



## Ballot Vote Sheet

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

**DATE:** May 10, 2023

**THROUGH:** Austin C. Schlick, General Counsel  
Jason K. Levine, Executive Director

**FROM:** Daniel R. Vice, Assistant General Counsel, Regulatory Affairs  
Barbara E. Little, Attorney, Regulatory Affairs

**SUBJECT:** Request for Extension of Comment Period for Safety Standard for Portable  
Generators Supplemental Notice of Proposed Rulemaking and Data Requests

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**BALLOT VOTE DUE** Wednesday, May 17, 2023

On April 26, 2023, the Portable Generator Manufacturers' Association (PGMA) submitted a request for a 60-day extension to the comment period for the Safety Standard for Portable Generators supplemental notice of proposed rulemaking (SNPR), from June 20, 2023, to "on or about August 19, 2023." In its request, PGMA stated an intention to submit a FOIA request for additional information concerning prior CPSC reports. Two days before PGMA submitted the extension request, on April 24, 2023, the Executive Director of PGMA had emailed a letter to CPSC staff requesting additional information pertaining to a CPSC staff report. On May 10, 2023, staff responded to PGMA's April 24 letter and also addressed certain comments in the April 26 extension request.

Staff recommends that the Commission deny the request for an extension of the comment period.

Please indicate your vote on the following options:

- I. Deny the request to extend the comment period for the SNPR.

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

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

- II. Grant a 60-day extension to the SNPR comment period and direct staff to provide for the Commission's consideration a draft Federal Register notice announcing the extension.

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

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



## Ballot Vote Sheet

III. Take other action specified below:

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

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

Attachment: Briefing Package: "Request for Extension of Comment Period for Safety Standard for Portable Generators Supplemental Notice of Proposed Rulemaking (SNPR) and Data Requests," May 10, 2023.



United States  
**Consumer Product Safety Commission**

## Memorandum

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

**DATE:** May 10, 2023

**THROUGH:** Austin C. Schlick, General Counsel  
Jason K. Levine, Executive Director  
DeWane Ray, Deputy Executive Director for Operations

**FROM:** Duane E. Boniface, Assistant Executive Director,  
Office of Hazard Identification and Reduction  
  
Janet Buyer, Mechanical Engineer  
Division of Mechanical and Combustion Engineering  
Directorate of Engineering Sciences

**SUBJECT:** Request for Extension of Comment Period for Safety Standard for Portable Generators Supplemental Notice of Proposed Rulemaking (SNPR) and Data Requests

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### Introduction

On April 26, 2023, Joseph Harding, Technical Director, Portable Generator Manufacturers' Association (PGMA), submitted a request for a 60-day extension to the comment period for the Safety Standard for Portable Generators supplemental notice of proposed rulemaking (SNPR), from June 20, 2023, to "on or about August 19, 2023."<sup>1</sup> (TAB A) Two days earlier, on April 24, 2023, Susan Orenge, Executive Director of PGMA, had emailed a letter to CPSC staff with a request for additional information pertaining to staff's recently released report, *Non-Fire Carbon Monoxide Deaths Associated with the Use of Consumer Products 2019 Annual Estimates*.<sup>2</sup> (TAB B). PGMA requested additional data that specifies the location where the generator was running for the estimated deaths associated with generators in the report.

### PGMA's Requests

In its April 26 extension request, PGMA states that it intends to submit a Freedom of Information Act (FOIA) request to obtain data pertaining to three documents from CPSC to enable PGMA to make its own calculation regarding the effectiveness of the PGMA G300-2018 voluntary standard. PGMA states that the time they expect will be needed for CPSC to fulfill their intended FOIA request and for PGMA to perform its calculations using the information CPSC provides will exceed the time remaining in the current comment period.

