

manufactured after October 15, 1979 must be certified as complying with the standard. Cellulose insulation which is sold in bags or other containers is “manufactured” when the insulation is packaged in the bag or other container in which it will be sold. Insulation which is not sold in bags or containers is “manufactured” when the insulation leaves the manufacturing site to be sold.

PART 1210—SAFETY STANDARD FOR CIGARETTE LIGHTERS

Subpart A—Requirements for Child Resistance

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SOURCE: 58 FR 37584, July 12, 1993, unless otherwise noted.

Subpart A—Requirements for Child Resistance

AUTHORITY: 15 U.S.C. 2056, 2058, 2079(d).

§ 1210.1 Scope, application, and effective date.

This part 1210, a consumer product safety standard, prescribes requirements for disposable and novelty lighters. These requirements are intended to make the lighters subject to the standard’s provisions resistant to successful operation by children younger than 5 years of age. This standard applies to all disposable and novelty lighters, as defined in § 1210.2, that are manufactured or imported after July 12, 1994.

§ 1210.2 Definitions.

As used in this part 1210:

- (a) *Cigarette lighter*. See *lighter*.
- (b) *Disposable lighter*—means a lighter that either is:
 - (1) Not refillable with fuel or
 - (2)(i) Its fuel is butane, isobutane, propane, or other liquified hydrocarbon, or a mixture containing any of these, whose vapor pressure at 75 °F (24 °C) exceeds a gage pressure of 15 psi (103 kPa), and
 - (ii) It has a Customs Valuation or ex-factory price under \$2.00, as adjusted every 5 years, to the nearest \$0.25, in accordance with the percentage changes in the appropriate monthly Producer Price Index (Producer Price Index for Miscellaneous Fabricated Products) from June 1993. The adjusted figure, based on the change in that Index since June 1993 as finalized in November 2003, is \$2.25.
- (c) *Lighter*, also referred to as *cigarette lighter*, means a flame-producing product commonly used by consumers to ignite cigarettes, cigars, and pipes, although they may be used to ignite other materials. This term does not include matches or any other lighting device intended primarily for igniting materials other than smoking materials, such as fuel for fireplaces or for charcoal or gas-fired grills. When used in this part 1210, the term *lighter* includes only the disposable and novelty lighters to which this regulation applies.
- (d) *Novelty lighter* means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children under 5 years of age. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.
- (e) *Successful operation* means one signal of any duration from a surrogate lighter within either of the two 5-minute test periods specified in § 1210.4(f).

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(f) *Surrogate lighter* means a device that: approximates the appearance, size, shape, and weight of, and is identical in all other factors that affect child resistance (including operation and the force(s) required for operation), within reasonable manufacturing tolerances, to, a lighter intended for use by consumers; has no fuel; does not produce a flame; and produces an audible or visual signal that will be clearly discernible when the surrogate lighter is activated in each manner that would normally produce a flame in a production lighter. (This definition does not require a lighter to be modified with electronics or the like to produce a signal. Manufacturers may use a lighter without fuel as a surrogate lighter if a distinct signal such as a “click” can be heard clearly when the mechanism is operated in each manner that would produce a flame in a production lighter and if a flame cannot be produced in a production lighter without the signal. *But see* §1210.4(f)(1).)

(g) *Model* means one or more cigarette lighters from the same manufacturer or importer that do not differ in design or other characteristics in any manner that may affect child-resistance. Lighter characteristics that may affect child-resistance include, but are not limited to, size, shape, case material, and ignition mechanism (including child-resistant features).

[58 FR 37584, July 12, 1993, as amended at 69 FR 19763, Apr. 14, 2004]

§ 1210.3 Requirements for cigarette lighters.

(a) A lighter subject to this part 1210 shall be resistant to successful operation by at least 85 percent of the child-test panel when tested in the manner prescribed by §1210.4.

(b) The mechanism or system of a lighter subject to this part 1210 that makes the product resist successful operation by children must:

- (1) Reset itself automatically after each operation of the ignition mechanism of the lighter,
- (2) Not impair safe operation of the lighter when used in a normal and convenient manner,
- (3) Be effective for the reasonably expected life of the lighter, and

(4) Not be easily overridden or deactivated.

§ 1210.4 Test protocol.

(a) *Child test panel.* (1) The test to determine if a lighter is resistant to successful operation by children uses a panel of children to test a surrogate lighter representing the production lighter intended for use. Written informed consent shall be obtained from a parent or legal guardian of a child before the child participates in the test.

(2) The test shall be conducted using at least one, but no more than two, 100-child test panels in accordance with the provisions of §1210.4(f).

(3) The children for the test panel shall live within the United States.

(4) The age and sex distribution of each 100-child panel shall be:

(i) 30 +or- 2 children (20 +or- 1 males; 10 +or- 1 females) 42 through 44 months old;

(ii) 40 +or- 2 children (26 +or- 1 males; 14 +or- 1 females) 45 through 48 months old;

(iii) 30 +or- 2 children (20 +or- 1 males; 10 +or- 1 females) 49 through 51 months old.

NOTE: To calculate a child’s age in months:

1. Subtract the child’s birth date from the test date.

	Month	Day	Year
Test Date	8	3	94
Birth Date	6	23	90
Difference	2	-20	4

2. Multiply the difference in years by 12 months.

4 years × 12 months = 48 months.

3. Add the difference in months.

48 months + 2 months = 50 months.

