



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: May 11, 2022

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,
“Voluntary Standards Evaluation Under the Portable
Fuel Container Safety Act of 2020”

BALLOT VOTE DUE: May 17, 2022

The Office of the General Counsel (OGC) is providing for the Commission’s consideration a draft Notice of Availability of the CPSC staff draft memorandum, “Voluntary Standards Evaluation Under the Portable Fuel Container Safety Act of 2020” (Staff Evaluation), which would be published in the *Federal Register*. The staff draft Voluntary Standards Evaluation assesses whether three existing voluntary safety standards trigger an exception to the rulemaking requirement of the Portable Fuel Container Safety Act, 15 U.S.C. § 2056d(b).

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)

**U.S. Consumer Product
Safety Commission**
4330 East-West Highway
Bethesda, MD 20814

**National Product Testing
and Evaluation Center**
5 Research Place
Rockville, MD 20850



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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)

Attachment: Draft *Federal Register* notice of availability: "Voluntary Standard Evaluation Under the Portable Fuel Container Safety Act of 2020"

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Safety Commission**
4330 East-West Highway
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5 Research Place
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CONSUMER PRODUCT SAFETY COMMISSION

Notice of Availability: Voluntary Standards Evaluation Under the Portable Fuel Container Safety Act of 2020

[Docket No. CPSC-2022-00XX]

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is announcing the availability of a draft document titled, “Voluntary Standards Evaluation Under the Portable Fuel Container Safety Act of 2020.”

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:

(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. 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 through this website: 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/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2022-00XX, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Andrew Lock, Fire Protection Engineer, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2099; email: alock@cpsc.gov.

SUPPLEMENTARY INFORMATION:

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.

15 U.S.C. § 2056d(b)(3)(A).

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.

[public/2022-Fire-Safety-of-Portable-Fuel-Containers-](#)

[Memo.pdf?VersionId=K_Tk.uklDYtld1o45_OHMHnqeHdrYCME](#) and from the

Commission’s Division of the Secretariat at the location listed in the **ADDRESSES** section of this notice.

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: _____

Alberta E. Mills, Secretary
Consumer Product Safety Commission