that multi-purpose lighters can be operated by young children, rather than to regulate such risks under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act of 1970.

(b) Therefore, if the Commission finds regulation to be necessary, risks of death or injury that are associated with multi-purpose lighters because the lighters can be operated by young children shall be regulated under one or more provisions of the Consumer Product Safety Act. Other risks that are associated with such lighters, and that are based solely on the fact that the lighters contain a hazardous substance, shall continue to be regulated under the Federal Hazardous Substances Act.

[64 FR 71884, Dec. 22, 1999]

PART 1200—DEFINITION OF CHILDREN’S PRODUCT UNDER THE CONSUMER PRODUCT SAFETY ACT

Sec. 1200.1 Purpose.
1200.2 Definition of children’s product.

SOURCE: 75 FR 63077, Oct. 14, 2010, unless otherwise noted.

§ 1200.1 Purpose.
This part provides guidance on the definition of children’s product and the factors the Commission will consider when making determinations regarding children’s products as set forth under 15 U.S.C. 2052(2).

§ 1200.2 Definition of children’s product.
(a) Definition of “Children’s Product”—(1) Under section 3(a)(2) of the Consumer Product Safety Act (CPSA), a children’s product means a consumer product designed or intended primarily for children 12 years of age or younger. The term “designed or intended primarily” applies to those consumer products mainly for children 12 years old or younger. Whether a product is primarily intended for children 12 years of age or younger is determined by considering the four specified statutory factors. These factors are:

(i) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(ii) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.

(iii) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

(iv) The Age Determination Guidelines issued by the Commission staff in September 2002 and any successor to such guidelines.

(2) The examples discussed herein may also be illustrative in making such determinations; however, the determination of whether a product meets the definition of a children’s product depends on factual information that may be unique to each product and, therefore, would need to be made on a case-by-case basis. The term “for use” by children 12 years or younger generally means that children will physically interact with such products based on the reasonably foreseeable use of such product. Toys and articles that are subject to the small parts regulations at 16 CFR Part 1501 and in ASTM F963 would fall within the definition of children’s product since they are intended for children 12 years of age or younger. Toys and other articles intended for children up to 96 months (8 years old) that are subject to the requirements at 16 CFR 1500.48 through 1500.49 and 16 CFR 1500.50 through 1500.53 would similarly fall within the definition of children’s product given their age grading for these other regulations. Therefore, a manufacturer could reasonably conclude on the basis of the age grading for these other regulations that its product also must comply with all requirements applicable to children’s products including, but not limited to, those under the Federal Hazardous Substances Act, ASTM F963, “Standard Consumer Safety Specification for Toy Safety,” and the Consumer Product Safety Improvement Act of 2008.

(b) Definition of “General Use Product”—(1) A general use product means
a consumer product that is not de-
signed or intended primarily for use by
children 12 years old or younger. Gen-
eral use products are those consumer
products designed or intended pri-
marily for consumers older than age 12.
Some products may be designed or in-
tended for use by consumers of all ages,
including children 12 years old or
younger, but are intended mainly for
consumers older than 12 years of age.
Examples of general use products may
include products with which a child
would not likely interact, or products
with which consumers older than 12
would be as likely, or more likely to
interact. Products used by children 12
years of age or younger that have a de-
clining appeal for teenagers are likely
to be considered children’s products.

(2) Other products are specifically
not intended for children 12 years of
age or younger. These products, such
as cigarette lighters, candles, and fire-
works, which the Commission has tra-
ditionally warned adults to keep away
from children, are not subject to the
CPSIA’s lead limits, tracking label re-
quirement, and third-party testing and
certification provisions. Similarly,
products that incorporate performance
requirements for child resistance are
not children’s products as they are de-
signed specifically to ensure that chil-
dren cannot access the contents. This
would include products such as port-
able gasoline containers and special
packaging under the Poison Prevention
Packaging Act.

c) Factors Considered—To determine
whether a consumer product is pri-
marily intended for a child 12 years of
age or younger the four specified statu-
tory factors must be considered to-
gether as a whole. The following four
factors must be considered:

(1) A statement by a manufacturer
about the intended use of such product,
including a label on such product if
such statement is reasonable. A manu-
facturer’s statement about the prod-
uct’s intended use, including the prod-
uct’s label, should be reasonably con-
sistent with the expected use patterns
for a product. A manufacturer’s state-
ment that the product is not intended
for children does not preclude a prod-
uct from being regulated as a chil-
dren’s product if the primary appeal of
the product is to children 12 years of
age or younger, as indicated, for exam-
ple, by decorations or embellishments
that invite use by the child, being sized
for a child or being marketed to appeal
primarily to children. Similarly, a
label indicating that a product is for
ages 9 and up does not necessarily
make it a children’s product if it is a
general use product. Such a label may
recommend 9 years old as the earliest
age for a prospective user, but may or
may not indicate the age for which the
product is primarily intended. The
manufacturer’s label, in and of itself, is
not considered to be determinative.

