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Consumer Product Safety Commission

Unified Agenda

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Semiannual Regulatory Agenda

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions that the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866. The Commission welcomes comments on the agenda and on the individual agenda entries.

DATES: Comments should be received in the Division of the Secretariat on or before July 24, 2019.

ADDRESSES: Comments on the regulatory flexibility agenda should be captioned, “Regulatory Flexibility Agenda,” and be emailed to: *cpsc-os@cpsc.gov*. Comments may also be mailed or delivered to the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814-4408.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda, in general, contact Adrienne Layton, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408 *alayton@cpsc.gov*. For further information regarding a particular item on the agenda, consult the individual listed in the column headed, “Contact,” for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 to 612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small

businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated, which is likely to have a “significant economic impact” on a “substantial number” of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda also is required to contain the name and address of the agency official knowledgeable about the items listed. Furthermore, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year, and the executive order states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that appeared in the fall 2018 agenda and have been completed by the Commission prior to publication of this agenda. Although CPSC, as an independent regulatory agency, is not required to comply with Executive orders, the Commission does follow Executive Order 12866 regarding the publication of its regulatory agenda.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an

approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

The internet is the basic means through which the Unified Agenda is disseminated. The complete Unified Agenda will be available online at: *www.reginfo.gov*, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Commission’s printed agenda entries include only:

(1) Rules that are in the agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet.

The agenda reflects an assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in law may alter anticipated timing. In addition, no final determination by staff or the Commission regarding the need for, or the substance of, any rule or regulation should be inferred from this agenda.

Dated: March 4, 2019.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
258	Flammability Standard for Upholstered Furniture	3041-AB35
259	Regulatory Options for Table Saws	3041-AC31
260	Portable Generators	3041-AC36

CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
261	Recreational Off-Road Vehicles	3041-AC78

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

258. Flammability Standard for Upholstered Furniture

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 1193; 5 U.S.C. 801

Abstract: In October 2003, the Commission issued an advance notice of proposed rulemaking (ANPRM) to address the risk of fire associated with cigarette and small open-flame ignitions of upholstered furniture. The Commission published a notice of proposed rulemaking (NPRM) in March 2008, and received public comments. The Commission’s proposed rule would require that upholstered furniture have cigarette-resistant fabrics or cigarette and open flame-resistant barriers. The proposed rule would not require flame-resistant chemicals in fabrics or fillings. Since the Commission published the NPRM, CPSC staff has conducted testing of upholstered furniture, using both full-scale furniture and bench-scale models, as proposed in the NPRM. In FY 2016, staff was directed to prepare a briefing package summarizing the feasibility of adopting California’s Technical Bulletin 117–2013 (TB 117–2013) as a mandatory standard. Staff submitted this briefing package to the Commission in September 2016 with staff suggestions to continue developing the ASTM and NFPA voluntary standards. In the FY 2017 Operating Plan, the Commission directed staff to work with the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI), as well as voluntary standards development organizations, to improve upon and further refine the technical aspects of TB 117–2013.

Currently, staff is working with voluntary standards organizations, both ASTM and NFPA, and BEARHFTI to evaluate new provisions and improve the existing consensus standards related to upholstered furniture flammability. Depending upon progress of the various standards, in FY 2019, staff plans to prepare a status briefing package on recent activities.

Timetable:

Action	Date	FR Cite	Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735	Staff Sends Briefing Package to Commission on California’s TB 117–2013.	09/08/16	
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame-Retardant Chemicals.	03/17/98	63 FR 13017	Staff Sends Status Briefing Package to the Commission.	09/00/19	
Meeting Notice	03/20/02	67 FR 12916	<i>Regulatory Flexibility Analysis Required: Yes.</i>		
Notice of Public Meeting.	08/27/03	68 FR 51564	<i>Agency Contact:</i> Andrew Lock, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, <i>Phone:</i> 301 987–2099, <i>Email:</i> alock@cpsc.gov.		
Public Meeting	09/24/03		<i>RIN:</i> 3041–AB35		
ANPRM	10/23/03	68 FR 60629	259. Regulatory Options for Table Saws		
ANPRM Comment Period End.	12/22/03		<i>E.O. 13771 Designation:</i> Independent agency.		
Staff Held Public Meeting.	10/28/04		<i>Legal Authority:</i> 5 U.S.C. 553(e); 15 U.S.C. 2051		
Staff Held Public Meeting.	05/18/05		<i>Abstract:</i> On July 11, 2006, the Commission voted to grant a petition requesting that the Commission issue a rule prescribing performance standards for a system to reduce or prevent injuries from contacting the blade of a table saw. The Commission also directed CPSC staff to prepare an advance notice of proposed rulemaking (ANPRM) initiating a rulemaking proceeding under the Consumer Product Safety Act (CPSA) to: (1) Identify the risk of injury associated with table saw blade-contact injuries; (2) summarize regulatory alternatives; and (3) invite comments from the public. An ANPRM was published on October 11, 2011. The comment period ended on February 10, 2012. Staff participated in the Underwriters Laboratories (UL) working group to develop performance requirements for table saws, conducted performance tests on sample table saws, conducted survey work on blade guard use, and evaluated comments to the ANPRM. Staff prepared a briefing package with a notice of proposed rulemaking (NPRM) and submitted the package to the Commission on January 17, 2017. The Commission voted to publish the NPRM, and the comment period for the NPRM closed on July 26, 2017. Public oral testimony to the		
Staff Sent Status Report to Commission.	01/31/06				
Staff Sent Status Report to Commission.	11/03/06				
Staff Sent Status Report to Commission.	12/28/06				
Staff Sent Options Package to Commission.	12/22/07				
Commission Decision to Direct Staff to Prepare Draft NPRM.	12/27/07				
Staff Sent Draft NPRM to Commission.	01/22/08				
Commission Decision to Publish NPRM.	02/01/08				
NPRM	03/04/08	73 FR 11702			
NPRM Comment Period End.	05/19/08				
Staff Published NIST Report on Standard Test Cigarettes.	05/19/09				
Staff Publishes NIST Report on Standard Research Foam.	09/14/12				
Notice of April 25 Public Meeting and Request for Comments.	03/20/13	78 FR 17140			
Staff Holds Upholstered Furniture Fire Safety Technology Meeting.	04/25/13				
Comment Period End.	07/01/13				

Commission was heard on August 9, 2017. Staff conducted a study of table saw incidents that occurred and were reported through the National Electronic Injury Surveillance System (NEISS) between January 1, 2017, and December 31, 2017. Staff prepared a report summarizing the 2017 study findings. On December 4, 2018, a notice of availability of the 2017 study was published in the **Federal Register**. Staff will prepare a status briefing package on table saws to the Commission in FY 2019.

Timetable:

Action	Date	FR Cite
Commission Decision to Grant Petition.	07/11/06	
ANPRM	10/11/11	76 FR 62678
Notice of Extension of Time for Comments.	12/02/11	76 FR 75504
ANPRM Comment Period End.	12/12/11	
Comment Period End.	02/10/12	
Notice to Reopen Comment Period.	02/15/12	77 FR 8751
Reopened Comment Period End.	03/16/12	
Staff Sent NPRM Briefing Package to Commission.	01/17/17	
Commission Decision.	04/27/17	
NPRM	05/12/17	82 FR 22190
NPRM Comment Period End.	07/26/17	
Public Hearing	08/09/17	82 FR 31035
Staff Sent 2016 NEISS Table Saw Type Study Status Report to Commission.	08/15/17	
Staff Sent 2017 NEISS Table Saw Special Study to Commission.	11/13/18	
Notice of Availability of 2017 NEISS Table Saw Special Study.	12/04/18	83 FR 62561
Staff Sends a Status Briefing Package on Table Saws to Commission.	09/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center,

5 Research Place, Rockville, MD 20850, *Phone:* 301 987-2225, *Email:* cpaul@cpsc.gov.

RIN: 3041-AC31

260. Portable Generators

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 2051

Abstract: On December 5, 2006, the Commission voted to issue an advance notice of proposed rulemaking (ANPRM) under the Consumer Product Safety Act (CPSA) concerning portable generators. The ANPRM discusses regulatory options that could reduce deaths and injuries related to portable generators, particularly those involving carbon monoxide (CO) poisoning. The ANPRM was published in the **Federal Register** on December 12, 2006. Staff reviewed public comments and conducted technical activities. In FY 2006, staff awarded a contract to develop a prototype generator engine with reduced CO in the exhaust. Also in FY 2006, staff entered into an interagency agreement (IAG) with the National Institute of Standards and Technology (NIST) to conduct tests with a generator, in both off-the-shelf and prototype configurations, operating in the garage attached to NIST's test house. NIST's test house, a double-wide manufactured home, is designed for conducting residential indoor air quality (IAQ) studies, and the scenarios tested are typical of those involving consumer fatalities. These tests provide empirical data on CO accumulation in the garage and infiltration into the house; staff used these data to evaluate the efficacy of the prototype in reducing the risk of fatal or severe CO poisoning. Under this IAG, NIST also modeled the CO infiltration from the garage under a variety of other conditions, including different ambient conditions and longer generator run times. In FY 2009, staff entered into a second IAG with NIST with the goal of developing CO emission performance requirements for a possible proposed regulation that would be based on health effects criteria. In 2011, staff prepared a package containing staff and contractor reports on the technology demonstration of the low CO emission prototype portable generator. This included, among other staff reports, a summary of the prototype development and durability results, as well as end-of-life emission test results performed on the generator by an independent emissions laboratory. Staff's assessment of the ability of the prototype to reduce the CO poisoning hazard was also included. In September 2012, staff released this package and solicited comments from stakeholders.

