in § 1632.1(a).

(d) One of a kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission.

§ 1632.3 General requirements.

(a) *Summary of test method.* The method involves the exposure of the mattress surface to lighted cigarettes as the standard igniting source in a draft-protected environment and the measurement of the ignition resistance of the mattress. These exposures include smooth, tape edge, and quilted or tufted locations, if they exist on the mattress surface. Two-sheet tests are also conducted on similar surface locations. In the latter test, the burning cigarettes are placed between the sheets.

(b) *Test criterion.* Testing the mattress surface in accordance with the testing procedure set forth in § 1632.4 *test procedure*, individual cigarette test locations pass the test if the char length on the mattress surface is not more than 5.1 cm (2 in) in any direction from the nearest point of the cigarette. In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 2 in. char length if, in his opinion, an obvious ignition has occurred.

§ 1632.4 Test procedure.

(a) *Apparatus.*—(1) *Testroom.* The testroom shall be large enough to accommodate a full-scale mattress in a horizontal position and to allow for free movement of personnel and air around the test mattress. The room shall be equipped with a support system (platform, bench, etc.) upon which a mattress may be placed flat in a horizontal position at a reasonable height for making observations. For thin, flexible mattresses and mattress pads, the top surface of the support system shall be nonmetallic. The test area shall be draft-protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing. The testroom atmospheric conditions shall be greater than 18° C (65° F) and at less than 55 percent relative humidity, except for production testing.

(2) *Ignition source.* The ignition source shall be cigarettes without filter tips made from natural tobacco, 85 ± 2 mm long with a tobacco packing density of 0.270 ± 0.020 g/cm^3 and a total weight of 1.1 ± 0.1 gm.

(3) *Fire extinguisher.* A pressurized water fire extinguisher, or other suitable fire extinguishing equipment, shall be immediately available.

(4) *Water bottle*. A water bottle fitted with a spray nozzle shall be used to extinguish the ignited portions of the mattress.

(5) *Scale*. A linear scale graduated in millimeters, 0.1 inch, or 1/16-inch divisions shall be used to measure char length.

(6) *Other apparatus*. In addition to the above, a thermometer, a relative humidity measuring instrument, a knife or scissors, and tongs are required to carry out the testing.

(b) *Specimen and sampling*.—(1) *General*. The test criterion of section 1632.3(b) shall be used in conjunction with the following mattress sampling plan, or any other approved by the Consumer Product Safety Commission that provides at least the equivalent level of fire safety to the consumer (see Subpart B of this Part). Alternate sampling plans submitted for approval shall have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. If such alternate sampling plan involves testing of components of mattresses or materials used in mattresses, its submittal shall be supported by clear evidence of the necessary correlation of the results of such testing with those results from testing as prescribed hereunder.

(2) *Mattress sampling*. The basic mattress sampling plan is made up of two parts: (1) Prototype qualification and (2) production testing. In addition, a batch sampling plan is given which may be used for small production quantities, when shipping requirements prohibit the use of the basic plan, or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan*. A production unit in the basic sampling plan shall consist of not more than 500 mattresses of a mattress type or the quantity produced in 3 consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 3 consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the unit came from a single manufacturing lot of such material or 50 consecutive production units, at least 20,000 mattresses, have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B).

(A) *Prototype qualification*. (*1*) For prototype qualification, the term "manufacturer" shall mean (*a*) with respect to a company having one manufacturing facility, that company; (*b*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects, or (*c*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*a*) or (*b*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer", such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of the preceding paragraph or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*5*) Each mattress protoype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing*. For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (e.g., "twin") for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling*. From each unit, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses to provide four additional surfaces for test. Test each of the four additional surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on the four additional surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the individual cigarette test locations on the four additional surfaces fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(*2*) *Reduced sampling*. (*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan. In this case, the production quantity for reduced sampling may be increased to up to two units, still not to exceed the production of 3 consecutive calendar months.

(*ii*) From this production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept this production quantity. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject this production quantity. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept this production quantity.

(*iii*) Rejection shall include all mattresses in the production quantity under test. Rejection also results in the loss of prototype qualification for all prototypes included in the production quantity under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(ii) *Batch sampling plan*. (A) *General* (*1*) For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility.

(2) A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(B) *Batch unit qualification and acceptance* (*1*) Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit.

(*2*) After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification or unit acceptance of any other production unit.

(3) *Disposition of rejected units*. Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in § 1632.1(a) except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in § 1632.4(b) (2) (i) *Basic Sampling Plan*.

(4) *Records*. Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with rules and regulations established by the Consumer Product Safety Commission.

(5) *Preparation of mattress samples*. The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection*. The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 170–200 threads per square inch and fabric weight of 115 ± 14 gm/m^2 (3.4 ± 0.4 oz/yd^2), or of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation*. The sheets shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes*. Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans*. Sampling plans for use in market testing of items covered by this standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such plans will, in fact, fail this standard. Production units found to be noncomplying under these provisions shall be deemed not to conform to this standard. The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their enactment.

(10) *Postponement of production testing*. Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by CPSC, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress which meets all other requirements of the standard.

(c) *Conditioning*.—(1) *Prototype and batch*. The mattresses, washed sheets, and cigarettes shall be conditioned in air at a temperature greater than 18° C (65° F) and a relative humidity less than 55 percent for at least 48 hours prior to test. The mattresses, washed sheets, and cigarettes shall be removed from any packaging and supported in a suitable manner to permit free movement of air around them during conditioning. The mattress meets this conditioning requirement if the mattress and/or all its component materials, except the metallic core, have been exposed only to the above temperature and humidity conditions for at least 48 hours prior to testing the mattress.

(2) *Production*. Mattresses to be tested according to § 1632.4(b) (2) (i) (B) *Production testing* shall be exempt from conditioning as specified in § 1632.4(c) (1). However, the mattresses shall not be exposed to any environmental conditions which promote resistance to cigarette ignition. Sheets and cigarettes in their normally used condition (dry) shall be used.

(d) *Testing*.—(1) *General*. Mattress specimens selected for testing in prototype and batch sampling shall be tested in a testroom with atmospheric conditions of a temperature greater than 18° C (65° F) and a relative humidity less than 55 percent. If the test is not performed in the conditioning room, the mattress shall be tested within 1 hour after removal from the conditioning room.

(i) Light and place one cigarette at a time on the mattress surface. (If previous experience with the same type of mattress has indicated that ignition is not likely, the number of cigarettes which may be lighted and placed on the mattress at one time is left to the test operator's judgment. The number of cigarettes must be carefully considered because a smoldering or burning mattress is extremely hazardous and difficult to extinguish.) If more than one cigarette is burning at one time, the cigarettes must be positioned no less than 6 inches apart on the mattress surface. Each cigarette used as an ignition source shall be well lighted but not burned more than 4 mm (0.16 in) when placed on the mattress. (Fire extinguishing equipment must be readily available at all times.)

(ii) If a cigarette extinguishes before burning its full length, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location on the mattress surface until either (a) the number of cigarettes specified in § 1632.4(d) (1) (iii) have burned their full lengths, (b) the number of cigarettes specified has extinguished before burning their full lengths, or (c) the number of cigarettes specified have resulted in failures according to § 1632.3 (b) *Test criterion*.

(iii) At least 18 cigarettes shall be burned on each mattress test surface, 9 in the bare mattress tests and 9 in the 2-sheet tests. If three or more mattress surface locations (smooth surface, tape edge, quilted, or tufted areas) exists in the particular mattress surface under test, three cigarettes shall be burned on each different surface location. If only two mattress surface locations exist in the particular mattress surface under test (tape edge and smooth surface), four cigarettes shall be burned on the smooth surface and five cigarettes shall be burned on the tape edge.

(2) *Bare mattress tests*.—(i) *Smooth surfaces*. Each burning cigarette shall be placed directly on a smooth surface location on the test surface on the half reserved for bare mattress tests. The cigarettes should burn their full lengths on a smooth surface without burning across a tuft or stitching of a quilted area. However, if this is not possible because of mattress design, then the cigarettes shall be positioned on the mattress in a manner which will allow as much of the butt ends as possible to burn on smooth surfaces. Report results for each cigarette as pass or fail as defined in the test criterion.

CAUTION: Even under the most carefully observed conditions, smoldering combustion can progress to the point where it cannot be readily extinguished. It is imperative that a test be discontinued as soon as ignition has definitely occurred. Immediately wet the exposed area with a water spray (from water bottle), cut around the burning material with a knife or scissors and pull the material out of the mattress with tongs. Make sure that all charred or burned material is removed. Ventilate the room.

(ii) *Tape edge*. Each burning cigarette shall be placed in the depression between the mattress top surface and the tape edge, parallel to the tape edge on the half of the test surface reserved for bare mattress tests. If there is no depression at the edge, support the cigarettes in place along the edge and parallel to the edge with straight pins. Three straight pins may be inserted through the edge at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(iii) *Quilted location*. If quilting exists on the test surface, each burning cigarette shall be placed on quilted locations of the test surface. The cigarettes shall be positioned directly over the thread in the depression created by the quilting process on the half of the test surface reserved for bare mattress tests. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted location*. If tufting exists on the test surface, each burning cigarette shall be placed on tufted locations of the test surface. The cigarettes shall be positioned so that they burn down into the depression caused by the tufts and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts on the half of the test surface reserved for bare mattress tests. Report results for each cigarette as pass or fail as defined in the test criterion.

(3) *Two-sheet tests*. Spread a section of sheet smoothly over the mattress surface and tuck under the mattress on the second half of the test surface, which has been reserved for the two-sheet test. Care must be taken that hems or any other portion of the sheet which is more than one fabric thickness, is neither directly under nor directly over the test cigarette in the two-sheet test.

(i) *Smooth surfaces*. Each burning cigarette shall be placed directly on the sheet covered mattress in a smooth surface location as defined in the bare mattress test. Immediately cover the first sheet and the burning cigarettes loosely with a second, or top sheet (see fig. 2). Do not raise or lift the top sheet during testing unless obvious ignition has occurred or until the cigarette has burned out. (The extinguishment of the cigarette may be determined by holding the hand near the surface of the top sheet over the test location. If neither heat is felt nor smoke observed, the cigarette has burned out.) If ignition occurs, immediately remove the sheets and cigarette and follow the cautionary procedures outlined in the bare mattress test. Report results for each cigarette as pass or fail as defined in the test criterion.

(ii) *Tape edge*. (A) Each burning cigarette shall be placed in the depression between the top surface and the tape edge on top of the sheet, and immediately covered with a second sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument.

(B) In most cases, the cigarettes will remain in place throughout the test; however, if the cigarettes show a marked tendency to roll off the tape edge location, they may be supported with straight pins. Three straight pins may be inserted through the bottom sheet and tape at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(iii) *Quilted locations*. If quilting exists on the test surface, each burning cigarette shall be placed in a depression caused by quilting, directly over the thread and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted locations*. If tufting exists on the test surface, each burning cigarette shall be placed in the depression caused by tufting, directly over the tuft and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. The cigarettes shall be positioned so that they burn down into the depression caused by the tuft and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts. Report results for each cigarette as pass or fail as defined in the test criterion.

§ 1632.5 Mattress pads.

(a) *Testing*. Mattress pads shall be tested in the same manner as mattresses according to § 1632.4 *Test procedure* except for laundering.

(b) *Laundering*. (1) Mattress pads which have had a chemical fire retardant treatment or contain any chemically fire retardant treated components, shall be tested in accordance with § 1632.4 *Test procedure* in the condition in which they are intended to be sold, and after they have been washed and dried 10 times according to the procedure prescribed in method 124-1969 of the American Association of Textile Chemists and Colorists washing procedure 6.2 (III), with a water temperature of 60° ±2.8° C (140° ±5° F), and drying procedure 6.3.2(B). Maximum load shall be 3.46 kg (8 lb) and may consist of any combination of test items and dummy pieces. Alternately, 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.

(2) Such laundering is not required of mattress pads which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(3) Mattress pads which are not susceptible to being laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has previously been found acceptable by the Consumer Product Safety Commission.

(c) *Labeling*. (1) *Treatment label*. If a mattress pad has had a chemical fire retardant treatment or contains any fire retardant treated components, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

(2) *Care label*. All mattress pads which have had a chemical fire retardant treatment or contain any fire retardant treated components shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

(3) *Temporary requirement for noncomplying mattresses*. (i) Mattresses which do not comply with all the provisions of this standard and are manufactured during the 6 months following the effective date of this standard shall, prior to introduction into commerce, be prominently and conspicuously labeled with the following statement:

WARNING: This mattress does not meet the Consumer Product Safety Commission Flammability Standard for Mattresses (FF 4-72, as amended). It may be subject to ignition and hazardous smoldering from cigarettes.

(ii) Such label must be affixed to the mattress in such a manner so as to remain on or affixed thereto until its sale or delivery to the ultimate consumer. The label must be displayed on the mattress at the place of retail sale and the statement on the label must be prominently and conspicuously displayed on the invoice or other sales papers that accompany the mattress through commerce from the manufacturer to the final point of sale to a consumer.

(iii) This label must be at least 250 cm^2 (approximately 40 in^2) with no linear dimension less than 12.5 cm (approximately 5 in). The wording of such label shall appear on a contrasting background with the letters in the heading WARNING no less than 1.2 cm (approximately ½ in) in height.

§ 1632.6 Glossary of terms.

(a) *Basket pad*. Cushion for use in an infant basket.

(b) *Box spring*. A bedspring that consists of springs attached to a foundation and enclosed in a cloth covered, upholstered frame.

(c) *Bunk beds*. A tier of beds, usually two or three, in a high frame complete with mattresses (see fig. 3).

(d) *Car bed*. Portable bed used to carry a baby in an automobile.

(e) *Carriage pad*. Cushion to go into a baby carriage.

(f) *Chaise lounge*. An upholstered couch chair or a couch with a chair back. It has a permanent back rest, no arms, and sleeps one (see fig. 3).