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<sup>1</sup> PGMA letter to Ms. Alberta Mills, Secretary of the Commission, dated April 26, 2023. (Document ID CPSC-2006-0057-0120 in [www.regulations.gov](http://www.regulations.gov))

<sup>2</sup> PGMA letter to Mr. John Topping, Directorate for Epidemiology, Directorate for Hazard Analysis, dated April 24, 2023. (Document ID CPSC-2006-0057-0121)

PGMA also references a California regulation for portable generators that, beginning in the 2024 model year, requires reduced emissions of hydrocarbon and nitrogen-oxygen compounds. PGMA states that it needs additional time to collect and aggregate data from its members regarding their estimates of the cost of compliance with the requirements in the SNPR, and the costs of compliance with the requirements of the SNPR in combination with the requirements of the California regulation. PGMA states it then plans to commission and file a cost/benefit analysis independent of the Commission's analysis.

## Staff's Evaluation

In PGMA's extension request, the three documents it cites that are associated with PGMA's promised FOIA request are:

- NIST Technical Note 2048, "*Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators*," June 2019;
- "Revisions to the Plan Documented in NIST Technical Note 2048, *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirements for Portable Generators*," August 2020; and
- "Briefing Package on Assessment for Portable Generator Voluntary Standards' Effectiveness in Addressing CO Hazard, and Information on Availability of Compliant Portable Generators," February 2022.

These documents have been available in the rulemaking docket and/or the Commission's website since their publication in June 2019, August 2020, and February 2022, respectively. Additionally, staff provided PGMA and other stakeholders the links to these documents the same day that each became publicly available, met with PGMA members to answer any clarifying questions they had on the simulation and analysis plan, and received comments on the plan from them. Staff notes that PGMA had ample opportunity to submit a FOIA request relating to any of these documents, and indeed, did submit a FOIA request to NIST in March 2022 to obtain relevant NIST simulation results with a PGMA G300-compliant generator.<sup>3</sup>

Notwithstanding the existing public availability of the information that PGMA requests, CPSC staff responded on May 9, 2023 (TAB C) to PGMA's April 24 letter, and its indication of an upcoming FOIA request. PGMA's April 24 letter seeks information regarding the report, *Non-Fire Carbon Monoxide Deaths Associated with the Use of Consumer Products 2019 Annual Estimate*, and their April 26 extension request suggests interest in additional information about the modeling of 511 fatal incidents in connection with the SNPR. In response to PGMA's April 24 data request, staff's letter notes that the *2019 Annual Estimate* report is based on death certificates and the letter includes a link to the publicly available information regarding the death certificates. Staff further informs PGMA that the *2019 Annual Estimate Report* was not the basis for the analysis in the SNPR. Staff's letter identifies the locations in the publicly available CPSC documents in which the information PGMA seeks about the locations of generators in fatal incidents can be found. Specific data responsive to PGMA's April 26 letter are also provided in TAB C.

The second stated reason PGMA has requested an extension to the comment period involves collecting cost information from its members and conducting cost-benefit analysis. Staff assesses this request is similarly not justified, in that the 60-day comment period provides PGMA and other interested members of the public ample time to assess cost information, particularly

<sup>3</sup> PGMA letter to CPSC staff dated October 27, 2022 (Document ID CPSC-2006-0057-0109 in [www.regulations.gov](http://www.regulations.gov)).

where the staff proposal had been publicly available for 43 days before the Federal Register publication of the portable generator SNPR on April 20, 2023. Further, PGMA and its members have been actively engaged with the same cost issues at least since the Commission's notice of proposed rulemaking on portable generator safety in 2016, and the 2023 SNPR does not introduce any fundamentally different issues.

### **Recommendation**

Based on the factors discussed in staff's evaluation, staff recommends that the Commission deny PGMA's request for an extension of the comment period on the portable generator SNPR. The documents to which PGMA refers and which are the subject of PGMA's data request have been available from CPSC, including on the rulemaking record, for some time. Additionally, CPSC sent a letter on May 9, 2023 to PGMA in response to PGMA's data request that it references in its comment extension request and its April 24 letter. Neither ground provided by PGMA involves extraordinary steps that necessitate a comment period longer than 60 days and a resultant delay in the rulemaking process.

# TAB A



Secretary/Treasurer:  
THOMAS ASSOCIATES, INC.

