United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

MEMORANDUM

DATE: June 10, 2005

TO : ES

Through: Todd A. Stevenson, Secretary, OS

FROM : Martha A. Kosh, OS

SUBJECT: Safety Standard for Cigarette Lighters; Advance Notice of Proposed Rulemaking

ATTACHED ARE COMMENTS ON THE CC 05-1

COMMENT	DATE	SIGNED BY	AFFILIATION
CC 05-1-1	4/13/05	Sheerley Zinori	szinori@netscape.net
CC 05-1-2	5/12/05	E. Alvarenga	emmaalvarenga@yahoo.com
CC 05-1-3	5/16/05	M. McLoughlin Consultant to Swedish Match Lighters	Swedish Match 3483 Satellite Blvd Crescent South Suite 306 Duluth, GA 30096
CC 05-1-4	6/03/05	Michael Forys President/CEO	beaconpower@earthlink.net
CC 05-1-5	6/06/05	Felix Hon President	Calico Brands, Inc. 2055 South Haven Ave. Ontario, CA 91761
CC 05-1-6	6/09/05	Rachel Weintraub Director of Product Safety & Assist. General Counsel	Consumer Federal of America 1424 16th St, NW Suite 604 Washington, DC 20036
CC 05-1-7	6/09/05	Tommy Wong	Intellectual Property Protection Center, Inc. 4335 Rowland Ave El Monte, CA 91731

Safety Standard for Cigarette Lighters; Advance Notice of Proposed Rulemaking

CC 05-1-8	6/09/05	SLAI	Safety Ligher Association International P.O. Box 5110 Glendale Heights, II 60139 USA
CC 05-1-9	6/10/05	Edward Lewiecki	ASTM International kmorgan@astm.org
CC 05-1-10	6/10/05	David Baker General Counsel	Lighter Association, Inc. 1920 N Street, NW Washington, DC 20036
CC 05-1-11	6/10/05	Students	Florida International University victorenavarro@yahoo.com
CC 05-1-12	6/12/05	Tim Hu	tim@xinhaigroup.com

Cigarette 1

Stevenson, Todd A.

From: Sheerley Zinori [szinori@netscape.net]
Sent: Friday, April 15, 2005 9:20 AM
To: Stevenson, Todd A.
Subject: ANPR for Cigarette Lighters

April 13, 2005

To whom it may concern,

As the daughter of a smoker, I have been around the habit and its accessories for most of my life. As a college student as well, many of my friends at school have the habit of lighting up a cigarette. I never thought of lighters as a dangerous thing. Of course, if used in a malicious way (such as intentionally burning something or even someone), it becomes a dangerous object. But I never looked at lighters as something that could malfunction and injure someone. As such, in my perspective, it is of vital importance that mandatory standards be put into place to make sure that people that use lighters are safe. Surely the argument can be made that even if lighters (which are most commonly used to light cigarettes and cigars) are made safer, they are being used to light up an object that is even more dangerous to the user. While this is a valid argument, it is no small secret that around 22% of Americans smoke, and as such, it would be infinitely more difficult to get them all to quit. It would be ideal if instead of requiring all lighters to be safer for their users, we just cut off the need at the source. Requiring lighters to have warning labels on them, as well as meeting mandatory standards, however, seems to be a good temporary solution to the nation's smoking problem.

In a five year time period, 90 people were injured, and 10 died from a fire in their homes caused by lighters. Over 3,000 people were admitted to the hospital for lighter-related incidents. A 76 year old woman died of third degree burns caused by direct contact with her lighter. To some it may seem unnecessary to require such strict standards to such a small object. But lighters are prevalent in many smoker's homes; in fact, many smokers have more than one lighter, increasing their risk of injury. This is an object that needs to be regulated for the safety of its users and those around them.

Hundreds of millions of Americans are not going to quit smoking tomorrow. But the object they use every day can be made safer. I completely support the Consumer Product Safety Commission's proposed rule to require lighters to meet stricter safety standards.

Sincerely,
Sheerley Zinori

Cig Lighter

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Stevenson, Todd A.

From: Emma Alvarenga [emmaalvarenga@yahoo.com]
Sent: Thursday, May 12, 2005 12:20 AM
To: Stevenson, Todd A.
Subject: ANRP for Cigarette Lighters - Comments due Friday, June 10

March 12,2005

ANRP for Cigarette Lighters

4330 East-West Highway

Room 502

Bethesda, Maryland 20814

Re: Docket # AP-05-36

To Whom It May Concern:

Consumer Product Safety Fund (ANPR) is a Washington based nonprofit safety organization. Since we have the opportunity to send a comment, my group from the University of Florida will like to give their opinion on the safety of Cigarette Lighters. ANRP, they are doing a tremendous job by trying to gather new information to this problem that affects many families in today's society.
As a caring parent, family member, or friend of a family with young children, one of the greatest child safety gifts you can give right now is to throw away all non-resistant disposable cigarette lighters and buy new child-resistant ones.

All disposable cigarette lighters and cheap refillable cigarette lighters must meet child resistant requirements. Child –resistant lighters are designed to be difficult for a three to four year old to operate, either deliberately or by accident. They give a parent time to see that the child is playing with the lighter and to react to this.

They are not child-proof. They will not totally prevent a child from operating them. Keep them out of reach of children at all times. Never let a child play with a cigarette lighter it may look attractive but it's deadly.

Never ask a child to buy or fetch a cigarette lighter for you.
Never offer a lighter to a child as a means to soothe teething gums
Do not put a novelty lighter in the toy box when it has run out. The child cannot make the distinction between this lighter and a filled one, and this gives the message that such lighters are safe. Do it for your kids' sake.

Compliance with consumer product safety and information standards is mandatory. This means that all suppliers of disposable cigarette lighters, including manufacturers, distributors, importers, retailers and anyone giving away lighters as prizes or promotions, must ensure their goods comply with the mandatory requirements. Consumers also have a responsibility to purchase safe products and to use them in a safe manner.

