COMMERCE COMMISSION

CIGARETTE LIGHTERS

A GUIDE TO COMPLYING WITH THE PRODUCT SAFETY STANDARD

PRODUCT SAFETY STANDARD: CIGARETTE LIGHTERS

These product safety standards aim to prevent deaths and serious injuries, as well as property damage and loss, caused by fires from lighter failures or from children playing with lighters.

SAFETY STANDARD REGULATIONS

It is mandatory under the Product Safety Standards (Cigarette Lighters) Regulations 1998 for all disposable and many low-cost refillable lighters to comply with specific sections of these two standards: ISO 9994:1995E and American standard CFR 16 Part 1210 *Safety Standard for Cigarette Lighters*. It is illegal to supply cigarette lighters that do not comply with these standards and the regulations.

The regulations define the types of cigarette lighters covered by the regulations and the standards, and what parts of the standards apply to New Zealand.

The standards set out the specifications cigarette lighters must meet and the tests which have to be carried out to determine whether the lighters meet those specifications.

The regulations are issued under the Fair Trading Act 1986.

WHO DO THE REGULATIONS APPLY TO?

The regulations apply to any person who supplies, offers to supply or advertises the supply of new disposable or low-price refillable lighters. Any person includes retailers, importers, distributors and manufacturers.

Supplying can be through displaying cigarette lighters for sale in a shop, selling lighters at a market or advertising lighters for sale on internet retail or auction sites.

Offering cigarette lighters as give-aways is also a type of supply and these lighters must also comply with the requirements of the standard and the regulations.

WHAT TYPES OF CIGARETTE LIGHTERS ARE COVERED BY THE STANDARDS AND THE REGULATIONS?

The standards and regulations apply to:

- all disposable cigarette lighters including many 'novelty' lighters; and
- refillable lighters with a customs value of less than $3.50.

A customs value is not a retail value. You can check the customs value of goods with Customs New Zealand (**www.customs.govt.nz**).

A cigarette lighter is defined as a flame producing device that is designed to light cigarettes, cigars and pipes and is either disposable or is designed to be refilled with fuel.

A lighter is disposable when it is designed to be thrown away when empty or if it has a separate container for fuel which is designed to be thrown away when empty.

The regulations apply to any person who supplies, offers to supply or advertises the supply of new disposable or low-price refillable lighters.

WHAT TYPES OF CIGARETTE LIGHTERS ARE NOT COVERED BY THE STANDARDS AND THE REGULATIONS?

- Refillable lighters with a customs value of more than $3.50.
- Lighters brought into New Zealand in a person's luggage or effects, as long as the number of lighters does not exceed four.
- Component parts to make cigarette lighters where a certificate of compliance has already been issued under the standards and the regulations.

WHAT ARE THE REQUIREMENTS OF THE STANDARDS AND THE REGULATIONS?

The cigarette lighter standards contain more details and requirements, some of which are very technical in their nature. You should read both the regulations and the standards to make sure you understand all the requirements and testing.

A cigarette lighter must be child resistant, it must be documented with a certificate of compliance and it must meet certain performance and structural requirements.

Due to the technical nature of the standards the only way you will be able to ascertain if a lighter complies is to request a certificate of compliance from the supplier. If no certificate is forthcoming it will be an offence to sell the lighter.

CHILD RESISTANCE REQUIREMENTS

A cigarette lighter must be of a kind that has been:

- tested following the test set out in section 1210.4 of the American Standard; and
- shown to resist being successfully operated by at least 85 per cent of the child test panel.

The mechanism designed or intended to make the lighter child resistant must:

- reset itself automatically after each operation of the ignition mechanism; and
- not impair safe operation of the lighter when used normally; and
- be effective for the lighter's functional life; and
- not be easily overridden or deactivated.

