



Australian
Competition &
Consumer
Commission

Product safety

Reduced fire risk cigarettes

Supplier guide

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

First published by the ACCC February 2010

This revised edition published by the ACCC November 2010

10 9 8 7 6 5 4 3

© Commonwealth of Australia 2010

This work is copyright. Apart from any use permitted by the *Copyright Act 1968*, no part may be reproduced without prior written permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, ACCC GPO Box 3131, Canberra ACT 2601, or publishing.unit@accg.gov.au.

Important notice

This publication has been updated to refer to the *Competition and Consumer Act 2010* which replaces the *Trade Practices Act 1974* on 1 January 2011. For more information on the Australian Consumer Law changes see www.consumerlaw.gov.au

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.

ISBN 978-1-921887-03-1

ACCC 11/2010_40670_199

www.accc.gov.au



Australian
Competition &
Consumer
Commission

Product safety

Reduced fire risk cigarettes

Supplier guide

Contents

Reduced fire risk cigarettes	2
What is this guide about?	2
Who should read this guide?	2
What are reduced fire risk cigarettes?	2
What are the hazards?	3
Death or serious injury	3
Destruction of personal and/or community property	3
Mandatory standard	3
Does this standard apply to my business?	3
Meeting mandatory requirements	4
Performance	4
Packaging and marking	4
Your responsibilities as a supplier	5
Information for retailers	5
Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008	6
Role of the ACCC	16
Product liability	17
Mandatory safety standards	17
Mandatory information standards	19
Interim bans	19
Permanent bans	19
Penalties	19
Key terms used in this guide	20
Contacts	22

Reduced fire risk cigarettes

What is this guide about?

Under the Australian Consumer Law (ACL), mandatory consumer product safety standards are introduced when considered reasonably necessary to prevent or reduce the risk of injury.

This guide provides a summary of the legal requirements for supply of reduced fire risk cigarettes.

Who should read this guide?

Manufacturers, distributors, importers, wholesalers and retailers of cigarettes should read this guide to familiarise themselves with the hazards and the mandatory safety requirements for this product.

What are reduced fire risk cigarettes?

Under the mandatory standard, a cigarette is defined as 'a roll of cut tobacco for smoking, enclosed in paper'. A reduced fire risk cigarette is one which meets the requirements of this mandatory standard.

Excluded items

Products that are excluded from this definition include, but are not limited to, loose tobacco and cigars.

What are the hazards?

The ACCC has identified several safety hazards associated with cigarettes.

Death or serious injury

Cigarettes have been found to have caused fires resulting in significant injury or death to humans, domestic animals and wildlife.

Destruction of personal and/or community property

Cigarettes that are carelessly or deliberately exposed to clothing, furniture or other combustible materials such as plant matter can eventually ignite and cause significant destruction of personal and/or community property and vegetation.

Mandatory standard

The mandatory standard for reduced fire risk cigarettes is prescribed in Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008, as amended. The Regulations refer to the test methodology from AS 4830–2007 *Determination of the extinction propensity of cigarettes*, with variations and additions.

The mandatory standard applies to the supply of all cigarettes supplied in Australia from 23 September 2010, no matter when or where they were manufactured or when they were imported into Australia.

Does this standard apply to my business?

Under the ACL, supply includes being in the business of selling, exchanging, leasing or hiring out or offering for sale through hire purchase.

If you are in the business of supplying cigarettes, this mandatory standard applies to you.

Meeting mandatory requirements

To comply with the mandatory standard for reduced fire risk cigarettes, you and your business must meet all the requirements for performance, packaging and marking.

The following are some key requirements of the mandatory standard.

Performance

At least 75 per cent of the cigarettes that are tested in a test trial must fail to achieve full length burns.

The method used must be in accordance with the testing requirements set out in Division 3 of the mandatory standard, which refers to AS 4830–2007.

Packaging and marking

All retail packages, as defined by the mandatory standard, must bear the following statement:

**AUSTRALIAN FIRE RISK STANDARD COMPLIANT.
USE CARE IN DISPOSAL**

This statement:

- must be clearly legible
- must not obscure any warning message, explanatory message or graphic required by law
- may be printed onto an adhesive label or directly onto the packaging.

Where adhesive labels are used, suppliers must ensure these are fastened in a way that ensures the label is not easy to remove. Whether a label is easily removed is in part determined by whether it can be removed without damage to either the label or the packaging.

Your responsibilities as a supplier

As a supplier, you are legally responsible for ensuring cigarettes meet the mandatory safety standard requirements, which are enforceable by law. Failure to comply can result in legal action, penalties and/or recalls.

