

# **Information Collection Request (ICR) Safety Standard for Cigarette Lighters Supporting Statement**

## **A. Justification**

### **1. Information to be collected and circumstances that make the collection of information necessary**

In July 1993, the Consumer Product Safety Commission (CPSC) adopted a consumer product safety standard for disposable and novelty cigarette lighters, as those terms are defined in the final rule. The rule requires subject lighters to be at least 85 percent child resistant, as measured by tests of lighters without fuel by panels of children under age 5. The rule was issued under the authority of section 7 of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2056.

Section 14 of the CPSA, 15 U.S.C. § 2063, requires every manufacturer (which is defined in the Act to include importers) of a product subject to a standard to issue a certificate which shall certify that such product conforms to the applicable standard. Section 14 further requires that this certificate “shall be based on a test of each product or upon a reasonable testing program.” Thus, the CPSA requires that when the standard for lighters became effective, each manufacturer had to initiate and conduct a reasonable testing program that will continue to demonstrate that its lighters comply with the lighter standard.

Compliance of lighters with the standard cannot be determined by independent physical examination of the lighters, and it is impractical for the Commission to determine compliance by testing the hundreds of models of subject lighters by means of tests with panels of children. Consequently, it is necessary to require manufacturers and importers of subject lighters to perform tests and keep records sufficient to show that the lighters being marketed meet the requirements of the standard.

Section 14(b) of the CPSA, 15 U.S.C. § 2063(b), authorizes the Commission to prescribe reasonable testing programs (required by § 2063(a)) for products subject to a standard. Subpart B of the rule contains requirements that must be incorporated into the testing program of each manufacturer and importer. Subpart B also contains recordkeeping and reporting requirements pursuant to sections 16(b), 17(g), and 27(e) of the CPSA, 15 U.S.C. §§ 2065(b), 2066(g), and 2076(e).

### **2. *Use and sharing of collected information***

The reasonable testing program embodied in the standard requires manufacturers to create “surrogate lighters,” which do not make a flame but provide a signal to indicate when a flame would have been made in a real lighter containing fuel. The surrogate lighters are required to be identical in every way that can affect child resistance to production lighters intended for consumers. Child panels to establish that

the lighters meet the standard's child-resistance criterion (85 percent) test these surrogate lighters. Specifications for the lighters must be established so that production lighters may be tested regularly to ensure that they do not differ from the surrogate lighters in any way that would adversely affect child resistance.

Records must be kept of the initial testing of the surrogates (qualification testing), of the lighter specifications, and of the ongoing production testing. The surrogate lighters that were tested, and the qualification test records, must be kept in the U.S. and be available for inspection by the Commission's staff within 48 hours of request. Production test records may be maintained outside the U.S. provided they can be made available for inspection in the U.S. within 1 week of request. Inspections of the surrogate lighters, specifications, and test records by the Commission's staff help to determine if production lighters are sufficiently similar to the tested surrogate lighters and that adequate controls have been placed on the manufacturing process.

The manufacturer or importer is required to submit certain information about its product, and to submit a prototype or production unit of the lighter model at least one month before the initial importation or distribution in commerce. Commission staff uses this information to determine that the lighter complies with the standard.

### **3. *Use of information technology (IT) in information collection***

Consideration has been given to the use of improved information technology. The records that will be permanent for as long as the model is produced, and for 3 years thereafter, must be kept on paper, microfiche, or similar media that can be directly examined. Production records, on the other hand, may be kept on these media or on computer tape or other retrievable media.

### **4. *Efforts to identify duplication***

Since each manufacturer's and importer's responsibilities under the proposed rule relate only to its own products, there is no potential for duplication. This information is not required by any other entity.

### **5. *Impact on small businesses***

The methods used to minimize the burdens on small businesses are described in the Initial Regulatory Flexibility Analysis at Section XI of the proposal, 57 FR 36951.

### **6. *Consequences to Federal program or policy activities if collection is not conducted or is conducted less frequently***

The collection of information and reporting requirements apply only to specific occasions relating to each individual lighter model. Therefore, collecting information less frequently would either omit certain models or supply insufficient information concerning particular models.

**7. *Special circumstances requiring respondents to report information more often than quarterly or to prepare responses in fewer than 30 days.***

Except as necessary to comply with 15 U.S.C. § 2063, the reporting is not required more often than quarterly. Records are kept for 3 years after the events to which they relate. Thus, qualification test records and surrogate lighter specifications need to be kept until 3 years after the production of the model has ceased.

**8. *Agency's Federal Register Notice and related information***

A notice soliciting comments on the Commission's intent to request an extension of a previously approved collection of data was published in the FR on July 8, 2009. One comment was received.

**9. *Decision to provide payment or gift***

No payments or gifts are made to any respondents.

**10. *Assurance of confidentiality***

Any information required to be submitted that the manufacturer or importer claims to be confidential is subject to procedures for withholding confidential information from public disclosure set forth at 16 C.F.R. Part 1015, subpart B. See 16 C.F.R. § 1210.17(c).