CERTIFICATE OF COMPLIANCE

Each shipment of cigarette lighters must be accompanied by a certificate of compliance. This certificate does not have to follow any specific format, but it must contain this information:

- a statement that the lighters comply with the American consumer product safety standard for cigarette lighters (16 CFR 1210); these are child resistance requirements;
- the name and address of the manufacturer or importer issuing the certificate;
- the month and year of manufacture; and
- the physical address where the lighters were manufactured if this is different to the manufacturer's address.

It is illegal to sell cigarette lighters where there is no certificate of compliance.

PRESENTING THE CERTIFICATE OF COMPLIANCE

Importers must provide a certificate of compliance with the imported product to New Zealand Customs Service when the cigarette lighter shipment enters New Zealand.

The importer or the seller must show the certificate of compliance to Customs or the Commerce Commission within ten days of being asked for the certificate.

PERFORMANCE REQUIREMENTS

The standards and the regulations set out the performance and structural requirements which cigarette lighters need to meet when specific tests are carried out. For more information on these tests, you can refer to ISO 9994: 1995 (E).

FLAME GENERATION

The criteria and tests are designed to make sure that accidental or self-ignition of a lighter is minimised. A flame has to be produced by the lighter being deliberately operated by hand.

FLAME HEIGHTS AND HEIGHT ADJUSTMENTS

Maximum flame heights for non-adjustable lighters are set at:

- 50mm high for non-adjustable lighters that are not windproof; or
- 120 mm high for non-adjustable windproof lighters.

The maximum flame height for a lighter fitted with a mechanism to adjust the flame height is 150mm. At its lowest setting, the flame cannot be higher than 50mm. Prior to sale, the height should be adjusted so that the flame will not be higher than 125mm when first used.

An adjustable lighter, when used in the normal way, must need a deliberate action by the user to either increase or decrease the flame height. The lighter must also have markings to show a user how to reduce or increase the flame height.

SPITTING AND SPUTTERING

The lighter cannot spit, sputter or flare a flame.

FLAME EXTINCTION

The flame on the lighter must go out when no longer in use.

SHARP EDGES

The lighter must have no sharp edges that could cause accidental cuts or abrasions when the lighter is being used in the normal way.

DO CIGARETTE LIGHTERS HAVE TO BE LABELLED?

The labelling requirements for cigarette lighters are set out in the American Standard 6 CFR Part 1210 Section 12(C) *Labelling*.

The manufacturer or importer must label each cigarette lighter with the following information, which can be in code form:

- the period of time during which the lighter was manufactured. This is not to exceed a 31 days period; and
- the manufacturer's identity, unless the lighter carries a private label. If it does have a private label, it must have a code mark or another label by which the seller can identify the manufacturer for a buyer if the buyer asks for this information.

WHO IS RESPONSIBLE FOR MAKING SURE CIGARETTE LIGHTERS COMPLY WITH THE STANDARDS AND THE REGULATIONS?

You are responsible for ensuring that the cigarette lighters you sell comply with the standards and regulations.

You must not rely on cigarette lighters complying with the standards and regulations just because a supplier has offered to sell them to you.

If you have any concerns about the safety of the lighters you sell, ask your supplier for information to determine whether the lighters are of a type that comes under the regulations. Then, if the regulations do apply, request a certificate of compliance from your supplier.

WHAT HAPPENS IF I SELL CIGARETTE LIGHTERS WHICH DO NOT COMPLY?

Supplying a non-compliant lighter could place people at risk of injury or death, and property at risk of loss or damage, from a fire hazard.

You will also have breached the regulations. It is an offence under section 30 of the Fair Trading Act to supply, offer to supply or advertise to supply cigarette lighters that do not comply with the standards or the regulations. It is also an offence to fail to supply a certificate of compliance when requested.

