

Consumer Product Safety Commission

§ 1202.2

Subpart B [Reserved]

Subpart C—Statements of Policy and Interpretation

§ 1201.40 Interpretation concerning bathtub and shower doors and enclosures.

(a) Purpose and background. The purpose of this section is to clarify the scope of the terms "bathtub doors and enclosures" and "shower door and enclosure" as they are used in the Standard in subpart A. The Standard lists the products that are subject to it (§1201.1(a)). This list includes bathtub doors and enclosures, a term defined in the Standard to mean "assemblies of panels and/or doors that are installed on the lip of or immediately surrounding a bathtub" (§1201.2(a)(2)). The list also includes shower doors and enclosures, a term defined to mean "(assemblies) of one or more panels installed to form all or part of the wall and/or door of a shower stall" (§1201.2(a)(30)). Since the Standard became effective on July 6, 1977, the question has arisen whether the definitions of these products include glazing materials in a window that is located over a bathtub or within a shower stall and in the exterior wall of a building. The definitions of the terms "bathtub doors and enclosures" and "shower door and enclosure" contain no specific exemption for glazing materials in such windows. If read literally, the Standard could include glazing materials in an exterior wall window located above a bathtub because that window could be interpreted as being "immediately surrounding" the bathtub. Similarly, the Standard, if read literally, could include glazing materials in an exterior wall window because that window could be interpreted as forming "all or part of the wall \* \* \* of a shower stall."

(b) Interpretation. When the Consumer Product Safety Commission issued the Standard, it did not intend the standard to apply to any item of glazing material in a window that is located over a bathtub or within a shower stall and in the exterior wall of a building. The Commission clarifies that the Standard does not apply to such items of glazing material or such windows. This inter-

pretation applies only to the term "bathtub doors and enclosures" and "shower door and enclosure" and does not affect the applicability of the Standard to any other product.

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PART 1202—SAFETY STANDARD FOR MATCHBOOKS

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AUTHORITY: Secs. 2, 3, 7, 9, 14, 16, and 19. Pub. L. 92-573, 86 Stat. 1212-17 (15 U.S.C. 2051, 2052, 2056, 2058, 2063, 2065, and 2068).

SOURCE: 43 FR 53709, Nov. 17, 1978, unless otherwise noted.

§ 1202.1 Scope and effective date.

(a) Scope. This part 1202, a consumer product safety standard, prescribes the safety requirements, including labeling requirements, for the matchbook. This part 1202 applies to all matchbooks manufactured in or imported into the United States after its effective date.

(b) Effective date. The effective date shall be May 4, 1978.

§ 1202.2 Findings.1

(a) Risk of injury. The Commission finds that unreasonable risks of injury from accidents are associated with matchbooks. These unreasonable risks,

1The Commission's findings apply to the matchbook standard that it published on May 4, 1977 (42 FR 22656-70). On Mar. 31, 1978, the U.S. Court of Appeals for the First Circuit set aside portions of that standard (D. D. Bean & Sons, Co. v. CPSC, 574 F. 2d 643). On Nov. 17, 1978, the Commission published a revised version of the standard which reflects the court's decision. However, the findings have not been revised and they are therefore not fully applicable to the revised matchbook requirements. For example, the revised standard does not address the unreasonable risk of injury of "[b]urn injuries that have been sustained by persons from fires that have been set by the afterglow of extinguished bookmatches" (§1202.2(a)(6)) because the court set aside the afterglow performance requirement.

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which this part 1202 is intended to reduce or eliminate, are:

(1) Burn injuries, sustained by children and others, including mentally or physically impaired persons, who play with or otherwise improperly use bookmatches.

(2) Burn injuries sustained by persons who use bookmatches that fragment or have delayed ignition.

(3) Eye injuries sustained by persons who use bookmatches that fragment and cause particles from such matches to lodge in a person's eye.

(4) Burn injuries sustained by persons who use bookmatches that, when struck, ignite the remaining matches in the matchbook.

(5) Burn injuries sustained by persons from fires that have resulted from unexpected ignition of bookmatches with no deliberate action by the user.

(6) Burn injuries that have been sustained by persons from fires that have been set by the afterglow of extinguished bookmatches.

