



## Ballot Vote Sheet

**TO:** The Commission  
Alberta E. Mills, Secretary

**THROUGH:** Jessica L. Rich, General Counsel  
Austin C. Schlick, Executive Director

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

**SUBJECT:** Draft Notice of Availability of Updated ASTM Standard under Portable Fuel Container Safety Act

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**TIME CRITICAL BALLOT VOTE DUE:** Friday, February 2, 2024

Attached is a draft *Federal Register* notice announcing that, on January 29, 2024, the Commission received notification that ASTM F3429/F3429M-23, *Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers*, has been revised. The Commission has incorporated ASTM F3429/F3429M-23 by reference in its mandatory standard for portable fuel containers, 16 C.F.R. part 1461.

Pursuant to section (b)(5) of the Portable Fuel Container Safety Act (PFCSA), if a relevant voluntary standard is revised, the organization that revised the standard must notify the Commission. 15 U.S.C. § 2056d(b)(5). Any such revision to the voluntary standard shall be enforceable as a consumer product safety rule not later than 180 days after the Commission is notified (or such later date as the Commission determines appropriate), in place of the prior version, unless the Commission determines within 90 days after receiving the notice that the revised voluntary standard does not meet the requirements described in section (b)(3) of the PFCSA, 15 U.S.C. § 2056d(b)(5). In this instance, notification to ASTM that the standard is not being accepted would be required by April 28, 2024, and absent such notification the revised standard will become effective on July 27, 2024. Consistent with these provisions, staff is assessing the revised voluntary standard for prefilled containers to determine whether the revisions in the new ASTM F3429/F3429M-24 meet the requirements of the PFCSA.

The accompanying draft *Federal Register* notice would seek public comment on whether the revision meets the requirements of PFCSA section (b)(3). To provide sufficient time for staff's assessment of any comments received and subsequent Commission consideration within the 90-day statutory time frame, the draft notice provides a relatively brief 14-day public comment period. Likewise, to expedite publication of the draft notice in the *Federal Register*, the General Counsel has designated this matter as time critical pursuant to section V of the Commission's Decision Making Procedures.

Please indicate your vote on the following options:

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



## Ballot Vote Sheet

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- II. Approve publication of the attached document in the *Federal Register*, with the specified changes.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- IV. Take other action specified below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachments: Draft *Federal Register*: Notice of Availability of Updated ASTM Standard under Portable Fuel Container Safety Act; ASTM Notification Letter

**CONSUMER PRODUCT SAFETY COMMISSION**

**[Docket No. CPSC-2022-0017]**

**Notice of Availability of Updated ASTM Standard under the Portable Fuel Container  
Safety Act**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of availability and request for comment.

**SUMMARY:** In August 2023, the U.S. Consumer Product Safety Commission (Commission or CPSC) determined under the Portable Fuel Container Safety Act of 2020 (PFCSA) that ASTM F3429/F3429M-23 is a consumer product safety standard that impedes the propagation of flames into pre-filled portable fuel containers, and therefore incorporated the voluntary standard by reference as a mandatory rule. ASTM has since notified the Commission that it has revised this voluntary standard. CPSC seeks comment on whether the revision meets the PFCSA's requirements for adoption in the mandatory rule.

**DATES:** Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit comments, identified by Docket No. CPSC-2022-0017, 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. 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. CPSC typically does not accept comments submitted by e-mail, except as described below.

*Mail/Hand Delivery/Courier/Confidential Written Submissions:* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however,

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submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479.

*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>. 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](mailto:cpsc-os@cpsc.gov).

*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-2022-0017, into the “Search” box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Scott Ayers, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301-987-2030; email: [sayers@cpsc.gov](mailto:sayers@cpsc.gov).

### **SUPPLEMENTARY INFORMATION:**

The PFCSA requires the Commission 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)-(2). However, the Commission is not required to promulgate a final rule for a class of portable fuel containers within the scope of the PFCSA if the Commission determines that:

- 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 18 months after the date of enactment of the PFCSA; and

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- 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). After publication of the *Federal Register* notice announcing the Commission's positive determination, the requirements of such a voluntary standard "shall be treated as a consumer product safety rule." 15 U.S.C. 2056d(b)(2)(B) and (b)(4). Under this authority, on January 13, 2023, the Commission published a notice determining that three voluntary standards for portable fuel containers meet the requirements of the PFCSA and would be treated as consumer product safety rules: ASTM F3429/F3429M-20 (pre-filled containers); ASTM F3326-21 (containers sold empty); and section 18 of UL 30:2022 (safety cans). 88 FR 2206.

