

Joint Market Surveillance Action on Child-Resistant Lighters and Novelty Lighters (Grant Agreement no. 17.020200 / 07 / 472817)

Information from the Participants in the Joint Action to the Industry on Child-Appealing Lighters and Proving Child-Resistance

Disclaimer

This note provides a summary of general discussions that have taken place in meetings between Member States participating in the joint action on lighters. Therefore the guide presents the general opinions of the participants but a specific Member State authority might want to decide differently in a specific case given the specific circumstances. Thus, the note can in no way be expected to bind any Member State, nor to represent binding opinions of any Member State.

Introduction

The intention of this note is to provide guidance to manufacturers and importers on child-appealing lighters (including novelty lighters) and on demonstration of child-resistance.

The first section of the note discusses the legal framework that applies to different kinds of child-appealing lighters (acknowledging that the term “novelty lighter” is only defined in the context of cigarette lighters). The purpose is to stress that child-appealing lighters are not automatically allowed to be placed on the market just because they do not meet the definition of “novelty lighter”.

The second section of the note describes three ways that a manufacturer or an importer can follow to demonstrate child-resistance.

Child-Appealing lighters

The term “novelty lighter” is defined in the European standard EN 13869 and makes explicitly reference to cigarette lighters. However the experience in the joint action is that other kinds of child-appealing lighters frequently are being placed on the market. It is felt to be important to clarify that child-appealing “lighters” can not automatically be expected to be allowed on the European market just because such products don’t fall under the lighter decision. Instead such products fall under other legislation and Member States will assess their safety properties accordingly.

This note discusses the legal framework that applies to the following four types of lighters:

- Novelty lighters
- Utility lighters
- Multifunction lighter
- Other “lighters”

Novelty lighters

Novelty lighters are defined in the European Standard EN 13869 as a “flame-producing product commonly used by consumers to ignite cigarettes, cigars and pipes, including any holder which can be incorporated later or any attachment which can be fixed later, that resembles by any means to another object commonly recognised as appealing to or intended for use by children younger than 51 months, or has entertaining audio effect or animated effects. A novelty lighter can operate on any fuel, including butanes or liquid fuel. This includes, but is not limited to, lighters or holders that are clearly intended to hold lighters, the



shape of which resembles cartoon characters, toys, guns, watches, telephones, musical instruments, vehicles, human body or parts of the human body, animals, food or beverages, or that play musical notes, or have flashing lights or moving objects or other entertaining features. This excludes lighters that are printed or decorated with logos, labels, decals, artwork or heat shrinkable sleeves.”

It is important to note that this definition refers to “cigarette lighter”. This means that the term “novelty lighter” is only defined for cigarette lighters and thus only in the framework of the lighter decision.

According to this decision novelty lighters are banned.

Utility lighters

Utility lighters fall outside the scope of the lighter decision. Their definition is found in the proposal for a standard ISO/FDIS 22702:2003, which defines a utility lighter as a “hand-held, flame-producing device with a manually-operated ignition system, 100 mm or greater in length when in the fully extended position ... used primarily to ignite items such as candles, fuel for fireplaces, charcoal-or gas-fired grills, camp stoves, lanterns, fuel-fired appliances or devices and/or pilot lights.”

It is important to note that the definition mentions the intended use of the lighter. Thus, a lighter longer than 100 mm can not automatically be taken to be a utility lighter.

The term “novelty lighter” is not defined in the context of utility lighters, but experience shows that some utility lighter designs could be considered to be child-appealing.

The legal framework for utility lighters is the General Product Safety Directive. Therefore a producer must ensure that his products are safe under foreseeable conditions of use. Member States consider it foreseeable that children play with child-appealing utility lighters.

Multifunction lighter

Multifunction lighters are products that employ a lighter (used for igniting cigarettes or other material) plus another working function (e.g. a bottle opener or a torch).