**11. *Questions of a sensitive nature***

Other than trade secret or other confidential business information, these requirements do not involve information of a sensitive nature.

**12. *Estimate of hour burden to respondents***

Firms subject to Commission rules may incur costs associated with various kinds of activities, depending on the requirements of each rule. Firms may conduct tests, maintain and retrieve records, provide written reports or certificates, prepare correspondence in response to Commission inquiries, or perform other tasks in order to establish and/or demonstrate compliance. Varying proportions of professional and clerical time may be spent in the performance of these tasks. Costs attributable specifically to activities related only to Commission rules are difficult to identify, since many of the relevant activities, such as testing and recordkeeping, occur during firms' normal course of business. However, an average cost range can be applied to the estimated numbers of hours needed to complete the necessary tasks. This yields a very rough approximation of the dollar costs to industry (excluding such factors as destructive product testing and potential product-line diversion).

The cost of the rule's testing requirement is the cost of testing, either by the firm or by outside contractors. For the last two complete fiscal years (2007 and 2008) the

total number of new lighter models submitted by firms to the CPSC has averaged about 20 per year. During that time, an annual average of about 16 firms has submitted new lighter models. If done through outside contractors, the cost per test has been estimated at \$15,000 to \$25,000 each or \$20,000 on average. If 20 total tests are done annually by outside contractors, the cost would be about \$400,000. If tests are conducted in-house, testing a new model is expected to take about 90 hours per model. The total testing time for 20 total new models, if conducted in-house, would be 1,800 hours. Based on the average hourly total compensation (wages and benefits) of \$54.88 for U.S. management, professional, and related occupations in goods-producing industries (Bureau of Labor Statistics, September 2008), the total industry cost of the testing component for this regulation would be in the range of \$99,000 to \$400,000 per year, depending upon the method chosen. This estimate is lower than cited in previous information collection requests because it is based on actual submissions of new lighter models in recent years, rather than on an assumption regarding new models submitted per firm involved in the consumer lighter market. Although an average of 16 firms have made submissions under the standard in each of the last two fiscal years, some firms may market lighters based on submissions in prior years.

The cost of the recordkeeping requirement is composed of two separate components: recordkeeping for new models and recordkeeping for “comparable” models. The time consumed in recordkeeping for new models has been estimated at 20 hours per model. Thus, the total time consumed for recordkeeping of new models would be 400 hours (20 hours x 20 models). Based on average hourly total compensation of \$27.14 for sales and office workers in goods-producing industries, the cost of recordkeeping for new models would be about \$11,000 annually.

In addition, the regulation allows firms to submit certain lighters for CPSC comparison to previously tested models. For the last two complete fiscal years, an annual average of about 1,100 “comparison lighters” have been submitted to the CPSC. While the firms would bear no testing costs for “comparison lighters,” the time consumed in recordkeeping is estimated at 3 hours for each such model. Thus, an estimated 3,300 hours would be consumed by the submitting firms for recordkeeping regarding “comparison lighters” (1,100 models x 3 hours). Based on average hourly compensation, the cost of the recordkeeping component regarding comparison lighters is estimated at about \$90,000 (3,300 hours x \$27.14). The total recordkeeping costs associated with the lighter regulation thus would be \$101,000 (\$11,000 + \$90,000).

Because the number of responses to the CPSC includes paperwork associated with the new testing as well as comparison submissions, we expect that the total number of responses will be about 1,120 per year (20 tested + 1,100 comparisons). The total number of hours consumed for these responses would be 5,500 per year, including new-product testing (1,800 hours if done in-house), new product recordkeeping (400 hours), and recordkeeping for comparison lighters (3,300 hours).

**13. *Estimate of total annual cost burden to respondents***

The Commission estimates the total cost for firms to test, and prepare, maintain, and submit records to the CPSC in compliance with the lighter regulation would be in the range of \$200,000 to \$501,000, depending upon the test method chosen.

**14. *Estimate of annualized costs to the federal government***

The annual cost of the rule to the Government is comprised chiefly of the Commission's resources for compliance activities. Experience with this rule following the effective date in July 1994 shows that an estimated 4 fulltime equivalent (FTE) staff years of effort are required to administer the rule annually. The Federal government's total annual compensation for these staff activities is approximately \$166,076 per FTE. Thus, the annual cost of enforcing the rule to the Government is estimated to be about \$664,000.

**15. *Program changes or adjustments***

The cigarette lighter market is ever changing. We have made our best estimates based on actual experience for the last two years, therefore number of estimated responses has decreased from our last submission.

**16. *Plans for tabulation and publication***

Not applicable.

**17. *Rationale for not displaying the expiration date for OMB approval***

CPSC is seeking approval to not display an expiration date on the suggested forms. These forms are likely to be used for multiple years by industry to record information as required by the Safety Standard for Cigarette Lighters 16 CFR 1210.

**18. *Exception to the certification statement***

Not applicable

**B. This collection does not employ statistical methods.**