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

(a) Scope. (1) Section 1615.4(g)(4)(ii) of the Standard for the Flammability of Children’s Sleepwear in sizes 0–6X (16 CFR 1615.4(g)(4)(ii)) requires that all fabrics and certain garments subject to the standard be tested for flammability as produced (or after one washing and drying) and after the items have been washed and dried 50 times in machines, using the procedure specified in AATCC Test Method 124–1996.6 This section also provides that items may be laundered a different number of times under another washing and drying procedure if the Commission finds that such an alternate laundering procedure is equivalent to the procedure specified in the standard.

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

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

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

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

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

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

(iii) With regard to each fabric or garment for which an alternate laundering procedure is sought, test data comparing twenty test specimens washed and dried by the proposed alternate laundering procedure and twenty specimens tested in accordance with the 50-wash and dry cycle procedure required in section 4(g)(4)(ii) of the standard. (For purposes of applications, similar fabrics or garments of different finishes shall be considered as different fabrics or garments and therefore separate test results must be submitted). Each group of twenty specimens upon which these data are based must be cut for testing, half in the machine direction and half in the cross machine direction. Where the applicant manufactures the fabric or garments in more than one plant, the data described in this paragraph must be submitted separately for the fabric or garments of each plant for which the proposed alternate laundering procedure is intended to be used. Subsequent applications for use of the same procedure for additional fabrics and garments may incorporate portions of the original application by reference, as appropriate.

(2) Applications shall be certified by the chief executive officer of the applicant or the official to whom the duty

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6 AATCC Test Method 124–1996 “Appearance of Fabrics after Repeated Home Laundering,” Technical Manual of the American Association of Textile Chemists and Colorists, vol. 73, 1997, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.
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to certify has been delegated in writing. The Commission’s Assistant Executive Director for Compliance must be notified in writing of any such delegation.

(c) Use of alternate laundering procedure. (1) The applicant may begin to use the alternate laundering procedure 30 days after the application is received by the Assistant Executive Director for Compliance unless notified to the contrary. The Assistant Executive Director for Compliance may normally furnish an applicant with written notice of approval within 30 days. The applicant may be notified that a longer time is needed for evaluation of the application, and in the discretion of the Assistant Executive Director for Compliance, may be authorized to use the alternate laundering procedure pending the final decision. The notice of approval shall be kept by the applicant with other written records required to be maintained in connection with the use of an alternate laundering procedure. So the applicants may ascertain that the application has been received and have the 30-day period has elapsed, it is suggested that applications be sent by certified mail, return receipt requested.

(2) As provided in detail in §1615.32(e), applicants must immediately discontinue use of an alternate procedure, and must immediately notify the Assistant Executive Director for Compliance if there are test failures during revalidation testing.

(d) Revalidation testing. (1) In order to assure a continued satisfactory correlation between the alternate laundering procedure and the laundering procedure of the standard, applicants shall perform all the testing described in paragraph (b)(1)(iii) of this section for fabrics or garments from current production at least once for every three-month period during which any of the fabric or garments are produced.

(2) If following initial approval, four successive comparisons of the alternate and the 50-cycle methods as described in paragraph (d)(1) of this section, consistently show acceptable results under the criteria specified by paragraph (f) of this section, the Commission will deem such comparisons to be sufficient demonstration of the equivalence of the alternate laundering procedure with the 50 launderings required in the standard and further revalidation testing will not be required.

(3) Records of revalidation testing need not be submitted to the Assistant Executive Director for Compliance. However such records must be maintained in accordance with paragraph (h) of this section.

(e) Revalidation testing failures. (1) If revalidation testing for any fabric or garment does not meet the criteria of §1615.32(f), the applicant must immediately discontinue use of the alternate laundering procedure for the fabric or garment and must immediately notify the Assistant Executive Director for Compliance in writing of the failure to meet the criteria. Also, the testing from the production unit from which the non-correlating samples were taken and the testing from subsequent production units (if any) must be repeated immediately using the laundering procedure prescribed in the standard. These repeat tests shall then be the tests applicable to such production unit(s) and the tests previously performed on the production unit(s) shall be considered invalid.

(2) When use of an alternate laundering procedure for a particular fabric or garment has been discontinued because of a failure to meet the criteria of §1615.32(f), the alternate laundering procedure shall not be used again unless a new application for approval is submitted to the Assistant Executive Director for Compliance and that officer approves the application in writing. In addition to the other information required for applications, the additional application should give facts or reasons showing why the applicant believes the procedure should be considered reliable with the fabric or garments involved, in view of previous failure.

(f) Commission criteria for evaluating applications. (1) The Assistant Executive Director for Compliance will approve the alternate laundering procedure as equivalent to the laundering procedure specified in §1615.4(g)(4)(ii) of the standard if testing from 20 specimens laundered by the proposed alternate procedure yields as many or more char lengths in excess of five inches as
§ 1615.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1615.4 (b), (c) and (d). The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1615.4 (a), (f), and (g). The Standard prescribes pass/fail criteria at 16 CFR 1615.3(b).

(b)(1) By issuance of this §1615.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedures is as stringent as, or more stringent than, a test utilizing the apparatus and procedures specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternate apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the Standard.

(2) The data or information required by this paragraph (b) of this section as a condition to the Commission’s approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the Standard.

(c) Written application to the Commission is not required for approval of alternate test apparatus or procedure, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedure.

(d) Use of any alternate test apparatus or procedure without the data or information required by paragraph (b),