4. If the difference in days is greater than 15 (e.g. 16, 17), add 1 month.

If the difference in days is less than -15 (e.g., -16, -17) subtract 1 month.

50 months - 1 month = 49 months.

If the difference in days is between -15 and 15 (e.g., -15, -14, ... 14, 15), do *not* add or subtract 1 month.

(5) No child with a permanent or temporary illness, injury, or handicap that would interfere with the child’s ability to operate the surrogate lighter shall be selected for participation.

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(6) Two children at a time shall participate in testing of surrogate lighters. Extra children whose results will not be counted in the test may be used if necessary to provide the required partner for test subjects, if the extra children are within the required age range and a parent or guardian of each such child has signed a consent form.

(7) No child shall participate in more than one test panel or test more than one surrogate lighter. No child shall participate in both child-resistant package testing and surrogate lighter testing on the same day.

(b) *Test sites, environment, and adult testers.* (1) Surrogate lighters shall be tested within the United States at 5 or more test sites throughout the geographical area for each 100-child panel if the sites are the customary nursery schools or day care centers of the participating children. No more than 20 children shall be tested at each site. In the alternative, surrogate lighters may be tested within the United States at one or more central locations, provided the participating children are drawn from a variety of locations within the geographical area.

(2) Testing of surrogate lighters shall be conducted in a room that is familiar to the children on the test panel (for example, a room the children frequent at their customary nursery school or day care center). If the testing is conducted in a room that initially is unfamiliar to the children (for example, a room at a central location), the tester shall allow at least 5 minutes for the children to become accustomed to the new environment before starting the test. The area in which the testing is conducted shall be well-lighted and isolated from distractions. The children shall be allowed freedom of movement to work with their surrogate lighters, as long as the tester can watch both children at the same time. Two children at a time shall participate in testing of surrogate lighters. The children shall be seated side by side in chairs approximately 6 inches apart, across a table from the tester. The table shall be normal table height for the children, so that they can sit up at the table with their legs underneath and so that their arms will be at a comfortable

height when on top of the table. The children's chairs shall be "child-size."

(3) Each tester shall be at least 18 years old. Five or 6 adult testers shall be used for each 100-child test panel. Each tester shall test an approximately equal number of children from a 100-child test panel (20 +or- 2 children each for 5 testers and 17 +or- 2 children each for 6 testers).

NOTE: When a test is initiated with five testers and one tester drops out, a sixth tester may be added to complete the testing. When a test is initiated with six testers and one tester drops out, the test shall be completed using the five remaining testers. When a tester drops out, the requirement for each tester to test an approximately equal number of children does not apply to that tester. When testing is initiated with five testers, no tester shall test more than 19 children until it is certain that the test can be completed with five testers.

(c) *Surrogate lighters.* (1) Six surrogate lighters shall be used for each 100-child panel. The six lighters shall represent the range of forces required for operation of lighters intended for use. All surrogate lighters shall be the same color. The surrogate lighters shall be labeled with sequential numbers beginning with the number one. The same six surrogate lighters shall be used for the entire 100-child panel. The surrogate lighters may be used in more than one 100-child panel test. The surrogate lighters shall not be damaged or jarred during storage or transportation. The surrogate lighters shall not be exposed to extreme heat or cold. The surrogate lighters shall be tested at room temperature. No surrogate lighter shall be left unattended.

(2) Each surrogate lighter shall be tested by an approximately equal number of children in a 100-child test panel (17 +or- 2 children).

NOTE: If a surrogate lighter is permanently damaged, testing shall continue with the remaining lighters. When a lighter is dropped out, the requirement that each lighter be tested by an approximately equal number of children does not apply to that lighter.

(3) Before each 100-child panel is tested, each surrogate lighter shall be examined to verify that it approximates the appearance, size, shape, and weight of a production lighter intended for use.

(4) Before and after each 100-child panel is tested, force measurements shall be taken on all operating components that could affect child resistance to verify that they are within reasonable operating tolerances for a production lighter intended for use.

(5) Before and after testing surrogate lighters with each child, each surrogate lighter shall be operated outside the presence of any child participating in the test to verify that the lighters produce a signal. If the surrogate lighter will not produce a signal before the test, it shall be repaired before it is used in testing. If the surrogate lighter does not produce a signal when it is operated after the test, the results for the preceding test with that lighter shall be eliminated. The lighter shall be repaired and tested with another eligible child (as one of a pair of children) to complete the test panel.

(d) *Encouragement.* (1) Prior to the test, the tester shall talk to the children in a normal and friendly tone to make them feel at ease and to gain their confidence.

(2) The tester shall tell the children that he or she needs their help for a special job. The children shall not be promised a reward of any kind for participating, and shall not be told that the test is a game or contest or that it is fun.

(3) The tester shall not discourage a child from attempting to operate the surrogate lighter at any time unless a child is in danger of hurting himself or another child. The tester shall not discuss the dangers of lighters or matches with the children to be tested prior to the end of the 10-minute test.

(4) Whenever a child has stopped attempting to operate the surrogate lighter for a period of approximately one minute, the tester shall encourage the child to try by saying "keep trying for just a little longer."

(5) Whenever a child says that his or her parent, grandparent, guardian, etc., said never to touch lighters, say "that's right — never touch a real lighter — but your [parent, etc.] said it was OK for you to try to make a noise with this special lighter because it can't hurt you."

