



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

This document has been electronically
approved and signed.

DATE: August 14, 2013

BALLOT VOTE SHEET

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
Kenneth R. Hinson, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel

SUBJECT: *Federal Register* Notice Regarding Adjusted Customs Value for Refillable
Cigarette Lighters Under 16 C.F.R. part 1210

BALLOT VOTE DUE August 20, 2013

Attached are memoranda from CPSC staff recommending that the Commission publish a notice in the *Federal Register* stating an adjusted customs value for cigarette lighters that are subject to the Commission's Safety Standard for Cigarette Lighters, 16 C.F.R. part 1210. Under the standard, the customs value automatically changes every 5 years to reflect changes in the appropriate Producer Price Index. The draft *Federal Register* notice would advise the public of the automatic adjustment in the customs value. The Office of the General Counsel is providing a draft *Federal Register* notice for the Commission's consideration.

Please indicate your vote on the following options:

- I. Approve publication of the attached document in the *Federal Register*, as drafted.

(Signature)

(Date)

II. Approve publication of the attached document in the *Federal Register*, with changes. (Please specify.)

(Signature)

(Date)

III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice: Safety Standard for Cigarette Lighters; Adjusted Customs Value for Cigarette Lighters

DRAFT 8/13/13

[Billing Code 6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1210

Safety Standard for Cigarette Lighters; Adjusted Customs Value for Cigarette Lighters.

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission has a safety standard requiring that disposable and novelty lighters meet specified requirements for child resistance. The standard defines “disposable lighters,” in part, as refillable lighters that use butane or similar fuels and have a Customs Value or ex-factory price below a threshold value (initially set at \$2.00 in 1993). The standard provides that the initial \$2.00 value adjusts every 5 years for inflation, as measured by the percentage change since June 1993, in the monthly Producer Price Index (PPI) for Miscellaneous Fabricated Products. The adjustment is rounded to the nearest \$0.25 increment. The price adjusted in November 2003, when changes in the PPI from June 1993 to June 2003 indicated a revised Customs Value or ex-factory price of \$2.25. Due to an increase in the PPI, the Customs Value or ex-factory price has recently adjusted to \$2.50. This notice revises the cigarette lighter standard to state that the import value has adjusted to \$2.50 based on the change to the PPI.

DATE: This rule is effective **[INSERT DATE PUBLISHED IN THE FEDERAL REGISTER]**.

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FOR FURTHER INFORMATION CONTACT: Julio Alvarado, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-7418; e-mail: jalvarado@cpsc.gov.

SUPPLEMENTARY INFORMATION:

Background

In 1993, the Commission issued a standard that required disposable and novelty lighters to meet certain requirements for child resistance. The standard, as originally written, defines “disposable lighters” as those that are either: (1) non-refillable, or (2) use butane or similar fuels and have “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 monthly Wholesale Price Index from June 1993.” 58 FR 37584 (July 12, 1993). The name of the Wholesale Price Index has changed to the Producer Price Index (PPI). The specific PPI that includes cigarette lighters is the PPI for “Miscellaneous Fabricated Products.”

Thus, the standard provides for the \$2.00 threshold to adjust in accordance with inflation and for the adjustment to be rounded to the nearest 25 cents. Adjustment did not occur in 1998 because the change in the PPI since June 1993 was not sufficient to warrant an adjustment. Adjustment did occur in 2003 (to \$2.25). Accordingly, the Commission revised the cigarette standard to state the adjusted amount. 69 FR 19763 (April 14, 2004). At that time, we also revised the reference to the Wholesale Price Index to refer instead to the Producer Price Index. No adjustment was made in 2008.

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CPSC staff has calculated that the PPI for Miscellaneous Fabricated Products increased by approximately 29 percent from June 1993 to June 2013, as finalized in July 2013. Under section 1210.2(b)(2)(ii), this increase in the PPI merits an adjustment in the Customs Value or ex-factory price to \$2.50 as the threshold for determining whether refillable lighters are within the scope of the cigarette lighter standard. The approximately 29 percent increase in the PPI (from 124.7 in June 1993 to 160.9 in June 2013) yielded an adjustment to \$2.58 per lighter, which rounds to \$2.50. Thus, refillable lighters with a Customs Value or ex-factory price under \$2.50 are subject to the standard.

