



Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

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 of National Electrical Manufacturers Association for Extension of
Comment Period for Safety Standard for Portable Generators Supplemental
Notice of Proposed Rulemaking

DATE: May 31, 2023

BALLOT VOTE DUE Tuesday, June 6, 2023

On May 19, 2023, the National Electrical Manufacturers Association (NEMA) 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, NEMA states that it supports the request submitted by the Portable Generator Manufacturers’ Association (PGMA) to extend the public comment period deadline.¹ The Commission denied the PGMA request, as well as a substantively identical request for a comment extension from the Truck and Engine Manufacturers’ Association (EMA),² on May 17 and May 18, 2023, respectively.

NEMA also states it needs additional time to prepare comments on the technical feasibility and costs associated with compliance of engine-driven welding power source equipment to the proposed carbon monoxide (CO) emissions limits in the SNPR. NEMA indicates that it submitted a Freedom of Information Act (FOIA) request to CPSC to obtain information regarding engine-driven welding power source incidents referenced in a February 2022 briefing package that assessed the effectiveness of the portable generator voluntary standards.³ NEMA submitted its FOIA request on May 19, 2023.

The February 2022 briefing package was placed in the docket of the portable generators CO emissions rulemaking, and therefore has been available to NEMA in connection with the rulemaking for well over a year. So too, the staff’s draft SNPR, which included engine-driven welding power sources within the scope of the proposed rule, was publicly available for 43 days prior to the Federal Register

¹ PGMA submitted a request for an extension to the comment period for the portable generator SNPR on April 26, 2023.

² EMA submitted its request to extend the portable generator SNPR comment period on May 11, 2023.

³ “Assessment of Portable Generator Voluntary Standards’ Effectiveness in Addressing CO Hazard, and Information on Availability of Compliant Portable Generators,” Feb. 6, 2022.



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publication of the portable generator SNPR on April 20, 2023, which began the public comment period. NEMA therefore had ample notice that welding power sources could be at issue in the rulemaking.

Staff advises that it is unaware of any unique or especially complex technical issues associated with welding generators as compared with portable generators without welding capability. Staff further notes that scope of UL 2201, the voluntary standard upon which the proposed CO emission limits in the SNPR are based, includes welding generators.⁴

Regarding NEMA's FOIA request, staff has identified five incidents discussed in the February 2022 briefing package that are responsive to NEMA's FOIA request. The relevant information cannot be provided to NEMA immediately, however. Pursuant to Section 6(b) of the Consumer Product Safety Act, 15 U.S.C. § 2055(b), the Commission must provide information identifying manufacturers or private labelers to those entities for comment before the Commission can disclose the information, a process that can take at least 15 days. This process is described at <https://www.cpsc.gov/Newsroom/FOIA>.

Staff does not consider the grounds expressed in NEMA's request as justifying a delay to the comment period, and a resultant delay to the rulemaking process. Staff recommends that the Commission deny the request to extend 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 OGC to provide for the Commission's consideration a draft Federal Register notice announcing the extension.

(Signature)

(Date)

- III. Take other action specified below:

⁴ UL 2201, *Standard for Safety for Carbon Monoxide (CO) Emission Rate of Portable Generators*, Second Edition, January 9, 2018



United States
Consumer Product Safety Commission

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(Signature)

(Date)

Attachment: Letter from Spencer Pederson, Senior Vice President, Public Affairs, National Electrical Manufacturers Association, to the Office of the Secretary, CPSC, "Docket No. CPSC-2006-0057, NEPA Comments to 16 CFR Part 1281, Safety Standard for Portable Generators; Supplemental notice of Proposed Rulemaking – Request for Rulemaking Comment Period Extension," May 19, 2023.