April 26, 2023

Ms. Alberta Mills  
Secretary of the Commission  
Office of the General Counsel  
Division of the Secretariat  
U.S. Consumer Product Safety Commission

Via Email: [amills@cpsc.gov](mailto:amills@cpsc.gov)

Dear Ms. Mills,

The Portable Generator Manufacturers' Association (PGMA) would like to request a 60-day extension on the deadline for written comments on the on the CPSC [Supplemental Notice of Proposed Rulemaking](#) (SNPR) entitled "Safety Standard for Portable Generators". The requested updated deadline for written comments would be on or about August 19, 2023.

PGMA is a trade association of portable generator manufacturers in the United States. Since our members include the major industry manufacturers of portable generators sold in North America and a significant majority of the industry, we are the recognized voice of the portable generator industry.

Our full member companies include:

- American Honda Motor Co., Inc.
- Champion Power Equipment
- DuroMax Power Equipment
- Firman Power Equipment
- Generac Power Systems
- Harbor Freight Tools USA, Inc.
- JD North America Corp.
- Yamaha Motor Corporation USA

There are two reasons for our request to extend the deadline for written comments that are described below.

The first reason is related to the calculated effectiveness of a G300-compliant portable generator in preventing fatalities and injuries, as shown in Table 2 of the SNPR. Based on

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our estimates, the effectiveness of a G300-compliant portable generator is understated. For example, we estimate that approximately 64 of the 68.50 fatalities that were not averted, of the 511 incidents studied, were due to unrealistic simulation scenarios where the portable generator is started or restarted outdoors, and carbon monoxide still enters the residence. However, in real life, only 8 of the 511 fatal incidents studied occurred while the portable generator was located outside. If the simulation resulted in only 8 fatalities with the portable generator located outdoors, and not 64, then the effectiveness of a G300-compliant portable generator would be over 97%, and not 86.6%. Such a finding would dramatically change the need for a rule, since a voluntary standard would exist that is both effective and has substantial compliance by industry. In addition, many aspects of the SNPR, such as the cost/benefit analysis, would be dramatically changed.

Our assessment that approximately 64 of the 68.50 fatalities that were not averted, due to unrealistic outdoor scenarios, is only an estimate. The method for calculating the effectiveness of both ANSI/PGMA G300-2018 and ANSI/UL 2201-2018 is described in three documents:

- NIST Technical Note 2048 (June 2019)
- Revisions to the Plan Documented in NIST Technical Note 2048 (August 12, 2020)
- Briefing Package on Assessment of Portable Generator Voluntary Standards' Effectiveness in Addressing CO Hazard, and Information on Availability of Compliant Portable Generators (February 16, 2022)

PGMA has studied these documents and has concluded that there is not enough data provided for PGMA to duplicate this calculation. For example, nowhere is it documented, for each of the 511 fatalities studied, which housing model or housing models were assigned to that fatality, and if multiple housing models were assigned, what weight was applied to each. Therefore, the only way for PGMA to make an independent calculation of effectiveness, using the method described by CPSC, is to submit a FOIA request in order to obtain the data that is necessary to make the calculation.

The time required for CPSC to fulfill the above-mentioned FOIA request, in combination with PGMA then performing the necessary calculations, will very likely take longer than the June 20, 2023 deadline for written comments.

The second reason for our request for extension is related to the cost/benefit analysis in the SNPR. For example, PGMA suspects that CPSC's estimate of the per-unit cost of the proposed rule, as shown in Table 7 of the SNPR, is understated.

In addition, the SNPR does not account for a recently enacted California regulation for portable generators that, beginning in the 2024 model year, greatly reduces the permitted emissions of hydrocarbon and nitrogen-oxygen compounds (HC + NO<sub>x</sub>). These requirements, in combination with the additional requirements for reduced carbon monoxide emissions in the SNPR, would likely have a dramatic effect on the cost of portable generators sold in California.

