TO: The Commission  
Alberta E. Mills, Secretary  

THROUGH: Austin C. Schlick, General Counsel  
Mary T. Boyle, Executive Director  

FROM: Daniel R. Vice, Assistant General Counsel, Regulatory Affairs  
David M. DiMatteo, Attorney, Regulatory Affairs  

SUBJECT: Draft Notice of Availability: Staff draft document, 

BALLOT VOTE DUE: May 17, 2022


If approved, the *Federal Register* notice will ask for public comment on the staff draft Voluntary Standard Evaluation and whether the Commission should determine that the voluntary standards discussed in that memorandum meet the requirements for the Portable Fuel Container Safety Act’s exception from rulemaking. If approved by the Commission, OGC will send the notice to the *Federal Register* for publication.

Please indicate your vote on the following options:

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

________________________________________________________________________
(Signature) (Date)
Ballot Vote Sheet

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


(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)

CONSUMER PRODUCT SAFETY COMMISSION


[Docket No. CPSC-2022-00XX]


ACTION: Notice of availability.


DATES: Submit comments by [Insert date 30 days after publication in the Federal Register].

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2022-00XX, 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 does not accept comments submitted by electronic mail (e-mail), except through https://www.regulations.gov, and as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier/confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone:
The Portable Fuel Container Safety Act of 2020 (PFCSA) requires the Commission, not later than June 27, 2023, to promulgate a final rule to require flame mitigation devices in portable fuel containers that impede the propagation of flame into the container. 15 U.S.C. 2056d(b)(1). The PFCSA states, however, that the Commission
is not required to promulgate a final rule if the Commission determines that the requirements for an exception relating to voluntary standards are met. 15 U.S.C. 2056d(b)(3)(A). Specifically, the Commission may rely on voluntary standards instead of the required rulemaking for a class of portable fuel containers within the scope of the Act if the following requirements are met:

- There is a voluntary standard for flame mitigation devices for those containers that impedes the propagation of flame into the container;
- The voluntary standard is or will be in effect not later than June 27, 2022; and
- The voluntary standard is developed by ASTM International or such other standard development organization that the Commission determines to have met the intent of the PFCSA.


If the Commission makes such a determination with respect to any voluntary standard, then the requirements of such voluntary standard shall be treated as a consumer product safety rule 180 days after publication of the Commission’s determination in the Federal Register. 15 U.S.C. 2056d(b)(4).

The CPSC staff draft document, “Voluntary Standards Evaluation Under the Portable Fuel Container Safety Act of 2020,” provides staff’s initial assessment and recommendations to the Commission regarding whether the relevant voluntary standards qualify for the exception from the rulemaking requirement in the PFCSA.¹ The draft document is available on the Commission’s website at: https://www.cpsc.gov/s3fs-

¹ This CPSC staff document has not been reviewed by, and does not necessarily reflect the views of, the Commission.
The Commission invites comment on the draft document, “Voluntary Standards Evaluation Under the Portable Fuel Container Safety Act of 2020,” and whether the Commission should determine that the voluntary standards discussed in that document meet the requirements for the exception from rulemaking in 15 U.S.C. 2056d(b)(3)(A). Comments should be submitted by [Insert date 30 days after publication in the Federal Register]. Information on how to submit comments can be found in the ADDRESSES section of this notice.

Dated: __________

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Alberta E. Mills, Secretary
Consumer Product Safety Commission