The mandatory standard relating to disposable cigarette lighters was introduced to promote the safety of young Australians. The regulations specify safety requirements which aim to prevent death, serious burn injuries and property damage caused by the failure or misuse of cigarette lighters.

The Regulation applies to all cigarette lighters and to most refillable lighters. Disposable means a lighter that is designed to be discarded when empty or incorporates a separate container of fuel designed to be discarded when empty.

Some of the requirement that lighters must be child resistant and meet certain performance and structural requirements. A certificate of compliance must accompany each shipment of cigarette lighters from the manufacturer or importer.

Lighters must be labeling marked with the name or other identification of the manufacturer and/or distributor of the lighter. Adjustable lighters must also bear symbols indicating how to adjust the flame height.

Lighters must be marked either permanently or by means of a sticker with the statement 'WARNING' followed by the phrases:

- Keep out of reach of children
- Contains flammable gas under pressure
- Contains flammable liquid

The Regulation sets out the performance and structural requirements which cigarette lighters need to meet when the specified tests are carried out.
Tests are set up to ensure that accidental or self-ignition of lighters is minimized.

The lighter must have no external sharp edges that could cause accidental cuts or abrasions.
A lighter must be designed so that deliberate action is necessary to ignite and sustain a flame.

An adjustable lighter must be designed so that deliberate action is necessary to adjust the height of the flame.
Lighters must not exhibit any characteristics of spitting, sputtering, flaring or produce an abnormal or unsafe flame when in use.

Lighters must be able to withstand a specified burning time without evidence of component burning or distortion which may be hazardous.
The flame of a lighter will extinguish within two seconds if the lighter has no flame-guard or four seconds if it has a flame-guard.

Resistance to Damage When Dropped: The lighter must be able to withstand the drop test from a height of 1.5 meters onto a concrete surface, without the fuel reservoir rupturing, and without self-igniting.
Lighters must be able to withstand an internal pressure equal to twice the vapor pressure at 54°C of the fuel normally used in the lighter.

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Lighters must be able to withstand an internal pressure equal to twice the vapor pressure at 54°C of the fuel normally used in the lighter.

We will like to hear is our comment was establish for these rulemaking regarding the cigarette lighter. We also thank you for the opportunity that you guys gave us to express and hoping that these will make a change.

Once again thank you and regards,

Emma Alvarenga
Nidias Arias
Ivon Gomez
Jaime Gonzalez

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Cig Lighter comments 3

SWEDISH MATCH

May 16, 2005

Office of the Secretary
U. S. Consumer Product Safety Commission
Room 502, 4330 East-West Highway
Bethesda, Maryland 20814

RE: Safety Standard for Cigarette Lighters
Advance Notice of Proposed Rulemaking

Dear Sir or Madam:

We have reviewed the Federal Register Notice published April 11, 2005 requesting written comments concerning the above mentioned rulemaking proposal.

Swedish Match is the manufacturer and distributor of Cricket® disposable cigarette lighters and as such strongly supports the adoption of the ASTM F400-00 standard as a mandatory standard.

Because many American consumers have suffered bodily injuries and even death due to the malfunction of cheap lighters that do not meet the requirements set forth in ASTM F400-00 standard. Swedish Match urges the Commission to defer to the ASTM F400-00 standard under Section 9(b) of the Consumer Product Safety Act. Swedish Match believes this will be the fastest way to implement this standard and by so doing save many American consumers from injury.

Swedish Match appreciates the efforts of the Commission in this proceeding and again strongly urges the Commission to adopt the ASTM F400-00 standard as a mandatory standard for cigarette lighters.

Thank you for your consideration of our views.

Respectfully submitted,

Mathew McLoughlin
Consultant to Swedish Match Lighters

North America Division

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3483 Satellite Boulevard
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SWEDISH MATCH NORTH AMERICA INC.

Cig Lighters

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Stevenson, Todd A.

From: Mike Forys [beaconpower@earthlink.net]

Sent: Friday, June 03, 2005 4:33 PM

To: Stevenson, Todd A.

Subject: ANPR for Cigarette Lighters

Beacon Power, Inc. is a U.S. based distributor of cigarette lighters, and a member of the ASTM F15.02 Task Group for Lighters and of the U.S. Lighter Association.

We are in full support of the Commission's efforts to establish ASTM F400 as a mandatory standard for cigarette lighters.

Economic globalization must be supported by a harmonized regulatory system. The U.S. almost stands alone in the lack of an enforceable cigarette lighter standard.

The ASTM F400 consensus cigarette lighter standard is sound, having been painstakingly developed over the past 30 years. It is followed throughout the world as iterated in ISO9994.

Beacon Power urges the Commission to defer to ASTM F400-00 under the CPSA, Section 9(b).

Sincerely,

Michael G. Forys
President/CEO

Calico Brands, Inc. • 2055 South Haven Ave. • Ontario, CA 91761-0736
• (909)-930-5000 • FAX (909)-930-3900 • Toll Free 1-800-LIGHTER

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June 6, 2005

Office of the Secretary
U.S. Consumer Product Safety Commission
Room 502, 4330 East-West Highway
Bethesda, Maryland 20814

Subject: ANPR for Cigarette Lighters

Calico Brands, Inc., is pleased to submit the following comments in response to the CPSC's Request for Comments on Advance Notice of Proposed Rulemaking ("ANPR") for Safety Standard for cigarette lighters.

Calico Brands is a major distributor of cigarette lighters in the United States. Calico Brands strongly supports the efforts of the CPSC to promulgate F400 as a mandatory standard. Having a mandatory standard will benefit consumers and industry partners alike by making it both practical and reasonable for governmental and quasi-governmental entity to enforce the standard, thereby helping to eventually eliminate non-compliant lighters from the market place.