(2) Whether the product is rep-
resented in its packaging, display, pro-
motion, or advertising as appropriate
for use by children 12 years of age or
younger.

(i) These representations may be ex-
press or implied. For example, adver-
tising by the manufacturer expressly
declaring that the product is intended
for children 12 years of age or younger
will support a determination that a
product is a children’s product. While,
for example advertising by the manu-
facturer showing children 12 years of
age or younger using the product may
support a determination that the prod-
uct is a children’s product. These rep-
resentations may be found in pack-
aging, text, illustrations and/or photo-
graphs depicting consumers using the
product, instructions, assembly manu-
als, or advertising media used to mar-
et the product.

(ii) The product’s physical location
near, or visual association with, chil-
dren’s products may be a factor in
making an age determination, but is
not determinative. For example, a
product displayed in a children’s toy
section of a store may support a deter-
mination that the product is a chil-
dren’s product. However, where that
same product is also sold in depart-
ment stores and marketed for general
use, further evaluation would be nec-
essary. The Commission recognizes
that manufacturers do not necessarily
control where a product will be placed
in a retail establishment and such lack
of control will be considered. The Com-
mission evaluates products more
broadly than on a shelf-by-shelf or
store-by-store basis.
(iii) The product’s association or marketing in conjunction with nonchildren’s products may not be determinative as to whether the product is a children’s product. For example, packaging and selling a stuffed animal with a candle would not preclude a determination that the stuffed animal is a children’s product since stuffed animals are commonly recognized as being primarily intended for children.

(3) Whether the product is commonly recognized by consumers as being intended for use by children 12 years of age or younger. Consumer perception of the product’s use by children, including its reasonably foreseeable use, will be evaluated. Sales data, market analyses, focus group testing, and other marketing studies may help support an analysis regarding this factor.

(i) Features and Characteristics—additional considerations that may help distinguish children’s products from nonchildren’s products include:

(A) Small sizes that would not be comfortable for the average adult;

(B) Exaggerated features (large buttons, bright indicators) that simplify the product’s use;

(C) Safety features that are not found on similar products intended for adults;

(D) Colors commonly associated with childhood (pinks, blues, bright primary colors);

(E) Decorative motifs commonly associated with childhood (such as animals, insects, small vehicles, alphabets, dolls, clowns, and puppets);

(F) Features that do not enhance the product’s utility (such as cartoons) but contribute to its attractiveness to children 12 years of age or younger; and

(G) Play value, i.e., features primarily attractive to children 12 years of age or younger that promote interactive exploration and imagination for fanciful purposes (whimsical activities lacking utility for accomplishing mundane tasks; actions performed for entertainment and amusement).

(ii) Principal use of the product—the principal uses of a product take precedence over other actions that are less likely to be performed with a product. For example, when a child pretends that a broom is a horse, that does not mean the item is a children’s product because the broom’s principal use is for sweeping;

(iii) Cost—the cost of a given product may influence the determination of the age of intended users; and

(iv) Children’s interactions, if any, with the product—products for use in a child’s environment by the caregiver but not for use by the child would not be considered to be primarily intended for a child 12 years of age or younger.

(4) The Age Determination Guidelines issued by the Consumer Product Safety Commission staff in September 2002, and any successor to such guidelines. The product’s appeal to different age groups and the capabilities of those age groups may be considered when making determinations about the appropriate user groups for products.

