



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

MINUTES OF COMMISSION MEETING

November 2, 2016

Chairman Elliot F. Kaye convened the November 2, 2016, 9:30 a.m., meeting of the U.S. Consumer Product Safety Commission in open session. Commissioners Marietta S. Robinson and Joe P. Mohorovic were in attendance. Commissioners Robert S. Adler and Ann Marie Buerkle participated by telephone.

Decisional Matter: Proposed Rule: Portable Generators
(Briefing package dated October 5, 2016 and OS No. 3986)

After introducing the matter and making an opening statement, Chairman Kaye called for any opening statements or questions. Present to respond to any questions were Janet Buyer, Project Manager, Directorate for Engineering Sciences, and Barbara Little, Attorney, Office of General Counsel. The Commissioners declined to make any statements or ask questions at this point.

Chairman Kaye moved that *Federal Register* (*FR*) notice for the notice of proposed rulemaking (NPR) for portable generators be amended to include the “Portable Generators NPR Manager’s Amendment, Request for Comments” that adds text to the notice. Commissioner Robinson seconded the motion. Chairman Kaye explained the purpose of the amendment and the Commission discussed the amendments. After the discussion, Chairman Kaye called for a vote on the matter. The Commission voted unanimously (5-0) to adopt Chairman Kaye’s motion and amendment. (The adopted amendment is attached.)

Chairman Kaye called for any other motions. Commissioner Mohorovic moved that the NPR notice be amended to include “Ex Ante Retrospective Review” text seeking comments regarding ex ante criteria for retrospective review of this rule. Commissioner Robinson seconded the motion. Commissioner Mohorovic explained the purpose of the amendment and the Commission discussed the amendment. After the discussion, Chairman Kaye called for a vote on the matter. The Commission voted unanimously (5-0) to adopt Commissioner Mohorovic’s motion and amendment. (The adopted amendment is attached.)

Chairman Kaye called for any other motions or discussion. Hearing none, Chairman Kaye moved that the Commission approve the NPR notice, as amended, and publish it in the *FR*. Chairman Kaye called for any discussion of the motion. Hearing none, Chairman Kaye called for a vote on the matter. The Commission voted (4-1) to adopt Chairman Kaye’s motion and approve the NPR for portable generators, as amended and publish it in the *FR*. Chairman Kaye, Commissioner Adler and Commissioner Robinson and Commissioner Mohorovic voted to approve the NPR. Commissioner Buerkle voted to not approve the NPR.

Chairman Kaye called for any closing statements. The Commissioners each made closing statements. There being no other business, Chairman Kaye adjourned the meeting at 10:25 a.m.

For the Commission:

Todd A. Stevenson
Secretary

Attachments: Adopted Amendments

Portable Generator NPR Manager's Amendment

Request for Comments

On page 186, after the bulleted text ending "or class 1 generators," add the following bulleted text:

- Whether the Commission should instead adopt a compliance date that is 18 months from the date of publication of the final rule for generators with handheld and Class I engines, or class 1 generators.
- Possible alternative technologies that would address the carbon monoxide hazard associated with portable generators other than or in addition to reduced carbon monoxide generation, such as, but not limited to, viable shut-off technology. For any proposed alternate technology, please provide a description of how its performance would be characterized, any challenges to implementation, data showing the viability of the technology in this application and any other information that would help evaluate the efficacy and cost of the alternate approach.
- The feasibility of continuing to lower in the future the CO rate requirements for portable generators as technology advances and whether the Commission can make related findings that CO emission rates lower than those set forth in the proposed rule will further reduce the risk of death and injury associated with this hazard. Provide information on a timetable or other automatic mechanism that would trigger a review of the emission rates for purposes of evaluating the feasibility of establishing lower rates as well as any metrics that would be used to evaluate the state of the technology for the purpose of lowering the CO rates in the rule.
- Potential increase in fuel economy resulting from this proposed performance standard and quantification of costs or benefits associated with such increase.
- Potential impact of this proposed performance standard on the market for handheld generators and costs or benefits associated with such impact.
- Potential impact noise emissions associated with this proposed performance standard and any advantages or disadvantages of such impact.

COJM Amendment #2 to Portable Generators NPR
Re: Ex Ante Retrospective Review

On page 183 of the Draft Federal Register notice, insert the following and re-designate succeeding sections accordingly:

XIII: Ex Ante Retrospective Review

As set forth in the Commission's Plan for Retrospective Review of Existing Rules (Retrospective Review Plan) (LINK) and consistent with the Regulatory Flexibility Act, as applicable, the Commission has established certain methods and processes for identifying and reconsidering certain rules that warrant repeal or modification, including rules that would benefit from strengthening, complementing, or modernizing. Consistent with the Retrospective Review Plan's methods and procedures, which permit the Commission to include retrospective review provisions in new rulemakings, the Commission is requesting comments on whether to develop ex ante criteria for the retrospective review of this proposed rule.

On page 186 of the Draft Federal Register notice, after the period following the phrase "or class 1 generators," insert the following:

- *The need for retrospective review of this proposed rule, including the need for development of ex ante criteria, pursuant to the selection criteria set forth in the Commission's Retrospective Review Plan. Examples of potential criteria for any future retrospective review of this proposed rule include, but are not limited to: the appropriate data points necessary to evaluate such measures, the appropriate interval for such retrospective review, and the appropriate goals to define success in each measure.*