ASTM 400-00 is an excellent standard. It has been developed over the last 25 years and is followed throughout the world as ISO 9994. Nevertheless, it is not a mandatory standard, but rather a consensus standard. In spite of the strength of this standard, there are still unnecessary and unfortunate incidents resulting in property damage, serious injury, and even death. The statistics involving accidents and injuries associated with disposable lighters show that, over the years, ASTM 400-00 has helped reduce the number of such incidents. Based on a recognition of past statistics, it seems quite likely that, mandating compliance with this standard would help to further reduce the number of unfortunate incidents by eliminating from the market place, lighters that do not comply. The cost of compliance is minimal and would not work any undue hardship on the industry or consumers.

Most importantly, however, a mandatory standard, such as the one proposed, would lead to enforceable consistency within the industry, especially here. The United States is the only western nation that does not have a mandatory disposable lighter safety standard. Clearly, the industry as a whole would benefit from the enforceable consistency afforded by regulations designed to harmonize the rules applicable to our industry throughout the world, and especially the U.S., Canada, Mexico, and Europe.

Calico strongly urges the Commission to defer to ASTM F400-00 under section 9(b). A deferral to the ASTM F400-00 standard will expedite increased safety in the market place.

Thank you for the opportunity to submit comments.

Sincerely,

Felix Hon
President

ANPR Cig Lighters 6

Consumer Federation of America

To: Office of the Secretary, U.S. Consumer Product Safety Commission
From: Rachel Weintraub, Director of Product Safety, Consumer Federation of America
Re: ANPR for Cigarette Lighters
Date: June 9, 2005

Please accept this letter as Consumer Federation of America's comment in response to CPSC's request for information and comments concerning the Advanced Notice of Proposed Rulemaking (ANPR) for cigarette lighters.

Consumer Federation of America recommends that CPSC vote in favor of the ANPR and move forward with the rulemaking process. Protecting consumers from death and injury caused by hazardous cigarette lighters is an important public health priority. We believe that it is in the best interest of consumers for all cigarette lighters sold in the United States to meet the safety standards set forth in ASTMF400-00. This standard includes critical requirements for maximum flame height, proper flame extinction, structural integrity, internal pressure and fuel levels

We believe that moving forward with this rulemaking is the best way for the Commission to determine the most effective method for ensuring that all cigarette lighters comply with the voluntary safety standard. The Commission can ensure compliance either through codification of the voluntary standard or through a section 15 action. CPSC should move forward with the ANPR to determine the most effective method of compliance.

1412 16th St, NW,Suite 604 Washington, DC 20026 • (202) 387-6121• www.consumerfed.org

Stevenson, Todd A.

From: Rachel Weintraub [rweintraub@consumerfed.org]
Sent: Friday, June 10, 2005 9:52 AM
To: Stevenson, Todd A.
Subject: CFA Comment on ANPR for Cigarette Lighters

Please accept the attached document as CFA's comment on the ANPR for cigarette lighters.

Thank you for your consideration.

-Rachel

Rachel Weintraub

Director of Product Safety & Assistant General Counsel

Consumer Federation of America

1424 16th Street, NW, Suite 604

Washington, DC 20036

ph: (202) 939-1012

f: (202) 265-7989

Cig Lighter ANPR

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IPPC Intellectual Property Protection Center, Inc.

4335 Rowland Ave., El Monte, CA 91731
Phone: 1-866-350-8830 Fax: 1-626-350-8380

Fax

To:	CPSC Commission	**From:**	Tommy Wong
Fax:	301-504-0127	**Pages:**	(including this page) 3
Phone:	301-504-0800	**Date:**	6/9/2005
Re:	ANPR for Cigarette Lighters	**CC:**	

☒ **Urgent** ☒ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Pursuant to the request for comments and information by the Consumer Product Safety Commission on Advance Notice of Proposed Rulemaking, the IPPC hereby submits the following information.

IPPC is a trade association representing major U.S. lighter importers doing business in this country. We have undertaken a further due diligence and an analysis of the issues regarding any regulatory alternatives which could be used to adequately reduce the risk of injury and at the same time, bear a reasonable relationship to its costs as well as minimum burdensome on such a regulatory action.

Based on the CPSC staff briefing package, it was concluded that injuries resulting from malfunctioning lighters are relatively infrequent. For the approximately 900 million lighters purchased by consumers in a year, the estimated risk of death from lighter malfunction is about 2.2 deaths per billion lighters. The estimated risk of injury is about 1.1 injuries per million lighters. Moreover, the incident data can not determine whether the lighters involved conform to ASTM F-400. However, the result matches with our own study on injury and death in Canada caused by lighters that are compliant with Health Canada regulation. The data was provided by Health Surveillance Division of PHAC in Canada. The irony of the situation is that Canada adopts ASTM F400-00 as their hazardous products (lighters) standard. Therefore, it is extremely doubtful whether mandating the voluntary standard would actually reduce incidents which is already minimal.

Risk specialists compare risks not according to how many people they kill, but according to how many days they reduce the average life (base on our population of 280 million and average life span of 70 years). Some people panic over airplane crashes, but airplane crashes have caused fewer than 200 deaths per year over the past 20 years. That's less than one day off the average life. House fires account for about 4500 Americans deaths per year, 18 days off the average life. According to the Incident Data obtained from NFIRS, NEISS, DTHS, IPII and INDP, there were an estimated 13 deaths caused by lighters over a six-year period. That is less than half a day off the average life. But to bring these risks into proper perspective, we need to compare them to far greater risks like driving, which knock 182 days off the average life! When people are scared to fly by the statistic, more will prefer to drive to Grandma's house, and more are killed as a result. This is statistical murder, perpetuated by regulators.

Adequate, precise and efficient regulations make things better. However, over-regulations, nit-picking is damaging. The money wasted consists not only of the taxes taken directly from us to pay for bureaucrats, but also of the indirect cost of all the lost energy that goes into filling out the forms. Most of the companies in the lighter business are small business entities. We play an important role in the growth of the U.S. economy, as President Bush once said. We do not have the time and financial strength to retain attorneys going into lobbying the politicians, forming PACs, and trying to manipulate the influential government members in Washington, D.C.