(6) The children in a pair being tested may encourage each other to operate

the surrogate lighter and may tell or show each other how to operate it. (This interaction is *not* considered to be disruption as described in paragraph (e)(2) below.) However, neither child shall be allowed to operate the other child's lighter. If one child takes the other child's surrogate lighter, that surrogate lighter shall be immediately returned to the proper child. If this occurs, the tester shall say "No. He(she) has to try to do it himself(herself)."

(e) *Children who refuse to participate.*

(1) If a child becomes upset or afraid, and cannot be reassured before the test starts, select another eligible child for participation in that pair.

(2) If a child disrupts the participation of another child for more than one minute during the test, the test shall be stopped and both children eliminated from the results. An explanation shall be recorded on the data collection record. These two children should be replaced with other eligible children to complete the test panel.

(3) If a child is not disruptive but refuses to attempt to operate the surrogate lighter throughout the entire test period, that child shall be eliminated from the test results and an explanation shall be recorded on the data collection record. The child shall be replaced with another eligible child (as one of a pair of children) to complete the test panel.

(f) *Test procedure.* (1) To begin the test, the tester shall say "I have a special lighter that will not make a flame. It makes a noise like this." Except where doing so would block the child's view of a visual signal, the adult tester shall place a 8½ by 11 inch sheet of cardboard or other rigid opaque material upright on the table in front of the surrogate lighter, so that the surrogate lighter cannot be seen by the child, and shall operate the surrogate lighter once to produce its signal. The tester shall say "Your parents [or other guardian, if applicable] said it is OK for you to try to make that noise with your lighter." The tester shall place a surrogate lighter in each child's hand and say "now *you* try to make a noise with your lighter. Keep trying until I tell you to stop."

(2) The adult tester shall observe the children for 5 minutes to determine if

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either or both of the children can successfully operate the surrogate lighter by producing one signal of any duration. If a child achieves a spark without defeating the child-resistant feature, say "that's a spark — it won't hurt you — try to make the noise with your lighter." If any child successfully operates the surrogate lighter during this period, the surrogate lighter shall be taken from that child and the child shall not be asked to try to operate the lighter again. The tester shall ask the successful child to remain until the other child is finished.

(3) If either or both of the children are unable to successfully operate the surrogate lighter during the 5-minute period specified in §1210.4(f)(2), the adult tester shall demonstrate the operation of the surrogate lighter. To conduct the demonstration, secure the children's full attention by saying "Okay, give me your lighters now." Take the lighters and place them on the table in front of you out of the children's reach. Then say, "I'll show you how to make the noise with your lighters. First I'll show you with (child's name)'s lighter and then I'll show you with (child's name)'s lighter." Pick up the first child's lighter. Hold the lighter approximately two feet in front of the children at their eye level. Hold the lighter in a vertical position in one hand with the child-resistant feature exposed (not covered by fingers, thumb, etc.) Orient the child-resistant mechanism on the lighter toward the children. (This may require a change in your orientation to the children such as sitting sideways in the chair to allow a normal hand position for holding the lighter while assuring that both children have a clear view of the mechanism. You may also need to reposition your chair so your hand is centered between the children.) Say "now watch the lighter." Look at each child to verify that they are looking at the lighter. Operate the lighter one time in a normal manner according to the manufacturer's instructions. Do not exaggerate operating movements. Do not verbally describe the lighter's operation. Place the first child's lighter back on the table in front of you and pick up the second child's lighter. Say, "Okay, now watch this lighter." Re-

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peat the demonstration as described above using the second child's lighter.

NOTE: Testers shall be trained to conduct the demonstration in a uniform manner, including the words spoken to the children, the way the lighter is held and operated, and how the tester's hand and body is oriented to the children. All testers must be able to operate the surrogate lighters using only appropriate operating movements in accordance with the manufacturer's instructions. If any of these requirements are not met during the demonstration for any pair of children, the results for that pair of children shall be eliminated from the test. Another pair of eligible children shall be used to complete the test panel.

(4) Each child who fails to successfully operate the surrogate lighter in the first 5 minutes is then given another 5 minutes in which to attempt the successful operation of the surrogate lighter. After the demonstrations give their original lighters back to the children by placing a lighter in each child's hand. Say "Okay, now you try to make the noise with your lighters - keep trying until I tell you to stop." If any child successfully operates the surrogate lighter during this period, the surrogate lighter shall be taken from that child and the child shall not be asked to try to operate the lighter again. The tester shall ask the successful child to remain until the other child is finished.

(5) At the end of the second 5-minute test period, take the surrogate lighter from any child who has not successfully operated it.

(6) After the test is over, ask the children to stand next to you. Look at the children's faces and say: "These are special lighters that don't make fire. Real lighters can burn you. Will you both promise me that you'll never try to work a real lighter?" Wait for an affirmative response from each child; then thank the children for helping.

(7) Escort the children out of the room used for testing.

(8) After a child has participated in the testing of a surrogate lighter, and on the same day, provide written notice of that fact to the child's parent or guardian. This notification may be in the form of a letter provided to the school to be given to the parents or

guardian of each child. The notification shall state that the child participated, shall ask the parent or guardian to warn the child not to play with lighters, and shall remind the parent or guardian to keep all lighters and matches, whether child resistant or not, out of the reach of children. For children who operated the surrogate lighter, the notification shall state that the child was able to operate the child-resistant lighter. For children who do not defeat the child-resistant feature, the notification shall state that, although the child did not defeat the child-resistant feature, the child may be able to do so in the future.

