



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Austin C. Schlick, General Counsel
DeWane Ray, Acting Executive Director

FROM: Daniel R. Vice, Assistant General Counsel,
Regulatory Affairs
Meridith L. Kelsch, Attorney, Regulatory Affairs

SUBJECT: Petition for Rulemaking to Mandate Testing and
Labeling Regarding Slip Resistance of Flooring, Floor
Coatings and Treatments, Floor Cleaning Agents,
and Footwear; Request for Comments

DATE: January 3, 2024

BALLOT VOTE DUE: Tuesday, January 9, 2024

On April 11, 2023, the National Floor Safety Institute submitted a petition requesting that the Commission initiate rulemaking to mandate testing and labeling regarding the slip resistance (traction) of commercial and residential grade floor coverings, floor coatings and treatments, residential and commercial floor cleaning agents, and consumer footwear. In accordance with Commission Directive No. D302, *Internal Procedures for Petitions* (Sep. 10, 2019), the Office of the General Counsel has drafted the attached notice for publication in the *Federal Register*, inviting comments on the petition.

Please indicate your vote on the following options:

- I. Approve publication of the attached notice in the *Federal Register*, as drafted.

(Signature)

(Date)

- II. Approve publication of the attached notice in the *Federal Register*, with the following changes.



Ballot Vote Sheet

(Signature)

(Date)

III. Do not approve publication of the attached notice in the *Federal Register*.

(Signature)

(Date)

IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* notice: Petition for Rulemaking to Mandate Testing and Labeling Regarding Slip Resistance of Flooring, Floor Coatings and Treatments, Floor Cleaning Agents, and Footwear

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION**Petition Requesting Rulemaking to Mandate Testing and Labeling Regarding Slip Resistance of Flooring, Floor Coatings and Treatments, Floor Cleaning Agents, and Footwear****[Docket No. CPSC-TBD]****AGENCY:** Consumer Product Safety Commission.**ACTION:** Request for comments on petition for rulemaking.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) has received a petition requesting that the Commission initiate rulemaking to mandate testing and labeling regarding the slip resistance (traction) of commercial and residential grade floor coverings, floor coatings and treatments, residential and commercial floor cleaning agents, and consumer footwear. The Commission invites written comments concerning the petition.

DATES: Submit comments by **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by Docket No. CPSC-TBD, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by e-mail, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East

West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may e-mail them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: To read background documents or comments regarding this petition, go to: <https://www.regulations.gov>, insert docket number CPSC-TBD in the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Alberta E. Mills, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479; e-mail: amills@cpsc.gov.

SUPPLEMENTARY INFORMATION:

On April 11, 2023, the National Floor Safety Institute (NFSI; petitioner) requested that the Commission initiate rulemaking to mandate testing and labeling regarding the slip resistance (traction) of commercial and residential grade floor coverings, floor coatings and treatments, residential and commercial floor cleaning agents, and consumer footwear. The petitioner requests that the Commission require that:

- manufacturers of commercial and residential grade floor coverings and coatings test the slip resistance of their products in accordance with the most current version of NFSI's standard B101.3, *Test Method for Measuring the Wet Dynamic Coefficient of Friction (DCOF) of Hard Surface Walkways*, and label their products in accordance with the most current version of NFSI standard B101.5, *Standard Guide for Uniform Labeling Method for Identifying the Wet Dynamic Coefficient of Friction (Traction) of Floor Coverings, Floor Coatings, Treatments, Commercial and Residential Floor Chemical Agents, and Consumer Footwear (B101.5)*;
- manufacturers of commercial and residential grade chemical floor cleaners and treatments test the slip resistance of their products in accordance with the most current version of NFSI standard B101.2, *Test Method for Determining the Impact on Wet Coefficients of Friction of Various Chemical or Physical Walkway Surface Cleaners and Treatments on Common Hard-Surface Flooring Materials*, and label their products in accordance with the most current version of NFSI standard B101.5; and
- manufacturers of footwear test the slip resistance of their products' outsoles in accordance with the most current version of NFSI standard B101.7, *Standard Test Method for Lab Measurement of Footwear Heel Outsole Material Coefficient of Friction on Liquid-Contaminated Floor Surfaces*, and label their products in accordance with the most current version of NFSI standard B101.5.

The NFSI standards that the petitioner requests that the Commission mandate provide test methods for assessing the coefficient of friction (COF) of the listed products along with graphics

to label the products as having low, moderate, or high traction, based on the COF test results.¹ As such, the petitioner's request is not that any level of slip resistance be mandated, but rather that the listed products be tested for their COF and then labeled with the resulting information. The petitioner asserts that requiring manufacturers to provide this slip-resistance information to consumers at the point of sale would enable consumers to make informed buying decisions, and thereby address the risk of injury associated with slips and falls, primarily involving the elderly.

