



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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BETHESDA, MD 20814
COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN
REQUESTING COMMENT ON PORTABLE GENERATOR INTELLECTUAL
PROPERTY AND LICENSING CONCERNS**

APRIL 5, 2023

The often-complex negotiations for intellectual property licenses could delay the availability of compliant products on store shelves.

The U.S. Consumer Product Safety Commission today voted to issue a supplemental notice of proposed rulemaking (SNPR) on standards for portable generators. I voted in favor of issuing the notice because public input is a crucial part of our decision-making process, and I believe we need more information on the potential effects of this proposed rule.

I am disappointed that a majority of my colleagues did not support my bipartisan amendment, which sought public comment on whether there might be intellectual property (IP) issues that affect this rule's implementation. If someone who holds IP rights, for example patents or copyrights, refuses to license them, it might affect the timing, cost, or ability of producers to comply with our rule. We should know that before we finalize this rule, not after.

I am concerned that a standard that relies on essential patents could increase litigation risk unnecessarily, particularly if those patents are not made available on reasonable terms. Moreover, the often-complex negotiations for IP licenses could delay the availability of compliant products on store shelves.

If the Commission is going to make the most informed decision possible, we should not simply refuse to ask for the facts. While my amendment was not adopted, I nevertheless urge the public to comment on the following two issues to provide a complete record to inform our next steps:

1. Are there any designs, processes, or other means or methods essential to comply with the performance standard described in this SNPR that are subject to current or anticipated patents, trademarks, or other intellectual property rights in the United States or elsewhere?
2. If such intellectual property rights exist, are the rights available for license? If such rights exist, is there a history of licensing such intellectual property on fair, reasonable, and non-discriminatory terms? Would any such license materially increase the cost of meeting the performance standard should the Commission adopt the standard described in this SNPR?