



**UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814**

This document has been electronically approved and signed.

**DATE:** August 7, 2019

**BALLOT VOTE SHEET:**

**TO:** The Commission  
Alberta E. Mills, Secretary

**THROUGH:** Patricia M. Hanz, General Counsel  
Mary T. Boyle, Executive Director

**FROM:** Patricia M. Pollitzer, Assistant General Counsel  
Mary A. House, Attorney, Office of the General Counsel

**SUBJECT:** Draft Letter to Petitioner Regarding Denial of Petition CP 18-2 Seeking Labeling Requirements for Slip-Resistance of Floor Coverings

**BALLOT VOTE DUE Tuesday, August 13, 2019**

On July 26, 2019, the Commission voted (3-2) to deny a petition for rulemaking, dated April 19, 2018, and docketed as petition 18-2. The petition sought a rulemaking to mandate that manufacturers of floorcoverings and coatings uniformly label their products' slip-resistance using the American National Standards Institute B101.5-2014 "Standard Guide for Uniform Labeling Method for Identifying the Wet Dynamic Coefficient of Friction (Traction) of Floor Coverings, Floor Coverings with Coatings, and Treated Floor Coverings" (ANSI B101.5). In addition, the petition sought a rulemaking to mandate that flooring retailers provide this point of purchase information to consumers. The petition was filed by Russell J. Kendzior, President and Chairman of the Board of the National Floor Safety Institute. The Office of the General Counsel has drafted a letter to inform the petitioner of the Commission's action on the petition. According to section X(A) of the Commission's Decision Making Procedures, a Commissioner who has dissented from a Commission decision on a matter must refrain from voting on a document implementing the Commission's decision on that matter. Therefore, we have provided option V on the ballot vote sheet.

Please indicate your vote on the following options:

- I. Approve the letter, as drafted, denying petition CP 18-2.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

CPSC Hotline: 1-800-638-CPSC(2772) ★ CPSC's Web Site: <http://www.cpsc.gov>

II. Approve the letter denying petition CP 18-2, with the following changes.

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

III. Do not approve the letter denying petition CP 18-2.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

IV. Take other action. (Please specify.)

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

V. Refrain from voting on draft letter because of previous vote dissenting from Commission decision to deny petition CP 18-2.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft Letter to Russell J. Kendzior, President and Chairman of the Board of the National Floor Safety Institute, regarding Denial of Petition CP 18-2



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814

OFFICE OF THE GENERAL COUNSEL

Alberta E. Mills  
Secretary, Office of the Secretariat  
Tel: 301-504-0800  
E-Mail: AMills@cpsc.gov

August \_\_, 2019

Russell J. Kendzior  
President and Chairman of the Board  
National Floor Safety Institute  
P.O. Box 92607  
Southlake, TX 76092

Dear Mr. Kendzior:

The U.S. Consumer Product Safety Commission (CPSC) has considered the petition for rulemaking, dated April 19, 2018, requesting that the CPSC mandate (1) that manufacturers of floorcoverings and coatings uniformly label their products' slip-resistance, using the American National Standards Institute's B101.5-2014 "Standard Guide for Uniform Labeling Method for Identifying the Wet Dynamic Coefficient of Friction (Traction) of Floor Coverings, Floor Coverings with Coatings, and Treated Floor Coverings" (ANSI B101.5), and (2) that flooring retailers provide this point-of-purchase information to consumers. The petition was docketed as petition CP 18-2 (2018 petition).

You submitted a similar petition in 2016, docketed as CP 16-1, which the Commission denied. In the Commission's letter of January 19, 2017, regarding denial (2016 Denial Letter), the Commission set forth the requirements to issue a rule under section 27(e) of the Consumer Product Safety Act (CPSA), stating that section 27(e) authorizes the Commission to require, by rule, that manufacturers of consumer products provide to the Commission performance and technical data related to performance and safety as may be required to carry out the purposes of the CPSA, and to give notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of the product. 15 U.S.C. § 2076(e). The 2016 Denial Letter advised that, to issue a final rule under section 27(e) of the CPSA, the Commission would need to demonstrate that the information proposed to be provided to consumers gives "performance or technical data," and that is "related to performance and safety as may be required to carry out the purposes of this Act." *Id.*

The Commission identified three concerns in the 2016 Denial Letter, regarding whether the proposed labeling was "related to performance and safety," stating that the 2016 petition was

denied based upon: (1) lack of consistency and accuracy among various test methods and lack of consistency of test instruments; (2) insufficient evidence to support the assertion that a high COF value leads to a decreased hazard of slips and falls; and (3) limited effectiveness of the proposed label because COF is likely only one of a number of factors involved in slip-and-fall incidents.

The Commission considered the information you provided in the 2018 petition, along with comments on the petition by interested persons, and a package of written materials prepared by CPSC staff, to determine whether any new materials in the 2018 petition addressed the Commission's concerns.<sup>1</sup> CPSC staff advised that the materials reviewed with the 2018 petition do not address the Commission's concerns.

