

Consumer Product Safety Commission

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the faulty manufacturing process must be corrected (see §1209.37). In addition, the material from which the samples were taken may not be distributed in commerce unless the material can be corrected (see §1209.37) so as to yield passing results and meet the standard. Cellulose insulation that does not comply with the standard cannot be sold or offered for sale.

§ 1209.37 Corrective actions.

(a) *Test failure.* When any test required by §1209.36 yields failing or unacceptable results, corrective action must be taken. Corrective action includes changes to the manufacturing process as well as reworking the insulation product itself. Corrective action may consist of equipment adjustment, equipment repair, equipment replacement, change in chemical formulation, change in chemical quantity, change in cellulosic stock, or other action deemed appropriate by the manufacturer, private labeler or importer to achieve passing or acceptable test results.

(b) *New product.* If any corrective action required by this §1209.37 results in a change in the product specification and a new cellulose insulation product (see §1209.34(b)), the product specification for the new product must be recorded in accordance with §1209.35, and qualification tests must be performed with passing or acceptable results in accordance with §1209.34, before the new product is distributed in commerce.

§ 1209.38 Records.

(a) *Establishment and maintenance.* Each manufacturer, importer, and private labeler of cellulose insulation subject to the standard shall establish and maintain the following records which shall be available to any designated officer or employee of the Commission upon request in accordance with section 16(b) of the act (15 U.S.C. 2965(b)):

(1) A record of each product specification containing all information required by §1209.35. (This includes information concerning the types of qualification tests as well as the results from these tests.)

(2) Records to demonstrate compliance with the requirements for produc-

tion testing in §1209.36, including a description of the types of production tests conducted and the production interval selected for performance of each production test.

(3) Records of all corrective actions taken in accordance with §1209.37, including the specific action taken, the date the action was taken, and the test failure which necessitated the action. Records of corrective action must relate the corrective action taken to the product specification of the insulation product which was the subject of that corrective action, and the product specification of any new product which results from any corrective action.

(4) Records indicating exactly which insulation material is covered by each certificate of compliance issued.

(b) *Retention.* (1) *Product specification.* The records of each product specification shall be retained for as long as the cellulose insulation covered by that specification is manufactured and for a period of two (2) years thereafter.

(2) *Other records.* Records of production testing, corrective actions taken, and certificates issued shall be maintained for a period of two (2) years.

(c) *Confidentiality.* Requests for confidentiality of records provided to the Commission will be handled in accordance with section 6(a)(2) of the CPSCA (15 U.S.C. 2055(a)(2)), the Freedom of Information Act as amended (5 U.S.C. 552), and the Commission's regulations under that act (16 CFR part 1015, February 22, 1977).

§ 1209.39 Certification of compliance.

(a)(1) *Responsibilities of manufacturer for insulation sold in bags.* Manufacturers of cellulose insulation subject to the standard which is sold in bags or other containers shall certify compliance with the standard by marking each bag or container with the following information:

(i) The statement "This product meets the amended CPSC standard for flame resistance and corrosiveness of cellulose insulation." (This statement is the same statement provided in §1209.9 of the standard; it need not appear twice on the bag or container.)

(ii) The name of the manufacturer, private labeler, or importer issuing the

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certificate of compliance. See paragraphs (b) and (c), below.

(iii) The date of manufacture by day, month, and year.

(iv) The place of manufacture, by city, state, and zip code, or in the case of products manufactured outside the United States, by city and country.

The information required by this § 1209.39(a) may appear anywhere on the bag or container. The information required need not appear at the same place on the bag or container. The information shall be permanent until the bag or container is opened and used. The information shall be conspicuous and must appear in letters and figures at least ¼ inch in height. The date and place of manufacture may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of the code that can be made available to consumers, persons in the chain of distribution, and the Commission upon request.

(2) *Insulation not sold in bags or containers.* The manufacturer of cellulose insulation subject to the standard which is not sold in bags or other containers shall certify compliance with the standard by accompanying each shipment or delivery of the product, with a document such as an invoice, bill, statement, or separate document, which states the following: "This product meets the amended CPSC standard for flame resistance and corrosiveness of cellulose insulation. This material was manufactured on (insert day, month, and year of manufacture) at (insert city, state, and zip code, or in the case of insulation manufactured outside the United States, city and country)." The certificate of compliance must also contain the name of the manufacturer, private labeler, or importer issuing the certificate. See paragraphs (b) and (c), below. The certificate of compliance must appear in letters and figures which are conspicuous and legible. The date and place of manufacture may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of the code that can be made available to consumers, persons in the chain of distribution, and the Commission upon request.

(b) *Responsibilities of private labelers.* A private labeler who distributes a product subject to the standard which is manufactured by another person or firm but which is sold under the private labeler's name, brand, or trademark must issue the certificate of compliance required by section 14 of the Consumer Product Safety Act and this section. If the testing required by this subpart has been performed by or for the manufacturer of the product, the private labeler may rely on any such tests to support the certificate of compliance if the records of such tests are maintained in accordance with § 1209.38, above. The private labeler is responsible for ensuring that all testing used to support the certificate of compliance has been performed properly with passing or acceptable results, and that all records of such tests are accurate and complete.

(c) *Responsibilities of importers.* The importer of any product subject to the standard must issue the certificate of compliance required by section 14(a) of the act and this § 1209.39. If the testing required by this subpart B of part 1209 has been performed by or for the foreign manufacturer of the product, the importer may rely on any such tests to support the certificate of compliance if the importer is a resident of the U.S. or has a resident agent in the U.S. and the records are maintained in the U.S. in accordance with § 1209.38 above. The importer is responsible for ensuring that all testing used to support the certificate of compliance has been performed properly with passing or acceptable results, and that all records of such tests are accurate and complete.

§ 1209.40 Certification responsibility, multiple parties.

If there is more than one party (i.e., manufacturer, private labeler, or importer) otherwise subject to the requirements of this subpart B of part 1209 for certain cellulose insulation, only the party closest to the consumer in the distribution chain is required to issue a certificate.

§ 1209.41 Effective date.

The requirements of this subpart B of part 1209 shall become effective on October 16, 1979. Any cellulose insulation