(g) *Data collection and recording.* Except for recording the times required for the children to activate the signal, recording of data should be avoided while the children are trying to operate the lighters, so that the tester's full attention is on the children during the test period. If actual testing is videotaped, the camera shall be stationary and shall be operated remotely in order to avoid distracting the children. Any photographs shall be taken *after* actual testing and shall simulate actual test procedure(s) (for example, the demonstration). The following data shall be collected and recorded for each child in the 100-child test panel:

- (1) Sex (male or female).
- (2) Date of birth (month, day, year).
- (3) Age (in months, to the nearest month, as specified in § 1210.4(a)(4)).
- (4) The number of the lighter tested by that child.
- (5) Date of participation in the test (month, day, year).
- (6) Location where the test was given (city, state, country, and the name of the site or an unique number or letter code that identifies the test site).
- (7) The name of the tester who conducted the test.
- (8) The elapsed time (to the nearest second) at which the child achieved any operation of the surrogate signal in the first 5-minute test period.
- (9) The elapsed time (to the nearest second) at which the child achieved any operation of the surrogate signal in the second 5-minute test period.
- (10) For a single pair of children from each 100-child test panel, photograph(s) or video tape to show how the lighter

was held in the tester's hand, and the orientation of the tester's body and hand to the children, during the demonstration.

(h) *Evaluation of test results and acceptance criterion.* To determine whether a surrogate lighter resists operation by at least 85 percent of the children, sequential panels of 100 children each, up to a maximum of 2 panels, shall be tested as prescribed below.

(1) If no more than 10 children in the first 100-child test panel successfully operated the surrogate lighter, the lighter represented by the surrogate lighter shall be considered to be resistant to successful operation by at least 85 percent of the child test panel, and no further testing is conducted. If 11 through 18 children in the first 100-child test panel successfully operate the surrogate lighter, the test results are inconclusive, and the surrogate lighter shall be tested with a second 100-child test panel in accordance with this § 1210.4. If 19 or more of the children in the first 100-child test panel successfully operated the surrogate lighter, the lighter represented by the surrogate shall be considered not resistant to successful operation by at least 85 percent of the child test panel, and no further testing is conducted.

(2) If additional testing of the surrogate lighter is required by § 1210.4(h)(1), conduct the test specified by this § 1210.4 using a second 100-child test panel and record the results. If a total of no more than 30 of the children in the combined first and second 100-child test panels successfully operated the surrogate lighter, the lighter represented by the surrogate lighter shall be considered resistant to successful operation by at least 85 percent of the child test panel, and no further testing is performed. If a total of 31 or more children in the combined first and second 100-child test panels successfully operate the surrogate lighter, the lighter represented by the surrogate lighter shall be considered not resistant to successful operation by 85 percent of the child test panel, and no further testing is conducted.

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TABLE 1—EVALUATION OF TEST RESULTS—
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Test panel	Cumulative Number of Children	Successful Lighter Operations		
		Pass	Continue	Fail
1	100	0-10	11-18	19 or more
1	200	11-30	—	31 or more

§ 1210.5 Findings.

Section 9(f) of the Consumer Product Safety Act, 15 U.S.C. 2058(f), requires the Commission to make findings concerning the following topics and to include the findings in the rule.

(a) *The degree and nature of the risk of injury the rule is designed to eliminate or reduce.* The standard is designed to reduce the risk of death and injury from accidental fires started by children playing with lighters. From 1988 to 1990, an estimated 160 deaths per year resulted from such fires. About 150 of these deaths, plus nearly 1,100 injuries and nearly \$70 million in property damage, resulted from fires started by children under the age of 5. Fire-related injuries include thermal burns — many of high severity — as well as anoxia and other, less serious injuries. The annual cost of such fires to the public is estimated at about \$385 million (in 1990 dollars). Fires started by young children (under age 5) are those which the standard would be most effective at reducing.

(b) *The approximate number of consumer products, or types or classes thereof, subject to the rule.* The standard covers certain flame-producing devices, commonly known as lighters, which are primarily intended for use in lighting cigarettes and other smoking materials. Lighters may be gas- or liquid-fueled, mechanical or electric, and of various physical configurations. Over 600 million lighters are sold annually to consumers in the U.S.; over 100 million are estimated to be in use at any given time. Over 95 percent of all lighters sold are pocket-sized disposable butane models; of the remaining 5 percent, most are pocket refillable butane models. A small proportion of refillables is comprised of pocket liquid-fuel models; still smaller proportions are represented by table lighters and by “novelty” lighters, that is,

those having the physical appearance of other specific objects. Approximately 600 million pocket butane disposables (nonrefillable), 15-20 million pocket butane refillables, 5-10 million pocket liquid-fuel refillables, and 1-3 million novelty and other lighters were sold to consumers in 1991. The standard covers disposable lighters, including inexpensive butane refillables, and novelty lighters. Roughly 30 million households have at least one lighter; ownership of more than one lighter is typical, especially among smoking households.