PGMA is currently in the process of collecting aggregated data from our member companies on their estimate of complying with the requirements in the SNPR as well as their estimate of complying with the requirements in the SNPR in combination with complying with the California regulation that will be effective in the 2024 model year.



Following this, PGMA plans to engage an independent third party organization to conduct alternative cost/benefit analyses using the collected data. This will very likely take longer than the June 20, 2023 deadline for written comments.

In closing, PGMA requests that CPSC grant our request for an extension of the deadline for written comments, for the reasons given above.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Harding". The signature is fluid and cursive, with the first name "Joseph" and last name "Harding" clearly distinguishable.

JOSEPH HARDING  
Technical Director  
Portable Generator Manufacturers'  
Association

# TAB B



Secretary/Treasurer:  
THOMAS ASSOCIATES, INC.

April 24, 2023

Mr. John Topping, Directorate for Epidemiology  
Division of Hazard Analysis  
Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Sent via email: [jtopping@cpsc.gov](mailto:jtopping@cpsc.gov)

Dear Mr. Topping,

The Portable Generator Manufacturers' Association (PGMA) has reviewed CPSC's updated *Non-Fire Carbon Monoxide Deaths Associated with the Use of Consumer Products 2019 Annual Estimates* report and would like to provide some additional data for consideration.

CPSC notes in the report that deaths attributed to CO poisoning from portable generators have increased from 2018 to 2019. What is not shown is if the portable generators were misused indoors. We would appreciate additional data that notes the location where the generator was running when the deaths occurred.

PGMA estimates that over 99% of deaths where a generator is used indoors will be prevented with generators that comply with ANSI/PGMA-G300-2018, which became effective after the date range covered by this report. The ANSI/PGMA G300-2018 effective date was March 31, 2020 and, as of 2022, the majority of PGMA members' product lines being manufactured complied with the standard. We anticipate at least 60% of all generators shipped to retailers in the US this year will comply with the CO-shut off components of the standard, helping to decrease future incidents.

As you are aware, PGMA is currently updating its standard to address injury from the misuse of portable generators. The dedication by the industry to continue to address the potential harm caused by the misuse of portable generators in addition to promoting portable generator safety through our [Take it Outside™](#) campaign, will help decrease these incidents. We urge the CPSC to require CO detectors in all homes to help prevent accidents from all of the different products covered in this report.

We would be happy to discuss further.

Sincerely,

SUSAN ORENGA  
Executive Director

SO/sm  
pgma

cc: Janet Buyer, CPSC Staff - [jbuyer@cpsc.gov](mailto:jbuyer@cpsc.gov)  
Austin Schlick, CPSC General Counsel - [ASchlick@cpsc.gov](mailto:ASchlick@cpsc.gov)  
Alexander Hoehn-Saric, CPSC Chairman - [AHoehnsaric@cpsc.gov](mailto:AHoehnsaric@cpsc.gov)  
Richard Trumka, CPSC Commissioner - [rtrumka@cpsc.gov](mailto:rtrumka@cpsc.gov)  
Peter Feldman, CPSC Commissioner - [pfeldman@cpsc.gov](mailto:pfeldman@cpsc.gov)  
Mary Boyle, CPSC Commissioner - [mboyle@cpsc.gov](mailto:mboyle@cpsc.gov)  
Jason Levine, CPSC Executive Director - [jlevine@cpsc.gov](mailto:jlevine@cpsc.gov)

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# TAB C



May 9, 2023

Ms. Susan Orenga  
 Executive Director  
 Portable Generator Manufacturers Association (PGMA)  
 1300 Sumner Ave.  
 Cleveland, OH 44115-2851

SUBJ: Recent PGMA Data Requests

Dear Ms. Orenga:

This letter is in response to two recent requests from PGMA. Your April 24, 2023 letter to John Topping, a Mathematical Statistician in the Division of Hazard Analysis in the Directorate for Epidemiology at the U.S. Consumer Product Safety Commission (CPSC), requested information regarding his report *Non-Fire Carbon Monoxide Deaths Associated with the Use of Consumer Products 2019 Annual Estimates*.<sup>1</sup> The second request, an April 26, 2023 letter from PGMA Technical Director Joseph Harding requested a 60-day extension to the comment period for the Safety Standard for Portable Generators supplemental notice of proposed rulemaking (SNPR, available at 88 Fed. Reg. 24,346).<sup>2</sup> That letter stated that PGMA may submit a FOIA request and implied that the contemplated request would concern 511 fatality scenarios discussed in the SNPR, which housing model or housing models were assigned to that scenario, and if multiple housing models were assigned, what weight was applied to each.