(g) *Convertible sofa*. An upholstered sofa that converts into an adult sized bed. Mattress unfolds out and up from under the seat cushioning (see fig. 3).

(h) *Corner groups*. Two twin size bedding sets on frames, usually slipcovered, and abutted to a corner table. They also usually have loose bolsters slipcovered (see fig. 3).

(i) *Crib bumper*. Padded cushion which goes around three or four sides inside a crib to protect the baby. Can also be used in a playpen.

(j) *Daybed*. Daybed has foundation, usually supported by coil or flat springs, mounted between arms on which mattress is placed. It has permanent arms, no backrest, and sleeps one (see fig. 3).

(k) *Dressing table pad*. Pad to cushion a baby on top of a dressing table.

(l) *Drop-arm loveseat*. When side arms are in vertical position, this piece is a loveseat. The adjustable arms can be lowered to one of four positions for a chaise lounge effect or a single sleeper. The vertical back support always remains upright and stationary (see fig. 3).

(m) *High riser*. This is a frame of sofa seating height with two equal size mattresses without a backrest. The frame slides out with the lower bed and rises to form a double or two single beds (see fig. 3).

(n) *Infant carrier and lounge pad*. Pad to cushion a baby in an infant carrier.

(o) *Mattress foundation*. Consists of any surface upon which a mattress is placed to lend it support for use in sleeping upon.

(p) *Mattress pad*. A thin, flat, mat or cushion for use on top of a mattress.

(q) *Pillow*. Cloth bag filled with resilient material such as feathers, down, sponge rubber, urethane, or fiber used as the support for the head of a person.

(r) *Playpen pad*. Cushion used on the bottom of a playpen.

(s) *Portable crib*. Smaller size than a conventional crib. Can usually be converted into a playpen.

(t) *Press-back lounges*. Longer and wider than conventional sofa beds. When the lounge seat is pressed lightly, it levels off to form, with the seat, a flat sleeping surface. The seat slopes, in the sitting position, for added comfort (see fig. 3).

(u) *Push-back sofa*. When you push on the back of the sofa, it becomes a bed. Lift the back and it is a sofa again. Styled in tight or loose cushions (see fig. 3).

(v) *Roll-a-way bed*. Portable bed which has frame which folds in half with the mattress for compact storage.

(w) *Sleep lounge*. Upholstered seating section is mounted on a sturdy frame. May have bolster pillows along the wall as backrests or may have attached headrests (see fig. 3).

(x) *Stroller pad*. Cushion used in a baby stroller.

(y) *Sofa bed*. These are pieces in which the back of the sofa swings down flat with the seat to form the sleeping surface. All upholstered. Some sofa beds have bedding boxes for storage of bedding. There are two types: the one-piece, where the back and seat are upholstered as a unit, supplying an unbroken sleeping surface; and the two-piece, where back and seat are upholstered separately (see fig. 3).

(z) *Sofa lounge—(includes glide-outs)*. Upholstered seating section is mounted on springs and in a special frame that permits it to be pulled out for sleeping. Has upholstered backrest bedding box that is hinged. Glideouts are single sleepers with sloping seats and backrests. Seat pulls out from beneath back and evens up to supply level sleeping surface (see fig. 3).

(aa) *Studio couch*. Consists of upholstered seating section on upholstered foundation. Many types convert to twin beds (see fig. 3).

(bb) *Studio divan*. Twin size upholstered seating section with foundation is mounted on metal bed frame. Has no arms or backrest, and sleeps one (see fig. 3).

(cc) *Trundle bed*. A low bed which is rolled under a larger bed. In some lines, the lower bed springs up to form a double or two single beds as in a high riser (see fig. 3).

(dd) *Twin studio divan*. Frames which glide out (but not up) and use seat cushions, in addition to upholstered foundation to sleep two. Has neither arms nor back rest (see fig. 3).

MATTRESS PREPARATION

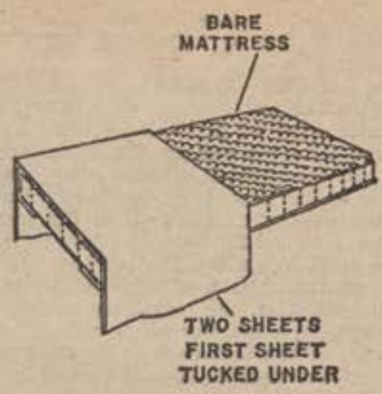

FIGURE 1

CIGARETTE LOCATION

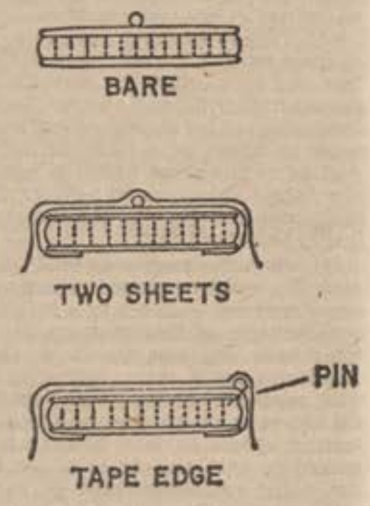

FIGURE 2

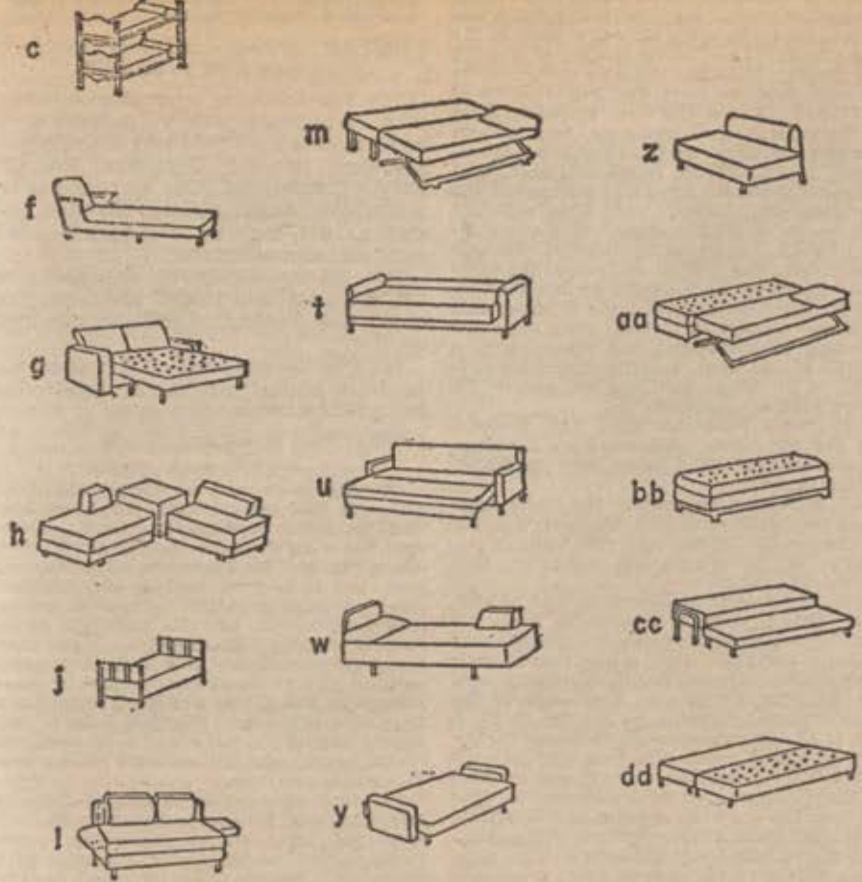

FIGURE 3

Subpart B—Alternate Sampling Plans

§ 1632.11 Alternate sampling plan No. 1, for mattresses and mattress pads, to FF 4–72.

(a) The following alternate sampling plan for mattresses and mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved, effective April 27, 1973, by the Department of Commerce which at that time had authority under the Flammable Fabrics Act to issue flammability standards. The alternate sampling plan may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.11, except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.* (i) The test criterion of § 1632.3(b) shall be used in conjunction with the following alternate mattress sampling plan.

(ii) The use of this alternate sampling plan is applicable to both mattresses and mattress pads. The plan may be used by any mattress or mattress pad manufacturer. Use of this alternate sampling plan in conjunction with any other sampling plan is permitted only if the latter is (a) an approved alternate sampling plan and (b) contains explicit provisions for such use. It is permissible to employ differing options or sampling plans with respect to differing mattress types and/or production units. However, any sampling plan employed with respect to a specific production unit shall be employed in its entirety.

(iii) For the purposes of this alternate sampling plan, "Initial Production Quantity" means a quantity of mattresses equaling or exceeding a specified fraction, k, of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.* The specified fraction, k, shall be one-thirtieth. The quantity limit shall be 450 mattresses for normal sampling and 450 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.* The specified fraction, k, shall be one-twentieth. The quantity limit shall be 550 mattresses for normal sampling and 1,050 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(C) *Option 3.* The specified fraction, k, shall be one-tenth. The quantity limit shall be 1,050 mattresses for normal sampling and 1,700 for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(D) *Option 4.* The specified fraction, k, shall be one-fifth. The quantity limit shall be 7,500 mattresses for normal sampling and 7,500 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.* The basic mattress sampling plan is made up of two parts: (1) Prototype qualification, and (2) production testing. In addition, a batch sampling plan is given which may be used for small production quantities, when shipping requirements prohibit the use of the basic plan, or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling nor more than 500 mattresses of a mattress type in reduced sampling, or the quantity produced in 1½ consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the unit and the preceding or the following unit came from a single manufacturing lot of such material or 50 consecutive production units, at least 20,000 mattresses, have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). In no event shall the unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean: (a) With respect to a company having one manufacturing facility, that company; (b) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; and (c) with respect to a company that is part of a group of companies that normally sell mattresses under a group name, either that group of companies or a portion of that group or (a) or (b) above, as that company elects.

(*2*) Select enough mattress prototypes from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) In addition, if it has been elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough mattress prototypes from its preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype from that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated, whether as a result of prototype rejection or of subsequent unit rejection, such qualification shall be conducted in accordance with the requirements applicable to manufacturers and not those applicable to one company or manufacturing facility of a manufacturer.

(5) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the manufacturer is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification, not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all matresses in the production unit are the same as the prototype except for size. No provision for production unit acceptance based on prototype qualification applies if the manufacturer is more than one manufacturing facility or company.

(B) *Production testing*. For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (e.g., "twin") for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling*. From the initial production quanity, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) *testing*. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies to the company or manufacturing facility that produced the rejected unit if it was elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, and to the manufacturer otherwise.

(*2*) *Reduced sampling*. (*i*) The level of sampling required for mattress production may be reduced provided that the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan of this alternate sampling plan or that of the standard. The production quantity for reduced sampling under this alternate sampling plan shall consist of one production unit as defined in § 1632.4(b)(2)(i) above.

(*ii*) From the initial production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If two or more individual cigarette test locations fail the test criterion of the § 1632.3(b), reject the unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses to provide two additional surfaces for test. Test each of the two additional surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the Unit. If one or more of the individual cigarette test locations on the two additional surfaces fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies to the company or manufacturing facility that produced the rejected unit if it was elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, and to the manufacturer otherwise.

(ii) *Batch sampling plan*. (A) *General*. (*1*) For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility.

(*2*) A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(B) *Batch unit qualification and acceptance*. Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit. After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection. Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification or unit acceptance of any other production unit.

(3) *Disposition of rejected units*. Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in §1632.1(a) except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in § 1632.4(b)(2)(i) *Basic sampling plan*.

(4) *Records*. Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with rules and regulations established by the Consumer Product Safety Commission.

(5) *Preparation of mattress samples*. The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection*. The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic, such as permanent press or flame resistance with 170 to 200 threads per square inch and a fabric weight of 115 ± 14 gm/m² (3.4 ± 0.4 oz/yd²). Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation*. The sheets shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes*. Unopened packages of cigarettes shall be selected for each series of tests.

§ 1632.12 Alternate sampling plan No. 2, for mattress pads, to FF 4-72.

(a) The following alternate sampling plan for mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective August 1, 1973, may be used by any mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.11, except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling*.—(1) *General*—(i) The test criterion of § 1632.3(b) shall be used in conjunction with this Alternate Sampling Plan No. 2 (ASP No. 2). The use of this ASP No. 2 is restricted to mattress pads, but it may be used by any mattress pad manufacturer. ASP No. 2 may be used in conjunction with ASP No. 4 (§ 1632.13) to FF 4-72 if desired. When ASP No. 4 is so used, the provisions of this ASP No. 2 shall apply with respect to production testing of mattress pads. Use of this ASP No. 2 in conjunction with any other sampling plan is permitted only if the latter (A) is an approved sampling plan and (B) contains explicit provisions for such use.

(ii) It is permissible to employ differing sampling plans with respect to differing mattress pad types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(iii) For purposes of this ASP No. 2, "initial production quantity" means a quantity of mattress pads equalling or exceeding one-sixtieth of the quantity anticipated to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Not withstanding the provisions of § 1632.1(j) and those of § 1632.4(b)(2)(i) *Basic sampling plan* of this ASP No. 2, mattress pads contained in an initial production quantity shall be deemed to be included in the production unit represented by that initial production quantity if (A) the initial production quantity is manufactured during the 30-day period preceding the nominal date of initiation of the production unit, (B) final assembly of mattress pads in the initial production quantity is accomplished on the machine or machines used in final assembly of mattress pads in the production unit, and (C) no mattress pads of the type contained in the production unit are produced on said machines during the period between manufacture of the initial production quantity and the nominal date of initiation of the production unit. Alternatively, mattress pads contained in an initial production quantity shall be deemed to be included in the production unit represented by that initial production quantity if the initial production quantity is manufactured during the 30-day period preceding the nominal date of initiation of the production unit and the manufacturer stipulates that all mattress pads of prototypes represented in the production unit and manufactured between the initial production quantity and the nominal date of initiation of the production unit shall be demed to be rejected if the production unit is rejected. Each prototype to be included in the production unit shall be represented in the initial production quantity.

