

## Consumer Product Safety Commission

## § 1611.4

### PART 1611—STANDARD FOR THE FLAMMABILITY OF VINYL PLASTIC FILM

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SOURCE: 40 FR 59898, Dec. 30, 1975, unless otherwise noted.

CODIFICATION NOTE: Part 1611 is a codification of the previously unpublished flammability standard for vinyl plastic film which was derived from part of the requirements of Commercial Standard 192-53, issued by the Department of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 Public Law 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.<sup>a</sup>

##### § 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.

##### § 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:

(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

<sup>a</sup>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)).

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  $\frac{1}{16}$  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 electrical 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  $\frac{1}{16}$  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.

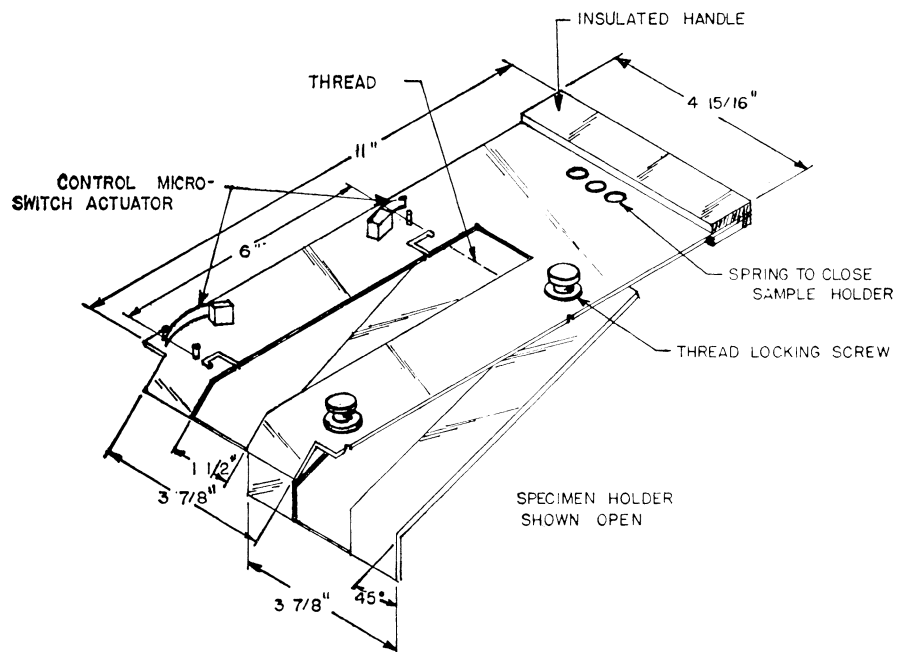
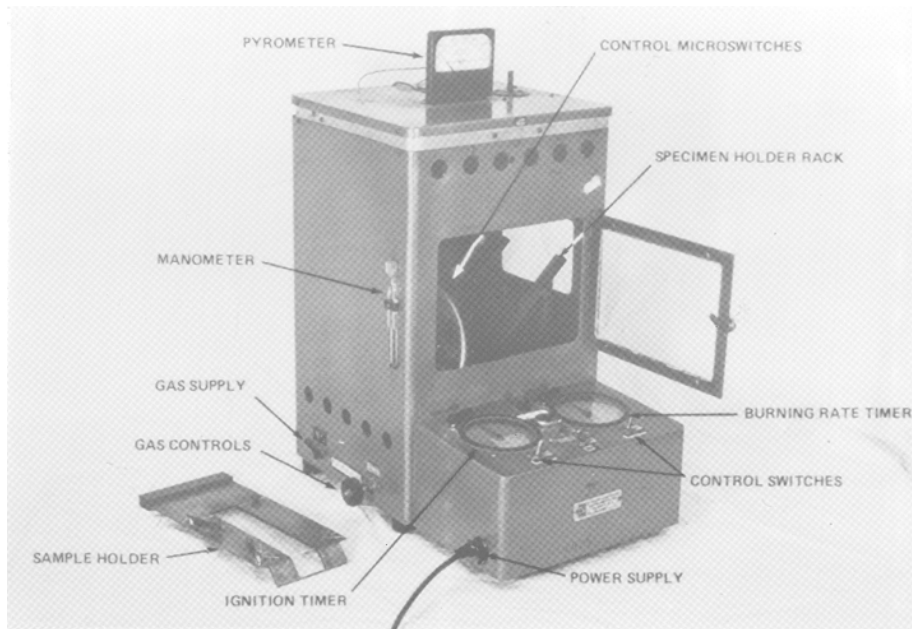


FIGURE 2 —Specimen holder

## Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 15 U.S.C. 1194.

NOTE: An interpretation, with respect to Ornamental Veils or Veilings, issued by the Federal Trade Commission at 32 FR 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, means 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 nonrigid, 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

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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 parchmented 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.

(a) 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 to be dangerous when worn by individuals.