(d) Examples—To help manufacturers understand what constitutes a children’s product under the CPSA, the following additional examples regarding specific product categories are offered:

(1) Furnishings and Fixtures—General home furnishings and fixtures (including, but not limited to: Rocking chairs, shelving units, televisions, digital music players, ceiling fans, humidifiers, air purifiers, window curtains, tissue boxes, rugs, carpets, lamps, clothing hooks and racks) that often are found in children’s rooms or schools would not be considered children’s products unless they are decorated or embellished with a childish theme and invite use by a child 12 years of age or younger, are sized for a child, or are marketed to appeal primarily to children. Examples of home or school furnishings that are designed or intended primarily for use by children and considered children’s products include: Infant tubs, bath seats, small bean bag chairs with childish decorations, beds with children’s themes, child-sized desks, and child-sized chairs. Decorative items, such as holiday decorations and household seasonal items that are intended only for display, with which children are not likely to interact, are generally not considered children’s products, since they are intended to be used by adults.

(2) Collectibles—Adult collectibles may be distinguished from children’s collectibles by themes that are inappropriate for children 12 years of age or
younger, have features that preclude use by children during play, such as high cost, limited production, fragile features, display features (such as hooks or pedestals), and are not marketed alongside children’s products (for example, in a children’s department) in ways that make them indistinguishable from children’s products. For example, collectible plush bears have high cost, are highly detailed, with fragile accessories, display cases, and platforms on which to pose and hold the bears. Children’s bears have lower costs and simple accessories that can be handled without fear of damage to the product. Another example of collectible items includes model railways and trains made for hobbyists.

(3) Jewelry—Jewelry intended for children is generally sized, themed, and marketed to children. The following characteristics may cause a piece of jewelry to be considered a children’s product: Size; very low cost; play value; childish themes on the jewelry; sale with children’s products (such as a child’s dress); sale with a child’s book, a toy, or party favors; sale with children’s cereal or snacks; sale at an entertainment or educational event attended primarily by children; sale in a store that contains mostly children’s products; and sale in a vending machine. In addition, many aspects of an item’s design and marketing are considered when determining the age of consumers for whom the product is intended and will be purchased including: Advertising; promotional materials; packaging graphics and text; dexterity requirements for wearing; appearance (coloring, textures, materials, design themes, licensing, and level of realism); and cost. These characteristics will help jewelry manufacturers and consumers determine whether a particular piece of jewelry is designed or intended primarily for children 12 years of age or younger.

(4) DVDs, Video Games, and Computer Products—Most computer products and electronic media, such as CDs, DVDs, and video games, are considered general use products. However, CDs and DVDs with encoded content that is intended for and marketed to children, such as children’s movies, games, or educational software may be determined to be children’s products. CPSC staff may consider ratings given by entertainment industries and software rating systems when making an age determination. In addition, electronic media players and devices that are embellished or decorated with childish themes that are intended to attract children 12 years of age or younger, are sized for children, or are marketed to appeal primarily to children, are not likely to fall under the general use category where children 12 years or younger likely would be the primary users of such devices. However, electronic devices such as CD players, DVD players, game consoles, book readers, digital media players, cell phones, digital assistant communication devices, and accessories to such devices that are intended mainly for children older than 12 years of age or adults are products for general use.

(5) Art Materials—Materials sized, decorated, and marketed to children 12 years of age or younger, such as crayons, finger paints, and modeling dough, would be considered children’s products. Crafting kits and supplies that are not specifically marketed to children 12 years of age or younger likely would be considered products intended for general use. Consideration of the marketing and labeling of raw materials and art tools (such as modeling clay, paint, and paint brushes) may often be given high priority in an age determination because the appeal and utility of these raw materials has such a wide audience. If a distributor or retailer sells or rents a general use product in bulk (such as a raw art materials or art tools) through distribution channels that target children 12 years of age or younger in educational settings, such as schools, summer camps, or child care facilities, this type of a distribution strategy would not necessarily convert a general use product into a children’s product. However, if the product is packaged in such a manner that either expressly states or implies with graphics, themes, labeling, or instructions that the product is designed or intended primarily for children 12 years of age or younger, then it may be considered a children’s product if the required consideration of all four
The requirements of the Labeling of Hazardous Art Materials Act are similar to the labeling requirements of the FHSA, of which it is a part. Therefore, third party testing to LHAMA is not required. An art material designed or intended primarily for children 12 years of age or younger would have to be tested by a third party laboratory to demonstrate compliance with CPSIA, but it would not require third party testing and certification to the LHAMA requirements. For the same reasons, no general conformity certificate is required for general use art materials.

