

## § 1209.34

such tests in accordance with § 1209.38 below.

### § 1209.34 Qualification testing.

(a) *Requirement.* Before any manufacturer, importer, or private labeler begins distribution in commerce of cellulose insulation which is subject to the standard, samples of the insulation shall be tested for compliance with the standard. Manufacturers, importers, and private labelers shall determine the types of tests for qualification testing.

(b) *Timing, Sampling.* Any or all of the qualification testing required by this § 1209.34 may be performed before the effective date of the standard. Manufacturers, private labelers, or importers may select samples for qualification testing of a product in any manner they desire.

### § 1209.35 Product specification.

(a) *Requirement.* Before any manufacturer, importer, or private labeler distributes in commerce cellulose insulation which is subject to the standard, it shall ensure that the insulation is described in a written product specification.

(b) *Contents of Specification.* The product specification shall include the following information:

(1) A description of the equipment used to manufacture the insulation, including the model number and names of the equipment manufacturers, and details of any modification made to any item of equipment.

(2) A description of the cellulosic stock material used to manufacture the insulation, identifying the extent of impurities allowed.

(3) The formulation of the fire-retardant chemicals added, including their chemical constituents and their form (for example, granulated, powdered, or liquid); the amount of fire-retardant chemicals present in the finished insulation, expressed as a percentage of the total weight of chemicals and cellulosic stock; the average weight of chemicals per bag; and the name and address of each chemical supplier. Where the chemical composition or formula of a commercially premixed fire retardant is not known to the insulation manufacturer, the pre-

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mixed fire retardant may be described simply by the name and address of the supplier and its brand or trade name.

(4) A description of the tests which were used to qualify the product as well as the dates of performance and results and actual values, where applicable, of the tests.

(5) Any other information necessary to describe the insulation.

(c) *Distribution in Commerce.* After the qualification testing required by § 1209.34 has been completed with acceptable results and the product specification required by this § 1209.35 has been recorded, the cellulose insulation may be manufactured and distributed in commerce, subject to the provisions of § 1209.36.

(d) *New Product.* Whenever a manufacturer, private labeler, or importer makes any change to any item of equipment, cellulosic stock material, or formulation of a fire-retardant chemical, or any other factor which is likely to affect the ability of the cellulose insulation to meet the standard, that change will result in a new cellulose insulation product, requiring the preparation of a new product specification. The new product must be subjected to qualification tests and must yield passing or acceptable results.

### § 1209.36 Production testing.

(a) *General.* Manufacturers, private labelers, and importers shall test the cellulose insulation periodically as it is manufactured to demonstrate that the product being manufactured is substantially similar to the product which passed the qualification testing and to demonstrate that the product being manufactured meets the requirements of the standard.

(b) *Types and frequency of testing.* Manufacturers, private labelers, and importers shall determine the types of tests for production testing. Each production test shall be conducted at a production interval short enough to ensure that if the samples selected for testing meet the standard or a portion of the standard, the insulation produced during the interval will also meet the standard or the appropriate portion of the standard.

(c) *Test failure.* If any test yields failing results, production must cease and

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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