The Commerce Commission, which enforces the Fair Trading Act, may take a prosecution against you in court. Companies can be fined up to $200,000 for each breach of the Act. Individuals can be fined up to $60,000. For more information on the range of enforcement actions, from warnings through to prosecutions, see the Commission's website at **www.comcom.govt.nz/enforcement-of-the-fair-trading-act**

In addition to any action taken by the Commerce Commission, you may have to conduct a recall of any cigarette lighters that you have supplied which do not comply with the Standards. Information on carrying out a product recall is available from **www.consumeraffairs.govt.nz/for-business/compliance/product-safety**

EXAMPLE

NOVELTY LIGHTERS – NO LABEL OR COMPLIANCE CERTIFICATE

A nationwide trader was warned for failing to comply with the standards and regulations following a complaint received about lighters for sale at the trader's Blenheim branch. These lighters did not appear to have the required child resistant lighting mechanism to prevent them being used by small children. Although these lighters were no longer for sale when the Commission investigated the complaint, it did find other potentially unsafe 'gimmick' lighters on sale at the trader's Wellington branches. The lighters came with a laser attached (which might have particular appeal to children as a toy). They did not comply with the standard because there was no certificate of compliance and the lighters were not properly labelled.

EXAMPLE

LIGHTERS FAILED SEVERAL SAFETY REQUIREMENTS

Following a complaint by a member of the public, the Commerce Commission found a trader in Petone selling cigarette lighters which failed to meet a number of safety requirements. The lighters had been manufactured in a way that would not prevent them from being accidentally started and they came with no flame adjustment mechanism or flare control. The lighters were also being sold without the required labels.

Although the trader immediately removed the lighters from sale and advised the Commission that, in future, it would only sell lighters that came with a certificate of compliance, the trader was issued with a warning for failing to comply with the regulations.

WHERE CAN I GET MORE INFORMATION ON THE STANDARDS AND THE REGULATIONS?

The ISO 9994:1995E Standard is available for purchase from Standards New Zealand by calling 0800 782 632 or via the website **www.standards.co.nz**

The American standard CFR 16 Part 1210 *Safety Standard for Cigarette Lighters* is available online at **www.access.gpo.gov**

You can access the regulations and the Fair Trading Act online at the government's legislation website **www.legislation.govt.nz** The information on this website is free.

You can buy a copy of the regulations and the Fair Trading Act from selected bookshops.

WHAT OTHER GOODS ARE COVERED BY PRODUCT SAFETY STANDARDS?

There are five other product safety standards covering:

- baby walkers;
- children's nightwear;
- children's toys;
- cots; and
- pedal bicycles.

Fact sheets for all these product safety standards are available on the Commission's website at **www.comcom.govt.nz/product-safety-standards**

USEFUL TERMS

- Breach – to break the law or not comply with an Act or regulations
- Comply – to meet obligations and rules
- Consumer – a person who buys from a retailer, an end-user
- In trade – a person who runs a business selling goods or services such as a retailer, manufacturer or importer
- Mandatory – compulsory, a set of rules or guidelines that must be followed
- Regulations – legislation made under an Act, in this case under the Fair Trading Act
- Supply – supply by gifting, sale (including online sales), exchange, lease, hire or hire purchase.

To check for updates to this fact sheet visit:
www.comcom.govt.nz/product-safety-standards

This fact sheet is part of a series looking at the Fair Trading Act. Other fact sheets can be downloaded from
www.comcom.govt.nz/fair-trading

CONTACT

Contact the Commerce Commission with information about false or misleading trading practices.

TELEPHONE
Our Contact Centre during office hours on 0800 943 600

WRITE
To us at Contact Centre,
PO Box 2351, Wellington 6140

EMAIL
Us at contact@comcom.govt.nz

This fact sheet is a guideline only, and reflects the Commerce Commission's view. The publication is not intended to be definitive, and should not be used instead of legal advice. It is a traders' responsibility to remain up to date with legislation.

The Commerce Commission enforces legislation that promotes competition in New Zealand markets and prohibits misleading and deceptive conduct by traders.

Only the courts can make an authoritative ruling on breaches of the Fair Trading Act. Courts may fine companies found guilty of breaching provisions of the Fair Trading Act up to $200,000 and individuals up to $60,000.