Multifunction lighters must fulfil the safety requirements of lighters as well as those requirements that apply to the other function. The safety requirements for lighters are dealt with according to the lighter decision, which implies that multi-function lighters must be child-resistant (unless they can be considered to be semi-luxury lighters and they meet all the exclusion criteria).

The plunger that is used for igniting the lighter must only operate the ignition mechanism. Any activator of other functions in the lighter must be separated from the flame-ignition mechanism.

If the function besides the lighter function can be considered to be child-appealing and the lighter is a cigarette lighter, it would be a novelty lighter (and thus banned according to the lighter decision).

Other “lighters”

The participants in the joint action have come across a number of products (“lighters”) that employ flames without actually being intended for (or suited for) igniting cigarettes or candles. Instead the flame serves “decorative” or “entertaining” purposes, e.g. by adding a “dramatic” feature to the product.

Such “lighters” are not cigarette lighters. Therefore they don’t fall under the lighter decision and they are not “novelty lighters”. This does not imply that it is automatically allowed to market such “lighters”. They just fall under other legislation and must be assessed accordingly.

The examples from the joint action appear to fall in three main categories:

- **Replica of weapons.** The safety requirements of the GPSD apply. In practice it would mean that the requirements from ISO 9994 could be used to assess the safety of the product. If the product is child-appealing it is foreseeable that children will play with it. Several Member States have regulation for weapon control that also applies to models of weapons.
- **Artwork and scale models.** The safety requirements of the GPSD apply. In practice the requirements from ISO 9994 can be used to assess the safety of the product. If the product is child-appealing it is foreseeable that children will play with it.
- **Toys.** If the product is considered to be a toy, it must fulfil the requirements from the Toys directive. In practice this would mean that the product is banned as toys are not allowed to produce flames. If the product resembles a toy (without being it) it does not fall under the Toys directive. Instead it must fulfil the requirements of the GPSD. This implies that it must be safe under foreseeable use. If the product looks like a toy, it is foreseeable that children will play with it, which means that it must be as safe as if it was a toy, which in practice means that the product is banned.

The burden of proof that a given product is not a cigarette lighter lies with the producer.

Concluding remark

To avoid opening a hole for circumvention of the ban on novelty lighters, the Member States have decided to apply a very strict approach to child-appealing lighters.

How to demonstrate child-resistance

The Member States have discussed a number of times what kind of evidence would be acceptable as proof of child resistance for a given lighter. The issue has also attracted considerable interest from the European manufacturers and importers. This section discusses the three ways that a producer may use to demonstrate child-resistance:

- 1 The “ideal” way. The producer presents a test report from an accredited test laboratory on each lighter.
- 2 “Approval from other countries”. The producer presents a letter from an authority in another country declaring that the lighter can be marketed in their territory.
- 3 The “model lighter” approach. The producer declares that the lighter is a new version of an already approved model.

The “ideal” way

The producer presents a test report from an accredited test laboratory on that specific lighter. The test report must show:

- That the lighter is child-resistant according to EN 13869.
- A description of the technical parameters that characterise the child resistance for the specific lighter. (The producer should be prepared to present reports from tests showing that these parameters are continuously checked e.g. during the manufacturing process.)
- The accreditation of the laboratory.

Furthermore the producer must provide technical documentation showing the construction of the lighter.

Member State authorities find it important that those papers actually are in the hands of the producer.

“Approval from other countries”

The title of this method is misleading as no countries are presently known to approve lighters before they are placed on the market in their national territory. CPSC in the United States runs a mandatory documentary check that ends with CPSC issuing a letter that acknowledges the receipt of the necessary documents. Even though the letter explicitly states that it must not be taken as any kind of an approval, the general perception is that a letter from CPSC proves that the lighter can be sold in the United States. This paragraph describes how Member States deal with the situation when a producer presents a lighter together with the letter from CPSC.

The letter can cover two different situations:

- a. Child-resistance for the lighter is proven with a test report.
- b. Child-resistance for the lighter is proven via cross-qualification to a child-resistant lighter (an approach similar to the model lighter approach described below).