(2) *Mattress pad sampling.* The basic mattress pad sampling plan is made up of two parts: *Prototype qualification* (§ 1632.4(b)(2)(i)(A)) and *Production testing* (§ 1632.4(b)(2)(i)(B)). In addition, a *Batch sampling plan* (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattress pads of a mattress pad type in normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) nor more than 500 mattress pads of a mattress pad type in reduced sampling (§1632.4(b)(2)(i)(B)(2)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all mattress pads in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattress pads) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B).

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(2) Each "manufacturer" shall select enough of each mattress pad prototype from preproduction or current production to provide six surfaces for test (three mattress pads if both sides can be tested or six mattress pads if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4-72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress pad prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress pad prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattress pads from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress pad prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress pad prototype for that company or manufacturing facility.

(*4*) Mattress pad prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress pad prototype to ignition by cigarettes through mattress pad design, production, or materials selection. When mattress pad prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress pad prototype qualification is repeated as a result of prototype rejection under the provisions of the preceding (*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress pad were a company having one manufacturing facility.

(*5*) Each mattress pad prototype must be accepted in prototype qualification prior to shipping any mattress pads to customers and prior to producing significant quantities of mattress pads. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattress pads were selected from the successful prototype qualification (not to exceed 500 mattress pads in either case) may be accepted and shipped to customers without further testing if all mattress pads in the production unit are the same as the prototype except for size.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattress pads of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattress pads of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* (*i*) From the initial production quantity, randomly select enough mattress pads to provide eight surfaces for test (four mattress pads if both sides can be tested or eight mattress pads if only one side can be tested). Test each of the eight surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on all surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattress pads from the initial production quantity to provide 16 addditional surfaces for test. Test each of the 16 additional surfaces according to § 1632.4(d). If all the cigarette test locations on the 16 additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the 16 additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattress pads in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress pad production acceptance may be reduced provided that the preceding 15 consecutive production units of mattress pads (at least 500 mattress pads) have all been accepted using the normal sampling plan of this ASP No. 2 (§ 1632.4(b)(2)(i)(B)(*1*)) or that of FF 4-72. The production quantity for reduced sampling under this ASP No. 2 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity, randomly select enough mattress pads to provide eight surfaces for tests. Test each of the eight surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on all surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattress pads in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test. Testing after requalification shall be according to the normal sampling plan (§ 1632.4(b)(2)(i)(B)(*1*)).

(ii) *Batch sampling plan.* For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattress pads or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.* (*1*) Select enough mattress pads from the initial production of the production unit to provide four surfaces for test (two mattress pads if both sides can be tested or four mattress pads if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(2) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress pad to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress pad design, production, or materials selection.

(3) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.* Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattress pads as defined in § 1632.1(a) of FF 4-72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.* Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress pad samples.* The mattress pad surface shall be divided laterally into two sections (see figure 1 of FF 4-72); one section for the bare mattress pad tests and the other for the two-sheet tests.

(6) *Sheet selection.* The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170-200 threads per square inch and a fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress pad being tested.

(7) *Sheet preparation.* The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufactur-

er's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.* (i) Sampling plans for use in market testing of items covered by the standard (FF 4-72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard (FF 4-72).

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4-72).

(iii) The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.* Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress pad that meets all other requirements of the standard (FF 4-72).

§ 1632.13 Alternate sampling plan No. 4, for mattress ticking, to FF 4-72.

(a) The following alternate sampling plan for mattress ticking was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective June 19, 1973 may be used by any ticking, mattress or mattress pad manufacturer or any distributor of mattress ticking.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.13 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i)(A) The mattress portion of this alternate sampling plan shall use the test criterion of § 1632.3(b).

(B) This alternate sampling plan may be used in conjunction with alternate sampling plan No. 1 (ASP No. 1) to FF 4-72 (front end) (§ 1632.11) if desired. When ASP No. 1 is used in conjunction with this alternate sampling plan, the provisions of ASP No. 1 shall apply with respect to production testing of mattresses or mattress pads. When this alternate sampling plan is used in conjunction with any other alternate sampling plan, the provisions of this plan shall apply with respect to testing of ticking, mattress prototypes deemed to be qualified by virtue of permitted ticking substitutions, and requirements for requalification by mattress prototype qualification testing procedures.

(C) It is permissible to employ differing sampling plans with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(ii) For the purpose of this alternate sampling plan, the following definitions apply in addition to those in § 1632.1 *Definitions,* of FF4-72:

(A) "Ticking prototype" means a ticking of a specific construction, color, or combination of colors and color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated fabrics, a prototype means a given method of application, chemical formula, and thickness of application of the film coating.

(B) "Ticking type" means a group of ticking prototypes identical except for color or combination of colors and color pattern, and weave pattern designs.

(C) "Ticking category" means a group of ticking types similar in method of manufacture and, if composed in whole or in part of nonfiber layers or coatings, identical in composition and nominal weight per unit of nonfiber components.

(D) "Ticking specimen" means a 38-by-38-centimeter (15-by-15-inch) section of ticking.

(E) "Ticking sample" means a total of three ticking specimens.

(F) "Ticking production unit" means any quantity of finished ticking of one ticking type up to 22,940 linear meters (25,000 linear yards).

(G) "Fabric piece" (piece) means any continuous, unseamed length of ticking, one or more of which make up a ticking production unit.

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i)(A)) and production testing (§ 1632.4(b)(2)(i)(B)). In addition, a batch sampling plan is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 500 mattresses of a mattress type or the quantity produced in 3 consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 3 consecutive calendar months or less: *Provided,* That it is either documented that each of the materials contributing ignition characteristics of all the mattresses in the unit came from a single manufacturing lot of such material or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). The documentation requirements for single ticking category shall be deemed to have been met with respect to ticking if such ticking has met the ticking prototype qualification requirements of § 1632.4(b)(9) and the ticking production testing requirements of § 1632.4(b)(10).

(A) *Prototype qualification.*—(*1*) For prototype qualification, the term "manufacturer" shall mean: (*i*) With respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each manufacturer shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested).

(*3*) Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4-72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*4*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*5*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the manufacturer, such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*4*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*6*) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification, or the production unit from which the mattresses were selected for the successful prototype qualification not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size. A mattress prototype shall be deemed to have been accepted in prototype qualification if another mattress prototype identical except for ticking prototype has been accepted in prototype qualification, both ticking prototypes are of the same ticking category, and both ticking prototypes have met the ticking prototype qualification requirements of § 1632.4(b)(9) or the inventory ticking type qualification requirements of § 1632.4(b)(12), whichever is applicable.

(B) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.*—(*i*) From each unit, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. If only one individual cigarette test locations fails the test criterion of § 1632.3(b), select enough additional mattresses to provide four additional surfaces for test. Test each of the four additional surfaces according to § 1632.4(d).

(*ii*) If all the cigarette test locations on the four additional surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the unit. If one or more of the individual cigarette test locations on the four additional surfaces fail the test criterion of § 1632.3(b), reject the unit.

(*iii*) Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification (§ 1632.4(b) (2) (i) (A)) for all mattress prototypes included in the unit under test. Requalification of mattress prototypes represented in the sample and contributing one or more cigarette test locations that failed the test criterion shall be accomplished by mattress prototype qualification testing (that is, using six surfaces for each mattress prototype).

(2) *Reduced sampling*.—(*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan (§ 1632.4(b) (2) (i) (B) (*1*)). In this case, the production quantity for reduced sampling may be increased to up to two units, still not to exceed the production of 3 consecutive calendar months.

(*ii*) From this production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept this production quantity. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject this production quantity. If only one individual cigarette location fails the test criterion of § 1632.3(b), accept this production quantity.

(*iii*) Rejection shall include all mattresses in the production quantity under test. Rejection also results in the loss of prototype qualification (§ 1632.4(b) (2) (i) (A)) for all mattress prototypes included in the production quantity under test. Requalification of mattress prototypes represented in the sample and contributing one or more cigarette test locations that failed the test criterion shall be accomplished by mattress prototype qualification testing (that is, using six surfaces for each mattress prototype). Testing after requalification shall be according to the normal sampling plan (§ 1632.4(b) (2) (i) (B) (*1*)).

(ii) *Batch sampling plan*.— For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance*.—(*1*) Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit.

(*2*) After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b) (2) (i) (A)) or unit acceptance of any other production unit.

(3) *Disposition of rejected units*.—Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in § 1632.1(a) of FF 4-72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b) (2) (i)).

(4) *Records*.—Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress samples*.—The mattress surface shall be divided laterally into two sections (see figure 1); one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection*.—The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and with 170-200 threads per square inch and fabric weight of 155±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation*.—The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes*.—Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Ticking prototype qualification*.—(i) For ticking prototype qualification, the ticking samples shall be selected from finished fabric after its last processing step as a fabric. The ticking samples are restricted to a single prototype.

(ii) Select four ticking samples from no fewer than two fabric pieces of a single-ticking production unit. (The ticking production unit may be from pilot production or ongoing production.) Test each ticking specimen according to § 1632.4(b) (14). If the char length at each cigarette test location is less than or equal to 0.5 in, accept the ticking prototype. If the char length at two or more cigarette test locations is greater than 1.0 in or if at any test location the char length is greater than 1.7 in, reject the ticking prototype. If (A) the char length at any cigarette test location is greater than 0.5 in and (B) the char length at each cigarette test location is less than or equal to 1.7 in and (C) the char length at not more than one cigarette test location is greater than 1.0 in, select four additional ticking samples from the same ticking production unit, including at least one ticking sample from each piece (§ 1632.4(b) (ii) (G)) that contained a cigarette test location with a char length exceeding 0.5 in.

(iii) Test each of the additional ticking specimens according to § 1632.4(b) (14). If the char length at each cigarette test location on all eight ticking samples is less than or equal to 1.0 in, accept the ticking prototype. If the char length at two or more cigarette test locations among all eight ticking samples is greater than 1.0 in reject the ticking prototype. If the char length at any cigarette test location among all eight ticking samples is greater than 1.7 in, reject the ticking prototype. If the char length at only one cigarette test location among all eight ticking samples is greater than 1.0 in and it is less than or equal to 1.7 in, select eight additional ticking samples from the same ticking production unit, including at least one ticking sample from each piece (§ 1632.4 (b) (ii) (G)) that contained a cigarette test location with a char length exceeding 0.5 in.

(iv) Test each of the additional ticking specimens according to § 1632.4(b) (14). If the char length at each cigarette test location on the eight additional ticking samples is less than or equal to 1.0 in, accept the ticking prototype. If the char length at any cigarette test location on the eight additional ticking samples is greater than 1.0 in, reject the ticking prototype.

(v) Ticking prototype qualification (§ 1632.-4(b) (9)) may be repeated once without action to improve ignition resistance if rejection of the ticking prototype involved occurred solely as a result of a char length greater than 1.7 in at a single cigarette test location. A determination that this is the case may be made only if ticking prototype qualification testing has been carried forward until all 16 ticking samples have been tested without further cause for ticking prototype rejection. Further repetition of ticking prototype qualification and repetition following ticking prototype rejection under any other circumstances may take place only after the manufacturer has taken action to improve the resistance of the ticking prototype to ignition by cigarettes through ticking design, production, or materials selection.

(10) *Ticking production testing*.—For ticking production testing, the ticking samples shall be selected from finished fabric after its last processing step as a fabric.

(i) Select one ticking sample from a single production unit. Test each ticking specimen according to § 1632.4(b) (14). If the char length at each cigarette test location is less than or equal to 0.5 in, accept the ticking production unit. If the char length at any cigarette test location is greater than 1.7 in, reject the ticking production unit. If the char length at two or more cigarette test locations is greater than 1.0 in, reject the ticking production unit. If (A) the char length at any cigarette test location is greater than 0.5 in and (B) the char length at each cigarette test location is less than or equal to 1.7 in and (C) the char length at not more than one cigarette test location is greater than 1.0 in, select one additional ticking sample from the same ticking production unit, including at least one ticking specimen from each piece (§ 1632.4(b) (ii) (G) that contained a cigarette test location with a char length exceeding 0.5 in.

(ii) Test each of the additional ticking specimens according to § 1632.4(b) (14). If the char length at each cigarette test location on both ticking samples is less than or equal to 1.0 in, accept the ticking production unit. If the char length at two or more cigarette test locations among both ticking samples is greater than 1.0 in, reject the ticking production unit. If the char length at any cigarette test location among both ticking samples is greater than 1.7 in, reject the ticking production unit. If the char length at only one cigarette test location among both ticking samples is greater than 1.0 in and it is less than or equal to 1.7 in, select two additional ticking samples from the same ticking production unit, including at least one ticking specimen from each piece (§ 1632.4(b)(ii)(G)) that contained a cigarette test location with a char length exceeding 0.5 in, and select the remaining ticking specimens required so as to provide as nearly equal representation of the fabric pieces in the production unit as possible.

(iii) Test each of the additional ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all four ticking samples is less than or equal to 1.0 in., accept the ticking production unit. If the char length at only one cigarette test location among all four ticking samples is greater than 1.0 in. and it is less than or equal to 1.7 in., accept the ticking production unit. If the char length at any cigarette test location on any of the four ticking samples is greater than 1.7 in., reject the ticking production unit. If the char length at two of more cigarette test locations among all four ticking samples is greater than 1.0 in., reject the ticking production unit.

(iv) Ticking production testing may be repeated once without action to improve ignition resistance if rejection of the ticking production unit involved occurred solely as a result of a char length greater than 1.7 in. at a single cigarette test location. A determination that this is the case may be made only if ticking production testing has been carried forward until all four ticking samples have teen tested without further cause for ticking production unit rejection. Further repetition of ticking production testing and repetition following rejection of a ticking production unit under any other circumstances may take place only after the manufacturer has taken action to improve the resistance of the ticking production unit to ignition by cigarettes through further processing, or under the provisions of § 1632.4(b)(11).