As the cigarette lighter standard is written, the Customs Value or ex-factory price adjusts automatically based on the PPI, and no change in the language of the rule is required to implement this change. However, we are revising the standard so that the CFR will state the appropriately adjusted \$2.50 [c]ustoms [v]alue and the public will have notice of the adjustment.

The Administrative Procedure Act

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes an agency to dispense with notice and comment procedures when the agency, for good cause, finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” This amendment informs the public of an adjustment to the cigarette lighter regulatory standard that has occurred automatically according to the terms of the cigarette lighter regulation. Because the adjustment occurs by terms of the regulation, the

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Commission could not alter the adjustment based on any public comments the Commission received. Accordingly, the Commission finds that notice and comment is unnecessary.

The APA also authorizes an agency, “for good cause found and published with the rule,” to dispense with the otherwise applicable requirement that a rule be published in the Federal Register at least 30 days before its effective date. 5 U.S.C. 553(d)(3). The Commission hereby finds that a 30-day delay of the effective date is unnecessary because this amendment informs the public of an adjustment that already has occurred in accordance with the existing regulatory requirements of the cigarette lighter standard.

List of Subjects in 16 CFR Part 1210

Cigarette lighters, Consumer protection, Fire prevention, Hazardous materials, Infants and children, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 1210 is amended as follows:

PART 1210 – SAFETY STANDARD FOR CIGARETTE LIGHTERS

1. The authority for part 1210 continues to read as follows:

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

2. Revise § 1210.2(b)(2)(ii) to read as follows:

§ 1210.2 Definitions.

* * * * *

(b) * * *

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(2) * * *

(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 July 2013, is \$2.50.

Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission



**United States
Consumer Product Safety Commission
Bethesda, MD 20814**

This document has been electronically
approved and signed.

Memorandum

Date: August 14, 2013

TO : The Commission

THROUGH: Todd A. Stevenson, Secretary
Stephanie Tsacoumis, General Counsel
Kenneth R. Hinson, Executive Director
Ray M. Aragon, Assistant Executive Director, EXC
Mary F. Toro, Director of Regulatory Enforcement, CRE

FROM : Julio Alvarado, Compliance Officer, CRE

SUBJECT : Federal Register Notice Regarding Increased Customs Value for Refillable
Cigarette Lighters in Accordance with 16 C.F.R. § 1210.2

The Safety Standard for Cigarette Lighters, 16 C.F.R. § 1210 (the Standard), addresses injuries and deaths resulting from children younger than five years of age playing with disposable and novelty lighters. Fire deaths associated with children playing with lighters dropped dramatically since the Standard became effective in July 1994—from 230 deaths in 1994, to 130 deaths in 1998. Children younger than age five accounted for 170 of the deaths in 1994, and 40 of the deaths in 1998. In 1994, there were 11,100 residential fires associated with children playing with lighters. By 1998, the number declined to 6,100 fires. Current U.S. Consumer Product Safety Commission (CPSC or Commission) data demonstrate that, in total from 2000 to 2008, children younger than age five have accounted for 139 deaths resulting from fires associated with lighters.¹

In issuing the Standard, the Commission established a maximum monetary value for refillable lighters subject to the Standard. The Commission based this decision on the fact that higher-priced lighters were less likely to be involved in child-related incidents. As issued in 1993, the Standard stated that a refillable lighter is subject to the regulation if: “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 monthly Wholesale Price Index from June 1993.” 16 C.F.R. § 1210.2(b)(2)(ii). The Wholesale Price Index has since been renamed the Producer Price Index. No adjustment occurred in 1998, because the change in the Index was not sufficient to require adjustment. Adjustment did occur in 2003 (to \$2.25). The Commission published a Federal Register notice in 2004, reflecting this change. 69 Fed. Reg. 19763 (April 14, 2004).

