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U.S. Consumer Product Safety Commission
Office of the Secretary
4330 East West Highway, Room 820
Bethesda, MD 20814

Submitted via www.regulations.gov.

**Comments of Consumers Union and the Consumer Federation of America to the
U.S. Consumer Product Safety Commission on the
Notice of Proposed Rulemaking: Safety Standard for Portable Generators¹
Docket No. CPSC-2006-0057**

Consumers Union, the policy and mobilization arm of Consumer Reports,² and the Consumer Federation of America³ welcome the opportunity to comment on the notice of proposed rulemaking by the U.S. Consumer Product Safety Commission (CPSC) to establish a safety standard addressing the risk of carbon monoxide (CO) poisoning from portable generators. We appreciate the work accomplished thus far by the agency to research the carbon monoxide hazard, and strongly support the continued development of a mandatory safety standard.

The CPSC has been taking various steps to make portable generators safer. The agency has long urged consumers never to operate a portable generator inside or too close to the house—a message our organizations also have communicated, including through Consumer Reports articles, videos, and public outreach, often timed to snow season or hurricane season.

¹ 81 Fed. Reg. 83556-83615 (Nov. 21, 2016).

² Consumers Union is the policy and mobilization arm of Consumer Reports, an independent, nonprofit organization that works side by side with consumers to create a fairer, safer, and healthier world. As the world's largest independent product-testing organization, Consumer Reports uses its more than 50 labs, auto test center, and survey research center to rate thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

³ The Consumer Federation of America (CFA)—a research, advocacy, education, and service organization—is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. Today, nearly 300 of these groups participate in the federation and govern it through their representatives on the organization's Board of Directors.

For example, Consumer Reports published stories featuring this critical advice on November 3, 2016, and February 3, 2017.⁴

Additionally, starting ten years ago, the CPSC required a clear label on portable generators that warns consumers, in appropriately descriptive and severe terms, about the deadly risks of operating the product in the wrong place. Our organizations support this label, and in our own work, we always consider it important for us to urge consumers to heed safety instructions and to be responsible for the safe use of products.

However, as the incident data make tragically clear, education and warning labels alone are not enough to protect consumers from carbon monoxide poisoning. With an average of about 70 deaths and several thousand non-fatal injuries annually, we strongly agree with the Commission that performance requirements are needed—and they are needed without any further delay.

Overview

Consumer Reports periodically tests and rates generators, including portable generators, and is exploring potential changes to the testing to account for portable generators' carbon monoxide emissions.⁵ Consumer Reports and the Consumer Federation of America agree that consumers deserve the opportunity to have independently-evaluated, comparative information about this aspect of the product, and to know which models perform better within a class of generators.

While we fully recognize that the risk of poisoning from carbon monoxide depends on many factors, including the generator's placement and the local airflow, reducing CO emissions can be a feasible and effective way to reduce the risk. Consumers who want to know which models have lower CO emissions and want to use this information as part of their purchasing decision should have the ability to do so. This would empower individual consumers and help shape the marketplace.

We also recognize, though, that effective safety standards are those which apply across the marketplace. Substantial compliance is an important component in maximizing the number of injuries and deaths prevented. It also is important to promote a level playing field for the businesses that make up an industry, so that marketplace competition is fair and leads to safer

⁴ "Portable Generators Would Become Safer Under Proposed New Rules," Consumer Reports (Nov. 3, 2016) (online at www.consumerreports.org/generators/portable-generators-would-become-safer-under-new-rules); "Need a Generator in a Hurry? Here's What To Do." Consumer Reports (Feb. 3, 2017) (online at www.consumerreports.org/generators/dont-wait-for-power-outage-to-set-up-a-generator).

⁵ Consumer Reports' overall score is based on power delivery (the wattage delivered and how well it handled surges), power quality (the ability to deliver power smoothly with consistent voltage), noise level, ease of use (including starting, transport, and helpful features, such as fuel shutoff), and run time range (our average of how long a generator ran over various loads). Recommended generators produce smooth, steady power for refrigerators, well pumps, and other home items without losing voltage under load, and most shut off automatically if engine oil is low. Consumer Reports also identifies "CR Best Buys" that blend performance and value.

products that also provide a meaningful value to consumers.

Accordingly—and especially given the inadequacy of current voluntary standards—we support the proposed rule, and urge the Commission to keep moving forward on its development of a mandatory safety standard. In addition to limiting CO emissions in products covered by the rule, we also encourage the agency to consider the potential role of a shutoff mechanism as a failsafe. A comprehensive CO safety standard would include both a prevention-based approach—through emissions reductions—as well as a detection system that can shut down the generator when the CO emissions level exceeds a set limit. The implementation of an emissions reduction approach and a CO detection and shutoff approach should not be considered mutually exclusive, and the safety standard need not incorporate just one. Instead, if both approaches are effective, consumers would be provided the strongest protection from poisoning under a CPSC standard that incorporates both.⁶

As the CPSC continues its work, portable generator manufacturers should deliver product changes—expeditiously and with across-the-board participation—that would meaningfully address the risks of carbon monoxide poisoning, and would further inform the Commission’s safety standard development. In most scenarios, these changes should substantially extend the time consumers have to identify that something is wrong before being exposed to CO levels that seriously injure them—or eliminate the hazard entirely. We look forward to working together with both industry and the CPSC to achieve these changes that would protect consumers from harm.