(11) *Disposition of rejected ticking production units*.—(i) Any fabric piece that contributed a specimen with a char length exceeding 1.0 in at any cigarette test location shall be removed from the rejected ticking production unit and shall not be eligible for further attempts at acceptance under the standard (FF 4-72) until its resistance to ignition by cigarettes has been improved through further processing.

(ii) The remainder of a rejected ticking production unit may be subdivided into two or more subunits. No fabric piece may be subdivided among such subunits. Such subdivision shall correspond to the time sequence of production of finished fabric pieces or to differences in materials or process steps, such as dye lots, fiber sources, looms, or processing equipment, determined by the manufacturer's tests or analyses to constitute the probable cause of differences in flammability characteristics. If the subdivision corresponds to the time sequence of production of finished fabric pieces, each (removed) fabric piece that contributed a specimen with a char length exceeding 1.0 in at any cigarette test location shall define a boundary of a subunit.

(iii) From each subunit, select sufficient ticking specimens to constitute four ticking samples. These specimens shall be selected so as to provide as nearly equal representation of the fabric pieces in the subunit as possible. Test each of the ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all four ticking samples is less than or equal to 1.0 in, accept the subunit. If the char length at any cigarette test location on all four ticking samples is greater than 1.0 in, reject the subunit.

(iv) The contents of a rejected subunit may be retested only after the manufacturer has taken action to improve the resistance of the subunit to ignition by cigarettes through further processing. Such retesting shall be according to § 1632.4(b)(10), except that any rejection in retesting shall be final.

(12) *Inventory ticking type qualification*.—The provisions of this subparagraph shall be applicable only to ticking in inventory on or before the effective date of the standard (FF 4-72, effective June 7, 1973).

(i) Select a ticking sample from each ticking prototype within the ticking type to be qualified. If fewer than four ticking prototypes within the ticking type to be qualified are in inventory, select a total of 12 ticking specimens, in equal number from each prototype. Test all ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all ticking specimens is less than or equal to 0.5 in, accept the ticking type. If the char length at any cigarette test location on all ticking specimens is greater than 0.5 in, reject the ticking type.

(ii) Ticking prototypes within a rejected ticking type may be subjected to individual ticking prototype qualification in accordance with § 1632.4(b)(9). If within a rejected ticking type each ticking prototype exhibiting one or more char lengths greater than 0.5 in is subsequently accepted in individual ticking prototype qualification, that ticking type shall be deemed to have been accepted.

(iii) Inventory ticking type qualification (§ 1632.4(b)(12)) shall not be construed as a substitute for ticking prototype qualification (§ 1632.4(b)(9)) or ticking production testing (§ 1632.4(b)(10)) with respect to ticking manufactured after the effective date of the standard (FF 4-72, effective June 7, 1973).

(13) *Ticking conditioning*.—The ticking test specimens and cigarettes shall be conditioned in air at a temperature of no less than 18° C. (65° F.) and a relative humidity less than 55 percent for at least 8 hours prior to the test. The fabric specimens and cigarettes shall be removed from any packaging and supported in a suitable manner to permit free movement of air around them during conditioning.

(14) *Ticking testing*.—(i) The ticking test shall be conducted in a draft-protected room or area under atmospheric conditions as specified in § 1632.4(a)(1) *Test room*. A mounting box (see figure 1), and a template (see figure 2), or other suitable marking device shall be used for testing each specimen. The ignition source shall be the same as specified in § 1632.4(a)(2).

(ii) Place the template, or other suitable device, over the specimen to mark off the area in which the cigarette is to be placed. Mark the ½-in, 1-in, and 1.7-in boundary lines out from the cigarette's outer extremities. If a template is used, a ballpoint pen shall be used to mark the fabric.

(iii) Securely fasten each specimen on the test box. When secured, the material shall be tautly suspended over the open side of the box throughout the test. Tacks, staples, tape, or other convenient and appropriate means may be used to secure the fabric to the test apparatus. (Caution: If the fabric is not sufficiently taut on the box, the cigarettes may roll away from the spot marked off by the template for char length measurements.)

(iv) Light and place one cigarette at a time on the ticking surface. Each cigarette shall be well lighted, but not burned more than 4 mm (0.16 in) when placed on the test specimen. Three cigarettes will be used on each specimen. The largest portion of each color and weave pattern design will be exposed to at least one lighted cigarette.

(v) If a cigarette extinguishes before burning its full length or falls through the fabric being tested, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location until either (A) three cigarettes have burned their full lengths or (B) three cigarettes have extinguished or fallen through before burning their full lengths.

(15) *Records*.—Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(16) *Compliance marketing sampling plans*.—(i) Sampling plans for use in market testing of items covered by the standard (FF 4-72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard (FF 4-72).

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4-72).

(iii) The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(17) *Postponement of production testing*.—Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4-72).

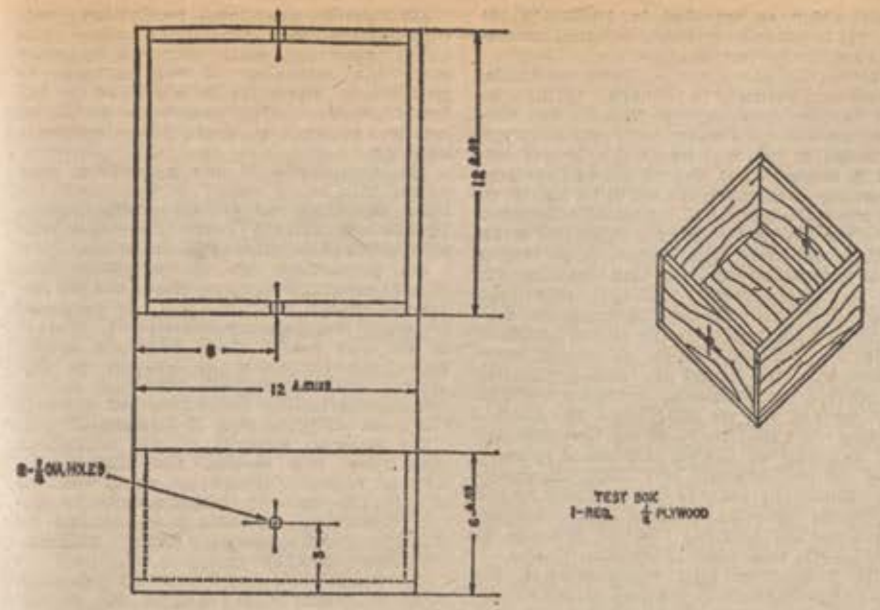

Figure 1

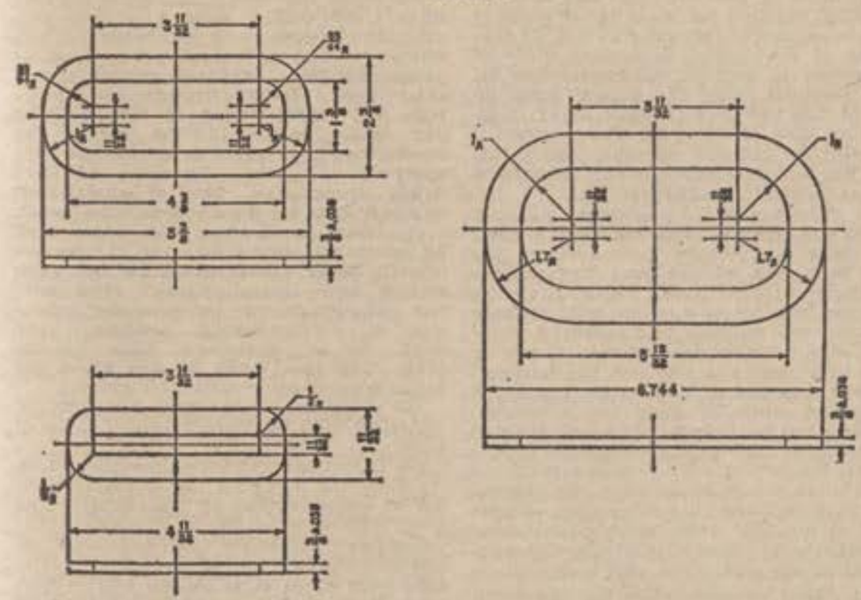

Figure 2

§ 1632.14 **Alternate sampling plan No. 5, for mattresses and mattress pads, to FF 4–72.**

(a) The following alternate sampling plan for mattresses and matress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective November 30, 1973, may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.14 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b).

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i) The test criterion of § 1632.3(b) of FF 4–72 shall be used in conjunction with this Alternate Sampling Plan No. 5 (ASP No. 5). This ASP No. 5 may be used in conjunction with ASP No. 4 to FF 4–72 (mattress ticking) if desired (§ 1632.13). When ASP No. 4 is so used, the provisions of this ASP No. 5 shall apply with respect to production testing of mattresses or mattress pads.

(ii) Differing options or sampling plans may be employed with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(Note: Throughout this ASP No. 5, "mattress(es)" means "mattress(es) or mattress pad(s).")

(iii) For purposes of this ASP No. 5 "initial production quantity" means a quantity of mattresses equalling or exceeding a specified fraction, K, of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.* The specified fraction, K, shall be one-thirtieth. The quantity limit shall be 250 mattresses for normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) and 1,700 mattresses for reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.* The specified fraction, K shall be one-twentieth. The quantity limit shall be 275 mattresses for normal sampling and 2,000 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(C) *Option 3.* The specified fraction, K, shall be one-tenth. The quantity limit shall be 275 mattresses for normal sampling and 4,650 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(D) *Option 4.* The specified fraction, K, shall be one-fifth. The quantity limit shall be 550 mattresses for normal sampling and 7,500 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.* The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i)(A)) and production testing (§ 1632.4(b)(2)(i)(B)). In addition, a batch sampling plan (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) nor more than 500 mattresses of a mattress type in reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less; *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). In no event shall the production unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4-72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4-72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*5*) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification (not to exceed 500 mattresses in either case) may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* (*i*) From the initial production quantity (§ 1632.4(b)(1)(iii)), select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses from the initial production quantity to provide six additional surfaces for test. Test each of the six additional surfaces according to § 1632.4(d). If all the cigarette test locations on the six additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the six additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification § 1632.4(b)(2)(i)(A) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive production units of mattresses (at least 500 mattresses) have all been accepted using the normal sampling plan of this ASP No. 5 (§ 1632.4(b)(2)(i)(B)(*1*)) or that of FF 4-72. The production quantity for reduced sampling under this ASP No. 5 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity (§ 1632.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test. Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(ii) *Batch sampling plan.* For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.* (*1*) Select enough mattresses from the initial production of the production unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*2*) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.* Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattresses as defined in § 1632.1(a) of FF 4-72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.* Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress samples.* The mattress surface shall be divided laterally into two sections (see figure 1 of FF 4-72); one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection.* The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170-200 threads per square inch and fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation.* The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.* (i) Sampling plans for use in market testing of items covered by the standard (FF 4-72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard.

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4-72).

(iii) The Consumer Product Safety Commission will propose such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.* Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4-72).

§ 1632.15 Alternate sampling plan No. 6, for mattresses and mattress pads, to FF4–72.

(a) The following alternate sampling plan for mattresses and mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective September 25, 1973, may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.15 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i) The test criterion of § 1632.3(b) of FF 4–72 shall be used in conjunction with this Alternate Sampling Plan No. 6 (ASP No. 6). This ASP No. 6 may be used in conjunction with ASP No. 4 to FF 4–72 (mattress ticking) if desired. (§ 1632.13). When ASP No. 4 is so used, the provisions of this ASP No. 6 shall apply with respect to production testing of mattresses or mattress pads.

(ii) Differing options or sampling plans may be employed with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety. (Note: Throughout this ASP No. 6 (except for (A), (B), and (C) of § 1632.4(b) (1)(iii)), "mattress(es)" means "mattress(es) or mattress pad(s).")

(iii) For purposes of this ASP No. 6, "initial production quantity" means a quantity of mattresses equalling or exceeding a specified fraction of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.*—The specified fraction shall be one-thirtieth. The quantity limit shall be 800 mattresses or 5,500 mattress pads for normal sampling (§ 1632.4(b)(2)(i)(B)(*1*) and 1,700 matresses or 11,000 mattress pads for reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.*—The specified fraction shall be one-twentieth. The quantity limit shall be 950 mattresses or 6,600 mattress pads for normal sampling and 2,000 mattresses or 13,000 mattress pads for reduced sampling unless a smaller limit is imposed under the provisions § 1632.4(b)(2)(i).

(C) *Option 3.*—The specified fraction shall be one-tenth. The quantity limit shall be 2,000 mattresses for normal sampling and 4,650 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i). The quantity limit shall be 13,450 mattress pads for normal sampling unless a smaller limit is imposed under the provisions of § 1632.4 (b)(2)(i). The quantity limit for mattress pads for reduced sampling shall be that imposed under the provisions of § 1632.4 (b)(2)(i).

(D) *Option 4.*—The specified fraction shall be one-fifth. The quantity limit shall be that imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i) (A)) and production testing (§ 1632.4(b)(2) (i)(B)). In addition, a batch sampling plan (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling (§ 1632.4 (b)(2)(i)(B)(*1*)) nor more than 500 mattresses of a mattress type in reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2) (i)(B). In no event shall the production unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.*—(*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d). *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*5*) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification (not to exceed 500 mattresses in either case) may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2) (i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.*—(*i*) From the initial production quantity (§ 1632.4(b)(1) (iii)), randomly select enough mattresses to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on all four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses from the initial production quantity to provide eight additional surfaces for test. Test each of the eight additional surfaces according to § 1632.4(d). If all the cigarette test locations on the eight additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the eight additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.*—(*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive production units of mattresses (at least 500 mattresses) have all been accepted using the normal sampling plan of this ASP No. 6 (§ 1632.4(b)(2)(i) (B)(*1*)) or that of FF 4–72. The production quantity for reduced sampling under this ASP No. 6 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity (§ 1632.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test. Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(ii) *Batch sampling plan.*—For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.*—(*1*) Select enough mattresses from the initial production of the production unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4-72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4-72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*2*) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.*—Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattresses as defined in § 1632.1(a) of FF 4-72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.*—Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress samples.*—The mattress surface shall be divided laterally into two sections (see figure 1 of FF 4-72); one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection.*—The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170-200 threads per square inch and fabric weight of 115 ± 14 grams per square meter (3.4 ± 0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation.*—The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.*—Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.*—(i) Sampling plans for use in market testing of items covered by the standard (FF 4-72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard.