The current Consumer Product Safety Act sets child-resistance requirements for all disposable and novelty lighters. It also adopts a voluntary standard, known as the ASTM F-400. As is clear from the statistical indication from the CPSC staff briefing package, the number of injuries resulting from malfunctioning lighters is decreasing. The evidence that there has been no recall on lighters since 2001 coincides with the fact that the Chinese Government started implementing the ISO 9994 on all exported lighters since September 2001. Given more time for this testing program performed by Hazardous Product Central Laboratory (HPCL) to mature, we believe that it will adequately minimize the risks of injury or death associated with mechanical malfunctions of lighters. Remember, it takes six years (from 1994 to 2000) for the current Safety Standard for Cigarette Lighters to mature. And now, there is a tremendous reduction on injuries and deaths for children playing with lighters. President Reagan had asked us if we were better off now than four years ago during his election speech; we responded by voting for him again. As the same token, the existing standard has been working very effectively in reducing injury and death associated with lighters in the past, why change? It is obvious that mandating the voluntary standard would NOT reduce injury or mortality incidents. It will WASTE the CPSC resources, which otherwise would have spent on other more urgent projects. There are 15000 types of consumer products for CPSC to monitor and regulate in

order to protect the general public. We do not want to see the motto of CPSC changes to: To save four, kill 10!

IPPC respectfully requests the Commission to keep the existing safety standard, along with the voluntary standard (ASTM F-400) in lieu of the proposed mandatory rule.

ANPR Cig Lighter 8

SLAI - Safety Lighter Association International

P.O Box 5110
Glendale Heights, Il 60139 USA
E-mail: safetylighter@aol.com

COMMENT ON ANPR FOR CIGARETTE LIGHTERS

Summary

Lighters currently sold in the U.S market are high-quality and are continue to improve daily. Adopting the voluntary "Standard Consumer Safety Specification for Lighters" (ASTM F-400) as a mandatory standard under the Consumer Product Safety Act (CPSA) will have no impact on the improvement of the quality of cigarette lighters and alter the design purpose of lighters as flame producing products commonly used to light cigarettes. As mater of fact, cigarette lighter is one of the most safeties consumer products, its incident rate is far less than automobile and aircraft. Like Consumer Product Safety Commission (CPSC) in the United States, similar public safety agencies in China as well as many other countries are also aware the importance of the safety of cigarette lighters. For instance, Chinese government implemented new inspection standard on June 1, 2001 which required all lighters manufactured in China must undergo rigorous testing to meet standards similar to ASTM F-400. As the results, the quality of cigarette lighters improving dramatically in the recent years. Actually, without allotted pass/fail percentages tolerance, the requirements of proposed ASTM F-400 provide inadequate unfair and biased test results. It will be redundant and will create economic and trade impacts to impose a mandatory ASTM F-400 safety standard for cigarette lighters. Thus, the ASTM F-400 can not be considered a mandatory test.

Background

In November of 2001, Lighter Association (the petitioner), Inc petitioned CP 02-1, asking CPSC issue a rule to make ASTM F-400 a mandatory consumer product safety standard under the CPSA. According to the reply comment made by the same trade association, in 2001, members of the Lighter Association accounted for approximately 60% of the lighters sold in the U.S. Today, less than four years later, its members account for less than half of the lighters sold in the U.S. Base on the information from the same petition on 2001, it indicated "that at least 75% of the lighters sold in the U.S are purported to conform to ASTM F-400." This suggests there is already substantial compliance with ASTM F-400, thus eliminating any need for a mandatory standard.

Beside this, during the past four years, CPSC has invested a large amount of time and funds in investigating what the effects would be if adopting ASTM F-400 as mandatory standard? Would ASTM F-400 increase the quality of lighters? And

what benefit would the ASTM F-400 standard provide? The CPSC concluded on numerous occasions, the benefit does not outweigh the cost.

The petitioner also indicated that lighters imported from 1993-2000 could not meet the voluntary standard. The fact is, as the largest cigarette lighters export country, China published her new "Inspection Standards for Exportation Lighters" on June 1, 2001 and was effective on September 1, 2001 which required all lighters manufactured in China must undergo rigorous testing to meet standards similar to ASTM F-400. According to our research, in 2002 and 2003, incidents caused by quality of lighters decreased dramatically. It is simply not logical to use old data to judge new evidence.

Since the New China Standards were implemented, the quality of cigarette lighters been imported into the U.S today could pass the safety standards. As a leading country, major business market, worldwide policy maker, we should welcome and recognize our business partners putting efforts on building-up similar, compatible safety inspection programs to reduce the cost of merchandise and protect our consumers' life and properties instead of reinforcing similar program locally to increase the financial burden of our customer.

Why we urge to "deny" petition CP 02-1 and keep the provisions of ASTM F-400 as voluntary standards?

1. There is no grantee that adopting ASTM F-400 will improve the already low fire incident record, and reducing property damage, body injury and burn hazards associate with lighter malfunctions. Because, the incident rate associated with lighter malfunctions are really insignificant. For the approximately 900 million lighters purchased by consumers in a year, the estimated risk of death from lighter malfunction is about 2.2 deaths per billion lighters. The estimated risk of injury is about 1.1 injuries per million lighters. This is just one of the many reason, the staff recommends against proceeding with a mandatory rule.

2. As we know, China already implemented a mandatory inspection standard similar to that of ASTM F-400 and Product Safety Canadian Laws and Regulation. While other agencies such as UL accepting the testing results or inspections from the other countries, why should we duplicate and adopting a similar mandatory program?

3. Even before China implemented its own inspection standard, in the years between1994 – 1998, the death, injury and property damage resulted in fires associated with cigarette lighter malfunctions was declining from an already very low level.