Specific aspects of the proposed rule

We have several additional comments about various aspects of the proposed rule and the Federal Register notice accompanying it:

- **Purpose:** The purpose of the proposed rule—to set requirements for carbon monoxide emission rates for categories of portable generators—is appropriate for the goal of reducing the unreasonable risk of injury and death associated with these products. We also note that another factor in CO poisoning and death may be the length of the electric cord that connects the generator to a home’s transfer switch. Including ten-foot cords with portable generators may suggest to consumers that they can place their generators close to their homes. In addition to addressing CO levels, banning short cords and requiring cords to be at least 30 or 40 feet long could help reduce the risk to consumers. That length would allow a portable generator to be placed a sufficient distance from the house—space permitting—and provide for around five feet of cord to be routed through a basement window or garage door to reach the transfer switch.

⁶ The CPSC’s consideration of the potential role of a detection and shutoff approach in the standard should not delay the promulgation of a final rule. If additional research is needed, the CPSC should finalize a rule requiring emissions reductions and add a detection and shutoff requirement, if appropriate, at a later date.

- **Scope:** Generally, the scope of the proposed rule is appropriately tailored to products that are portable and are typically used by consumers. However, we recognize that products outside this scope, especially the products listed under items (1) through (8) in § 1241.1(b) that are intended to be used with a vehicle, may pose similar risks to consumers who use them. We encourage careful monitoring of the marketplace for any consumer product that presents an unreasonable risk of injury or death.
- **Compliance dates:** We understand that design modifications may be necessary under the rule, and an effective date that is one year after the final rule is issued therefore may be in the public interest. We also understand that design challenges may be more difficult for smaller units. However, we urge the Commission to set an earlier compliance date for handheld and class 1 generators than three years after publication of the final rule. No justification is given for why such an extended period of time would be necessary for compliance, or why such a delay would outweigh the benefits to the public of the rule. The Commission instead should adopt a compliance date for these smaller products that is, at most, 18 months from the date of the final rule.
- **Findings:** We appreciate that the proposed rule includes appropriate context on incident data, indicating that the documented fatality and injury reports in CPSC databases, including the National Electronic Injury Surveillance System (NEISS), likely represent an underestimate of the true number of fatalities and injuries associated with the risk of generator-related carbon monoxide poisoning. In addition, we agree with the Commission that, under the proposed rule, there may be noticeable, positive changes in the utility of portable generators to consumers, in terms of fuel efficiency and other aspects.
- **Automatic shutoff systems:** In previous comments, including comments on the advance notice of proposed rulemaking, our organizations suggested that automatic shutoff systems were the most promising way to reduce injuries and deaths from carbon monoxide poisoning. This view was based partially on the fact that many generators on the market have a similar system designed to cut off the equipment when it senses that the machine is low on oil. Since many deaths occur from generators running in enclosed spaces, lowering the allowable CO levels may simply serve to increase the amount of time before consumers are exposed to lethal CO levels. This is not trivial—it could save lives and prevent injuries—but if automatic shutoff systems adequately address the risks of carbon monoxide poisoning, then the Commission might be interested in incorporating requirements related to that technology into the standard if it has sufficient hazard reduction value. Of course, the most safety-protective solution would be if industry can lower generator CO emissions *and* have an automatic safety shutoff.
- **Cold start:** While our organizations have not yet tested the CO output of generators during the first few minutes after starting, we do have concerns that these products' emissions may be particularly high following a cold start, and we urge the Commission to account for this concern in the safety standard. Consumer Reports plans to test for CO when testing portable generators in the very near future, and is especially interested in comparing those models that make low-CO claims to each other, and in comparing them

to models that do not. Consumer Reports would test units during cold starts and when they are running at operating temperature, and might look at CO rates and total or maximum CO levels generated from start to finish in an enclosed structure similar to a garage.

- **New marketing claims:** While the proposed safety standard would result in reduced emissions and therefore can be a feasible and effective way to reduce the risk of CO poisoning, we urge the CPSC to evaluate whether some consumers using products marketed with terms like “low CO” or “CO safe” may be more likely to use a portable generator indoors or too close to a home. If so—and if units are not required to have an effective detection and shutoff mechanism which, to reiterate, we support as an addition to the proposed safety standard if it is demonstrated to yield sufficient hazard reduction value—then the agency should carefully consider whether marketing with terms like “low CO” or “CO safe” conflicts with the existing warning label in a manner that is misleading to consumers and could give them a dangerous misapprehension about where they can use the product.
- **Voluntary standards:** Although we would look forward to working with industry and the CPSC in any venue that would facilitate substantial advances for consumers’ safety, we agree with the Commission that the voluntary standards UL 2201 and ANSI/PGMA G300-2015 are inadequate because they do not sufficiently address the risk of carbon monoxide poisoning beyond the CPSC mandatory labeling requirement.
- **Least burdensome requirement:** While we recognize that regulatory alternatives can change as previously unknown facts come to light—including, for instance, the existence of new technologies effective at reducing a hazard—we consider the Commission’s reasoning appropriate that leads it to conclude preliminarily that none of the less-burdensome alternatives to this rule would adequately reduce the risk of injury.

Thank you for your consideration of our comments. We look forward to continuing to work with the Commission, CPSC staff, manufacturers, and other stakeholders to make portable generators safer for consumers nationwide.

Respectfully submitted,

William Wallace
Policy Analyst
Consumers Union

Rachel Weintraub
Legislative Director and
General Counsel
Consumer Federation of America

Mark Connelly
Senior Director
Product Testing
Consumer Reports

John Galeotafiore
Associate Director
Home Improvement
Consumer Reports