In October 2016, staff delivered a briefing package with a draft notice of proposed rulemaking (NPRM) to the Commission. In November 2016, the Commission voted to approve the NPRM. The notice was published in the **Federal Register** on November 21, 2016, with a comment period deadline of February 6, 2017. In December 2016, the Commission voted to extend the comment period until April 24, 2017, in response to a request to extend the comment period an additional 75 days. The Commission held a public hearing on March 8, 2017, to provide an opportunity for stakeholders to present oral comments on the NPRM.

Two voluntary standards now include requirements intended to address the CO poisoning hazard. In FY 2019 CPSC will solicit public comments on staff's plans to assess the effectiveness of those voluntary standards.

Timetable:

Action	Date	FR Cite
Staff Sent ANPRM to Commission.	07/06/06	
Staff Sent Supplemental Material to Commission.	10/12/06	
Commission Decision.	10/26/06	
Staff Sent Draft ANPRM to Commission.	11/21/06	
ANPRM	12/12/06	71 FR 74472
ANPRM Comment Period End.	02/12/07	
Staff Releases Research Report for Comment.	10/10/12	
Staff Sends NPRM Briefing Package to Commission.	10/05/16	
NPRM	11/21/16	81 FR 83556
NPRM Comment Period Extended.	12/13/16	81 FR 89888
Public Hearing for Oral Comments.	03/08/17	82 FR 8907
NPRM Comment Period End.	04/24/17	
Staff Sends Notice of Availability to the Commission.	07/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Janet L. Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987-2293, *Email:* jbuyer@cpsc.gov.

RIN: 3041-AC36

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Long-Term Actions

261. Recreational Off-Road Vehicles

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 2056; 15 U.S.C. 2058

Abstract: The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. ROVs are motorized vehicles having four or more low-pressure tires designed for off-road use and intended by the manufacturer primarily for recreational use by one or more persons. The salient characteristics of an ROV include a steering wheel for steering control, foot controls for throttle and braking, bench or bucket seats, a roll-over protective structure, and a maximum speed greater than 30 mph. On October 21, 2009, the Commission voted to publish an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**. The ANPRM was published in the **Federal Register** on October 28, 2009, and the comment period ended December 28, 2009. The Commission received two letters requesting an extension of the comment period. The Commission extended the comment period until March 15, 2010. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. On October 29, 2014, the Commission voted to publish an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. The NPRM was published in the **Federal Register** on November 19, 2014. On January 23, 2015, the Commission published a notice of extension of the comment period for the NPRM, extending the comment period to April 8, 2015. Congress directed in fiscal year 2016 and reaffirmed in subsequent fiscal year appropriations that none of the

amounts made available by the Appropriations Bill may be used to finalize or implement the Safety Standard for Recreational Off-Highway Vehicles published by the CPSC in the **Federal Register** on November 19, 2014 (79 FR 68964), (ROV NPRM) until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff ceased work on a Final Rule briefing package in FY 2015 and instead engaged the Recreational Off-Highway Vehicle Association (ROHVA) and Outdoor Power Equipment Institute (OPEI) in the development of voluntary standards for ROVs. Staff conducted dynamic and static tests on ROVs, shared test results with ROHVA and OPEI, and participated in the development of revised voluntary standards to address staff's concerns with vehicle stability, vehicle handling, and occupant protection. The voluntary standards for ROVs were revised and published in 2016 (ANSI/ROHVA 1-2016 and ANSI/OPEI B71.9-2016). Staff assessed the new voluntary standard requirements and prepared a termination of rulemaking briefing package that was submitted to the Commission on November 22, 2016. The Commission voted not to terminate the rulemaking associated with ROVs. Staff continues to monitor and participate in voluntary standards activity related to ROVs.

Timetable:

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	

Action	Date	FR Cite
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	
NPRM Published in FEDERAL REGISTER.	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/22/16	
Commission Decision Not to Terminate.	01/25/17	
Staff is Evaluating Voluntary Standards.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987-2225, *Email:* cpaul@cpsc.gov.

RIN: 3041-AC78

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