



[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 rule revises the cigarette lighter standard to state that the import value has adjusted to \$2.50 based on the change to the PPI.

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

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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.

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 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 citation 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) * * *

(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.

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Dated: August 21, 2013

Todd A. Stevenson, Secretary
Consumer Product Safety Commission

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