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4-72).

(iii) The Consumer Product Safety Commission will propose such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.*—Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4-72).

Subpart C—Rules and Regulations

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

§ 1632.31 Mattresses—labeling, recordkeeping requirements, and guaranties.

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

(1) "Standard for the Flammability of Mattresses" or "Standard" means the Standard for the Flammability of Mattresses (FF 4-72) promulgated by the Secretary of Commerce and published in the FEDERAL REGISTER of June 7, 1972 (37 FR 11362), as amended and reissued by the Consumer Product Safety Commission in a notice dated June 1, 1973, and published in the FEDERAL REGISTER of June 8, 1973 (38 FR 15095, Subpart A of this Part), which Standard as amended became effective June 22, 1973.

(2) The definition of terms set forth in the Standard shall also apply to this section. (It should be noted that the definition of "mattress" in the Standard includes, among other things, mattress pads.)

(b) *Labeling.* (1) All mattress pads which have had a chemical fire retardant treatment or contain any fire retardant treated components shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent, prominent, conspicuous, and legible.

(2) If a mattress pad has had a chemical fire retardant treatment or contains any fire retardant treated components, it shall be prominently, conspicuously, and legibly labeled with the letter "T."

(3) Every manufacturer, importer, or other person initially introducing mattresses subject to the Standard into commerce shall assign to each mattress a unit identification (number, letter, or date, or combination thereof) sufficient to identify and relate to the production unit of which the mattress is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit identification under the Standard for the Flammability of Mattresses. Each mattress subject to the Standard shall bear a permanent, accessible, and legible label containing the appropriate production unit identification relating to such mattress.

(4) The information required on labels by this section shall be set forth separately from any other information appearing on such label. Other information, representations, or disclosures, appearing on labels required by this section or elsewhere on the item, shall not interfere with, minimize, detract from, or conflict with the required information.

(5) The warning label required by § 1632.5(c)(3) for noncomplying mattresses manufactured during the 6 months following the effective date of the Standard shall be separate and apart from any other label on the mattress and shall not have any other information, representation, or disclosure thereon.

(6) No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(c) *Records—manufacturers, importers, or persons initially introducing items into commerce*—(1) *General.* Every manufacturer, importer, or other person initially introducing into commerce mattresses subject to the Standard, irrespective of whether guarantees are issued relative thereto, shall maintain written records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each mattress and from the specific finished item to the manufacturing records and shall show with respect to such items:

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

(ii) Production units of all mattresses marketed or handled. The records must relate to an appropriate production unit identification on or affixed to the mattress itself in accordance with paragraph (b)(3) of this section, and the production unit identification must relate to the production unit.

(iii) Test results and details of all tests performed, both prototype and production, including cigarette locations and whether each cigarette location passed or failed, details of the sampling procedure or procedures employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedure or procedures and sampling plan or plans specified by the Standard or authorized alternate sampling plan or plans. These records shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with the Standard. (For illustrative forms, see note at the end of this section.)

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

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

(vi) Test data or other information relied on as a basis for inclusion of different components as a single production unit where permitted by the Standard.

(vii) Photographic evidence of each test result in the form of a photograph (color or black and white) of the bare mattress surface after testing, with a clear designation thereon as to which part of the mattress was sheeted and which part was tested bare.

(viii) Date and quantity of each sale or delivery of mattresses subject to the Standard and the name and address of the purchaser or recipient relating such sale to the production unit or other identification.

(ix) Details of any approved alternate laundering procedure used in laundering mattress pads required by the Standard to be laundered during testing.

(x) Identification, composition, and details of application of any flame retardant treatments employed relative to mattress pads or mattress pad components. All prototype and production records shall relate to such information.

(2) *Prototype testing*. In addition to the records specified in paragraph (c)(1) of this section, records shall be maintained which shall show with respect to prototype testing required by the Standard:

(i) Mattress specifications and description.

(ii) Prototype identification number.

(iii) Test room conditions.

(3) *Production testing*. In addition to the records required by paragraph (c)(1) of this section, records shall be maintained which shall show with respect to each production unit:

(i) Mattress specifications and description, prototype identification, production unit identification, size of production unit, calendar period of production unit, test date, and test results.

(ii) Random selection number of the tested mattress and information sufficient to show that tested mattresses were selected from the production unit at random from regular production.

(iii) Written data which will enable the Consumer Product Safety Commission to obtain and test mattresses under any applicable compliance market sampling plan.

(4) *Record retention requirements*. The records required by this paragraph shall be retained for 3 years, except that records relating to prototype testing shall be maintained for so 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.

(d) *Records—persons not subject to paragraph (c) of this section*. Any person not subject to paragraph (c) of this section who markets or handles mattresses subject to the Standard shall keep and retain for 3 years records to show the identity of items marketed or handled, the identity of the source of the items, and the date of receipt thereof. Such records shall also show the identity of purchasers and the date of sale, except in the case of individual retail sales to individual ultimate consumers.

(e) *Records—exempted or labeled mattresses*.—(1) Any person marketing or handling mattresses which are entitled to exemption from the Standard as having been manufactured before the effective date of the Standard (June 22, 1973) shall maintain written records sufficient to establish that any such mattresses offered for sale after the effective date of the Standard are eligible for the exemption.

(2) Any person marketing or handling mattresses which are subject to the provisions of § 1632.5(c)(3), and which are labeled in accordance therewith, shall maintain written records to show that such mattresses were manufactured within 6 months after the effective date of the Standard and were labeled in accordance with the provisions of § 1632.5(c)(3).

(f) *Tests for guaranty purposes*. Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the act for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternate sampling plan engaged in pursuant to the requirements of the Standard.

(g) *Postponement of production testing*. (1) Any person requesting a temporary suspension of production testing shall file five copies of an application in writing and under oath with the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Such application of prototype mattress or mattresses.

(i) Statement that production testing facilities are unavailable and reason for unavailability.

(ii) Location of closest available testing facility.

(iii) Period of delay requested.

(iv) Detailed plans of applicant to implement production testing procedures.

(v) Certification that prototype mattress or mattresses to be produced comply with the Standard plus test reports, name and address of facility performing the tests, and specification and identification of prototype mattress or mattresses.

(vi) Statement that records and facilities of the applicant are available to the Consumer Product Safety Commission upon request.

(2) Temporary suspension of production testing will not be granted for a period in excess of 6 months upon one application. Upon filing of the application, the requirements for production testing of mattresses may be suspended by the Consumer Product Safety Commission for periods of 30 days while the petition is pending. During such 30-day periods the manufacturer shall submit to the Secretary, weekly reports of mattress shipments as specified by the Commission.

(h) *Compliance with this section*. No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any mattress which is not in compliance with § 1632.31.

NOTE: The following forms are for use in recording test results pursuant to the Standard and this section. These are illustrative forms only; their use shall not be construed as relieving anyone of other recordkeeping requirements of this section.

ILLUSTRATIVE FORM, PROTOTYPE QUALIFICATION MATTRESS FLAMMABILITY STANDARD FF 4-72

Prototype identification number_____________

Room conditions at time of test: Temperature _______________ R.H. _______________

Mattress specification and description (e.g., tape, thread, flange, "heat barrier" material, corner felt, border backing where there is no flange, other material designed to prevent ignition, ticking, upholstery, etc.). Provide details for:

(Attach necessary Test Results Reporting Forms.)

ILLUSTRATIVE FORM, PRODUCTION TESTING MATTRESS FLAMMABILITY STANDARD FF 4-72

1. Production unit identification _______________

2. Mattress type (circle one): Smooth Top Tufted Deep panel Quilt Multi-needle Quilt Other (Identify):_______________

3. Sampling plan or plans proceeded under, including options, if any_______________

4. Quantity of mattresses covered by testing reported herein and calendar period of their production _______________

5. Type of sampling (normal, reduced, batch, or other) and basis for type of sampling used_______________

6. Identification of prototype or prototypes of mattresses covered by testing reported herein _______________

7. If mattresses covered by testing reported herein are from more than one prototype, identify prototype or prototypes of mattresses tested _______________

8. Random numbers of mattresses tested and method by which random numbers were selected _______________

(Attach necessary Test Results Reporting Forms.)

Prototype or production unit identification ______________

ILLUSTRATIVE TEST
RESULTS REPORTING FORM

Report results for each burn, "X" for pass, cigarette burned to full length; "O" for pass, cigarette self-extinguished before burning to full length; "F" for failure. "F" burns shall be considered as having burned to full length. Use blocks appropriate to side being tested.

3 surface locations, bare

Type surface*

3 surface locations, sheeted

Type surface*

(Each line must contain at least 3 burns to full length or 3 burns self-extinguished before burning to full length, except where prototype or unit rejection is established.)

2 surface locations, bare

Type surface*

Tape edge

2 surface locations, sheeted

Type surface*

Tape edge

(Line 1 must contain at least 4 burns to full length or 4 burns self-extinguished and line 2 must contain at least 5 burns to full length or 5 burns self-extinguished, except where prototype or unit rejection is established.)

(Use necessary additional sheets and complete bottom portion of last sheet of complete test. Attach photographs showing all test results.)

Action (Circle one) Accept Reject Retest

Test date ______________ Manufacturer ______________

I certify that this test was carried out in full accordance with the provisions of Standard FF 4-72.

(Signed) ______________
(Tester)

____
(Name and business association of tester)

* Smooth surface, tape edge, quilt channel, tufting, etc.

EFFECTIVE DATE: This section became effective December 31, 1973.

Subpart D—Interpretations and Policies

AUTHORITY: Secs. 1–17, 67 Stat. 111–15, as amended, 81 Stat. 568–74; 15 U.S.C. 1194–1204.

§ 1632.61 Procedure for verification of materials substitution for mattress tape edges.

(a) Notice is given that the Consumer Product Safety Commission has approved a procedure for verification of materials substitution for mattress tape edges where substitution is desired to be made under § 1632.1(h) of FF 4–72 (the Standard for the Flammability of Mattresses), FF 4–72 was published in the FEDERAL REGISTER of June 8, 1973 (38 FR 15095), and, as a result of a judicially imposed temporary stay, became effective June 22, 1973.

(b) Section 1632.1(h) provides in part: "If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a dimensional or other change in that material shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such dimensional or other change will not reduce the ignition resistance of the mattress prototype."

(c) The Commission will regard a showing "to the satisfaction of the Consumer Product Safety Commission" to have been made with respect to materials substitution of items such as flange materials and tapes at the tape edge under the following circumstances:

(1) The mattress prototype has been qualified previously under the provisions of FF 4–72; and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) A prototype mattress incorporating the substitute materials has been tested with 36 cigarettes (18 per surface) placed at tape edge locations with no ignitions occurring; and

(4) Records are maintained setting forth the details of the materials substitution and showing the results of the testing referred to in paragraph (c)(3) of this section. The records are to be maintained in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

§ 1632.62 Use of muslin sheets.

(a) In this document, the Consumer Product Safety Commission approves the use of white, 100 percent cotton muslin sheets as an alternate to white, 100 percent cotton percale sheets for certain tests of mattress flammability.

(b) The Standard for the Flammability of Mattresses, FF–4–72 (Subpart A of this Part), promulgated under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), which is administered and enforced by the Consumer Product Safety Commission, provides that one of the measures of mattress flammability will be determined by placing lighted cigarettes between two layers of cotton percale sheets placed on mattress surfaces (§ 1632.4(d)(3)). Section 1632.4(b)(6), entitled "Sheet selection," specifies the types of sheets to be used in mattress flammability testing as follows:

The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 170–200 threads per square inch and fabric weight of 115± 14 gm/m² (3.4±0.4 oz/yd²), or of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(c) A number of requests, both formal and informal, have been received to have the Commission approve alternate types of sheets for mattress flammability testing. The primary reason for requesting alternatives is that sheet manufacturers have drastically reduced their output of all-cotton percale sheets and therefore a permanent testing substitute is needed. The Commission has confirmed the difficulty of obtaining all-cotton percale sheets.

(d) Several different types of sheets have been tested and evaluated to find a type that would provide flammability characteristics closely resembling all-cotton percale sheets. It was found that 100 percent cotton muslin sheets yielded test results comparable to those from 100 percent cotton percale sheets; that is, a lighted cigarette placed between all-cotton muslin sheets caused mattress ignition within a time period comparable to ignition resulting from tests using all-cotton percale. Both all-cotton muslin and all-cotton percale brought mattress ignition 100 percent of the time and within 15 minutes.

(e) Placing lighted cigarettes between any types of cotton-polyester blend sheets caused mattress ignition after considerably longer time periods, or in some instances, no ignition at all. Thus, their use without other modifications of the Standard would result in lowering the level of protection provided by the Standard.

(f) Accordingly, the Commission approves the following sheets for use in testing under the Standard: White, 100 percent cotton sheets, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 120–210 threads per square inch and fabric weight of 125±28 gm/m² (3.7±0.8 oz/yd²).

(g) For enforcement purposes, the Commission may test with sheets of 100 percent cotton muslin or 100 percent cotton percale.

(h) All other requirements of the Standard as to sheets remain in effect.

EFFECTIVE DATE: February 6, 1974. This document originally appeared as a notice on February 6, 1974 (39 FR 4684).

§ 1632.63 **Policy clarification on renovation of mattresses.**

(a) Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other matters, the "manufacture for sale" of any product which fails to conform to an applicable standard issued under the act. The Standard for the Flammability of Mattresses, as amended (FF 4-72) (Subpart A of this Part), issued pursuant to the act, provides that, with certain exceptions, mattresses must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

(b) The purpose of this document is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

(c) For purposes of this document, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more, of these steps in mattress renovation is considered to be mattress manufacture.