(c) *The need of the public for the consumer products subject to the rule, and the probable effect of the rule on the utility, cost, or availability of such products to meet such need.* Consumers use lighters primarily to light smoking materials. Most other lighting needs that could be filled by matches may also be filled by lighters. Disposable butane lighters are, chiefly by virtue of their low price and convenience, the closest available substitutes for matches. Although matches are found in far more households, lighters have steadily replaced matches since the 1960’s as the primary light source among American consumers. The standard generally requires that lighters not be operable by most children under 52 months of age. This would likely be achieved by modifying products to incorporate additional-action switches, levers, or buttons, thereby increasing the difficulty of product activation. Depending on the method of compliance chosen by manufacturers, there could be some adverse effect on the utility of lighters. This may occur to the extent that operation of the products by adult users is made more difficult by the incorporation of child-resistant features. This may lead some consumers to switch to matches, at least temporarily, which could reduce the expected level of safety provided by the standard. In addition, some “novelty” lighters will probably be discontinued, due to the technical difficulty of incorporating child-resistant features or designs. Some loss of utility derived from those products by collectors or other users

may result, though many novelty models will probably remain on the market. The cost of producing lighters subject to the standard is expected to increase due to manufacturers' and importers' expenditures in the areas of research and development, product redesign, tooling and assembly process changes, certification and testing, and other administrative activities. Total per-unit production costs for the various lighter types may increase by 10-40 percent, with an average of less than 20 percent. Cost increases will likely be passed on to consumers in the form of higher retail prices. Disposable lighters may increase in price by 10-40 cents per unit; prices of other lighters may increase by as much as \$1-3. The estimated average per-unit price increase for all lighters subject to the standard is about 20 cents. The total annual cost of the standard to consumers is estimated at about \$90 million. The estimated cost of the standard per life saved is well under \$1 million after considering the benefits of reduced injuries and property damage; this is well below the consensus of estimates of the statistical value of life. A wide range of lighter types and models will continue to be available to consumers. As noted above, some models of novelty lighters — all of which account for less than 1 percent of lighters sold — will likely be discontinued; this should not have a significant impact on the overall availability of lighters to consumers.

(d) *Any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.* The Commission considered the potential effects on competition and business practices of various aspects of the standard, and, as noted below, incorporated some burden-reducing elements into the proposal. The Commission also encouraged and participated in the development of a draft voluntary standard addressing the risk of child-play fires. A draft voluntary safety standard was developed by members of an ASTM task group (now a subcommittee) to address much of the risk addressed by the proposed CPSC rule. This draft voluntary standard contained performance require-

ments similar, but not identical, to those in the CPSC proposal. Development work on the voluntary standard ceased in 1991; industry representatives requested that the Commission issue the draft ASTM provisions in a mandatory rule. One possible alternative to this mandatory standard would be for the Commission to rely on voluntary conformance to this draft standard to provide safety to consumers. The expected level of conformance to a voluntary standard is uncertain, however; although some of the largest firms may market some child-resistant lighters that conform to these requirements, most firms (possibly including some of the largest) probably would not. Even under generous assumptions about the level of voluntary conformance, net benefits to consumers would be substantially lower under this alternative than under the standard. Thus, the Commission finds that reliance on voluntary conformance to the draft ASTM standard would not adequately reduce the unreasonable risk associated with lighters.

(e) *The rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk.* The Commission's hazard data and regulatory analysis demonstrate that lighters covered by the standard pose an unreasonable risk of death and injury to consumers. The Commission considered a number of alternatives to address this risk, and believes that the standard strikes the most reasonable balance between risk reduction benefits and potential costs. Further, the amount of time before the standard becomes effective will provide manufacturers and importers of most products adequate time to design, produce, and market safer lighters. Thus, the Commission finds that the standard and its effective date are reasonably necessary to reduce the risk of fire-related death and injury associated with young children playing with lighters.

(f) *The benefits expected from the rule bear a reasonable relationship to its costs.* The standard will substantially reduce the number of fire-related deaths, injuries, and property damage associated with young children playing with lighters. The cost of these accidents, which is estimated to be about \$385 million

annually, will also be greatly reduced. Estimated annual benefits of the standard are \$205-\$270 million; estimated annual costs to the public are about \$90 million. Expected annual net benefits would therefore be \$115-\$180 million. Thus, the Commission finds that a reasonable relationship exists between potential benefits and potential costs of the standard.

(g) *The rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.* (1) In the final rule, the Commission incorporated a number of changes from the proposed rule in order to minimize the potential burden of the rule on industry and consumers. The Commission also considered and rejected several alternatives during the development of the standard to reduce the potential burden on industry (especially small importers) and on consumers. These alternatives involve different performance and test requirements and different definitions determining the scope of coverage among products. Other alternatives generally would be more burdensome to industry and would have higher costs to consumers. Some less burdensome alternatives would have lower risk-reduction benefits to consumers; none has been identified that would have higher expected net benefits than the standard.

(2) The scope of this mandatory standard is limited to disposable lighters and novelty lighters; it does not apply to "luxury" lighters (including most higher priced refillable butane and liquid-fuel models). This is similar but not identical to the scope of a draft voluntary industry standard developed in response to the Commission's advance notice of proposed rulemaking of March 3, 1988 (53 FR 6833). This exclusion significantly reduces the potential cost of the standard without significantly affecting potential benefits.

(3) The Commission narrowed the scope of the final rule with respect to novelty lighters, and considered limiting the scope further to exclude all nondisposable novelty lighters. Though further limiting the scope would ease the potential burden of the standard on manufacturers and importers slightly, inherently less safe non-child-resistant

lighters that are considered to be especially appealing to children would remain on the market, thereby reducing the potential safety benefits to the public. The Commission finds that it would not be in the public interest to exclude novelty lighters.