(6) Books—The content of a book can determine its intended audience. Children’s books have themes, vocabularies, illustrations, and covers that match the interests and cognitive capabilities of children 12 years of age or younger. The age guidelines provided by librarians, education professionals, and publishers may be dispositive for determining the intended audience. Some children’s books have a wide appeal to the general public, and in those instances, further analysis may be necessary to assess who the primary intended audience is based on consideration of relevant additional factors, such as product design, packaging, marketing, and sales data.

(7) Science Equipment—Microscopes, telescopes, and other scientific equipment that would be used by an adult, as well as a child, are considered general use products. Equipment that is intended by the manufacturer for use primarily by adults, although there may be use by children through such programs, is a general use product. Toy versions of such items are considered children’s products. If a distributor or retailer sells or rents a general use product in bulk through distribution channels that target children 12 years of age or younger in educational settings, such as schools or summer camps, this type of a distribution strategy would not necessarily convert a general use product into a children’s product. However, if the product is packaged in such a manner that either expressly states or implies with graphics, themes, labeling, or instructions that the product is designed or intended primarily for children 12 years of age or younger, then it may be considered a children’s product if the required consideration of all four statutory factors supports that determination. Products mainly intended for use by the instructor would not be considered children’s products. In general, scientific equipment that is specifically sized for children, such as protective gear, eyewear, gloves, or aprons and/or has childish themes or decorations and invites use by a child 12 years of age or younger or is marketed to appeal primarily to children is considered a children’s product.

(8) Sporting Goods and Recreational Equipment—Sporting goods that are intended primarily for consumers older than 12 years of age are considered general use items. Sporting equipment, sized for adults, are general use items even though some children 12 years of age or younger will use them. Unless such items are specifically marketed to children 12 years of age or younger, or have extra features that make them more suitable for children 12 years of age or younger than for adults, they would be considered general use products. If children 12 years or younger would mainly use the product because it would be too small or inappropriate for older children to use, then it likely would be considered a children’s product. Likewise, recreational equipment, such as roller blades, skateboards, bicycles, camping gear, and fitness equipment are considered general use products unless they are sized to fit children 12 years of age or younger and/or are decorated with childish features by the manufacturer.

(9) Musical Instruments—Musical instruments, including electronically-aided instruments suited for an adult musician, are general use products. Instruments intended primarily for children can be distinguished from adult instruments by their size and marketing themes. The Commission notes that if a distributor or retailer sells or rents in bulk, a general use musical instrument through distribution channels that target children 12 years of age or younger in educational settings, such as schools or summer camps, this type of a distribution strategy would not necessarily convert a general use
Consumer Product Safety Commission

§ 1201.1 Scope, application and findings.

(a) Scope. This part 1201, a consumer product safety standard, prescribes the safety requirements for glazing materials used or intended for use in any of the following architectural products:

(1) Storm doors or combination doors.
(2) Doors.
(3) Bathtub doors and enclosures.
(4) Shower doors and enclosures.
(5) [Reserved]
(6) Sliding glass doors (patio-type).

It also requires that these architectural products which incorporate glazing materials be constructed with glazing materials that meet the requirements of this part. The safety requirements are designed to reduce or eliminate unreasonable risks of death or serious injury to consumers when glazing material is broken by human contact.

(b) Application. This part 1201 shall apply to glazing materials, as that term is defined in §1201.2(a)(11), for use in the architectural products listed in paragraph (a) of this section; and to those architectural products listed in paragraph (a) of this section if they are made with, or incorporate glazing materials as that term is defined in §1201.2(a)(11). The standard applies to glazing materials and architectural products incorporating glazing materials that are produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence or in recreational, school, public, or other buildings or parts thereof. This part 1201 applies only to those glazing materials manufactured after the effective date of the standard; and to those architectural products identified in paragraph (a) of this section that are manufactured after the effective date of the standard. Thus, architectural products identified in paragraph (a) of this section manufactured after the effective date of the standard must incorporate glazing materials that comply with the standard. For purposes of this standard, fabricators are considered to be manufacturers of the architectural products listed in paragraph (a) of this section. Architectural glazing materials used in the products listed in paragraph (a) of this section and used in mobile homes are not subject to the provisions of this part 1201. While this part 1201 prescribes a test method to determine whether glazing materials subject to this part 1201 standard meet the requirements of the standard, the standard itself does not require that a manufacturer test any glazing materials or products subject to the standard. All obligations of manufacturers