



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

This document has been electronically
approved and signed.

DATE: January 11, 2017

BALLOT VOTE SHEET:

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Mary T. Boyle, General Counsel
Patricia H. Adkins, 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 16-1 Seeking Labeling
Requirements for Slip-Resistance of Floor Coverings

BALLOT VOTE DUE Wednesday, January 18, 2017

On December 13, 2016, the Commission voted to deny the petition for rulemaking, dated October 4, 2015, to “mandate that manufacturers of floor coverings and coatings uniformly label their products’ slip-resistance per the American National Standards Institute (ANSI) 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,” docketed as petition CP 16-1. 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.

Please indicate your vote on the following options:

- I. Approve the letter denying petition CP 16-1, as drafted.

(Signature)

(Date)

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

II. Approve the letter denying petition CP 16-1, with the following changes.

(Signature)

(Date)

III. Do not approve the letter denying petition CP 16-1.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(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 16-1



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

OFFICE OF THE GENERAL COUNSEL

Todd A. Stevenson
Secretary, Office of the Secretary
Tel: 301-504-0800
E-Mail: tstevenson@cpsc.gov

January __, 2017

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 (Commission) has considered the petition for rulemaking, dated October 4, 2015, to “mandate that manufacturers of floor coverings and coatings uniformly label their products’ slip-resistance per the American National Standards Institute (ANSI) 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,” docketed as petition CP 16-1 (petition). The Commission considered the information you provided, along with comments on the petition by interested persons, and a package of written materials prepared by CPSC staff.¹ CPSC staff’s briefing package evaluated the incident data related to slips and falls, the nature of the hazard, and available studies and scientific literature regarding the accuracy and repeatability of the proffered test method to measure coefficient of friction (COF). Staff’s briefing package also reviewed existing data to determine whether the COF value measured by the suggested test method is related to the prevention of slips and falls, and reviewed scientific literature on warning labels to determine whether the suggested label would accurately convey a safety message to consumers. After reviewing these materials, and for the reasons discussed below, the Commission voted to deny the petition.

The Commission’s statutes and regulations establish the framework for the Commission to consider petitions. As explained below, section 27(e) of the Consumer Product Safety Act (CPSA) which authorizes the Commission to require that certain information be provided to

¹ The Staff Briefing Package is available at: <https://www.cpsc.gov/content/petition-cp-16-1-labeling-requirements-regarding-slip-resistance-of-floor-coverings>

consumers, is the most applicable provision of the statute for the Commission's consideration of this petition. The Commission's petition regulations state factors for the Commission to consider when deciding whether to grant or deny a petition. 16 C.F.R. § 1051.9. Most of these factors relate to rulemaking under sections 7 and 9 of the CPSA. To issue a final mandatory rule under sections 7 and 9 of the CPSA, the Commission would need to make a finding that the hazard associated with the product presents an unreasonable risk of injury, a finding that is not required for a rule under section 27(e). We discuss below the petition factor that is relevant for this petition.

Section 27(e) Requirements: Section 27(e) of the CPSA 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). 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 provides "performance or technical data," and that the information is "related to performance and safety as may be required to carry out the purposes of this Act." *Id.*

Performance or Technical Data: The petition requested that the Commission mandate that manufacturers of flooring products uniformly label their products' slip-resistance per the ANSI B101.5-2014 standard. Pursuant to the ANSI standard, the COF value of flooring products would be tested using the method described in the standard. Based on the COF value, each product would receive a traction rating of low, moderate, or high, and the corresponding label, as set forth in the ANSI standard, would be applied to the product packaging. If COF testing under the ANSI standard was accurate and repeatable, the measured COF value was related to the safety of flooring products, and the corresponding labeling was able to convey such information accurately to consumers, this is the type of performance and technical data that could potentially assist consumers in comparing the safety aspects of flooring products, which is one of the statutory purposes of the CPSA. Section 2(b)(2) of the CPSA; 15 U.S.C. § 2051(b)(2).

Related to Performance and Safety: Although slips and falls are a hazard to consumers, the Commission cannot associate incident data involving slips and falls with any particular flooring type. CPSC staff estimated that from 2012 through 2014, nearly 570,000 emergency department-treated injuries and 197 fatalities occurred due to accidental slips and falls. Staff found that the elderly are most at-risk of hazardous slips and falls. However, the majority of incident reports did not provide information on the specific location of the fall or the type of flooring involved in the incident.

When reviewing the literature on test methods for measuring COF, staff observed a lack of consistency and accuracy among the various test methods available for measuring walkway COF, including the methods specified in the petition. For example, the test method in the ANSI standard relies on the use of a tribometer to measure COF; however, studies have shown these devices are not consistent or reliable. As the staff's briefing package explains, scientific studies found COF values varied greatly among the test methods, depending on the environmental

conditions and footwear used. Such testing variability decreases the likelihood that a specific label containing COF values obtained from any one method will be helpful to consumers.

Additionally, the Commission did not find sufficient evidence to support the assertion that a high COF value leads to a decreased hazard of slips and falls. As explained in the staff's briefing package, staff reviewed several studies that examine the relationship among various COF test methods and the risk of slips and falls. Most or all of the studies conclude that the majority of test methods do not demonstrate a reliable correlation between COF values and the risk of falling. In fact, the test methods specified in the ANSI standard advanced in the petition showed lower correlation between COF and risk of falling than the other studies. Because of this low correlation, the Commission does not have sufficient evidence to find that providing a COF value to consumers on a label, based on the method described in the petition, will assist consumers in evaluating the comparative safety of flooring products.

Finally, the Commission is concerned that the proposed label, even if it conveyed accurate information on COF values, may have limited effectiveness because COF is likely only one of a number of factors involved in slip-and-fall incidents. Based on the literature reviewed in staff's briefing package, the Commission believes that more research is needed to determine whether the use of COF values can predict the risk of falling and whether labeling can convey information that assists consumers with purchasing flooring that would reduce the risk of slips and falls.

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 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 concluded that the agency lacks 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, the petition, CP 16-1, is denied.

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

Sincerely,

Todd A. Stevenson
Secretary