4. Current safety standards for cigarette lighters make cigarette lighter is one of the safeties product among hazardous materials. Based on national fire loss data from the U.S. Fire Administration's National Fire Incident Reporting System (NFIRS) and the National Fire Protection Association's annual survey of fires in the U.S. as well as data from the latest CPSC studies, CPSC Safety Standard for cigarette lighters has reduced cigarette lighter child play fires caused by children younger than age 5 by 67 percent. Although fires caused by lighters remain a concern, but other factors such as ignition factor of upholstered furniture, standard for cigarette ignition resistance, small open flame standard, lower cigarette ignition propensity, availability of fire alarm equipment and who, where and how people use lighters should be a part of discussion when we determine the safety issues of cigarette lighters.

5. We already have CPSC Safety Standard for cigarette lighter and Chile-Resistant (CR) Regulations already successfully provide a super safety feature on cigarette lighter from miss operation, do we really need another mandatory safety standard?

6. Through scientific studies for the past four years, CPSC staffs cite that there is no direct evidence show death or injury and property loss during the past decade have significant tie to the safety of cigarette lighter and made a recommendation to **deny** the petition of ATSM F-400 as a mandatory standard for cigarette lighters. Override the CPSC staff recommendation and vote to begin the adoption of ASTM F-400 standard for cigarette lighters may just set another barrier on world trade.

The alternatives if ASTM F-400, Safety Standard for Lighters becomes adopted as a mandatory standard:

As lighter manufacturers and distributors, fire safety is always in our highest priorities; however, there is no man-made product free from mechanical or structural malfunctions. If ASTM F-400 has been adopted, the following regulatory alternative should be considered:

1. **If ASTM F-400 becomes standard a mandatory it should adopt a pass/fail rate.**

   Every product which is tested for safety has a percentage in which it is allowed a pass/fail rate. Usually, the pass/fail percentage tolerance pertains to parts of the test in which the product being tested fails an insignificant part of the test.

   ASTM F-400 is made up of 4 main requirements that include functional requirements, structural integrity requirements, functional requirements

after structural integrity tests and final functional requirements. These main requirements are then separated into categories listed below:

Functional Requirements

- Flame Height Measurement
- Spitting or sputtering and flaring
- Flame Extinction
- Volumetric displacement

Structural Integrity Requirements

- Drop Test
- Temperature
- Continuous Burn
- Cycling Burn
- Compatibility

Functional Requirements After Structural Integrity Tests

- Flame Height Measurement
- Spitting or Sputtering and Flaring
- Flame Extinction

Final Functional Requirements

- Instructions and warnings
- Product Marking

For example: A company in Canada submitted 250 lighters to be tested. Out of the 250 lighters one (1) lighter failed to meet ASTM F-400, resulting in the failing of the entire examination. The one (1) lighter which failed the test, passed every category with the exception of ONE MINOR PART OF ONE MAIN CATEGORY-sputtering in the functional requirement. It is this one reason the entire 250 lighter examination failed to meet ASTM F-400 standard. It would be understandable to fail the lighter, once the lighter failed the drop test or temperature test, which is the most important parts of the test that have the potential to cause substantial harm. To fail an entire 250 lighter examination based upon such an insignificant factor is unwarranted.

We feel it is important to implement a pass/fail factor percentage when evaluating the results of which lighters meet ASTM F-400 because the current ASTM F-400 standard is not realistic in providing fair testing. On September 14, 2004, another test was submitted by the Lighter Association. The result found 6 lighters out of the 8 submitted failed. We

believe if a pass/fail percentage equivalent to the pass/fail percentage allotted to CR testing were implemented, lighters that were submitted by the Lighter Association in the September 14, 2004 hearing would have met the ASTM F-400 standard.

2. **Foreign entities should be allowed to examine and test lighter designs on behalf of the Competent Authority of the United States.**

   From safety point of view, the best strategy to reinforce the safety requirements in the cigarette lighters is joint efforts together internationally to ensure all cigarette lighters examined and tested successfully by a certified person and/or authorized testing agency before shipping to the United States. Any one who has equipment, knowledge, skills, and is not owned in whole or in part, or is not financially dependent upon any entity that manufactures or markets lighter should be qualified to perform all examination and testing as an authorized testing agency. Citizenship and geographic location do nothing with safety. Segregation between domestic manufacturers' OEM factories and non-domestic manufacturers' OEM factories just initiate unnecessary technical barrier for international trade.

3. **As with any product sold in the market, no product is one hundred percent fool proof.** Often when injuries and deaths occur, it is due to the consumer's misuse or insufficient product knowledge. We believe the injuries the Lighter Association provided to the commission on injuries sustained from malfunction lighters could have been prevented when consumers has been advised to use the lighters properly.

Conclusion

Experiences tell us, to promote product and consumer safety, it is more effective in collaboration then competition. While CPSC staff considers the available data insufficient to begin a rulemaking proceeding, we recommend to remain ASTM F-400 as a voluntary standard and developing a certification program to accept safety test and inspection can be perform by foreign entities. If the final decision made by the commission is to adopt ASTM F-400 as a mandatory standard, it will more realistic to implement a pass/fail factor percentage when evaluating the results of which lighter meet ASTM F-400 because the current ASTM F-400 standard is not realistic in providing fair testing.

ANPR Cig Lighters 9

ASTM INTERNATIONAL
Standards Worldwide

June 10, 2005

RE: ANPR for Cigarette Lighters

In response to the Advance Notice of Proposed Rulemaking in the Federal Register/Vol. 70, No. 58/Monday, April 11, 2005, Subcommittee F15.02 offers the following position regarding *Safety Standard for Cigarette Lighters*:

ASTM International Subcommittee F15.02 on Safety Standards for Lighters is a 45-member subcommittee operating under the auspices of Committee F15 on Consumer Products, ASTM International. The subcommittee is composed of diverse and balanced interests including manufacturers, retailers, representatives of government and academia, testing laboratories, safety experts and consumers. This subcommittee has worked within the consensus procedures of ASTM International to develop F400-04, Standard Consumer Safety Specification for Lighters. This standard provides technical requirements supported by a range of rigorous tests that have been widely recognized and used by the lighter industry since 1975 to improve the safety of lighters. In addition, the instructions and warnings section of the standard provides extensive safety information.