The petitioner previously submitted similar requests for rulemaking. In 2015, the petitioner requested that the Commission initiate a rulemaking to require manufacturers of floor coverings to test and label their products in accordance with NFSI B101.5-2014, *Standard Guide for Uniform Labeling Method for Identifying the Wet Static and Wet Dynamic Coefficient of Friction (Traction) of Floor Coverings, Floor Coverings with Coatings, and Treated Floor Coverings*. That request was docketed as petition CP 16-1.² The Commission denied that petition because there was insufficient information to demonstrate that the requested rule would assist consumers in assessing the comparative safety of floor coverings or reduce slip and fall incidents. Specifically, the Commission concluded that the petition did not establish an association between slip and fall incidents and particular types of flooring; there was a lack of consistency and accuracy in test methods used; there was insufficient information in the petition to indicate that a high COF decreased the risk of slips and falls; and a labeling requirement

¹ During the comment period for this notice, read-only copies of the NFSI standards referenced in the petition are available for viewing at TBD.

² The docketing notice for CP 16-1 is available at 80 Fed. Reg. 75,639 (Dec. 3, 2015).

would be insufficient to address the hazard because a COF is likely only one of several factors involved in slips and falls.³

In 2018, the petitioner submitted a similar request that the Commission initiate rulemaking to require manufacturers of floor coverings and coatings to test their products in accordance with NFSI B101.3-2012, *Test Method for Measuring Wet DCOF of Common Hard-Surface Floor Materials (Including Action and Limit Thresholds for the Suitable Assessment of the Measured Values)*, label their products according to NFSI B101.5-2014, and require flooring retailers to provide point-of-sale information regarding the label to assist with purchasing decisions. That request was docketed as petition CP 18-2.⁴ The Commission denied that petition because the request had not adequately addressed the concerns cited in the previous denial.⁵

The Commission seeks comments concerning the present petition.

³ Staff's briefing package recommending that the Commission deny petition CP 16-1 is available at: <https://www.cpsc.gov/s3fs-public/Petition%20CP%2016-1%20-%20Labeling%20Requirements%20Regarding%20Slip-Resistance%20of%20Floor%20Coverings%20-%20December%207%202016.pdf>. The Record of Commission Action directing staff to prepare a denial letter is available at: <https://www.cpsc.gov/s3fs-public/RCA%20-%20Petition%20CP%2016-1%20Labeling%20Requirements%20Regarding%20Slip-Resistance%20of%20Floor%20Coverings%20121316.pdf>. The draft denial letter is available at: <https://www.cpsc.gov/s3fs-public/Draft%20Letter%20to%20Petitioner%20Regarding%20Denial%20of%20Petition%20CP-16-1%20Floor%20Coverings.pdf>. The Record of Commission Action approving the issuance of the draft denial letter is available at: https://www.cpsc.gov/s3fs-public/RCA%20-%20Draft%20Letter%20to%20Petitioner%20Regarding%20Denial%20of%20Petition%20CP%2016-1%20Floor%20Coverings%20011817_0.pdf.

⁴ The docketing notice for CP 18-2 is available at 83 Fed. Reg. 26228 (June 6, 2018).

⁵ Staff's briefing package recommending that the Commission deny petition CP 18-2 is available at: <https://www.cpsc.gov/s3fs-public/Petition%20CP%2018-2%20-%20Labeling%20Requirements%20Regarding%20Slip-Resistance%20of%20Fl...pdf>. The Record of Commission Action directing staff to prepare a draft denial letter is available at: <https://www.cpsc.gov/s3fs-public/RCA%20-%20Petition%20CP%2018-2%20Labeling%20Requirements%20Regarding%20Slip-Resistance%20of%20Floor%20Coverings.pdf>. The draft denial letter is available at: <https://www.cpsc.gov/s3fs-public/2018%20Denial%20Letter%20for%20Petition%20CP%2018-2%20-%20Seeking%20Labeling%20Requirements%20for%20Slip-Resistance%20of%20Floor%20Coverings%20-%200080719.pdf>. The Record of Commission Action approving the issuance of the draft denial letter is available at: <https://www.cpsc.gov/s3fs-public/RCA-Denial%20Letter%20-%20CP%2018-2%20Seeking%20Labeling%20Requirements%20for%20Slip-Resistance%20of%20Floor%20Coverings.pdf>.

The major factors the Commission considers in deciding whether to grant or deny a petition (in pertinent part) include the following:

- whether the product presents an unreasonable risk of injury;
- whether a rule is reasonably necessary to eliminate or reduce the risk of injury; and
- whether failure of the Commission to initiate the rulemaking proceeding requested would unreasonably expose the petitioner or other consumers to the risk of injury which the petitioner alleges is presented by the product.

16 CFR 1051.9(a). In considering these factors, the Commission will treat as an important component of each one the relative priority of the risk of injury associated with the product about which the petition has been filed and the Commission's resources available for rulemaking activities with respect to that risk of injury. 16 CFR 1051.9(b); *see also* 16 CFR 1009.8 (stating criteria upon which the Commission priorities are based).

The petition is available at: <http://www.regulations.gov>, under Docket No. CPSC-TBD, Supporting and Related Materials. Alternatively, interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479.

Alberta E. Mills,

Secretary,

Consumer Product Safety Commission.