(4) The Commission considered the potential effect of alternate performance requirements during the development of the standard. A less stringent acceptance criterion of 80 percent (rather than the standard's 85 percent) might slightly reduce costs to industry and consumers. The safety benefits of this alternative, however, would likely be reduced disproportionately to the potential reduction in costs. A higher (90 percent) acceptance criterion was also considered. This higher performance level is not commercially or technically feasible for many firms, however; the Commission believes that this more stringent alternative would have substantial adverse effects on manufacturing and competition, and would increase costs disproportionate to benefits. The Commission believes that the requirement that complying lighters not be operable by at least 85 percent of children in prescribed tests strikes a reasonable balance between improved safety for a substantial majority of young children and other potential fire victims and the potential for adverse competitive effects and manufacturing disruption.

(5) The Commission believes that the standard should become effective as soon as reasonably possible. The standard will become effective 12 months from its date of publication in the FEDERAL REGISTER. The Commission also considered an effective date of 6 months after the date of issuance of the final rule. While most lighters sold in the U.S. could probably be made child resistant within 6 months, some disruptive effects on the supply of some imported lighters would result; this could have a temporary adverse impact on the competitive positions of some U.S. importers. The 12-month period in the standard would tend to minimize this potential effect, and would allow more time for firms to design, produce, and import complying lighters. The Commission estimates that there would be no significant adverse impact

on the overall supply of lighters for the U.S. market.

(h) *The promulgation of the rule is in the public interest.* As required by the CPSA and the Regulatory Flexibility Act, the Commission considered the potential benefits and costs of the standard and various alternatives. While certain alternatives to the final rule are estimated to have net benefits to consumers, the adopted rule maximizes these net benefits. Thus, the Commission finds that the standard, if promulgated on a final basis, would be in the public interest.

Subpart B—Certification Requirements

AUTHORITY: 15 U.S.C. 2063, 2065(b), 2066(g), 2076(e), 2079(d).

§ 1210.11 General.

Section 14(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 1263(a), requires every manufacturer, private labeler, or importer of a product that is subject to a consumer product safety standard and that is distributed in commerce to issue a certificate that such product conforms to the applicable standard and to base that certificate upon a test of each item or upon a reasonable testing program. The purpose of this subpart B of part 1210 is to establish requirements that manufacturers, importers, and private labelers must follow to certify that their products comply with the Safety Standard for Cigarette Lighters. This subpart B describes the minimum features of a reasonable testing program and includes requirements for labeling, recordkeeping, and reporting pursuant to sections 14, 16(b), 17(g), and 27(e) of the CPSA, 15 U.S.C. 2063, 2065(b), 2066(g), and 2076(e).

§ 1210.12 Certificate of compliance.

(a) *General requirements*—(1) *Manufacturers (including importers)*. Manufacturers of any lighter subject to the standard must issue the certificate of compliance required by section 14(a) of the CPSA and this subpart B, based on a reasonable testing program or a test of each product, as required by §§ 1210.13-1210.14 and 1210.16. Manufacturers must also label each lighter subject to the

standard as required by paragraph (c) of this section and keep the records and make the reports required by §§ 1210.15 and 1210.17. For purposes of this requirement, an importer of lighters shall be considered the “manufacturer.”

(2) *Private labelers*. Because private labelers necessarily obtain their products from a manufacturer or importer that is already required to issue the certificate, private labelers are not required to issue a certificate. However, private labelers must ensure that the lighters are labeled in accordance with paragraph (c) of this section and that any certificate of compliance that is supplied with each shipping unit of lighters in accordance with paragraph (b) of this section is supplied to any distributor or retailer who receives the product from the private labeler.

(3) *Testing on behalf of importers*. If the required testing has been performed by or for a foreign manufacturer of a product, an importer may rely on such tests to support the certificate of compliance, provided that the importer is a resident of the United States or has a resident agent in the United States, the records are in English, and the records and the surrogate lighters tested are kept in the United States and can be provided to the Commission within 48 hours (§ 1210.17(a)) or, in the case of production records, can be provided to the Commission within 7 calendar days in accordance with § 1210.17(a)(3). The importer is responsible for ensuring that the foreign manufacturer’s records show that all testing used to support the certificate of compliance has been performed properly (§§ 1210.14-1210.16), the records provide a reasonable assurance that all lighters imported comply with the standard (§ 1210.13(b)(1)), the records exist in English (§ 1210.17(a)), (4) the importer knows where the required records and lighters are located and that records required to be located in the United States are located there, arrangements have been made so that any records required to be kept in the United States will be provided to the Commission within 48 hours of a request and any records not kept in the United States will be provided to the Commission within 7 calendar days

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(§1210.17(a)), and the information required by §1210.17(b) to be provided to the Commission's Division of Regulatory Management has been provided.

(b) *Certificate of compliance.* A certificate of compliance must accompany each shipping unit of the product (for example, a case), or otherwise be furnished to any distributor or retailer to whom the product is sold or delivered by the manufacturer, private labeler, or importer. The certificate shall state:

(1) That the product "complies with the Consumer Product Safety Standard for Cigarette Lighters (16 CFR 1210),"

(2) The name and address of the manufacturer or importer issuing the certificate or of the private labeler, and

(3) The date(s) of manufacture and, if different from the address in paragraph (b)(2) of this section, the address of the place of manufacture.

(c) *Labeling.* The manufacturer or importer must label each lighter with the following information, which may be in code.

(1) An identification of the period of time, not to exceed 31 days, during which the lighter was manufactured.