Directorate for Economic Analysis staff determined that an adjustment was unnecessary in 2008, but that an increase from \$2.25 to \$2.50 occurred in 2013, based on a 29 percent increase in the Producer Price Index (for Miscellaneous Fabricated Parts, which includes

¹ Reporting is not complete for 2007–2008.

lighters) from June 1993 to June 2013.² Applying the 29 percent increase raises the maximum Customs Value to \$2.58 which, when rounded to the nearest twenty-five cents, as required by the Standard, results in the new Customs Valuation of \$2.50.

The adjusted amount will impact lighter manufacturers because some lighters that were previously exempt will now be subject to the regulation. Firms manufacturing lighters subject to the Standard must test them for child resistance and must submit reports to the CPSC Office of Compliance and Field Operations before the firms can legally import the lighters. Although the price increase takes effect immediately, Compliance staff recognizes that manufacturers, importers, and distributors need time to prepare for the change. Therefore, we plan to begin enforcement of the \$2.50 threshold amount on November 1, 2013. The Commission will issue a press release announcing the price increase and the applicable enforcement date. Accompanying this memorandum is a draft *Federal Register* notice, prepared by the Office of the General Counsel, announcing the cost adjustment.

² This figure was finalized by the U. S. Bureau of Labor Statistics in July 2013.



**United States
Consumer Product Safety Commission
Bethesda, MD 20814**

Memorandum

DATE: July 15, 2013

TO : The Commission

THROUGH : Todd A. Stevenson, Secretary
Stephanie Tsacoumis, General Counsel
Kenneth R. Hinson, Executive Director
Gregory B. Rodgers, Ph.D., Associate Executive Director, EC
Deborah V. Aiken, Ph.D., Senior Staff Coordinator, EC

FROM : Charles L. Smith, Economist, EC

SUBJECT : Federal Register notice regarding adjusted Customs Value for refillable cigarette lighters under 16 CFR part 1210

The Safety Standard for Cigarette Lighters, 16 C.F.R. part 1210 (Standard), addresses injuries and deaths resulting from children younger than 5 years of age playing with lighters. The Standard mandates that disposable and novelty lighters meet specified requirements for child resistance.

Section 1210.2(b)(2) defines “refillable lighters” as disposable lighters, and subject to the rule, if they use butane or similar fuels and have a Customs Value or ex-factory price below a threshold value (initially set at \$2.00 in 1993). Section 1210.2(b)(2)(ii) requires that the initial \$2.00 value be adjusted every 5 years for inflation. Inflation is measured by the percentage change since June 1993, in the appropriate Wholesale Price Index for cigarette lighters, as published by the U.S. Department of Labor’s Bureau of Labor Statistics (BLS) (now referred to as the Producer Price Index (PPI) for Miscellaneous Fabricated Products, Series Id: PCU339999339999L). The inflation-adjusted price then is rounded to the nearest \$0.25 increment. The most recent price adjustment occurred in November 2003, when changes in the PPI from June 1993 to June 2003, indicated a revised Customs Value or ex-factory price of \$2.25 per refillable lighter. The U. S. Consumer Product Safety Commission (CPSC or Commission) announced this change in a *Federal Register* notice dated April 14, 2004.

The CPSC Directorate for Economic Analysis has calculated that the PPI for Miscellaneous Fabricated Products increased by approximately 29 percent from June 1993 to June 2013. Under section 1210.2(b)(2)(ii), this increase in the PPI merits an adjustment in the Customs Value or ex-factory price to \$2.50 as the threshold for determining whether refillable lighters are within the scope of the Standard.³ Thus, with this revision, refillable lighters with Customs Value or ex-factory price under \$2.50 would be considered subject to the Standard.

³ The approximately 29 percent increase in the PPI from 124.7 in June 1993 to 160.9 in June 2013 (December 1985=100) yielded an adjustment to \$2.58 per lighter, which rounds to \$2.50 under section 1210.2(b)(2)(ii) of the rule.