All suppliers are equally responsible for ensuring that the products they supply meet the requirements of the mandatory standard.

To do this, we strongly advise you to take the following steps:

- Read requirements specified in the Regulations printed in this guide. If the notice calls up all or part of an Australian Standard published by SAI Global as the mandatory standard, you must also read the requirements specified in the Australian Standard. You can buy copies of Australian Standards from SAI Global (call 131 242 or visit www.saiglobal.com/shop).
- Have systems in place to visually check these products to ensure they comply with the requirements of this mandatory standard.
- Where necessary, use reports from reliable, independent testing laboratories to verify compliance.
- Register to receive automatic email updates from the Product Safety Australia website (www.productsafety.gov.au) to help ensure you are aware of the latest product safety information.

Information for retailers

If you are a retailer, you are responsible for ensuring that the products you supply meet mandatory safety standards. To ensure that the cigarettes you sell comply with the mandatory standard, you should always:

- stipulate that any cigarettes you order must meet the mandatory standard
- undertake visual checks of delivered stock where possible to check compliance with the requirements of the mandatory standard
- obtain and keep reliable written verification from independent sources that products have been tested to, and meet, the mandatory requirements.

Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008



Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008

Select Legislative Instrument 2008 No. 195 as amended

made under the

Trade Practices Act 1974

This compilation was prepared on 15 April 2009
taking into account amendments up to SLI 2009 No. 66

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

Federal Register of Legislative Instruments F2009C00252

	Page
Contents	
Part 1	Preliminary
1	Name of Regulations [see Note 1] 3
2	Commencement [see Note 1] 3
3	Purpose 3
4	Application 3
5	Interpretation 3
6	Different kinds of cigarettes 4
7	Retail package 4
Part 2	Safety standard for cigarettes
Division 1	Safety standard
8	Safety standard 6
9	Compliance with safety standard 6
Division 2	Performance requirements
10	Performance requirements 6
Division 3	Testing requirements
11	Testing standard 7
12	Testing requirements 7
13	Lowered permeability bands 7
Division 4	Packaging and marking requirements
14	Packaging and marking requirements 8
Notes	9

2 *Trade Practices (Consumer Product Safety Standard)
(Reduced Fire Risk Cigarettes) Regulations 2008*

Regulation 5**Part 1 Preliminary****1 Name of Regulations** [see Note 1]

These Regulations are the *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*.

2 Commencement [see Note 1]

These Regulations commence on the day after they are registered.

3 Purpose

These Regulations prescribe a consumer product safety standard for cigarettes.

4 Application

- (1) On and after the day that occurs 18 months after the commencement of these Regulations, these Regulations apply to cigarettes that are:
 - (a) manufactured in Australia on or after that day; or
 - (b) imported into Australia on or after that day.
- (2) On and after the day that occurs 24 months after the commencement of these Regulations:
 - (a) these Regulations apply to all cigarettes manufactured in Australia, no matter when they were manufactured; and
 - (b) these Regulations apply to all cigarettes imported into Australia, no matter when they were imported.

5 Interpretation

In these Regulations:

AS 4830—2007 means Australian Standard 4830—2007 entitled *Determination of the extinction propensity of cigarettes*

Regulation 6

and published by Standards Australia as in force at the commencement of regulation 1.

cigarette means a roll of cut tobacco for smoking, enclosed in paper.

full-length burn has the same meaning as in AS 4830-2007.

lowered permeability band, in relation to a cigarette, means a concentric band of paper or other material that is included in, or applied to, cigarette paper in order to inhibit the burning of the cigarette.

retail package has the meaning given by regulation 7.

6 Different kinds of cigarettes

- (1) For these Regulations, a cigarette is of a different kind to another cigarette if they are sold under different brand names.
- (2) For these Regulations, a cigarette is of a different kind to another cigarette if:
 - (a) they are sold under the same brand name; and
 - (b) they are distinguished in 1 or more of the following ways:
 - (i) they contain or do not contain menthol;
 - (ii) they are flavoured differently in another way;
 - (iii) they have different contents of tar;
 - (iv) they allegedly differ in 'mildness';
 - (v) they have or do not have a filter tip or cork tip;
 - (vi) they are of different lengths or mass.