Portable fuel containers sold pre-filled are within the scope of ASTM F3429/F3429M, *Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers*. ASTM lists the standard as a dual standard in inch-pound units (F3429 designation) and metric units (F3429M designation). ASTM F3429/F3429M was first published in 2020. ASTM published a revised version of ASTM F3429/F3429M-20 in May 2023, as ASTM F3429/F3429M-23. On August 22, 2023, the Commission determined that the 2023 revisions met the requirements of section 2056d(b)(3)(A) of the PFCSA. Accordingly, ASTM F3429/F3429M-23 is the current mandatory consumer product safety rule for pre-filled-portable fuel containers. On October 31, 2023, the Commission published a direct final rule creating 16 CFR part 1461 for portable fuel containers to incorporate by reference the revised ASTM F3429/F3429M-23, as well as ASTM F3326-21 and section 18 of UL 30:2022.5. 88 FR 74342.

Under section (b)(5) of the PFCSA, if the requirements of a voluntary standard that meet the requirements of section (b)(3) are subsequently revised, the organization that revised the standard shall notify the Commission after the final approval of the revision. 15 U.S.C.

2056d(b)(5). Any such revision to the voluntary standard shall become enforceable as the new consumer product safety rule not later than 180 days after the Commission is notified of a revised voluntary standard that meets the conditions of section (b)(3) (or such later date as the Commission determines appropriate), unless the Commission determines, within 90 days after receiving the notification, that the revised voluntary standard does not meet the requirements described in section (b)(3) of the PFCSA. 15 U.S.C. 2056d(b)(5).

On January 29, 2024, ASTM notified the Commission that it had approved and published ASTM F3429/F3429M-24. CPSC staff is assessing the revised voluntary standard to determine, consistent with section (b)(5) of the PFCSA, whether the revisions in ASTM F3429/F3429M-24 meet the requirements of section (b)(3)(A) of the PFCSA listed above. The Commission invites public comment on that question to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F3429/F3429M-24.<sup>1</sup>

ASTM F3429/F3429M-24 is available for review in several ways. ASTM has provided on its website (at <https://www.astm.org/CPSC.htm>), at no cost, a read-only copy of ASTM F3429/F3429M-24, including a red-lined version that identifies the changes made to ASTM F3429/F3429M-23. A read-only copy of the existing standard (ASTM F3429/F3429M-23) is available for viewing, at no cost, on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: 610-832-9500; <https://www.astm.org>.

Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479.

Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Because of the short statutory time frame

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<sup>1</sup> The Commission voted **X-X** to publish this notification.  
THIS DOCUMENT HAS NOT BEEN REVIEWED  
OR ACCEPTED BY THE COMMISSION

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Congress established for the Commission to consider revised voluntary standards under section

(b)(5) of the PFCSA, CPSC will not consider comments received after this date.

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Alberta E. Mills, Secretary  
Consumer Product Safety Commission



ASTM INTERNATIONAL  
Helping our world work better

Katharine E. Morgan  
President

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January 29, 2024

**VIA ELECTRONIC MAIL**

Ms. Alberta Mills  
Office of the Secretary  
U.S. Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814-4408

Re: Notice of revision to ASTM F3429/F3429M Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers

Dear Ms. Mills:

The U.S. Consumer Product Safety Commission published a final rule under the Portable Fuel Container Safety Act of 2020 (PFCSA)<sup>1</sup>, 16 CFR part 1461, which incorporated by reference ASTM F3429/F3429M-23 *Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers* as a mandatory consumer product safety rule that impedes the propagation of flames into pre-filled portable fuel containers covered by the standard. Section (b)(5) of the PFCSA requires ASTM to notify the Commission after the final approval of the revision of a standard regarding any voluntary standards previously determined by the Commission to be meet the requirements of the PFCSA as a mandatory consumer product safety rule.

We are writing to officially notify the CPSC that ASTM has published a revised 2024 version of ASTM F3429/F3429M *Standard Specification for Performance of Flame Mitigation Devices Installed in Disposable and Pre-Filled Flammable Liquid Containers*. We are enclosing a redlined document highlighting the specific technical changes between the 2023 and 2024 versions to help facilitate review by the CPSC Staff.

If you or your staff have any questions about the specific revisions or would like to discuss any issues related to this request, you may contact me or Molly Lynyak (610-832-9743 or mlynjak@astm.org) at any time. ASTM International looks forward to continuing to work with the CPSC to help ensure the safety of consumer products.

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<sup>1</sup> 15 U.S.C. 2056d



Sincerely,

*Katharine E. Morgan*

Katharine E. Morgan  
President, ASTM International

Attachment

cc: Jacqueline Campbell – CPSC Voluntary Standards Coordinator  
Scott Ayers – CPSC Project Manager the Portable Fuel Container Safety Act of 2020  
Jarrod Kuhn – ASTM F15.72 Pre-Filled Containers of Flammable and Combustible  
Liquids Subcommittee Chair  
Donald Mays – Chairman, ASTM Committee F15 on Consumer Products