

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*

These records are generated by a firm in the normal conduct of its business. There are no other sources of this information. There is no duplication.

5. *Impact on small businesses*

The Standard covers manufacturers and importers of disposable and novelty lighters intended for sale to consumers. Small manufacturers and importers are subject to all of the performance, labeling, certification, and testing provisions of the Standard. Some small manufacturers and importers may not possess the necessary skills to conduct testing. Product testing for these firms would likely be performed by independent quality control or other engineering laboratories. Records would probably be prepared by the test laboratories and maintained by manufacturing plant personnel; copies of reports and certification records would probably be maintained by importers or their legal counsel. There is no additional significant impact on small businesses.

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 June 5, 2019. No comments were 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*

Not applicable.

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).

In fiscal year 2018, 42 firms submitted new lighter models. The total number of models subject to initial qualification testing (“new lighters”) was 4 and the number of lighters comparable to previously tested models (“comparison lighters”), which was subject to ongoing testing, was 227.

a. Testing Burden

The burden of the rule’s testing requirement is both the time and cost spent testing and keeping the record of the tests; either by the firm or by outside contractors. If the firm elects to use an outside contractor, no testing hours are incurred, however we estimate the cost per model to be about \$25,000 on average.¹ If all 4 new lighter models are tested annually by outside contractors, the cost would be about \$100,000. If tests are conducted in-house, the burden of testing a new model is expected to be about 90 hours per model. The total testing time for the 4 models, if conducted in-house, would be 360 hours. We estimate that hourly compensation for the time required for testing is \$69.00 per hour (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” December 2018, Table 9, total compensation for management, professional, and related workers in goods-producing industries: <http://www.bls.gov/ncs>). This results in total in-house new lighter testing time being at most 360 hours, if the manufacturer of every new lighter chose to outsource the testing. The total industry cost of the testing component for this regulation would be in the range of \$24,840 to \$100,000 per year, depending on whether the testing is performed in-house or outsourced.

There are no testing costs associated with the comparison lighters, since under § 1210.14, if a manufacturer has tested one model of lighter, and then wishes to distribute another model of lighter that differs from the first model only by differences that would not have an adverse effect on child resistance, the second model need not be tested in accordance with § 1210.4.

b. Recordkeeping Burden

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 80 hours (20 hours x 4 models). We estimate the hourly compensation for the time required for record keeping is \$34.50 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” December 2018, Table 9, total compensation for all sales and office workers in goods-producing, private industries: <http://www.bls.gov/ncs>). The estimated annual cost of recordkeeping for new models is about \$2,760.00 (80 hours x \$34.50).

¹ This estimate is based on an estimated cost of \$22,000 per test panel, but for a few models a second test panel will be required.

The regulation allows firms to submit comparison lighters, or certain lighters that can be used for CPSC comparison to previously tested models. In fiscal year 2018, 227 comparison lighters were submitted to the CPSC. While firms would bear no testing costs for comparison lighters, the time consumed in recordkeeping has been estimated at 3 hours per model. Thus, an estimated 681 hours (227 models x 3 hours). We estimate the hourly compensation for the time required for record keeping is \$34.50 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” December 2018, Table 9, total compensation for all sales and office workers in goods-producing, private industries <http://www.bls.gov/ncs>). The estimated annual cost of recordkeeping for comparison lighters is about \$23,495 (681 hours x \$34.50). The estimated total recordkeeping burden for new lighter models and comparison lighters would be approximately 761 hours (80 hours + 681 hours). The estimated total recordkeeping costs for new lighter models and comparison lighters would be approximately \$26,255 (\$2,760 + \$23,495).

c. Reporting Burden

The Commission estimates that approximately one hour per product will be required for manufacturers to submit forms to CPSC, or 231 total hours for reporting (4 new lighter models + 227 comparisons). We estimate the hourly compensation for the time required for submitting the form is \$34.5 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” December 2018, Table 9, total compensation for all sales and office workers in goods-producing, private industries: <http://www.bls.gov/ncs>). This brings the cost of reporting to \$7,970.

d. Total Burden Hours

The annual total number of hours could be as high as 1,352 hours (360 testing hours + 761 record keeping hours + 231 reporting hours) per year. If some firms elect to outsource testing of new models, it could be less.

e. Total Cost of Complying with the Rule

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 \$59,064 to \$115,929, depending upon the test method chosen.

13. *Estimates of other total annual cost burden to respondents or recordkeepers*

There are no costs to respondents beyond those presented in Section A.12. There are no operating, maintenance, or capital costs associated with the collection.

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

The total cost of this collection to the federal government is \$135,118. This represents one FTE annually. The annual cost of the rule to the federal government is

comprised chiefly of the Commission's resources for compliance activities. This estimated cost to the federal government is based on an annual salary of \$92,421 (the equivalent of a GS-12 Step 5 employee, based on January 2018 salary rates for the Washington, DC area). Salary comprises about 68.4 percent of total compensation and benefits account for about 31.6 percent (U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation (ECEC) data for December 2018 (published in March 2019). Therefore, total estimated annual compensation per FTE is \$135,118 (\$92,421 in salary + \$42,697 in benefits).

15. *Program changes or adjustments*

There are no program changes or adjustments.

16. *Plans for tabulation and publication*

Not applicable.

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

Not applicable.

18. *Exception to the certification statement*

Not applicable

B. *Collection of Information Employing Statistical Methods*

Not applicable.