(d) If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer of a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, "manufacture for sale" has not occurred and such a renovated mattress is not subject to the mattress standard.

(e) However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be "manufacture for sale".

(f) Accordingly, mattress renovation is considered by the Commission to be "manufacture for sale" and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer of the renovator.

(g) Renovators of mattresses, like manufacturers, work with mattresses of nonstandard size or shape and may, therefore, believe that such mattresses are one-of-a-kind. Section 1632.2(d) of the Mattress Standard provides:

(d) One-of-a-kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission.

(h) However, there are currently no rules or regulations for excluding one-of-a-kind mattresses from testing under the Mattress Standard, although the matter is under active review. Until Commission policy on one-of-a-kind mattress exemption is issued, a renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

NOTE: This policy was originally published as a notice on May 6, 1975 (40 FR 19677).

Dated: December 22, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75-34878 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975

PART IV:

ENVIRONMENTAL PROTECTION AGENCY

HAZARDOUS SUBSTANCES

Designation, Removability, Harmful Quantities, Penalty Rates

ENVIRONMENTAL PROTECTION AGENCY
(FRL 471-7)
[40 CFR Part 116]

DESIGNATION OF HAZARDOUS SUBSTANCES

Notice of Proposed Rulemaking

Notice is hereby given in accordance with 5 U.S.C. 553 that the Administrator, Environmental Protection Agency, under authority contained in Section 311(b)(2)(A) of the Federal Water Pollution Control Act Amendments of 1972 [33 U.S.C. 1251 et seq., (the Act)] proposes a new Part 116.

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) amended the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) to add a new Section 311, which provides in Subsection (b)(2)(A) as follows:

> "The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches."

This notice proposes such a designation of hazardous substances.

Section 311(b)(2)(B)(i) and 311(b)(4) of the Act require a determination of actual removability and harmful quantity respectively for each designated substance. In addition, Section 311(b)(2)(B)(iv) of the Act requires the establishment of penalty rates for all substances judged to be not actually removable from the water. These other regulations are proposed concurrently as 40 CFR Parts 117, 118, and 119 respectively.

The designation of hazardous substances provides the foundation for the regulation of discharges of substances other than oil as provided for in Section 311. Remaining regulations and activities required to fully implement the hazardous substances provisions of Section 311 are as follows:

- Fixing limitations of removal liability for small facilities [Section 311(f)(2)].
- Determination of methods of removability [Section 311(j)(1)(A)].
- Development of discharge prevention procedures [Section 311(j)(1)(C)].
- Determination of quantities which are not harmful [Section 311(b)(3)].
- Revision of the National Oil and Hazardous Material Pollution Contingency Plan [Section 311(c)(2)].

On August 22, 1974, after completion of studies and conferences dating from 1970, the Assistant Administrator for Water and Hazardous Materials published an Advance Notice of Proposed Rulemaking for the designation of hazardous substances and the determination of their removability (Federal Register, Vol. 39, No. 164, Part IV, pp. 30466-30471). Included in that publication were: (1) tentative selection criteria used to quantitatively describe the concept of "... imminent and substantial danger to public health or welfare..."; (2) factors considered in the determination of actual removability; (3) a list of substances under consideration; (4) a tentative determination of removability; and (5) a request for data

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and comments on both specific and general aspects of the action. In response to the Advance Notice, 84 written comments were received and considered in the development of the proposed rule set forth herein. Comments primarily concerned selection criteria, substances to be deleted or added, spill potential, toxicity information, potential conflict between discharges regulated under Section 311 and those regulated under other sections of the Act, and the term "research quantities".

A. Toxicological Selection Criteria

Tentative selection criteria set forth in the August 22, 1974, Advance Notice were as follows:

> "1. Any element or compound produced in excess of research quantities possesses sufficient danger potential to be considered as a candidate hazardous substance if it is lethal to: (a) One-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 milligrams per liter (mg/l) or less; or (b) one-half of a test population of animals in 14 days or less when administered as a single oral dose equal to or less than 50 milligrams per kilogram (mg/kg) of body weight; or (c) one-half of a test population of animals in 14 days or less when dermally exposed to an amount equal to or less than 200 mg/kg body weight for 24 hours; or (d) one-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 200 cubic centimeters per cubic meter (volume/volume) in air for one hour; or (e) aquatic flora as measured by a 50 percent decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 mg/l.
> 2. To be further considered for designation as a hazardous substance, any element or compound meeting the above criteria must have a reasonable potential for being discharged; i.e., spilled into a water body. Factors being considered in making this evaluation include the production quantities, modes of transportation, handling and storing practices, past spill experience, and physical/chemical properties of each substance."

Selection criteria were employed and are proposed to be used because it was recognized that virtually every substance has the potential for presenting some danger to public health or welfare depending upon the

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quantity of substance discharged, and the time, location, and conditions of the discharge. In order to limit the designation to those substances which could reasonably be anticipated to present an imminent and substantial danger to public health or welfare, the above criteria were applied.

Of the toxicological criteria initially proposed in the Advance Notice, there was minimal objection to the use of the "highly toxic" classification as a limitation for selecting substances based on mammalian test data. The highly toxic classification has been adopted by the Environmental Protection Agency as may be found in Federal Register, Vol. 40, No. 129, Part II, pp. 28242-28286, July 3, 1975.

According to the reference cited above, substances which have an oral LD50 of 50 mg/kg of body weight or less, have a dermal LD50 of 200 mg/kg of body weight or less, or have an inhalation LC50 of 20 cubic centimeters per cubic meter of vapor in air or less, are defined as highly toxic to mammals. The term "oral LD50" means that single oral dose which is lethal to one-half of the test population in 14 days. The term "dermal LD50" means that dose dermally absorbed in 24 hours which is lethal to one-half of the test population in 14 days. The term "inhalation LC50" means that concentration of gas or vapor which, upon exposure for one hour, is lethal to one-half of the test population in 14 days.

A change in the "inhalation LC50" value should be noted. The August 22, 1974, Advance Notice of Proposed Rulemaking stated this criterion as lethality to one-half of a test population of animals within

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14 days of exposure to a vapor concentration "... equal to or less than 200 cubic centimeters per cubic meter (volume/volume) of air for one hour..." This criterion paralleled the "highly toxic" category adopted by EPA in 40 CFR Part 162.8. The criterion has recently (July 3, 1975) been amended by publication of 40 Federal Register p. 28242, which reduces the cutoff to 20 cubic centimeters per cubic meter of air. For consistency, a corresponding change has been made in this proposed rule. (No change need be made in the current list of materials since none happens to have been designated under the "inhalation LC50" criterion.)

The criterion receiving the greatest number of adverse comments was that pertaining to aquatic animal toxicity which proposed a selection limit of 500 mg/l based on LC50 bioassay data. The term "LC50" means that concentration which is lethal to one-half of a test population of aquatic animals upon continuous exposure for a given period of time, usually 96 hours. The concept of utilizing acute bioassay data was generally supported. However, many commenters expressed the belief that the limitation was either too restrictive or too permissive, with suggested limitation values ranging between 1.0 and 5,000 mg/l.

A common suggestion was that the selection limit be lowered to 100 mg/l. In support of this suggested limit, comments indicated that a hazard ranking system has classified substances with aquatic LC50 values of 100-1,000 mg/l as "practically non-toxic". This system is being considered by governments ratifying the International Convention for the Prevention of Pollution from Ships, 1973, sponsored by the

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Intergovernmental Maritime Consultative Organization (IMCO). However, the IMCO system was originally designed for application to tank cleaning and operational discharges from ships at sea beyond the territorial limits, rather than to discharges to the inland waters and the territorial seas. Even though substances with LC50 values of 100 to 1,000 mg/l have been classified as "practically non-toxic", the IMCO system does require some level of control over the discharge of these substances even in waters beyond the territorial seas.

Furthermore, the Agency has evaluated recent fish kill reports in which the causative agent was identified. Twenty-two of the proposed elements and compounds were reported as the causative agent in recent fish kills. Of these, seven have 96 hour LC50 values greater than 100 mg/l. None has an LC50 value consistently greater than 500 mg/l. Thus, a reduction of the aquatic toxicity selection limit to 100 mg/l would result in the deletion of 7 substances which have caused environmental damage. Even though the data used in this analysis are recognized as being less than comprehensive, the significance in lowering this selection criterion would be the elimination of materials such as sulfuric acid, hydrochloric acid, and other materials which have caused fish kills.

In this proposed rulemaking, the aquatic toxicity selection limit of 500 mg/l is maintained. This is done in the belief that it is both appropriate and responsive to the requirement of Section 311 to identify those substances which may present an imminent and substantial danger to the public health or welfare when discharged into navigable waters.

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The selection criterion dealing with phytotoxicity was questioned because few data are available which are consistent with the test method specified in the selection criterion. Although no substance is currently listed because of its phytotoxic action, the criterion is maintained to permit future addition of substances which may be detrimental to this important segment of the aquatic environment.

Selection criteria based on effects such as teratogenicity, mutagenicity, carcinogenicity, and bioaccumulation were suggested and have been considered. Typically, these effects have been noted after lengthy or lifetime exposure of test populations to the test material. These data do not, at this time, provide a basis for regulation of acute discharges of such materials. Although the proposed selection criteria do not include consideration of such effects at this time, the Agency intends to keep the relationship of Section 311 to these concerns under continuing review.

Radioactive materials are not included in this proposed rulemaking but may be considered as candidates for designation in the future should sufficient need and information warrant their inclusion.

B. Deletions

In response to the Advance Notice of Proposed Rulemaking, comments requesting the deletion of specific materials were submitted and evaluated. Where accompanied by appropriate supportive data documenting effects not in accordance with the proposed selection criteria, certain materials have been deleted from this proposed list. These materials are:

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Ammonium sulfate	Sodium borate
Boric acid	Sodium cacodylate
Cacodylic acid	Sodium silicate

Those comments requesting specific substances be added lacked supporting data of the type and extent necessary to justify expansion of the proposed list at this time. Section 311(b)(2)(A) provides the authority to revise any promulgated designation as may be appropriate. Those substances suggested for addition may be considered along with others at a future date.

C. Potential for Discharge

In regard to the second part of the proposed selection criteria, that dealing with the potential for discharge, several comments requesting clarification were received. The Agency has reexamined the factors listed in the Advance Notice and proposes certain changes.

As set forth in the Advance Notice, the initial screening criterion concerned production of proposed substances in excess of research quantities. It now appears that the question of research quantity is more appropriately viewed as a factor to be utilized in the overall evaluation of spill potential rather than an independent decision point. Difficulty is encountered in identifying a single, specific production quantity indicative of large volume commercial usage versus exclusively research-related use. Consequently, the question of research quantity is now addressed in terms of uses rather than in terms of a specific production volume.

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Few data are available concerning the mode of transportation and handling and storage practices of many substances. Therefore, these considerations are no longer included in the assessment of potential for discharge. Factors currently proposed in determining spill potential are:

1. Past history of spillage
2. Production quantity
3. Use and distribution patterns
4. Value of the substance

Candidate substances which meet at least one lethality criterion are further examined for documented evidence of having been discharged in a spill situation. Those substances having a previous history of spillage are maintained as proposed hazardous substances. Because the reporting of spills of substances other than oil is not yet required, it can be concluded that the spillage of many substances has gone unreported. Consequently, those spills presently recorded do not fully represent the magnitude of the problem nor are they an inclusive representation of all substances which have a reasonable potential for discharge.

In evaluating the list of potentially hazardous chemicals, it was realized that a higher probability of a discharge exists for some materials than for others. This is reflected to some extent by reports maintained by the Department of Transportation and the Environmental Protection Agency. These records show that the materials spilled most frequently are, in general, the ones that are most abundant in commerce. That is, a distinction may be made between heavy usage bulk chemicals

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and other less widely used and distributed chemicals. An analysis of production quantities, usage, and selling price indicates that chemicals produced in excess of one billion pounds annually are commonly used in highly diversified products and processes. As such, they are handled and transported in large quantities. Such chemicals also have a typically low selling price. Accordingly, candidate substances produced in excess of one billion pounds per year are judged to have a relatively high spill potential and are proposed for designation as hazardous substances.

Materials which are produced in quantities less than one billion pounds annually or for which annual production is not known, are further examined for use and distribution patterns, and unit price. Substances with usages limited to research, medicinals, food additives, or analytical reagents are not further considered for designation at this time. These materials are subject to limited production and bulk storage and transport. It is further noted that such substances are generally of high purity and as such are subject to careful handling and have a high selling price. Such substances are believed to pose only limited potential for spillage.

Substances having a high commercial market value are considered to pose a limited spill risk. Additional safeguards in the manufacture, handling, and processing of such valuable substances apparently minimize the possibility of spillage.

Because of their intentional use and distribution in the environment, chemicals used primarily as pesticides are believed to have a high prob-

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ability of discharge to the water and are maintained as proposed hazardous substances regardless of production volume or selling price.

As an example of a material proposed for designation, sulfuric acid is the highest volume product in the chemical industry with 59 billion pounds produced in 1971. As a workhorse of industry, its production and use are steadily increasing. Department of Transportation and Environmental Protection Agency records show a continual increase in accidents involving sulfuric acid through the years 1971, 1972, and 1973. The low cost of the material, the large number of manufacturers and distributors, and high production and transportation volume are apparent contributive factors to the high spill frequency. Since toxicological properties are in accordance with proposed selection criteria, sulfuric acid is proposed for designation as a hazardous substance.

An example of a material not proposed as a hazardous substance because of low spill potential is ammonium gluconate. This compound was tentatively included in the Advance Notice list because of toxic properties of the ammonium ion. Subsequent analysis reveals that production figures are not available, the chemical has only limited distribution and use as an emulsifier in the food industry, and no record of past spillage. The analysis indicates low spill potential and the substance is no longer considered for designation.