(b) *Products subject to this standard.* (1) The products subject to this standard are those kinds of manufactured ignition devices known as matchbooks. The matchbook consists of a group of bookmatches joined together and fastened within a cover. Although matchbooks are commonly referred to as paper matches or paper-stem matches to distinguish them from individual stick matches such as wooden stem matches packaged in boxes, all matchbooks, regardless of the materials of manufacture of the covers or of the bookmatches fastened within, are subject to this standard.

(2) Matchbooks subject to this standard can be divided into two basic categories: Resale matchbooks and special reproduction matchbooks. Resale matchbooks can be subdivided into advertising and nonadvertising matchbooks. Nonadvertising matchbooks are generally sold by large chain stores, and constitute a small portion of the total resale matchbook volume. Resale matchbooks with advertising are generally given away by tobacco shops, drug stores, vending firms, and other mass distribution outlets. Special reproduction matchbooks, characterized by their distinctive and unique cover designs, are purchased and distributed

for promotional purposes by hotels, restaurants, financial institutions, and other business enterprises, and are given free to users.

(3) The Commission estimates that resale matchbooks accounted for almost 75 percent of the volume of matchbooks in 1975, or about 15 billion matchbooks, while special reproduction matchbooks accounted for just over 25 percent, or about 5.5 billion matchbooks.

(c) *Effects on utility, cost, and availability.* (1) The Commission finds that the public need for ignition devices which are small, portable, and can be used to provide a source of fire, is substantial since such products meet basic requirements for a source of fire to ignite tobacco products, fires, candles, or other products, and are also used for miscellaneous other purposes such as providing short term illumination. Three types of products: Matchbooks, individual stick matches, and lighters, predominantly supply the source of fire to meet these requirements.

(i) The Commission estimates that in 1976 U.S. consumers required approximately 645 billion such fire sources or "lights," as they are known, with almost 98 percent of this total required for tobacco products. In the aggregate, the requirements by U.S. consumers for a source of fire has been growing at an annual rate of approximately 3 percent. Matchbooks, the products regulated in this standard, are estimated to have supplied about 65 percent of the source of lights, lighters accounted for about 25 percent, and individual stick matches (primarily wooden-stem type) accounted for the remainder.

(ii) The Commission also finds that matchbooks fulfill a need by institutions and business enterprises for a particular form of specialty advertising that is both relatively inexpensive and effective in reaching a specified audience or population segment with the advertiser's message. Various studies of matchbooks as a form of advertising have found that readership can average 3 to 15 times higher than average readership, listenership, and viewership figures from competing media such as magazines, newspapers,

radio, and television, and that readership retention of the matchbook advertising message was extremely high, about 45 percent. In addition, matchbooks tend to be considerably less expensive than other forms of specialty advertising, including those competing advertising items such as address books, key cases, litterbags, and the like, which are themselves relatively inexpensive.

(2) The Commission finds that the standard will have no adverse effects on the utility that consumers derive from matchbooks. To the extent that injuries and property damage associated with the use of matchbooks is reduced or eliminated as a result of this standard, the utility of matchbooks as a source of fire will be increased.

(3) The Commission estimates that manufacturing cost increases as a direct or indirect effect of this standard will be modest for the industry as a whole. Such increases will tend to be concentrated in one-time costs to complete changeover to reverse friction, and in costs to establish and implement testing programs and certification procedures.

(i) Because some 80-90 percent of the matchbooks produced annually are given free to consumers, there is not likely to be any direct cost impact on the consumer as a result of the standard. Some proportion of increased manufacturing costs will be passed on to the institutions and business enterprises that purchase matchbooks for promotional purposes. To the extent that increases in advertising and promotional costs may be reflected in higher prices for goods and services sold by these businesses, there may be indirect cost effects on consumers. If so, such impacts would likely be small, if not imperceptible.

(ii) For the 12-20 percent of matchbooks that are purchased at retail by consumers, some proportion of any manufacturing cost increases may be passed on to the consumer. A resulting increase in retail prices for such matchbooks will be small, no more than a few cents per box of 50 matchbooks.

(4) The Commission finds that the standard will not have impacts of significant magnitude on the availability

of matchbooks. Although some institutions and business enterprises may reduce their matchbook purchases or eliminate them in response to any increased price of matchbooks, the large number of such purchasers, and the large volume purchased annually, are such that curtailment of purchases by some businesses is likely to have very small effects on the total number of matchbooks available to U.S. consumers.