(2) An identification of the manufacturer of the lighter, unless the lighter bears a private label. If the lighter bears a private label, it shall bear a code mark or other label which will permit the seller of the lighter to identify the manufacturer to the purchaser upon request.

[58 FR 37584, July 12, 1993, as amended at 59 FR 67621, Dec. 30, 1994]

§ 1210.13 Certification tests.

(a) *General.* As explained in § 1210.11 of this subpart, certificates of compliance required by section 14(a) of the CPSA must be based on a reasonable testing program.

(b) *Reasonable testing programs—(1) Requirements.* (i) A reasonable testing program for lighters is one that demonstrates with a high degree of assurance that all lighters manufactured for sale or distributed in commerce will meet the requirements of the standard, including the requirements of § 1210.3. Manufacturers and importers shall determine the types and frequency of testing for their own reasonable testing programs. A reasonable testing program should be sufficiently stringent

that it will detect any variations in production or performance during the production interval that would cause any lighters to fail to meet the requirements of the standard.

(ii) All reasonable testing programs shall include qualification tests, which must be performed on surrogates of each model of lighter produced, or to be produced, to demonstrate that the product is capable of passing the tests prescribed by the standard (see § 1210.14), and production tests, which must be performed during appropriate production intervals as long as the product is being manufactured (see § 1210.16).

(iii) Corrective action and/or additional testing must be performed whenever certification tests of samples of the product give results that do not provide a high degree of assurance that all lighters manufactured during the applicable production interval will pass the tests of the standard.

(2) *Testing by third parties.* At the option of the manufacturer or importer, some or all of the testing of each lighter or lighter surrogate may be performed by a commercial testing laboratory or other third party. However, the manufacturer or importer must ensure that all certification testing has been properly performed with passing results and that all records of such tests are maintained in accordance with § 1210.17 of this subpart.

§ 1210.14 Qualification testing.

(a) *Testing.* Before any manufacturer or importer of lighters distributes lighters in commerce in the United States, surrogate lighters of each model shall be tested in accordance with § 1210.4, above, to ensure that all such lighters comply with the standard. However, if a manufacturer has tested one model of lighter, and then wishes to distribute another model of lighter that differs from the first model only by differences that would not have an *adverse* effect on child resistance, the second model need not be tested in accordance with § 1210.4.

(b) *Product modifications.* If any changes are made to a product after initial qualification testing that could adversely affect the ability of the product to meet the requirements of the

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standard, additional qualification tests must be made on surrogates for the changed product before the changed lighters are distributed in commerce.

(c) *Requalification.* If a manufacturer or importer chooses to requalify a lighter design after it has been in production, this may be done by following the testing procedures at § 1210.4.

§ 1210.15 Specifications.

(a) *Requirement.* Before any lighters that are subject to the standard are distributed in commerce, the manufacturer or importer shall ensure that the surrogate lighters used for qualification testing under § 1210.14 are described in a written product specification. (Section 1210.4(c) requires that six surrogate lighters be used for testing each 100-child panel.)

(b) *Contents of specification.* The product specification shall include the following information:

(1) A complete description of the lighter, including size, shape, weight, fuel, fuel capacity, ignition mechanism, and child-resistant features.

(2) A detailed description of all dimensions, force requirements, or other features that could affect the child-resistance of the lighter, including the manufacturer's tolerances for each such dimension or force requirement.

(3) Any further information, including, but not limited to, model names or numbers, necessary to adequately describe the lighters and any child-resistant features.

§ 1210.16 Production testing.

(a) *General.* Manufacturers and importers shall test samples of lighters subject to the standard as they are manufactured, to demonstrate that the lighters meet the specifications, required under § 1210.15, of the surrogate that has been shown by qualification testing to meet the requirements of the standard.

(b) *Types and frequency of testing.* Manufacturers, private labelers, and importers shall determine the types of tests for production testing. Each production test shall be conducted at a production interval short enough to provide a high degree of assurance that, if the samples selected for testing pass the production tests, all other

lighters produced during the interval will meet the standard.

(c) *Test failure—(1) Sale of lighters.* If any test yields results which indicate that any lighters manufactured during the production interval may not meet the standard, production and distribution in commerce of lighters that may not comply with the standard must cease until it is determined that the lighters meet the standard or until corrective action is taken. (It may be necessary to modify the lighters or perform additional tests to ensure that only complying lighters are distributed in commerce. Lighters from other production intervals having test results showing that lighters from that interval comply with the standard could be produced and distributed unless there was some reason to believe that they might not comply with the standard.)

(2) *Corrective actions.* When any production test fails to provide a high degree of assurance that all lighters comply with the standard, corrective action must be taken. Corrective action may include changes in the manufacturing process, the assembly process, the equipment used to manufacture the product, or the product's materials or design. The corrective action must provide a high degree of assurance that all lighters produced after the corrective action will comply with the standard. If the corrective action changes the product from the surrogate used for qualification testing in a manner that could adversely affect its child resistance, the lighter must undergo new qualification tests in accordance with § 1210.14, above.

§ 1210.17 Recordkeeping and reporting.

(a) *Records.* Every manufacturer and importer of lighters subject to the standard shall maintain the following records in English on paper, microfiche, or similar media and make such records available to any designated officer or employee of the Commission in accordance with section 16(b) of the Consumer Product Safety Act, 15 U.S.C. 2065(b). Such records must also be kept in the United States and provided to the Commission within 48 hours of receipt of a request from any employee of the Commission, except as

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provided in paragraph (b)(3) of this section. Legible copies of original records may be used to comply with these requirements.