In either case the letter from CPSC can mainly be seen as a document that the importer can use to see that he has all the correct documents available.

If the lighter model is claimed to be safe based on child-panel tests of that specific lighter model (method a), the producer must be able to present the following documents:

- Technical documentation that illustrates the construction of the lighter.
- A description of the technical parameters that characterise the child resistance for the specific lighter. (The producer should be prepared to present reports from tests showing that these parameters are continuously checked e.g. during the manufacturing process.)
- A test report from a child resistance test. The test should be carried out by a laboratory that is capable of doing the test. (CPSC maintains a list of laboratories that have stated they can test child-resistant cigarette lighters on www.cpsc.gov/businfo/testligh.html.)

If the lighter model is claimed to be safe based on CR-test reports from another lighter model (“cross-qualification” – method b), then the CPSC letter contains some guidance to the Member State on the validity of the cross-qualification as CPSC will not issue such letters if they consider that cross-qualification between two lighter models is impossible. However, the producer must still be able to prove that the two lighter models don’t differ in a way that affects the child-resistance properties (negatively). Therefore the producer must be able to present the following documents:

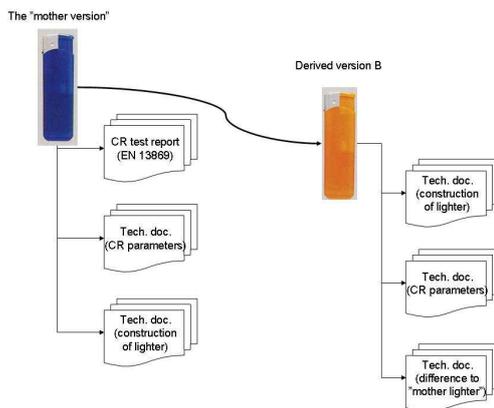
- The letter from CPSC with identification of the two lighter models in case.
- Technical documentation that illustrates the construction of the lighter that is placed on the European market.
- A description of the technical parameters that characterise the child resistance for the specific lighter. (The producer should be prepared to present reports from tests showing that these parameters are continuously checked e.g. during the manufacturing process.)
- A test report from a child resistance test and a technical description for the referenced lighter.
- If the lighters differ in a way that might affect the child-resistance properties (e.g. size, design, material, ignition mechanism, etc), then the producer must be prepared to produce evidence that these differences do not affect the child-resistance. Such evidence could be a statement or a certificate from a laboratory.

If the lighter model carries different model names in the United States and in Europe the producer should declare this and present photos of the lighters with the two names.

The “model lighter” approach

The producer claims that the specific lighter is a new version of a model for which the child-resistance has been demonstrated. (Following the definition of “model” from EN 13869 differences beyond differences in colour, printing, or marking may affect child-resistance, which would mean that the two lighters can not be claimed to be the same model without further proof, e.g. a declaration from a laboratory.)

The approach is illustrated on the following figure: The “mother version” of the lighter model is presumed to fulfil all requirements from the decision and it comes with a CR test report, technical documentation indicating the parameters that characterise the child-resistance and technical documentation showing the construction of the lighter.



The producer should present the following information regarding the “derived version B”:

- Technical documentation (drawings, etc.) that illustrates the construction of the lighter.
- A description of the technical parameters that characterise the child resistance for the specific lighter. (The producer should be prepared to present reports from tests showing that these parameters are continuously checked e.g. during the manufacturing process.)
- Technical documentation (drawings, etc.) that illustrates that the two lighters belong to the same model of lighter.
- A CR-test report that proves child resistance according to EN 13869 for the “mother lighter”. The test report must meet the requirements as laid down in 2006/502/EC,
- If the lighters differ in a way that might affect the child-resistance properties (e.g. size, design, material, ignition mechanism, etc), then the producer must be prepared to produce evidence that these differences do not affect the child-resistance. Such evidence could be a statement or a certificate from a laboratory.

The “mother version” and the “derived version” must come from the same producer.