**U.S. Consumer Product
Safety Commission**
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Bethesda, MD 20814
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**National Product Testing
& Evaluation Center**
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OR ACCEPTED BY THE COMMISSION

CLEARED FOR PUBLIC RELEASE
UNDER CPSC 6(b)(1)
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National Electrical Manufacturers Association

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The association of electrical equipment
and medical imaging manufacturers
www.nema.org

May 19, 2023

Via electronic submission <https://regulations.gov>

Alberta Mills, Office of Secretary
U.S. Consumer Product Safety Commission
4220 East-West Highway
Bethesda, MD 20814

Re: Docket No. CPSC-2006-0057, NEPA Comments to 16 CFR Part 1281, Safety Standard for Portable Generators; Supplemental Notice of Proposed Rulemaking - REQUEST FOR RULEMAKING COMMENT PERIOD EXTENSION

Dear Ms. Mills:

The National Electrical Manufacturers Association (NEMA) requests a sixty (60) day extension of the public comment period with respect to U.S. CPSC 16 CFR Part 1281, Safety Standard for Portable Generators (the "Rule"); [Supplemental Notice of Proposed Rulemaking \(SNPR\)](#). NEMA also supports the identical request by the Portable Generator Manufacturers' Association (PGMA) and the Outdoor Power Equipment Institute (OPEI) that the CPSC extend the public comment deadline for sixty (60) days, from June 20, 2023 until August 19, 2023.¹

The National Electrical Manufacturers Association (NEMA) represents nearly 325 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems serving building systems, building infrastructure, lighting systems, industrial products and systems, utility products and systems, transportation systems, and medical imaging. Our combined industries account for 370,000 American jobs in more than 6,100 facilities covering every state. These industries produce \$124 billion in shipments and \$42 billion in exports of electrical equipment and medical imaging technologies per year. As manufacturers of engine-driven welding power sources, some NEMA members would be directly affected by the SNPR.

NEMA requests additional time to comment on the scope of the SNPR, which for the first time includes engine-driven welding power sources within the definition of "portable generator." Engine-driven welding power sources were previously exempted by the CPSC in the version of the rule published in the Federal Register in November 2016, and excluded from ANSI/PGMA G300 Safety and Performance of Portable Generators, a voluntary standard for portable generators. Accordingly, NEMA needs the additional time to make thorough and complete comments on the SNPR, including with respect to issues regarding the technical feasibility of compliance of engine-driven welding power with the Rule's proposed carbon monoxide emissions limits and the costs and industry impacts of these new

¹ PGMA April 26, 2023 comment extension request and OPEI May 16, 2023 [comment extension request](#).

requirements. The SNPR contains little to no discussion of engine-driven welding power sources as a product category, and NEMA intends to provide the CPSC with the data it is missing in its analysis. NEMA's request for additional time is particularly important here given that engine-driven welding power sources are industrial in nature and were not expected to be included in a consumer product safety rule that previously exempted these devices from the definition of portable generator.

NEMA has also made a Freedom of Information Act (FOIA) request to the CPSC, so that the Commission may review the records of alleged incidents involving engine-driven welding power sources mentioned in the 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).² Very little information is provided in the briefing package on those incidents and NEMA needed to request those details via FOIA. To that end, NEMA also makes this request to extend the deadline for public comment so that it has the opportunity to review the records produced in response to its FOIA request, gather additional facts, and investigate further as needed. NEMA expects that these activities will take longer than the current June 20, 2023 deadline for comments.

For all of these reasons, NEMA respectfully requests that the CPSC grant its request for an extension of the deadline for written comments.

Sincerely,



Spencer, Pederson
Senior Vice President, Public Affairs
National Electrical Manufacturers Association

cc

Alberta Mills – Secretary, CPSC, Via Email: amills@cpsc.gov

Austin Schlick – General Counsel, CPSC, Via Email: aschlick@cpsc.gov

Cheryl A. Falvey - Counsel for National Electrical Manufacturers Association, Crowell & Moring LLP, Via Email: cfalvey@crowell.com

² NEMA FOIA request No. 23-F-00428, submitted May 18, 2023.