Other substances listed in the Advance Notice and below appear to have little probability for discharge and are deleted because of one or more of the following factors:

1. No history of spill discharge
2. Low production quantity
3. Limited commercial use and distribution
4. High value of the substance

D. Materials Deleted Because of Low Potential for Discharge

Ammonium Ferrocyanide	Cobaltous Nitrate
Ammonium Formate	Cobaltous Perchlorate
Ammonium Gluconate	Cobaltous Succinate
Ammonium Molybdate	Cobaltous Sulfate
Antimony Triiodide	Cupric Acetylacetonate
Arsenic Tribromide	Cupric Bromide
Arsenic Trifluoride	Cupric Gluconate
Arsenic Triiodide	Cuprous Iodide
Beryllium Hydroxide	Ferric Glycerophosphate
Beryllium Phosphate	Ferric Phosphate
Beryllium Sulfate	Ferrous Oxalate
Brucine	Hydroquinone
Cadmium Fluoborate	Lead Bromide
Cadmium Nitrate	Lithium Fluoride
Cadmium Sulfate	Mercuric Ammonium Chloride
Catechol	
Chromous Carbonate	Mercuric Bromide
Chromous Oxalate	Mercuric Chloride
Cobaltous Acetate	Mercuric Iodide
Cobaltous Chloride	Mercuric Oxide
Cobaltous Citrate	Mercurous Chloride
Cobaltous Iodide	Mercurous Iodide

Molybdic Trioxide	Selenic Acid
Nickel Acetate	Selenium Oxychloride
Nickel Bromide	Tannic Acid
Nickel Fluoride	Vanadium Oxytrichloride
Nickel Iodide	Zinc Ammonium Sulfate
Nickel Perchlorate	Zinc Permanganate
Phosphorous Pentafluoride	Zinc Propionate
Pyrogallic Acid	Zirconium Ammonium Fluoride

In summary, the proposed selection criteria for hazardous substances are as follows: any element, compound, or mixture thereof, possesses sufficient danger potential to be designated as a hazardous substance, if it is lethal to:

(a) One-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 milligrams per liter (mg/l) or less; or

(b) One-half of a test population of animals in 14 days or less when administered as a single oral dose equal to or less than 50 milligrams per kilogram (mg/kg) of body weight; or

(c) One-half of a test population of animals in 14 days or less when dermally exposed to an amount equal to or less than 200 mg/kg of body weight for 24 hours; or

(d) One-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter (volume/volume) in air for one hour; or

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(e) Aquatic flora as measured by a 50% decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 milligrams per liter (mg/l).

In addition to meeting one or more of the above acute lethality criteria, a candidate substance must have a reasonable potential for being discharged. Factors considered in making this evaluation include 1) past spill history, 2) production quantity, 3) use and distribution patterns, and 4) value of the substance.

E. Applicability

In considering the applicability of the proposed rules, the Advance Notice stated:

> "It is important to note that not all discharges of substances designated as hazardous will be subject to the enforcement provisions of Section 311. Because Section 311 applies only to discharges from vessels or facilities, a designation regulation would not apply to discharges from other sources such as agricultural land runoff, or irrigation return flows. The discharges being considered can be placed in two separate categories. The first relates to transportation and storage incidents in which there is normally no release of the substance except in the spill situation. The second relates to industrial production facilities in which a designated hazardous substance is released in quantities exceeding those of a permitted normally operating effluent. Periodic or continuous discharges are regulated under other provisions of the Act. Accordingly, the Agency is considering that the regulation would exclude from designation discharges of hazardous substances which are made: (a) In compliance with effluent limitations or guidelines established under Sections 301, 302, 304, 306, and 307 of the Act; (b) in quantities not exceeding those identified for such substances in an application for an NPDES permit which has been issued pursuant to Section 402 of the Act; (c) in compliance with permits issued under Section 404 of the Act or Sections 102 and 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); (d) from properly functioning marine sanitation flow-through devices certified by the United States Coast Guard pursuant to Section 312 of the Act; or (e) in the course of a permitted use of a pesticide registered under the Federal Insecticide,

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Fungicide, and Rodenticide Act (7 U.S.C. Sections 136 and through 136y)."

Although most comments agreed with the general purpose, the exclusions are now considered more appropriate to the proposed rules concerning harmful quantities (proposed 40 CFR Part 118) and rates of penalty (proposed 40 CFR Part 119) to be published concurrently. The intent is not the exclusion of substances from designation, but rather the exclusion of certain discharges permitted under other sections of the Act or other authorities from notification requirements and penalty provisions of Section 311. This will allow use of revolving funds [Section 311(k)] to be used for discharges of any designated hazardous substance. Consequently, applicability of this proposed rule may be stated as follows:

> The elements and compounds, or mixtures thereof, appearing on the following list are designated as hazardous substances if discharged into navigable waters or adjoining shorelines, or into the waters of the contiguous zone from vessels, onshore facilities or offshore facilities.

Interested persons may participate in this rulemaking by submitting written comments or requests for information in triplicate to: Dr. C. Hugh Thompson, Chief, Hazardous Substances Branch, Criteria and Standards Division, Office of Water Planning and Standards, WH-595, Environmental Protection Agency, Washington, D.C. 20460.

Copies of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. The Environmental Protection Agency information regulation, 40 CFR Part 2 provides that a reasonable fee may be charged for copying.

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All comments received on or before 60 calendar days after the date of this publication will be considered.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

A number of criteria have been defined to determine which actions require an inflationary impact statement. The Agency's analysis of the potential economic impact of these regulations indicate that none of the criteria defining a major proposal have been met. Thus, it is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821 and that no inflationary impact statement is required.

Russell E. Train
Administrator

Dated: DEC 2? 1975

"Certified ... original"

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Part 116 - DESIGNATION OF HAZARDOUS SUBSTANCES

Authority: Sections 311(b)(2)(A) and 501(a) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.).

116.1 APPLICABILITY

The regulation of this part designates hazardous substances under Section 311(b)(2)(A) of the Act. The proposed regulation applies to discharges of substances designated herein into navigable waters or adjoining shorelines or the waters of the contiguous zone from vessels and onshore and offshore facilities.

116.2 ABBREVIATIONS

ppm = parts per million
mg = milligram(s)
kg = kilogram(s)
mg/l = milligram(s) per liter
mg/kg = milligram(s) per kilogram

116.3 DEFINITIONS

As used in this part, all terms shall have the meaning defined in the Act and as given below.

"The Act" means the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500, 33 U.S.C. 1251 et seq.);

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"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"Onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"Navigable waters" shall have the same meaning as it has in Section 502(7) of the Act, and includes: (1) all navigable waters of the United States; (2) tributaries of navigable waters of the United States; (3) interstate waters; (4) intrastate lakes, rivers and streams which are utilized by interstate travelers for recreational and other purposes; (5) intrastate lakes, rivers and streams from which fish or shellfish are taken and sold in interstate commerce; and (6) intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce;

"Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone;

"Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles;

"Aquatic animals" means appropriately sensitive wholly aquatic animals which carry out respiration by means of a gill structure permitting gaseous exchange between the water and the circulatory system;

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"Animals" means appropriately sensitive animals which carry out respiration by means of a lung structure permitting gaseous exchange between air and the circulatory system;

"Aquatic flora" means plant life associated with the aquatic ecosystem including, but not limited to, algae and higher plants;

"Mixture" means any combination of two or more elements and/or compounds in solid, liquid or gaseous form.

116.4 DESIGNATION OF HAZARDOUS SUBSTANCES

The following criteria were employed in the derivation of the list and may be used in any future revisions thereof.

Any element or compound or structural isomer which is lethal to:

(a) one-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 mg/l (ppm) or less; or

(b) one-half of a test population of animals in 14 days when administered as a single oral dose equal to or less than 50 mg/kg of body weight; or

(c) one-half of a test population of animals in 14 days when dermally exposed to an amount equal to or less than 200 mg/kg of body weight for 24 hours; or

(d) one-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter of air for one hour; or

(e) aquatic flora as measured by a 50% decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 mg/l (ppm);

is a candidate for designation as a hazardous substance.

After satisfying the toxicity screen a determination is made that the candidate material has a reasonable potential for discharge as determined by: 1) past record of discharge; 2) production volume; 3) use and distribution patterns; and 4) selling price; and is therefore proposed as a hazardous substance.

The elements, compounds or their structural isomers, or mixtures thereof, appearing on the following Table 116.4, are designated as hazardous substances if discharged into navigable waters or adjoining shorelines or into the waters of the contiguous zone from vessels, onshore facilities or offshore facilities.

TABLE 116.4 LIST OF HAZARDOUS SUBSTANCES

The substances which are indented in the left hand column of the following list are designated as hazardous substances on the basis of toxicological properties of one component ion or group. Toxicological criteria met by each substance are denoted by the number on the left of the common name according to the following key:

1 = aquatic animal toxicity
4 = inhalation mammalian toxicity
2 = oral mammalian toxicity
5 = phytotoxicity
3 = dermal mammalian toxicity

The underlined headings in the list are provided only for ease of referencing and are not designated hazardous substances; e.g., Fluorine compounds does not mean that all fluorine compounds are designated as hazardous substances.

	COMMON NAME	SYNONYMS	ISOMERS
1	Acetaldehyde	ethanal ethyl aldehyde aldehyde acetic aldehyde	
1	Acetic acid	glacial acetic acid vinegar acid	
1	Acetic anhydride	acetic oxide acetyl oxide	
2	Acetone cyanohydrin	2-methyllactonitrile alpha-hydroxyisobutyronitrile	
1	Acetyl bromide		
1	Acetyl chloride		
1, 2	Acrolein	2-propenal acrylic aldehyde acrylaldehyde acraldehyde	
1	Acrylonitrile	cyanoethylene Fumigrain Ventox propenenitrile vinyl cyanide	
2	Adiponitrile	1, 4-dicyanobutane	
1	Aldrin	Octalene HHDN	
1	Allyl alcohol	2-propen-1-ol 1-propenol-3 vinyl carbinol	
1	Allyl chloride	3-chloropropene 3-chloropropylene Chlorallylene	
1	Aluminum sulfate	alum	
1	Ammonia		

	COMMON NAME	SYNONYMS	ISOMERS
	Ammonium compounds		
1	Ammonium acetate	acetic acid ammonium salt	
1	Ammonium benzoate		
1	Ammonium bicarbonate	acid ammonium carbonate ammonium hydrogen carbonate	
1	Ammonium bisulfite		
1	Ammonium bromide		
1	Ammonium carbamate	ammonium aminoformate	
1	Ammonium carbonate		
1	Ammonium chloride	ammonium muriate sal ammoniac salmiac Amchlor	
1	Ammonium citrate, dibasic	diammonium citrate citric acid diammonium salt	
1	Ammonium fluoborate		
1	Ammonium hydroxide		
1	Ammonium hypophosphite		
1	Ammonium iodide		
1	Ammonium nitrate		
1	Ammonium oxalate		
1	Ammonium pentaborate	ammonium decaborate	
1	Ammonium persulfate	ammonium peroxydisulfate	
1	Ammonium silicofluoride	ammonium fluosilicate	
1	Ammonium sulfamate	Ammate AMS ammonium amidosulfate	
1	Ammonium sulfide		
1	Ammonium sulfite		
1	Ammonium tartrate	tartaric acid ammonium salt	
1	Ammonium thiocyanate	ammonium rhodanide ammonium sulfocyanate ammonium sulfocyanide	
1	Ammonium thiosulfate	ammonium hyposulfite	
1	Amyl acetate	amylacetic ester pear oil banana oil	normal-; iso-; secondary-; tertiary- amyl acetate
1	Aniline	aniline oil phenylamine aminobenzene aminophen kyanol	

	COMMON NAME	SYNONYMS	ISOMERS
	Antimony compounds		
1	Antimony pentachloride		
1	Antimony pentafluoride		
1	Antimony potassium tartrate	tartar emetic tartrated antimony tartarized antimony potassium antimonyltartrate	
1	Antimony tribromide		
1	Antimony trichloride	butter of antimony	
1	Antimony trifluoride	antimony fluoride	
1	Antimony trioxide	diantimony trioxide flowers of antimony	
	Arsenic compounds		
1, 3	Arsenic acid	orthoarsenic acid	
1	Arsenic disulfide	arsenic monosulfide red arsenic sulfide	
1, 2	Arsenic pentaoxide	arsenic acid anhydride arsenic oxide	
1	Arsenic trichloride	arsenic chloride arsenious chloride arsenous chloride butter of arsenic	
1, 2	Arsenic trioxide	arsenious acid arsenious oxide white arsenic	
1	Arsenic trisulfide	arsenious sulfide yellow arsenic sulfide	
1	Calcium arsenate	tricalcium ortho-arsenate	
1	Calcium arsenite		
1	Potassium arsenate		
1	Potassium arsenite	potassium metaarsenite	
1	Sodium arsenate	disodium arsenate	
1, 2	Sodium arsenite	sodium metaarsenite	
1	Benzene	cyclohexatriene benzol	
1	Benzoic acid	benzenecarboxylic acid phenylformic acid dracylic acid	
1, 3	Benzonitrile	phenyl cyanide cyanobenzene	
1	Benzoyl chloride	benzenecarbonyl chloride	
1	Benzyl chloride		

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	COMMON NAME	SYNONYMS	ISOMERS
	Beryllium compounds		
1	Beryllium chloride		
1, 2	Beryllium fluoride		
1, 3	Beryllium nitrate		
1, 2	Butyl acetate	acetic acid normal-butyl ester acetic acid secondary-butyl ester acetic acid iso-butyl ester acetic acid tertiary-butyl ester	normal-; secondary-; iso-; tertiary-butyl acetate
1	Butylamine	1-; 2-aminobutane 2-amino-2-methylpropane 1-amino-2-methylpropane	normal-; secondary-; tertiary-butylamine
1	Butyric acid	butanoic acid ethylacetic acid	normal-; iso-butyric acid
	Cadmium compounds		
1	Cadmium acetate		
1	Cadmium bromide		
1	Cadmium chloride		
1	Calcium carbide	carbide acetylenogen	
1	Calcium hydroxide	lime, hydrated slaked lime calcium hydrate	
1	Calcium hypochlorite		
1	Calcium oxide	lime quicklime	
1, 2	Captan	Orthocide-406 SR-406 Vancide-89	
1	Carbaryl	Sevin	
1	Carbon disulfide	carbon bisulfide dithiocarbonic anhydride	
1	Chlordane	Toxichlor	
1	Chlorine		