(d) *Alternatives.* (1) The Commission has considered other means of achieving the objective of the standard throughout the course of its development. Certain other more elaborate test requirements were considered and were shown to have the potential for severe adverse effects on competition and estimated to result in disruptions and dislocations of manufacturing and commercial practices. Therefore, having considered and rejected such other means of achieving the objective of the standard, the Commission has found none that would cause less disruption or dislocation of manufacturing and other commercial practices, consistent with the public health and safety than this standard.

(2) Because of competition from substitute products such as inexpensive disposable butane lighters and because of other prevailing business and economic conditions, the industry manufacturing matchbooks has been in a state of contraction in recent years. This contraction, marked by the exit of some firms and by plant closings or consolidations, is likely to continue in the future; but this will neither be the result of, nor significantly accelerated by, effects of the standard. Currently, aggressive price and service competition prevails among firms vying for customer accounts. It is anticipated that this competition for sales may increase as an indirect effect of the standard. To the extent that this occurs, there may be some disruption or dislocation of manufacturing, sales, or distribution practices in certain matchbook product categories and market segments. Marginal firms and firms producing limited product categories or for limited market segments may be affected to a greater degree

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than multiproduct category or multi-market firms.

(e) *Conclusion*. The Commission finds that this standard, including its effective date, is reasonably necessary to eliminate or reduce the unreasonable risks of injury associated with matchbooks and that the issuance of the standard is in the public interest.

#### § 1202.3 Definitions.

In addition to the definitions given in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply for the purpose of this standard:

(a) *Bookmatch* means a single splint, with a matchhead attached, that comes from a matchbook.

(b) *Bridge* means the matchhead material held in common by two or more splints.

(c) *Broken bridge* means a bridge that has become separated.

(d) *Caddy* means a package of two or more matchbooks wrapped or boxed together at a production plant.

(e) *Comb* means a piece of wood, paper, or other suitable material that has been formed into splints, that remain joined at their base, and that are designed to have matchheads attached to their tips.

(f) *Cover* means the paperboard or other suitable material that is wrapped around and fastened to the comb(s).

(g) *Friction* means the dried chemical mixture on the matchbook cover used to ignite the bookmatch.

(h) *Match* means a single splint with matchhead attached.

(i) *Matchbook* means one or more combs with matchheads attached and a cover that is wrapped around and fastened to those combs.

(j) *Matchhead* means the dried chemical mixture on the end of a splint.

(k) *Splint* means the support for the matchhead or that portion normally held when using the bookmatch.

#### § 1202.4 Matchbook general requirements.

A matchbook shall meet the following general requirements:

(a) The friction shall be located on the outside back cover near the bottom of the matchbook.

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(b) The cover shall remain closed without external force.

(c) No friction material shall be located on the inside of the cover where possible contact with the matchheads may occur during ordinary use.

(d) There shall be no bridge(s) or broken bridge(s).

(e) No matchhead in the matchbook shall be split, chipped, cracked, or crumbled.

(f) No portion of any matchhead shall be outside the matchbook cover when the cover is closed.

(g) No part of a staple or other assembly device for securing the cover and combs shall be within or touching the friction area.

(h) A staple used as an assembly device for securing the cover and combs shall be fully clinched so that the ends are flattened or turned into the cover.

#### § 1202.5 Certification.

Certification shall be in accordance with section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)). Under this provision, manufacturers and private labelers of products subject to safety standards must certify that their products conform to the standard, based on either a test of each product or on a reasonable testing program.

#### § 1202.6 Marking.

(a) The manufacturer's or private labeler's name and city or a symbol which will identify the name and city shall appear on the matchbook. In addition, every private labeler must label the matchbook with a code which enables it to identify, if requested, the manufacturer of the product.

(b) Boxes or cartons in which two or more caddies are shipped shall be marked "For safety, store in a cool, dry place."

#### § 1202.7 Prohibited stockpiling.

Section 9(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(d)(2)) authorizes the Commission to prohibit manufacturers and importers from stockpiling a product subject to a consumer product safety standard between its date of issuance and its effective date. A manufacturer or importer is in violation of Section 9(d)(2) and of this