(1) Records of qualification testing, including a description of the tests, photograph(s) or a video tape for a single pair of children from each 100-child test panel to show how the lighter was held in the tester's hand, and the orientation of the tester's body and hand to the children, during the demonstration, the dates of the tests, the data required by §1210.4(d), the actual surrogate lighters tested, and the results of the tests, including video tape records, if any. These records shall be kept until 3 years after the production of the particular model to which such tests relate has ceased. If requalification tests are undertaken in accordance with §1210.14(c), the original qualification test results may be discarded 3 years after the requalification testing, and the requalification test results and surrogates, and the other information required in this subsection for qualifications tests, shall be kept in lieu thereof.

(2) Records of procedures used for production testing required by this subpart B, including a description of the types of tests conducted (in sufficient detail that they may be replicated), the production interval selected, the sampling scheme, and the pass/reject criterion. These records shall be kept until 3 years after production of the lighter has ceased.

(3) Records of production testing, including the test results, the date and location of testing, and records of corrective actions taken, which in turn includes the specific actions taken to improve the design or manufacture or to correct any noncomplying lighter, the date the actions were taken, the test result or failure that triggered the actions, and the additional actions taken to ensure that the corrective action had the intended effect. These records shall be kept for 3 years following the date of testing. Records of production testing results may be kept on paper, microfiche, computer tape, or other retrievable media. Where records are kept on computer tape or other retrievable media, however, the records shall be made available to the Commission

on paper copies upon request. A manufacturer or importer of a lighter that is not manufactured in the United States may maintain the production records required by paragraph (a)(3) of this section outside the United States, but shall make such records available to the Commission in the United States within 1 week of a request from a Commission employee for access to those records under section 16(b) of the CPSA, 15 U.S.C. 2065(b).

(4) Records of specifications required under §1210.15 shall be kept until 3 years after production of each lighter model has ceased.

(b) *Reporting.* At least 30 days before it first imports or distributes in commerce any model of lighter subject to the standard, every manufacturer and importer must provide a written report to the Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207. Such report shall include:

(1) The name, address, and principal place of business of the manufacturer or importer,

(2) A detailed description of the lighter model and the child-resistant feature(s) used in that model,

(3) A description of the qualification testing, including a description of the surrogate lighters tested, the specification of the surrogate lighter required by §1210.15, a summary of the results of all such tests, the dates the tests were performed, the location(s) of such tests, and the identity of the organization that conducted the tests,

(4) An identification of the place or places that the lighters were or will be manufactured,

(5) The location(s) where the records required to be maintained by paragraph (a) of this section are kept, and

(6) A prototype or production unit of that lighter model.

(c) *Confidentiality.* Persons who believe that any information required to be submitted or made available to the Commission is trade secret or otherwise confidential shall request that the information be considered exempt from disclosure by the Commission, in accordance with 16 CFR 1015.18. Requests for confidentiality of records provided to the Commission will be handled in accordance with section 6(a)(2) of the

CPSA, 15 U.S.C. 2055(a)(2), the Freedom of Information Act as amended, 5 U.S.C. 552, and the Commission's regulations under that act, 16 CFR part 1015.

§ 1210.18 Refusal of importation.

(a) *For noncompliance with reporting and recordkeeping requirements.* The Commission has determined that compliance with the recordkeeping and reporting requirements of this subpart is necessary to ensure that lighters comply with this part 1210. Therefore, pursuant to section 17(g) of the CPSA, 15 U.S.C. 2066(g), the Commission may refuse to permit importation of any lighters with respect to which the manufacturer or importer has not complied with the recordkeeping and reporting requirements of this subpart. Since the records are required to demonstrate that production lighters comply with the specifications for the surrogate, the Commission may refuse importation of lighters if production lighters do not comply with the specifications required by this subpart or if any other recordkeeping or reporting requirement in this part is violated.

(b) *For noncompliance with this standard and for lack of a certification certificate.* As provided in section 17(a) of the CPSA, 15 U.S.C. 2066(a), products subject to this standard shall be refused admission into the customs territory of the United States if, among other reasons, the product fails to comply with this standard or is not accompanied by the certificate required by this standard.

Subpart C—Stockpiling

AUTHORITY: 15 U.S.C. 2058(g)(2), 2079(d).

§ 1210.20 Stockpiling.

(a) *Definition.* *Stockpiling* means to manufacture or import a product that is subject to a consumer product safety rule between the date of issuance of the rule and its effective date at a rate which is significantly greater than the rate at which such product was produced or imported during a base period.

(b) *Base Period.* For purposes of this rule, *base period* means, at the option of the manufacturer or importer, any 1-

year period during the 5-year period prior to July 12, 1993.

(c) *Prohibited act.* Manufacturers and importers of disposable and novelty cigarette lighters shall not manufacture or import lighters that do not comply with the requirements of this part between July 12, 1993 and July 12, 1994, at a rate that is greater than the rate of production or importation during the base period plus 20 per cent of that rate.

PART 1211—SAFETY STANDARD FOR AUTOMATIC RESIDENTIAL GARAGE DOOR OPERATORS

Subpart A—The Standard

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- 1211.30 Effective date.
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AUTHORITY: Sec. 203 of Pub. L. 101-608, 104 Stat. 3110; 15 U.S.C. 2063 and 2065.