Regarding PGMA's first request, the *Non-Fire Carbon Monoxide Deaths Associated with the Use of Consumer Products 2019 Annual Estimates* report uses death certificates that CPSC obtains from every state and compares them with the complete set of death certificates obtained by the National Center for Health Statistics to estimate the number of non-fire carbon monoxide deaths associated with numerous products under CPSC's jurisdiction. The portion of these death certificates that we are currently able to share outside the agency is available at <https://www.cpsc.gov/Data> in the National Injury Information Clearinghouse. Some content has been withheld from public availability to protect personal privacy and comply with the terms under which these records were obtained. Product code 606 identifies generators and if one further selects the report source of death certificate and ICD External Causes of X47 and Y17 they will see the records used in the computation of the estimates. Death certificates usually do not contain a number of incident-related details (e.g., generator placement) that might

<sup>1</sup> PGMA letter to Mr. John Topping, Directorate for Epidemiology, Directorate for Hazard Analysis, dated April 24, 2023. (Document ID CPSC-2006-0057-0121)

<sup>2</sup> PGMA letter to Ms. Mills, Secretary of the Commission, dated April 26, 2023. (Document ID CPSC-2006-0057-0120 in [www.regulations.gov](http://www.regulations.gov))

be of interest to CPSC or PGMA in connection with analysis of the CO hazard presented by portable generators. As mentioned in the *2019 Annual Estimates* report, however, additional detail obtained through in-depth investigations conducted by CPSC (and other reports received by CPSC) can be used to complement the information reflected in the death certificates. In any event, it should be noted that the analyses relied upon in the SNPR did not use the estimates from the *2019 Annual Estimates* report, but rather specific incidents delineated in the staff briefing package. I would call your attention to pages OS-111 and Table 5 of Tab A in the SNPR briefing package (page OS-144) which provide this information.

In your April 24 letter, you state that you would appreciate additional data that notes the location where the generator was running when the deaths identified in the *2019 Annual Estimates* occurred. For this kind of information, I recommend the [\*Fatal Incidents Associated with Non-Fire Carbon Monoxide Poisoning from Engine-Driven Generators and Other Engine-Driven Tools, 2011–2021\*](#) report. The *Fatal Incidents* report is conservative (i.e., provides counts that are likely less than the actual number of deaths) as it relies only on reports in CPSC's possession (versus extrapolating to estimate the additional deaths not reported to CPSC) and it similarly makes use of details from in-depth investigations. The *Fatal Incidents* report was used as the basis for the Safety Standard for Portable Generators SNPR and despite its earlier publication date includes incident data that occurred more recently (i.e., after 2019). Location information can be found on pages 17-18, 25-27, 34 and 35 of the *Fatal Incidents* report. Additionally, generator location information for fatal incidents during the years 2004 through 2021 appears in the SNPR on pages OS112 and OS144.

The April 26 letter from PGMA to CPSC asserts "nowhere is it documented for each of the 511 fatalities studied which housing model or models were assigned to that fatality, and if multiple housing models were assigned what weight was applied to each." This assertion is mistaken. On February 16, 2022, CPSC published the "[Briefing Package on Assessment of Portable Generator Voluntary Standards' Effectiveness in Addressing CO Hazard, and Information on Availability of Compliant Portable Generators](#)"<sup>3</sup>. This included detailed information in Tab A about exactly how many fatalities were allocated to each of the NIST modelled structures based on the fatal incident data and that partial matches and unknowns were allocated proportionately. These allocations were based on CPSC's examination of the homes based on a mix of non-releasable data (including the address of the incident and confidential police reports) as well as publicly available resources (e.g., real estate listings for ascertaining the layout of the homes). CPSC cannot disclose the addresses or other identifying information for victims obtained under non-disclosure restrictions.