7 Retail package

- (1) A retail package is a package in which cigarettes are sold at retail.
- (2) If:
 - (a) 1 or more packages are contained inside a larger package; or
 - (b) 2 or more packages are combined to form a larger package;and the whole package is offered for retail sale as 1 unit:

4 *Trade Practices (Consumer Product Safety Standard)
(Reduced Fire Risk Cigarettes) Regulations 2008*

Regulation 7

- (c) the larger package is a retail package; and
- (d) each smaller package is a retail package.

Example

Packets of cigarettes in a carton.

- (3) However:
 - (a) a display case that is not sold with cigarettes displayed in it is not a retail package; and
 - (b) if:
 - (i) a retail package is normally sold wrapped in a wrapper (including, but not limited to, a transparent wrapper) that is normally removed from the package when the package is opened; and
 - (ii) the wrapper is not a larger package described in subregulation (2);the wrapper is not part of the retail package.

Regulation 8

Part 2 Safety standard for cigarettes

Division 1 Safety standard

8 Safety standard

- (1) For subsection 65C(2) of the Act, this Part prescribes a consumer product safety standard for cigarettes.
- (2) The standard consists of the following requirements:
 - (a) the performance requirements set out in Division 2;
 - (b) the testing requirements set out in Division 3;
 - (c) the packaging and marking requirements set out in Division 4.

9 Compliance with safety standard

- (1) Cigarettes must comply with the performance requirements set out in Division 2.
- (2) For the purpose of determining compliance with the performance requirements set out in Division 2, cigarettes must be tested in accordance with the testing requirements set out in Division 3.
- (3) Cigarettes must be packaged in accordance with the packaging and marking requirements set out in Division 4.

Division 2 Performance requirements

10 Performance requirements

At least 75% of the cigarettes that are tested in a test trial described in regulation 12 must fail to achieve full-length burns.

⁶ *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*

Division 3 Testing requirements

11 Testing standard

Subject to regulations 12 and 13, cigarettes must be tested in accordance with AS 4830—2007.

12 Testing requirements

- (1) Cigarettes must be tested as part of a test trial.
- (2) Each test of a cigarette in a test trial must be conducted on 10 layers of filter paper.
- (3) Each test trial must consist of 40 replicated tests.
- (4) Each different kind of cigarette must be tested in a separate test trial.
- (5) Cigarettes that use lowered permeability bands must also comply with the requirements in regulation 13.

13 Lowered permeability bands

- (1) For subregulation 12 (5), cigarettes that use lowered permeability bands must have at least 2 identical bands surrounding the tobacco column.
- (2) At least 1 complete band must be located not less than 15 mm from the lighting end of the cigarette.
- (3) For filter cigarettes, if the bands are positioned on the cigarette by design:
 - (a) at least 1 band must be located not less than 15 mm from the lighting end of the cigarette; and
 - (b) at least 1 band must be located not less than 10 mm from the filter end of the tobacco column.
- (4) For non-filter cigarettes, if the bands are positioned on the cigarette by design:
 - (a) at least 1 band must be located not less than 15 mm from the lighting end of the cigarette; and

Regulation 14

- (b) at least 1 band must be located not less than 10 mm from the labelled end of the tobacco column.

Division 4 Packaging and marking requirements

14 Packaging and marking requirements

- (1) Retail packages must not contain cigarettes that do not meet the performance requirements set out in Division 2.
- (2) Each retail package must bear the following statement:
'AUSTRALIAN FIRE RISK STANDARD COMPLIANT.
USE CARE IN DISPOSAL'.
- (3) The statement must be clearly legible and must not obscure any warning message, explanatory message or graphic required under the *Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 2004*.
- (4) The statement may be printed on an adhesive label that is affixed to the retail package.
- (5) The adhesive label must be fastened firmly to the retail package so as not to be easily removable.
- (6) For subregulation (5), in determining whether an adhesive label can easily be removed, regard must be had to:
 - (a) the expected life-span of the package; and
 - (b) whether the label can be removed without damaging either the label or the packaging.

8 *Trade Practices (Consumer Product Safety Standard)
(Reduced Fire Risk Cigarettes) Regulations 2008*

Table of Instruments

Notes to the *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008*

Note 1

The *Trade Practices (Consumer Product Safety Standard) (Reduced Fire Risk Cigarettes) Regulations 2008* (in force under the *Trade Practices Act 1974*) as shown in this compilation comprise Select Legislative Instrument 2008 No. 195 amended as indicated in the Tables below.