*(1) Lack of consistency and accuracy among various test methods and lack of consistency of test instruments*

The 2018 petition asserts that the Commission's concern regarding a lack of consistent and accurate test methods and instruments is addressed by the proposal to restrict the proposed test methodology to a specific NSF method (ANSI/NFSI B101.3-2012) and a select category of tribometers. Engineering Sciences Mechanical Engineering (ESMC) staff examined the studies and reports included in the 2018 petition, studies previously examined in the CP 16-1 Staff Briefing Package, and additional related studies and standards, to determine whether the 2018 petition resolved the Commission's concern. CPSC staff found that:

- NFSI's tribometer certification process does not specify reference materials that can be relied upon to assign an absolute COF value and to validate tribometers;
- Reference tiles used in testing have high levels of variation, raising concerns about test accuracy;
- Studies indicate that different tribometers read different COF values on the same surface, such that limiting the methodology to NFSI certified tribometers only, may provide more consistency in COF values, but does not address the accuracy of those COF values in predicting slips and falls; and
- Limiting COF measurements to NFSI certified tribometers is likely to exclude tribometers that could potentially be better indicators of slips and falls, that are used by other flooring industries, or that are specified in other standards.

Additionally, to provide a test method that could be used in a standard, staff advised that additional research regarding the reliability and accuracy of measuring standard reference materials with tribometers would be necessary. Staff Briefing Package at 10. After reviewing the staff's analysis, the Commission concludes that the 2018 petition does not adequately address concern one regarding a lack of consistency and accuracy among various test methods and test instruments.

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<sup>1</sup> The Staff Briefing Package, dated July 17, 2019, is available at: <https://www.cpsc.gov/s3fs-public/Petition%20CP%2018-2%20-%20Labeling%20Requirements%20Regarding%20Slip-Resistance%20of%20Fl...pdf?iiXeRGCBR53cZWHPVScSV3xNOI3lctqp>

(2) *Insufficient evidence to support the assertion that a high COF value leads to a decreased hazard of slips and falls*

The 2018 petition provided an additional research report and studies published by an insurance company to address concerns about the lack of correlation between high COF values and injuries. The 2018 petition asserts that these new sources show a clear correlation between a floor's COF and slip-and-fall injuries. CPSC staff reported that the information shows that friction between footwear and floor is a contributing factor in a slip and fall incident, but the degree to which the original floor COF contributes to a slip and fall incident remains unclear. Staff stated that the materials submitted did not quantify a correlation between point-of-sale COF and the risk of slips and falls; nor did the materials indicate the extent to which other factors contribute to the risk. After reviewing information submitted for the 2018 petition and the 2016 petition, staff concluded that a floor surface COF is one of many variables affecting slips and falls, and that the 2018 petition did not provide scientific data to show a correlation between specific COF values (or range of COF values) and the risk of slips and falls. Staff Briefing Package at 11. Furthermore, staff expressed concern over a potential fall hazard to consumers with shuffling gaits, resulting from very high COF value floors. Based on staff's analysis, the Commission concludes that the 2018 petition does not adequately address Commission concern two, regarding the lack of evidence to demonstrate a relationship between a high COF value and a decrease in slips and falls.

(3) *Limited effectiveness of the proposed label because COF is likely only one of a number of factors involved in slip-and-fall incidents*

To address the Commission's concern about the limited effectiveness of the petitioner's proposed label, the 2018 petition provided a 2008 research study. Human Factors (ESHF) staff examined that study and materials submitted for the 2016 petition to assess the effectiveness of the 2018 petition's proposed labeling. ESHF staff reported concern regarding consumers potentially being misled about flooring selection and use, because consumers are unlikely to understand the limitations and implications of the proposed point-of-sale flooring slip-resistance labeling. Staff concluded that underfoot friction and the likelihood of falling and fall-related injuries are affected by a multitude of factors beyond the slip-resistance of flooring at the point of sale. Staff reported that the proposed labeling standard is based on methods and devices that are not consistent and accurate for across-the-board measurement of the slip-resistance of hard flooring materials. Staff expressed a concern that the proposed label will not be effective, and that the proposed label does not incorporate many of the recommendations from the study the 2018 petition asserts supports the proposed label. ESHF staff cautioned against assigning point-of-sale DCOF values to the risk of falling, without a better understanding of the magnitude of the measurement's impact in relation to risk. Staff Briefing Package at 11. Based on the foregoing, staff advised that the proposed label is inadequate to reduce the likelihood of fall-related injuries associated with slipping on hard surface flooring materials. *Id.* Accordingly, the Commission concludes that the 2018 petition does not adequately address concern three, regarding the effectiveness of the proposed label.

*Commission Regulations:* Pursuant to the Commission's regulations, the Commission also considered whether failure to initiate rulemaking would unreasonably expose the petitioner or other consumers to the risk of injury alleged in the petition. 16 C.F.R. § 1051.9(a)(3). As the

incident data demonstrate, falls are a major hazard for consumers. However, staff is unable to associate falls with any particular flooring product, and many other variables make isolation of the incidents and associated products difficult. Because the action requested in the 2018 petition cannot be correlated to the risk of injury from slips and falls, consumers are unlikely to experience increased exposure to slips and falls based on denial of the petition.

*Conclusion.* Based on its review of all the available information, the Commission concludes that the 2018 petition does not adequately address the Commission's concerns in denying the 2016 petition. The agency continues to lack sufficient information to demonstrate that the proposed action to mandate a floor covering label would assist consumers in assessing the comparative safety of floor covering products, or lead to a reduced number of slip and fall incidents. Accordingly, petition CP 18-2 is denied.

Thank you for again bringing this safety issue to the Commission's attention.

Sincerely,

Alberta E. Mills  
Secretary