Also in connection with PGMA's April 26 letter, please be aware of CPSC staff's assessment that, using the NIST models, similar differences in fatalities for the G300 standard versus the UL2201 standard exist for every structure type. In the table below,

<sup>3</sup> [https://www.cpsc.gov/s3fs-public/Briefing-Package-on-Portable-Generator-Voluntary-Standards.pdf?VersionId=hLnAkKQ6bCD\\_SKin8RE6Iax.BjZsB5x3](https://www.cpsc.gov/s3fs-public/Briefing-Package-on-Portable-Generator-Voluntary-Standards.pdf?VersionId=hLnAkKQ6bCD_SKin8RE6Iax.BjZsB5x3) (Document ID CPSC-2006-0057-0107 in [www.regulations.gov](http://www.regulations.gov))

the baseline column represents the fatality allocations to structure types based on reports received by CPSC. The columns to the right show what the NIST models would predict to be the number of fatalities for G300 and UL2201 compliant generators, respectively.

<b>Structure</b>	<b>Fatalities in Baseline</b>	<b><u>Estimated Fatalities with PGMA G300 Compliant Generator</u></b>	<b><u>Estimated Fatalities with UL2201 Compliant Generator</u></b>
AH3mod	7.500	0.505	0.000
AH10	4.500	0.203	0.000
AH21	1.000	0.175	0.000
AH34mod	3.000	0.323	0.000
DH1	9.700	1.741	0.000
DH2	12.700	0.156	0.000
DH2mod	2.500	0.471	0.000
DH3	19.733	2.396	0.000
DH5	9.700	0.261	0.007
DH7	24.333	4.520	0.000
DH8	16.833	2.815	0.000
DH10	4.000	0.578	0.000
DH12	5.600	0.872	0.000
DH19mod	17.700	3.365	0.000
DH21	31.400	1.744	0.000
DH21mod	7.233	1.636	0.000
DH24mod	5.200	0.258	0.000
DH27	2.000	0.164	0.031
DH32	7.333	2.691	0.000
DH33mod	7.100	1.256	0.000
DH34	21.600	1.390	0.000
DH41	6.000	0.213	0.000
DH44	1.000	0.157	0.000
DH45	3.000	0.668	0.000
DH45mod	33.400	6.889	0.000
DH52mod	8.333	2.240	0.000
DH56	7.500	0.307	0.001
DH60	9.200	1.877	0.000
DH60mod	3.500	0.668	0.000
DH61	16.700	1.158	0.000
DH61mod	27.900	3.508	0.000
DH63mod1	24.300	1.745	0.000
DH63mod2	7.000	0.454	0.000
DH64	11.100	2.140	0.000

<u>DH81</u>	<u>5.500</u>	<u>0.559</u>	<u>0.000</u>
<u>GAR1</u>	<u>12.900</u>	<u>3.566</u>	<u>0.000</u>
<u>GAR2</u>	<u>13.700</u>	<u>2.280</u>	<u>0.000</u>
<u>GAR3</u>	<u>19.400</u>	<u>7.659</u>	<u>0.000</u>
<u>MH1</u>	<u>15.500</u>	<u>0.817</u>	<u>0.000</u>
<u>MH1mod</u>	<u>64.500</u>	<u>4.071</u>	<u>0.000</u>
<u>Total</u>	<u>511.099</u>	<u>68.497</u>	<u>0.038</u>

Should you have further questions after reviewing this table, more information regarding the structure taxonomy shown in the leftmost column can be found in the CPSC staff's February 16, 2022 briefing package on the SNPR.

Sincerely,

Stephen J. Hanway  
Associate Executive Director  
Directorate for Epidemiology  
U.S. Consumer Product Safety Commission

cc: Jacqueline Campbell, CPSC Voluntary Standards Coordinator