Table of Instruments

Year and Number	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
2008 No. 195	22 Sept 2008 (see F2008L03475)	23 Sept 2008	
2009 No. 66	14 Apr 2009 (see F2009L01271)	15 Apr 2009	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 4	am. 2009 No. 66

Role of the ACCC

To minimise the risk of injury associated with consumer products, the ACCC undertakes a variety of activities:

- Consulting with suppliers and other agencies to identify non-compliant goods.
- Developing mandatory safety and information standards, when necessary.
- Informing and educating suppliers about emerging hazards and requirements of mandatory standards or bans.
- Liaising with suppliers to assist them in understanding how to comply with the standards or bans.
- Promoting benefits of compliance with mandatory safety standards or bans.
- Assessing overall levels of marketplace compliance with mandatory safety standards or bans.
- Informing and educating consumers to choose only compliant products, report suppliers of non-compliant goods to the ACCC and always use products safely.
- Conducting compliance surveys or inspections among retail outlets to detect non-complying products.
- Conducting compliance surveys or inspections of wholesalers and importers that have supplied non-compliant goods to retailers.
- Investigating allegations from consumers and suppliers about supply of non-compliant products.
- Investigating possible breaches found during compliance surveys or inspections.
- Seeking the immediate withdrawal of non-compliant or unsafe products from sale.
- Seeking the recall of non-compliant or unsafe products from the market.
- Taking action against suppliers including:
 - substantiation, infringement or public warning notices
 - court enforceable undertakings, injunctions and various other court orders
 - damages, compensation orders, disqualification orders and civil penalties
 - adverse publicity orders or requirements for corrective advertising
 - prosecutions resulting in criminal sanctions (fines).

Product liability

Parts 3–5 of the ACL (which forms Schedule 2 to the *Competition and Consumer Act 2010*) contains provisions on product liability. Under these provisions, consumers can seek compensation or damages for personal injury or other loss caused by a safety defect in products supplied by a manufacturer.

Goods with a safety defect are those that are not as safe as what people are generally entitled to expect.

Generally the manufacturers or importers of products are liable under Parts 3–5 of the ACL. But if other suppliers, such as retailers, cannot identify the manufacturer or importer, they may be deemed liable for the damages.

Suppliers may reduce their exposure to product liability action by using these responsible and sensible business practices:

- conducting regular reviews of product designs and production
- implementing and reviewing quality assurance procedures
- testing products regularly to relevant standards, including batch testing
- conducting appropriate marketing
- providing clear and thorough user instructions
- where necessary, conducting a quick voluntary recall of any products that are defective or unsafe.

Mandatory safety standards

- Aquatic toys
- Babies' dummies
- Baby bath aids
- Baby walkers
- Balloon-blowing kits
- Basketball rings and backboards
- Bean bags
- Bicycle helmets
- Bunk beds
- Child restraints for motor vehicles
- Children's household cots
- Children's nightwear
- Children's nightwear—paper patterns

- Children's portable folding cots
- Corded internal window coverings Disposable cigarette lighters
- Elastic luggage straps
- Exercise cycles
- Fire extinguishers—portable aerosol
- Fire extinguishers—portable non-aerosol
- Hot water bottles
- Jacks—trolley
- Jacks—vehicle
- Motorcycle helmets
- Moveable soccer goals
- Pedal bicycles
- Portable ramps for motor vehicles
- Projectile toys
- Prams and strollers
- Reduced fire risk cigarettes
- Sunglasses and fashion spectacles
- Swimming and flotation aids for water familiarisation and swimming tuition
- Toys containing magnets
- Toys for children—lead and certain elements
- Toys for children up to and including 36 months of age
- Treadmills
- Vehicle recovery straps
- Vehicle support stands

Mandatory information standards

- Care labelling—clothing and textile products
- Cosmetics and toiletries—ingredient labelling
- Tobacco products—labelling

Interim bans

- Interim bans may be made by the state, territory or Commonwealth Minister. Their duration may be 60–120 days. Check the Product Safety Australia website (www.productsafety.gov.au) for details of any interim bans.

Permanent bans

- Candles with lead wicks
- Fire footbags and other such goods
- Gas masks with asbestos breathing devices
- Glucomannan in tablet form
- Jelly cups containing konjac
- No holes tongue studs
- Smokeless tobacco products
- Tinted headlight covers
- Toothpaste containing DEG (Diethylene glycol)

Penalties

Supplying products or product-related services that do not comply with a mandatory standard is an offence under the ACL.

Fines for non-compliance are:

- up to \$1.1 million for companies
- up to \$220 000 for individuals.

Key terms used in this guide

Below is a list of some key terms that have been used in this guide.

