

that is produced or distributed for sale to consumers, for their direct installation or use, as well as cellulose insulation that is produced or distributed for installation by professionals.

(2) The term *cellulose insulation* is defined in §1209.2(a) of the standard to mean cellulosic fiber, loose fill, thermal insulation that is suitable for blowing or pouring applications.

§ 1209.32 Definitions.

In addition to the definitions set forth in section 3 of the act and in §1209.2 of the standard, the following definitions shall apply to this subpart:

Private labeler means an owner of a brand or trademark which is used on the label of cellulose insulation subject to the standard which bears a private label as defined in section 3(a)(7) of the act (15 U.S.C. 2052(a)(7)).

Production interval means a time span determined by the manufacturer, private labeler, or importer to be appropriate for conducting a test or series of tests on samples of the cellulose insulation being produced to demonstrate that the product meets the requirements of the standard. An appropriate production interval may vary from test to test. The time period for a production interval shall be short enough to ensure that if the samples selected for testing comply with the standard or a portion of the standard, the insulation produced during the period will meet the standard or the appropriate portion of the standard.

§ 1209.33 Reasonable testing program.

(a) *General.* Section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)) requires each manufacturer, importer, or private labeler of a product which is subject to a consumer product safety standard to issue a certificate of compliance with the applicable standard and to base that certificate upon a test of each item or upon a reasonable testing program. Because it is not practical to test each item subject to the standard, a reasonable testing program shall be used to support certificates of compliance for cellulose insulation.

(b) *Requirements of testing program.* A reasonable testing program for cellulose insulation is one which dem-

onstrates with reasonable certainty that insulation certified to comply with the standard will meet all requirements of the standard. Manufacturers, private labelers, and importers shall determine the types and frequency of testing for their own reasonable testing programs. A reasonable testing program may include either the tests prescribed by the standard, or any other reasonable test procedures. However, a reasonable testing program cannot consist of tests which the party issuing the certificate of compliance knows (or through the exercise of reasonable diligence should know) will pass or accept insulation which will yield failing results when subjected to any of the tests in the standard. All reasonable testing programs shall consist of four elements:

(1) Qualification tests which must be performed on samples of the manufacturer's cellulose insulation to demonstrate that the product is capable of passing the tests prescribed by the standard.

(2) A description of the cellulose insulation which passed the qualification testing. This description is known as the "product specification."

(3) Production tests, which must be performed at appropriate production intervals as long as the cellulose insulation is being manufactured.

(4) Corrective action, which must be taken whenever samples of the cellulose insulation yield unacceptable or failing test results.

(c) *Commission testing.* The Commission will test for compliance with the standard by using the test procedures contained in the standard, and will base enforcement actions for violation of the standard on the results of such testing.

(d) *Testing by third parties.* At the option of the manufacturer, importer, or private labeler, some or all of the testing for the reasonable testing program may be performed by a commercial testing laboratory. However, the manufacturer, importer, or private labeler is responsible for ensuring that all testing used to support the certificate of compliance has been properly performed with passing or acceptable results and for maintaining all records of