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Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Ch. II****Semiannual Agenda and Regulatory Plan**

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commission publishes its semiannual regulatory flexibility agenda in this document. The document also 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 January 27, 2020.

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 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: July 23, 2019.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
413	Flammability Standard for Upholstered Furniture (Reg Plan Seq No. 152)	3041-AB35
414	Regulatory Options for Table Saws (Reg Plan Seq No. 153)	3041-AC31
415	Fireworks Devices	3041-AC35

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
416	Portable Generators	3041-AC36
417	Recreational Off-Road Vehicles	3041-AC78

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

413. Flammability Standard for Upholstered Furniture

Regulatory Plan: This entry is Seq. No. 152 in part II of this issue of the **Federal Register**.

RIN: 3041-AB35

414. Regulatory Options for Table Saws

Regulatory Plan: This entry is Seq. No. 153 in part II of this issue of the **Federal Register**.

RIN: 3041-AC31

415. Fireworks Devices

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 1261
Abstract: Staff prepared a draft advance notice of proposed rulemaking (ANPRM) concerning fireworks devices, requesting comments on whether there is a need for the agency to update and strengthen its regulation of fireworks devices. Staff sent the ANPRM to the Commission for consideration on June 26, 2006. On June 30, 2006, the Commission voted to issue an ANPRM, which was issued on July 12, 2006. The comment period on the ANPRM closed on September 11, 2006. In June 2011, the Commission directed staff to review progress made since the issuance of the FY 2006 ANPRM regarding consumer fireworks regulations. In FY 2012, staff concentrated efforts on developing an updated test method to evaluate aerial firework break charge energy release, assess potential hazards to consumers associated with “adult snapper” fireworks, and propose appropriate solutions. In January 2013, October 2013, and February 2014, staff released status reports providing information regarding staff’s fireworks research. In the FY 2015 Operating Plan, the Commission directed staff to conduct a rule review of the current fireworks regulations. Staff sent a briefing package to the Commission on December 30, 2015, responding to the Commission’s request for a rule review. Staff sent a draft NPRM and briefing package to the Commission on December 14, 2016. The Commission held a briefing on the matter on January 11, 2017. On January 25, 2017, the Commission voted to issue

the NPRM. The NPRM was published on February 2, 2017. The comment period on the NPRM closed on July 17, 2017. CPSC received more than 2,400 written comments. The Commission provided an opportunity for oral presentation of comments on March 7, 2018. Staff sent the final rule briefing package to the Commission on September 26, 2018. The Commission held a public briefing on the matter on October 3, 2018. The next expected action is the Commission’s decision on the draft final rule.

Timetable:

Action	Date	FR Cite
Staff Sent Draft ANPRM to Commission.	06/26/06	71 FR 39249
Commission Decision.	06/30/06	
ANPRM	07/12/06	
ANPRM Comment Period End.	09/11/06	
Staff Released a Fireworks Safety Standards Development Status Report.	01/31/13	
Staff Released a Fireworks Safety Standards Development Status Report.	10/23/13	11/24/14
Staff Released Fireworks Safety Standards Development Status Report Draft.	11/24/14	
Staff Sent Briefing Package to Commission with Rule Review Recommendations.	12/30/15	
Staff Sent Draft NPRM to Commission.	12/14/16	82 FR 9012 82 FR 17947
Commission Decision.	01/25/17	
NPRM	02/02/17	
Comment Period Extended.	04/18/17	83 FR 5056
Comment Period End.	07/17/17	
Notice of Opportunity for Oral Presentation of Comments.	02/05/18	

Action	Date	FR Cite
Staff Sent Final Rule Briefing Package to Commission.	09/26/18	
Commission Decision.	11/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Rodney Valliere Ph.D., Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2526, Email: rvalliere@cpsc.gov.

RIN: 3041-AC35

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Long-Term Actions

416. 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.

In 2018, two voluntary standards adopted different CO mitigation requirements intended to address the CO poisoning hazard associated with portable generators. In FY 2019 CPSC will solicit public comments on staff's plans to assess the effectiveness of those requirements through a **Federal Register** notice containing a Notice of Availability of two NIST reports co-authored by CPSC staff and soliciting comments on the one containing staff's plan, NIST Technical Note 2048, *Simulation and Analysis Plan to Evaluate the Impact of CO Mitigation Requirement for Portable Generators*. On July 2, 2019, the Commission voted to approve the publication of the **Federal Register** notice as drafted and it was published in the **Federal Register** on July 9, 2019, opening a 60-day

comment period on TN 2048 that ends on September 9, 2019.

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	
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.	06/26/19	
Commission Decision.	07/02/19	
Notice of Availability.	07/09/19	84 FR 32729
Staff Sends Briefing Package to the Commission.	11/00/20	

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

417. 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 rollover 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	

Action	Date	FR Cite
Commission Decision Not to Terminate.	01/25/17	
Staff is Evaluating Voluntary Standards.	11/00/20	

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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