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	COMMON NAME	SYNONYMS	ISOMERS
1	Chlorobenzene	monochlorobenzene benzene chloride	
1	Chloroform	trichloromethane	
1	Chlorosulfonic acid	sulfuric chlorohydrin	
	Chromium compounds		
1	Ammonium bichromate	ammonium dichromate	
1	Ammonium chromate		
1, 2	Calcium chromate	calcium chrome yellow gelbin yellow ultramarine	
3	Chromic acetate		
1	Chromic acid	chromic anhydride chromium trioxide	
1	Chromic sulfate		
1	Chromous chloride		
1	Chromyl chloride	chromium dioxychloride	
1	Lithium bichromate	lithium dichromate	
1	Lithium chromate		
1	Potassium bichromate	potassium dichromate	
1	Potassium chromate		
1	Sodium bichromate	sodium dichromate	
1	Sodium chromate		
1	Strontium chromate		
1	Zinc bichromate	zinc dichromate	
	Cobalt compounds		
1	Cobaltous bromide	cobalt bromide	
1	Cobaltous fluoride	cobalt fluoride	
1	Cobaltous formate	cobalt formate	
1	Cobaltous sulfamate	cobalt sulfamate	
	Copper compounds		
1	Cupric acetate	copper acetate crystallized verdigris	
1, 2	Cupric acetoarsenite	copper acetoarsenite copper acetate arsenite Paris green	
1	Cupric chloride	copper chloride	
1	Cupric formate	copper formate	
1	Cupric glycinate	copper glycinate cupric aminoacetate	
1	Cupric lactate	copper lactate	
1	Cupric nitrate	copper nitrate	
1	Cupric oxalate	copper oxalate	
1	Cupric subacetate	basic copper acetate	
1	Cupric sulfate	copper sulfate	
1	Cupric sulfate, ammoniated	ammoniated copper sulfate	

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	COMMON NAME	SYNONYMS	ISOMERS
1	Cupric tartrate	copper tartrate	
1	Cuprous bromide	copper bromide	
1, 2	Coumaphos	Co-Ral	
1	Cresol	cresylic acid hydroxytoluene	meta-;ortho-; para-cresol
	Cyanide compounds		
1	Barium cyanide		
1	Calcium cyanide		
1, 2	Hydrogen cyanide	hydrocyanic acid	
1, 2	Potassium cyanide		
1, 2	Sodium cyanide		
1	Zinc cyanide		
1	Cyanogen chloride		
1	Cyclohexane	hexahydrobenzene hexamethylene hexanaphthene	
1	2, 4-D (acid)	2, 4-dichlorophenoxyacetic acid	
1	2, 4-D (esters)	2, 4-dichlorophenoxyacetic acid esters	
1	Dalapon	Dowpon Gramevin Radapon Unipon	
1	DDT	p, p'-DDT	
1	Diazinon	Dipofene Diazitol Basudin Spectracide	
1	Dicamba	2-methoxy-3, 6-dichlorobenzoic acid	
1	Dichlobenil	2, 6-dichlorobenzonitrile 2, 6-DBN	
1	Dichlone	Phygon dichloronaphthoquinone	
1	Dichlorvos	2, 2-dichlorovinyl dimethyl phosphate Vapona	
1	Dieldrin	Alvit	
1	Diethylamine		

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	COMMON NAME	SYNONYMS	ISOMERS
1	Dimethylamine		
1	Dinitrobenzene	dinitrobenzol	
1, 2	Dinitrophenol	Aldifen	2, 3-;2, 4-; 2, 5-;2, 6; 3, 4-; 3, 5-dinitrophenol
1	Diquat	Aquacide Dextrone Reglone Diquat dibromide	
1, 2	Disulfoton	Di-syston	
1	Diuron	DCMU DMU	
1	Dodecylbenzenesulfonic acid		
1	Dodecylbenzenesulfonic acid, calcium salt		
1	Dodecylbenzenesulfonic acid, isopropanolamine salt		
1	Dodecylbenzenesulfonic acid, sodium salt		
1	Dodecylbenzenesulfonic acid, triethanolamine salt		
1	Dursban	chlorpyrifos	
1	Endosulfan	Thiodan	
1, 2	Endrin	Mendrin Compound 269	
1, 2	Ethion	Nialate	
1	Ethylbenzene		
1	Ethylenediamine	1, 2-diaminoethane	
1	Ethylenediamine-tetraacetic acid	EDTA edetic acid Havidote (ethylenedinitrilo)-tetraacetic acid	
	Fluorine compounds		
1	Aluminum fluoride	aluminum trifluoride	
1	Ammonium bifluoride	acid ammonium fluoride ammonium hydrogen fluoride	
1, 2	Ammonium fluoride	neutral ammonium fluoride	
1	Hydrofluoric acid	fluohydric acid	
1	Sodium bifluoride		
1	Sodium fluoride	villiaumite	
1	Stannous fluoride		

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	COMMON NAME	SYNONYMS	ISOMERS
1	Formaldehyde	methyl aldehyde methanal formalin	
1	Formic acid	methanoic acid	
1	Fumaric acid	trans-butenedioic acid trans-1, 2-ethylene-dicarboxylic acid boletic acid allomaleic acid	
1	Furfural	2-furaldehyde pyromucic aldehyde	
1, 2	Guthion	Gusathion azinphos-methyl	
1	Heptachlor	Velsicol-104 Drinox Heptagran	
1	Hydrochloric acid	hydrogen chloride muriatic acid	
1	Hydroxylamine	oxammonium	
	Iron compounds		
1	Ferric ammonium citrate	ammonium ferric citrate	
1	Ferric ammonium oxalate	ammonium ferric oxalate	
1	Ferric chloride	flores martis iron trichloride	
1	Ferric fluoride		
1	Ferric nitrate	iron nitrate	
1	Ferric sulfate	ferric persulfate ferric sesquisulfate ferric tersulfate	
1	Ferrous ammonium sulfate	Mohr's salt iron ammonium sulfate	
1	Ferrous chloride	iron chloride iron dichloride iron protochloride	
1	Ferrous sulfate	green vitriol iron vitriol iron sulfate iron protosulfate	
1	Isoprene	2-methyl-1, 3-butadiene	
1	Kelthane	di(p-chlorophenyl)-trichloromethylcarbinol DTMC dicofol	

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	COMMON NAME	SYNONYMS	ISOMERS
	Lead compounds		
1	Lead acetate	sugar of lead	
1	Lead arsenate		
1	Lead chloride		
1	Lead fluoborate		
1	Lead fluoride	lead difluoride plumbous fluoride	
1	Lead iodide		
1	Lead nitrate		
1	Lead stearate	stearic acid lead salt	
1	Lead sulfate		
1	Lead sulfide	galena	
1	Lead tetraacetate		
1	Lead thiocyanate	lead sulfocyanate	
1	Lead thiosulfate		
1	Lead tungstate		
1	Lindane	gamma-BHC gamma-benzene hexachloride	
1	Malathion	phosphothion	
1	Maleic acid	cis-butenedioic acid cis-1,2-ethylenedicarboxylic acid toxilic acid	
1	Maleic anhydride	2,5-furandione cis-butenedioic anhydride toxilic anhydride	
	Mercury compounds		
1	Mercuric acetate	mercury acetate	
1	Mercuric cyanide	mercury cyanide	
1	Mercuric nitrate	mercury nitrate mercury pernitrate	
1	Mercuric sulfate	mercury sulfate mercury persulfate mercury bisulfate	
1	Mercuric thiocyanate	mercury thiocyanate mercuric sulfocyanate mercuric sulfocyanide	
1	Mercurous nitrate	mercury protonitrate	
1	Methoxychlor	DMDT methoxy-DDT	
1	Methyl mercaptan	methanethiol mercaptomethane methyl sulfhydrate thiomethyl alcohol	

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	COMMON NAME	SYNONYMS	ISOMERS
1	Methyl methacrylate	methacrylic acid methyl ester methyl-2-methyl-2-propenoate	
1,2	Methyl parathion	Nitrox-80	
1,2	Mevinphos	Phosdrin	
1	Monoethylamine	ethylamine aminoethane	
1	Monomethylamine	methylamine aminomethane	
1	Naled	Dibrom	
1	Naphthalene	white tar tar camphor naphthalin	
1	Naphthenic acid	cyclohexanecarboxylic acid hexahydrobenzoic acid	
	Nickel compounds		
1	Nickel ammonium sulfate	ammonium nickel sulfate	
1,2	Nickel chloride	nickelous chloride	
1	Nickel formate		
1	Nickel hydroxide	nickelous hydroxide	
1	Nickel nitrate		
1	Nickel sulfate	nickelous sulfate	
1	Nitric acid	aqua fortis	
1	Nitrobenzene	nitrobenzol oil of mirbane	
1	Nitrogen dioxide	nitrogen tetraoxide	
1	Nitrophenol	mononitrophenol	meta-; ortho-; para- nitrophenol
1	Paraformaldehyde	Paraform Formagene Triformol polymerized formaldehyde polyoxymethylene	
1,2	Parathion	DNTP Niran	

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	COMMON NAME	SYNONYMS	ISOMERS
1	Pentachlorophenol	PCP Penta	
1	Phenol	carbolic acid phenyl hydroxide hydroxybenzene oxybenzene	
1	Phosgene	diphosgene carbonyl chloride chloroformyl chloride	
1	Phosphoric acid	orthophosphoric acid	
1, 2	Phosphorus	black phosphorus red phosphorus white phosphorus yellow phosphorus	
1	Phosphorus oxychloride	phosphoryl chloride phosphorus chloride	
1	Phosphorus pentasulfide	phosphoric sulfide thiophosphoric anhydride phosphorus persulfide	
1	Phosphorus trichloride	phosphorous chloride	
1	Polychlorinated biphenyls	PCB Aroclor Polychlorinated diphenyls	
1	Potassium hydroxide	potassium hydrate caustic potash potassa	
1	Potassium permanganate	chameleon mineral	
1	Propionic acid	propanoic acid methylacetic acid ethylformic acid	
1	Propionic anhydride	propanoic anhydride methylacetic anhydride	
1	Propyl alcohol	ethyl carbinol propylic alcohol propanol	normal-; iso-propyl alcohol
1	Pyrethrins	Pyrethrin I Pyrethrin II	

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	COMMON NAME	SYNONYMS	ISOMERS
1	Quinoline	1-benzazine benzo[b]pyridine leucoline chinoleine leucol	
1	Resorcinol	resorcin 1, 3-benzenediol meta-dihydroxybenzene	
	Selenium compounds		
1	Selenium oxide	selenium dioxide	
1, 2	Sodium selenite		
1	Sodium	natrium	
1	Sodium bisulfite	sodium acid sulfite sodium hydrogen sulfite	
1	Sodium hydrosulfide	sodium sulfhydrate	
1	Sodium hydroxide	caustic soda soda lye sodium hydrate	
1	Sodium hypochlorite	bleach	
1	Sodium methylate	sodium methoxide	
1	Sodium nitrite		
1	Sodium phosphate, dibasic		
1	Sodium phosphate, monobasic		
1	Sodium phosphate, tribasic		
1	Sodium sulfide		
1, 2	Strychnine		
1	Styrene	vinylbenzene phenylethylene styrol styrolene cinnamene cinnamol	
1	Sulfuric acid	oil of vitriol oleum	
1	Sulfur monochloride	sulfur chloride	

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	COMMON NAME	SYNONYMS	ISOMERS
1	2,4,5-T (acid)	2,4,5-trichlorophenoxyacetic acid	
1	2,4,5-T (esters)	2,4,5-trichlorophenoxyacetic esters	
1	TDE	DDD	
1	Tetraethyl lead	lead tetraethyl TEL	
1,2	Tetraethyl pyrophosphate	TEPP	
1	Toluene	toluol methylbenzene phenylmethane Methacide	
1	Toxaphene	camphechlor	
1	Trichlorfon	Dipterex Dylox	
1	Trichlorophenol	Collunosol Dowicide 2 or 2S Omal Phenachlor	
1	Triethylamine		
1	Trimethylamine	TMA	
	Uranium compounds		
1	Uranium peroxide		
1	Uranyl acetate		
1	Uranyl nitrate		
1	Uranyl sulfate		
	Vanadium compounds		
1	Vanadium pentoxide	vanadic anhydride vanadic acid anhydride	
1	Vanadyl sulfate	vanadic sulfate vanadium sulfate	
1	Vinyl acetate	acetic acid ethylene ether	
1	Xylene	dimethylbenzene xylol	meta-; ortho-; para-xylene
1	Xylenol	dimethylphenol hydroxydimethyl benzene	
1,2	Zectran	mexacarbate	

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	COMMON NAME	SYNONYMS	ISOMERS
	Zinc compounds		
1	Zinc acetate		
1	Zinc ammonium chloride		
1	Zinc borate		
1	Zinc bromide		
1	Zinc carbonate		
1	Zinc chloride	butter of zinc	
1	Zinc fluoride		
1	Zinc formate		
1	Zinc hydrosulfite		
1	Zinc nitrate		
1	Zinc phenolsulfonate	zinc sulfocarbolate	
1,2	Zinc phosphide		
1	Zinc potassium chromate	zinc yellow citron yellow buttercup yellow zinc chrome	
1	Zinc silicofluoride	zinc fluosilicate	
1	Zinc sulfate	white vitriol zinc vitriol white copperas	
1	Zinc sulfate, monohydrate		
	Zirconium compounds		
1	Zirconium acetate		
1	Zirconium potassium fluoride		
1	Zirconium nitrate		
1	Zirconium oxychloride	zirconyl chloride zirconium chloride, basic	
1	Zirconium sulfate	disulfatozirconic acid	
1	Zirconium tetrachloride		

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