Australian Consumer Law (ACL)	The ACL replaces previous Commonwealth, state and territory consumer protection legislation in fair trading acts. It is contained in a schedule to the <i>Trade Practices Act 1974</i> , which has been renamed the <i>Competition and Consumer Act 2010</i> (CCA).
cigarette	A roll of cut tobacco for smoking, enclosed in paper.
<i>Competition and Consumer Act 2010</i> (CCA)	The <i>Competition and Consumer Act 2010</i> (formerly the <i>Trade Practices Act 1974</i>) deals with almost all aspects of the marketplace: the relationships between suppliers, wholesalers, retailers, competitors and customers. It covers anti-competitive conduct, unfair market practices, industry codes, mergers and acquisitions of companies, product safety, product labelling, price monitoring, and the regulation of industries such as telecommunications, gas, electricity and airports.
mandatory consumer product information standard	Information standards require provision of prescribed information to consumers when they buy certain goods. This information is to protect consumers from injuries that could result if they use the product inappropriately.
mandatory consumer product safety standard	<p>The Commonwealth Minister can prescribe compulsory safety standards for consumer goods and product related services. Suppliers must not supply goods or services that do not comply with a safety standard for goods of that kind.</p> <p>Safety standards require goods to comply with particular performance, composition, content, design, construction, finish, labelling or packaging rules.</p> <p>Visit www.productsafety.gov.au for a list of products that mandatory safety standards currently apply to in Australia.</p> <p>Many mandatory standards are based on Australian voluntary standards published by SAI Global.</p>

supplier

Anyone in the business of sale, exchange, lease, hire or hire-purchase of goods or provision, granting or conferring of services.

supply

Sale, exchange, lease, hire or hire-purchase of goods or provision, granting or conferring of services.

Contacts

Australian Competition and Consumer Commission

Product safety

For more information about mandatory standards, bans, recalls and emerging issues—and to subscribe to email alerts and RSS—visit our websites:

www.productsafety.gov.au

www.recalls.gov.au

You can also follow us on Twitter: @ProductSafetyAU

ACCC Infocentre: 1300 302 502

Callers who are deaf or who have a hearing or speech impairment can contact us through the National Relay Service: www.relayservice.com.au

Voice-only (speak and listen) users phone 1300 555 727 and ask for 1300 302 502.

Addresses

National office

23 Marcus Clarke Street
Canberra ACT 2601
GPO Box 3131
Canberra ACT 2601
Tel: (02) 6243 1111
Fax: (02) 6243 1199

New South Wales

Level 7
Angel Place
123 Pitt Street
Sydney NSW 2000
GPO Box 3648
Sydney NSW 2001
Tel: (02) 9230 9133
Fax: (02) 9223 1092

Victoria

Level 35
The Tower
360 Elizabeth Street
Melbourne Central
Melbourne Vic 3000
GPO Box 520
Melbourne Vic 3001
Tel: (03) 9290 1800
Fax: (03) 9663 3699

Western Australia

Third floor
East Point Plaza
233 Adelaide Terrace
Perth WA 6000
PO Box 6381
East Perth WA 6892
Tel: (08) 9325 0600
Fax: (08) 9325 5976

Queensland

Brisbane

Level 3
500 Queen Street
Brisbane Qld 4000
PO Box 10048
Adelaide Street Post Office
Brisbane Qld 4000
Tel: (07) 3835 4666
Fax: (07) 3832 0372

Townsville

Level 6
Central Plaza
370 Flinders Mall
Townsville Qld 4810
PO Box 2016
Townsville Qld 4810
Tel: (07) 4729 2666
Fax: (07) 4721 1538

South Australia

Level 2
19 Grenfell Street
Adelaide SA 5000
GPO Box 922
Adelaide SA 5001
Tel: (08) 8213 3444
Fax: (08) 8410 4155

Northern Territory

Level 8
National Mutual Centre
9–11 Cavenagh St
Darwin NT 0800
GPO Box 3056
Darwin NT 0801
Tel: (08) 8946 9666
Tel: (08) 8946 9610
Fax: (08) 8946 9600

Tasmania

Third floor
AMP Building
86 Collins Street (Cnr
Elizabeth and Collins streets)
Hobart Tas 7000
GPO Box 1210
Hobart Tas 7001
Tel: (03) 6215 9333
Fax: (03) 6234 7796

SAI Global

To obtain copies of mandatory Australian/New Zealand standards, contact SAI Global on 131 242 or visit the SAI Global website at www.saiglobal.com/shop.

Reduced fire risk cigarettes