If the CPSC determines that a rulemaking is warranted, ASTM International Subcommittee F15.02 seeks the incorporation by reference of ASTM F-400-04 into any mandatory standard for cigarette lighters. This action to incorporate F400-04 by reference will most importantly serve the consumer by ensuring safer product via increased compliance to the standard. Again, since the issue is one of compliance, the CPSC would also save valuable resources by referencing an existing standard that was developed by a diverse representation of the industry and whose technical content is already proven.

The subcommittee appreciates the opportunity to provide comments.

Sincerely,
Edward Lewiecki
Chair, Subcommittee F15.02

Stevenson, Todd A.

From: Morgan, Katharine [kmorgan@astm.org]
Sent: Friday, June 10, 2005 9:43 AM
To: Stevenson, Todd A.
Cc: elewiecki@aol.com; Grove, Jeff; PILARZKI@FISHER-PRICE.COM
Subject: ANPR for Cigarette Lighters

ANPR
:esponse.doc (33 KE

Attached are comments in response to the ANPR for Cigarette Lighters submitted on behalf of ASTM International Subcommittee F15.02 on Safety Standards for Lighters. The comments were approved by Subcommittee F15.02 and supported by the F15 Executive Subcommittee for submission. If you have any questions, feel free to contact me. Thank you for the opportunity to comment.

Best Regards,
Katharine E. Morgan
ASTM International
General Manager
Technical Committee Support

BEFORE THE

U.S. CONSUMER PRODUCT SAFETY COMMISSION

SAFETY STANDARD FOR CIGARETTE LIGHTERS

ADVANCE NOTICE OF PROPOSED RULEMAKING

REQUEST FOR COMMENTS AND INFORMATION

COMMENTS OF

LIGHTER ASSOCIATION, INC.

David H. Baker
General Counsel
Lighter Association, Inc.
1920 N Street, N.W.
Washington, D.C. 20036
(202) 973 2709
info@lighterassociation.org

COMMENTS OF

LIGHTER ASSOCIATION, INC.

Introduction

By Federal Register Notice dated April 11, 2004, the Commission announced the initiation of a rulemaking proceeding under the Consumer Product Safety Act ("CPSA") to consider the issuance of a mandatory safety standard for cigarette lighters. 70 Fed. Reg. 18339 (2005). In the Advance Notice of Proposed Rulemaking ("ANPR"), the Commission requested written comments on:

1. The risk of injury from lighters.
2. Any existing standard which could be issued as a proposed regulation.
3. A statement of intention to modify or develop a voluntary standard to address the risk of injury.

Id. at 18341.

The Lighter Association submits its comments on these issues below, under Position of Commentor.

Identity of Commentor

The Lighter Association, Inc. is the national trade association of the U.S. cigarette and multi-purpose lighter industry. Its members account for about 50% of the manufacture and distribution of lighters in this country. The Lighter Association has regularly participated in proceedings before the Commission involving lighters since 1986. It is the Petitioner in this proceeding.

Position of Commentor

1. The risk of injury from lighters.

A review of the various databases, as set forth in the ANPR, reveals that there were at least fourteen confirmed deaths from malfunctioning lighters during the period 1994 to 2002. Id. at 18340 (NFIRS database – 10 deaths, Death Certificates file – 1 death, IPII and INDP files – 3 deaths). These are actual deaths, not a national estimate, or an extrapolated number. In the presentation made by the Commission staff on September 14, 2004, Mr. Rik Khanna estimated that there were 2.2 deaths per billion lighters. See Exhibit A, a page from Mr. Khanna's powerpoint presentation to the Commission. Coincidentally, about one billion lighters are sold per year in the U.S. Thus, there are, on average, about 2.2 deaths per year from malfunctioning lighters.

The large number of deaths from malfunctioning lighters is shocking to the lighter industry, given the relative ease of bringing these lighters into compliance. All a lighter manufacturer needs to do to avoid the vast majority of these incidents is to implement a simple quality control system to make sure that its lighters meet the basic safety standards in the ASTM F400-00 Standard. As noted in the ANPR, the most common violations of the ASTM standard relate to volumetric fill and pressure displacement. Id. at 18340. If the Commission were to adopt the ASTM F400-00 Standard, it is likely that many, if not all, of these deaths could be prevented in the future.

Again, according to Mr. Khanna's presentation, there are 1.1 injuries per million lighters sold each year. See Exhibit A. Stated differently, based upon one billion lighters sold per year, there are about 1100 injuries per year from malfunctioning lighters. While 1100 injuries per year may not seem like a large number, injuries involving lighters

typically involve burns to the face, the neck and the hands, given the normal usage of the product. Burn injuries can be disfiguring and painful, and often leave emotional scars on their victims. Again, most, if not all, of these injuries could be avoided if the ASTM F400 Standard was regularly enforced by the CPSC.

2. Any existing standard which could be issued as a proposed regulation.

Throughout the world, the ASTM F400 Standard, or its ISO counterpart, is used as the mandatory regulation for the safety of lighters. The ATSM F400 Standard is law in Canada and Mexico. The ISO 9994 Standard was adopted by the EU by dint of publication in the Official Journal of the European Union. 2004/C 100/4. There are virtually no differences between the ASTM lighter standard and the ISO lighter standard. The ASTM standard was first issued in 1975 and has been reviewed annually since that time. The ISO standard, which is based on the ASTM standard, was first issued in 1989, and was last updated in 2002. The Lighter Association believes that ASTM F400-00 is the best model for any Commission mandatory regulation. However, the Association would have no objection to using ASTM F400-04, which was just released, or ISO 9994-2002, which was also recently released, as a model for mandatory regulation.

3. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice.

There does not appear to be any need to modify or develop a voluntary standard relating to lighter safety. The ASTM F400 Standard is a consensus standard which has been in existence for 30 years. It is the standard followed throughout much of the world. It would be a wasted effort to develop a new standard.