(b)(1) In the application of the requirements of §1611.3 of the Standard to any item of film, coated fabric, or wearing apparel, compute the average burn rate from five specimens burned transverse to the direction of processing and the average burn rate from an additional five specimens burned lengthwise to the direction of processing. If either the average burn rate from the five specimens burned transverse or the average burn rate from the five specimens burned lengthwise exceeds 1.2 inches per second, the test results shall be interpreted as a failure.

(2) To compute the average burn rate for each set of five specimens, at least two of the specimens must ignite and burn the stop cord for the specimen. However, if fewer than two specimens of any given set of five specimens ignite and burn the stop cord for the specimen, the test results shall be interpreted according to provisions of paragraphs (b)(2)(i) through (iii) of this section:

(i) If no specimen ignites and burns the stop cord, the test results of that set of specimens shall be regarded as passing.

(ii) If only one specimen of the set of five specimens ignites and burns the stop cord with passing results, the results of that set of specimens will be regarded as passing.

(iii) If only one specimen of the set of five specimens ignites and burns the stop cord with failing results, test an-

other set of five specimens from the same direction of processing. Compute the average burn rate for all ten specimens in the same direction of processing. If two or more of the 10 specimens ignite and burn the stop cord, average the results from all 10 specimens which ignited and burned the stop cord. If only one of the 10 specimens ignites and burns the stop cord, the test is inconclusive. The Commission will take no enforcement action on the basis of that test. The Commission may conduct additional testing of the article of film, coated fabric, or wearing apparel, but the results of any inconclusive test shall not be averaged with results obtained from any other test.

[50 FR 7762, Feb. 26, 1985; 50 FR 11848, Mar. 26, 1985]

### § 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 paragraph (a)(1) of this section, 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

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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.

NOTE: If the outer layer of plastic film or plastic-coated fabric of a multilayer fabric separates readily from the other layers, the outer layer shall be tested under part 1611—Standard for the Flammability of Vinyl Plastic Film. If the outer layer adheres to all or a portion of one or more layers of the underlying fabric, the multilayered fabric may be tested under either part 1611 or Part 1610—Standard for the Flammability of Clothing Textiles. However, if the conditioning procedures required by §1610.4(f) of the Standard for the Flammability of Cloth Textiles would damage or alter the physical characteristics of the film or coating, the uncovered or exposed layer shall be tested in accordance with part 1611.

Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a sample taken from a full thickness of the assembled article passes the test in the standard (part 1610 or part 1611) otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface. See §§ 1610.36(f) and 1611.36(f).

[50 FR 7762, Feb. 26, 1985]

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### § 1611.35 Testing certain classes of fabric and film.

(a) *Fabric not customarily washed or dry cleaned.* (1) Except as provided in paragraph (a)(2) of this section, any textile fabric or article of wearing apparel, which, in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not be dry cleaned or washed as prescribed in §§ 1610.4 (d) and (e) when tested under the Standard for the Flammability of Clothing Textiles if such fabric or article of wearing apparel, when marketed or handled, is marked in a clear and legible manner with the statement: "Fabric may be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to in this paragraph is bridal illusion.

(2) Section 1610.4(a)(4) of the Standard for the Flammability of Clothing Textiles, which requires that certain samples shall be dry cleaned or washed before testing, shall not apply to disposable fabrics and garments. Additionally, such disposable fabrics and garments shall not be subject to the labeling requirements set forth in paragraph (a)(1) of this section.

(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)(1) Items which are subject to the Standard for the Flammability of Vinyl Plastic Film from which a test specimen 3 inches by 9 inches cannot be taken lengthwise to the direction of processing shall not be tested in the lengthwise direction.

(2) Items which are subject to the Standard for the Flammability of Vinyl Plastic Film from which a test specimen 3 inches by 9 inches cannot be taken transverse to the direction of processing shall not be tested in the transverse direction.

[40 FR 59898, Dec. 30, 1975, as amended at 50 FR 51671, Dec. 19, 1985]

**§ 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.

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(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface. (15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b))

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.”

(Secs. 4, 5, 67 Stat. 112, 113, as amended, 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194); sec. 30(b), 86 Stat. 1207 (15 U.S.C. 2079(b))

[40 FR 59898, Dec. 30, 1975, as amended at 50 FR 7763, Feb. 26, 1985]

### § 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 nev-

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ertheless, 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

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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, over-stitch, 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 nitro-cellulose 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 descrip-

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tion 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.

(2) [Reserved]

(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 pre-arranged 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 paragraphs (c) (1) and (2) of this section.

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**

#### **Sec.**

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- 1615.2 Scope and application.
- 1615.3 General requirements.
- 1615.4 Test procedure.
- 1615.5 Labeling requirements.

### **Subpart B—Rules and Regulations**

- 1615.31 Labeling, recordkeeping, advertising, retail display and guaranties.
- 1615.32 Method for establishment and use of alternate laundering procedures under section 4(g)(4)(ii) of the standard.
- 1615.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.
- 1615.36 Use of alternate apparatus or procedures for tests for guaranty purposes.

### **Subpart C—Interpretations and Policies**

- 1615.61 [Reserved]