Deferral to Voluntary Standard

We would suggest to the Commission that an expedient way of dealing with the issue of deaths and injuries from malfunctioning lighters would be to defer to ASTM F400 under Section 9(b) of the Consumer Product Safety Act. While we recognize that this path is not often utilized by the Commission, the statutory basis is there and it has been an effective remedy for chain saws and gas fired heaters. See Appendix to 16 CFR Part 1115. As enunciated in 16 CFR Part 1115.5(a), *Reporting of Failure to Comply with a Voluntary Consumer Product Safety Standard Relied Upon by the Commission under Section 9 of the CPSA:*

> Under the CPSA, the Commission may rely on voluntary standards in lieu of developing mandatory ones. In recognition of the role of voluntary standards under the CPSA, section 15(b)(1) requires reports if a product fails to comply with a voluntary standard "upon which the Commission has relied under Section 9 of the CPSA." The Commission has relied upon a voluntary consumer product safety standard under section 9 of the CPSA if, since August 13, 1981, it has terminated a rulemaking proceeding or withdrawn an existing consumer product safety rule because it explicitly determined that an existing voluntary standard, or portion(s) thereof, is likely to result in an adequate reduction of the risk of injury and it is likely there will be substantial compliance with that voluntary standard.

16 CFR Part 1115.5 (a).

Based upon the industry's thirty year experience with the ASTM F400 standard and the worldwide use of the standard, we submit that the standard clearly is likely to reduce the risk of injury from malfunctioning lighters, if properly enforced. Indeed, the Lighter Association believes, based upon anecdotal information from its members, that there are many more incidents of death and injury from malfunctioning lighters in the U.S. market, because the standard is not monitored or enforced by the CPSC. If the Commission were to defer to the ASTM F400 Standard, and regularly enforce the basic

safety standards set forth therein, we believe that compliance would increase very significantly.

Our best estimate is that between 50 and 60 per cent of the lighters sold in the U.S. currently meet or exceed the ASTM F400 standard. We believe that this percentage will increase significantly if the Commission defers to the voluntary standard.

Conclusion

The Lighter Association filed this Petition in November of 2001. It demonstrated in its Petition that there were many injuries from malfunctioning lighters. On April 6, 2005, the Commission unanimously voted out this ANPR. Based upon the databases reviewed by Commission staff, it would appear that 2.2 people die every year from malfunctioning lighters. In theory, 9 people have died from malfunctioning lighters since this Petition was filed and many more have been seriously injured since that date. In light of the lengthy rulemaking process mandated by Sections 7 and 9 of the Consumer Product Safety Act, we urge the Commission to defer to the ASTM F400 Standard as a mandatory standard pursuant to Section 9(b) of the Consumer Product Safety Act. This will provide a rapid remedy for this problem; it will relieve staff from many man hours of additional work; it will relieve the Commission from thousands of dollars in expense and it will protect consumers from unsafe lighters.

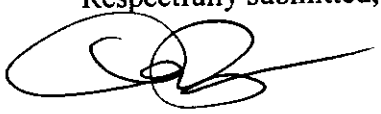
We would also note that deferral to voluntary standards is mandated by the Office of Management and Budget, through *OMB Circular A-119*, issued February 10, 1998, which states:

> All federal agencies must use voluntary consensus standards in lieu of government-unique standards in their procurement and regulatory activities, except where inconsistent with law or otherwise impractical.
> OMB Circular A-119, at 6.

This is clearly a case where the Commission could utilize a well established voluntary consensus standard, and through the deferral process under Section 9(b), create an equivalent of a mandatory standard.

In closing, we urge the Commission to defer to the ASTM F400 Standard, to promptly provide increased safety protection to U.S. consumers. Thank you for the opportunity to submit these comments.

Respectfully submitted,



David H. Baker
General Counsel
Lighter Association, Inc.

Dated: June 8, 2005

168139

A

Lighter Petition Briefing
CP – 02-1

U.S. Consumer Product Safety Commission

Rik Khanna

Engineering Sciences

September 14, 2004

Incident Data - Summary

- The risk of death or injury from lighter malfunctions is low
  - Risk of death – 2.2 per billion lighters
  - Risk of injury – 1.1 per million lighters

- The severity of most injuries is low
  - 96% of injured were treated and released

Cig lighter ANPR

11

~~Stevenson, Todd A.~~

From: Victor Navarro [victorenavarro@yahoo.com]
Sent: Friday, June 10, 2005 9:33 PM
To: Stevenson, Todd A.
Cc: Rene Bodden; Rosie Rivera; Erika Osma
Subject: ANPR for Cigarette Lighters

From: Erika Usma, Rosa Rivera, Victor Navarro, and René Bodden

Subject: ANPR for Cigarette Lighters – comments due Friday June 10, 2005

Date: June 8, 2005

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

To Whom It May Concern:

Comments

We are a group of business students from Florida International University interested in promoting social responsibility in today's business governance and business practices.

We consider the proposal for the development of an improved safety standard for the cigarette lighter industry crucial to the reduction of accidents caused by the malfunction or improper usage of the mentioned devices.

Please evaluate our comments and research, because as consumers we strongly support the additional regulation of this industry.

Risk of injury associated with the mechanical malfunction of cigarette lighter

All risks of fires, death, injuries, and property damage are associated with mechanical malfunctions of cigarette lighters. Over 700 million lighters are imported each year, and approximately 600 million lighters are sold annually to a population based of 275 million. Making it nearly an over all of one billion cigarette lighters sold in the U.S. annually. From 1997 through 2002, the U.S. Consumer Product Safety Commission estimated that more than 3,000 people went to hospital emergency rooms for injuries resulting from malfunctioning lighters. Cause of most injuries involved thermal burns to the face, hands, and fingers.

The U.S. Consumer Product Safety Commission received 265 incident reports related to cigarette lighter malfunctions and failures. Around 65 percent of these cigarette lighter failures resulted in fires, leading to 150 deaths and 1,100 injuries and nearly $70 million in property damage. The total cost to the

public was estimated at roughly $385 million annually.

Fire death associated with children playing with lighters before mandatory standards took effective in July 1994 where 230 children under the age of 5, accounted for 170 of the deaths in 1994. In addition, there were 11,000 residential fires related with children playing with lighters. As time passed by 1998, the mandatory standard for child-resistance became effective, fire deaths associated with children playing with lighters dropped to 130 and accounted for 40 of the deaths for children under the age of 5. Residential fires associated with children playing with lighters declined to 6,100.

The U.S. Consumer Product Safety Commission estimated that for the period of 1988 to 1990 fires started by children under the age of five playing with lighters caused an annual average
There is still risk associated with child-proof cigarette lighters with child-resistant mechanisms, even though standards are proposed.

Regulatory Alternatives
As follow, there are some regulatory alternatives to help reduce the risks associated with the cigarette lighters.
Mandatory Standard: The commission could use a rule specifying certain performance requirements that cigarettes lighters must meet. These requirements could be base in the requirement in ASTMF-400
Mandatory labeling rule: The commission could issue a rule requiring specified warnings or instructions for cigarettes lighter
Voluntary Standard: if the Commission determined that ASTM F-400 (Standard Consumer safety Specifications for lighters) is adequate to address the risk of injured associated with the product and the substantial compliance with it is likely, the Commission could defer to the voluntary standards of issuing a mandatory rule.
Reliance o Recalls: Another alternative is for the Commission to take no regulatory action, but to pursue corrective actions of cigarettes lighters on a case by case basis using its authority under section 15 of the CPSA, 15 U.S.C 2064
CPSA, Consumer Product Safety Act 15 U.S.C 2064 requires manufactures, distributors and retailers of consumer products to report potential products hazard to the commission.

Non regulatory Alternatives
One of the non regulatory alternatives could be the creation of an intense campaign to make adults conscious of the terrible dangers that a cigarette lighter can cause when in children's hands; since, the most affected are children who use this product without the supervision of adults. Forcing adults to take preventions in maintain cigarettes lighters out of the reach of children can help reduce the risks associated with this product.

On the other hand, there are times when the industry prefers a mandatory federal standard because of the preemptive effects of CPSC's regulations over state regulation and because of the CPSC's enforcement capabilities, particularly with imported goods. A recent example of this is the CPSC's mandatory standard for child resistant cigarette lighters.

The CPSC (Consumer Product Safety Commission) was initially proceeding on a dual track of working on a mandatory and voluntary standard, when the industry decided to stop all work on the voluntary standard, in part because of conflicting legislation in two states to regulate this product. Just as importantly, the domestic manufactures were very concerned that overseas manufactures would not comply with a voluntary standard and they would therefore be placed at an economic disadvantage. Because of these considerations, the industry specifically requested a mandatory regulation.

Economic impact of the various regulatory alternatives

With China being the largest manufacturer of cheap disposable cigarette lighters, and the number one exporter of lighters into the US, there is no doubt that Chinese companies stand to suffer the biggest economic brunt resulting from new safety standards designed to minimize the mechanical malfunction and the risk of injury associated with the operation of such cigarette lighters.

In 2002, the European Union drafted a similar proposal to ensure that all cheap cigarette lighters costing less than 2 euros (US$1.74) imported into the EU met new safety standards to make certain all lighters were childproof. The Chinese government reacted by saying such measures were unfair and discriminatory against Chinese manufactures, because the vast majority of lighter costing under 2 euros were being imported from China. Furthermore, price-oriented rules such as this one created barriers to free trade that will affect tremendously China's export to that market.

It would be of no surprise to anyone if China as well as other countries that are substantial exporters of cigarette lighters to the US market, react in similar fashion to the petition from the Lighter Association, Inc. to adopt the voluntary "Standard Consumer Safety Specification for Lighters" (ASTM F-400) and make it mandatory under the Consumer Product Safety Act (CPSA).

Although is not easy to determine in terms of dollars and cents the economic impact, these new imposed safety standards will result in increased cost of material, new machinery costs, ongoing cost of testing, and increased production costs incurred by cigarette lighter manufactures that will ultimately be passed onto the consumer in the form of higher prices for such products. The Consumer Product Safety Commission (CPSC) will also feel the repercussions of the economic impact resulting from the implementation and continuance of this rule. Implementation cost could be manifested in the form of staffing needed for research and development of the rule as well as supporting documentation. Continuance costs may include, ensuring that the product (lighters) being offered to the consumer by wholesalers and retailers are in compliance with the new safety standards.

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Cig Lighter ANPR 19

Stevenson, Todd A.

From: tim@xinhaigroup.com
Sent: Sunday, June 12, 2005 10:10 PM
To: Stevenson, Todd A.
Subject: Initial comments from China Ningbo Xinhai Electric Co.Ltd

Initial comments regarding ASTM F-400 petition

China Ningbo Xinhai Electric Co.Ltd is strongly committed to consumer safety. For the reasons summarized below, the ASTM, if it was issued in the existing conditions and put in place as provided, would produce effects contrary to consumer safety improvement.

1. Based on ISO9994 standard, China government has established a effective standard, which is for the lighter export to USA, and that impose to apply with a inspection system. According to WTO asking measures to be proportionate and has to be followed, united state reiterate to establish another similar system would produce effects contrary to consumer safety improvement, but to increase the trading cost and effect the principle of free trade. It is disobey the regular of WTO to avoid the trading obstacle.
2. The ASTMF400, if would be adopted by USA, as a compulsory safety standard, will be inconsistent to ISO 9994(there is no CR stipulation in ISO9994 whereas this is in ASTMF400), which is an international standard, forcing Chinese lighter manufacturer to comply to two lighter standards, bring essential harm to them. The adoption of ASTM F400 will violate the principle of Precedence of the International Standard.
3. The other means such as adopting the compulsory label and existing unbidden standard can achieve same effect as, and more effective and economic than the compulsory standard

Conclusion: XINHAI is strongly to not adopt ASTM standard and disagree to apply such standard.

Best wishes!

----------Tim Hu----------
Ningbo Xinhai Electric Co.Ltd
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