

express permission of the of the General Counsel or appropriate agency counsel.
(2) [Reserved]

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■ 5. Amend § 15.14 by removing and reserving paragraphs (b) and (d) and by revising paragraphs (f)(1), (g) introductory text, (g)(1) and (2) to read as follows:

§ 15.14 Demand for testimony or production of documents in matters in which the United States is not a party.

* * * *

(f) * * *
(1) Decline to answer on the grounds that such testimony is prohibited; and

* * * *

(g) *Expert or opinion witness.* (1) Current employees, with or without compensation, shall not provide expert or opinion testimony in any legal proceedings regarding Department information, subjects, or activities except on behalf of the United States or a party represented by the United States Department of Justice, unless they receive a prior authorization in writing from the General Counsel or appropriate agency counsel.

(i) If, while testifying in any legal proceeding, an employee is asked for expert or opinion testimony regarding official information, subjects, or activities, which testimony has not been approved in advance in accordance with the regulations in this subpart, the witness shall:

(A) Decline to answer on the grounds that such expert or opinion testimony is forbidden by the regulations in this subpart; and

(B) Request an opportunity to consult with the General Counsel or appropriate agency counsel before giving such testimony.

(C) [Reserved]

(ii) If the body conducting the proceeding then orders the witness to provide expert or opinion testimony regarding official information, subjects, or activities without the opportunity to consult with either the General Counsel or appropriate agency counsel, the witness shall decline to comply with that order.

* * * *

■ 6. Amend § 15.15 by revising paragraphs (a), (b), and (c) to read as follows:

§ 15.15 Demand for testimony or production of documents in matters in which the United States is a party.

* * * *

(a) *Demand not from the United States.* For demands for documents from, or testimony of an employee of the

Department, from an entity other than the United States pursuant to a legal proceeding in which the United States is a party, the demand must be in writing and signed, delivered in accordance with § 15.13(b), setting forth the information required in § 15.14(a), and copied to the attorneys of record representing or acting under the authority of the United States in the legal proceeding.

(b) *Demand from the United States.* When a demand for documents from, testimony of, or consultation with an employee of the Department comes from an attorney representing or acting under the authority of the United States concerning a legal proceeding in which the United States is a party, every such demand should be accompanied by a statement setting forth the legal proceeding, the forum, the United States' interest in the legal proceeding, and the relevance and use of the requested documents or testimony. Where appropriate, the General Counsel or appropriate agency counsel may require reimbursement to the Department of the expenses associated with a Department employee giving testimony or providing consultation on behalf of the United States.

(c) *Expert or opinion witness.* In a legal proceeding in which the United States is a party, a current Department employee may not testify as an expert or opinion witness for any other party other than the United States. However, a former employee may provide opinion or expert testimony for a party other than the United States under the same conditions set out in § 15.14(e)(2).

§ 15.18 [Removed and Reserved]

■ 7. Remove and reserve § 15.18.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1461

[Docket No. CPSC–2022–0017]

RIN 3041–AE27

Interpretation of “Flammable Liquid Fuels” With Respect to Fuel Additives

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; interpretation.

SUMMARY: The Consumer Product Safety Commission (CPSC) is issuing an interpretive rule that interprets the phrase “flammable liquid fuels” as used in the Portable Fuel Container Safety

Act of 2020 (PFCSA). Consistent with the plain language of the statute, the Commission interprets this phrase not to include fuel additives that are intended to be added to flammable liquid fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or some similar purpose unrelated to creating heat or power.

DATES: The rule is effective on October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Matthew A. Campbell, General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–0124; email: mcampbell@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. PFCSA

The PFCSA required the Commission to promulgate, not later than 30 months after December 27, 2020, a final rule to require flame mitigation devices in portable fuel containers that impede the propagation of flame into the container. 15 U.S.C. 2056d(b)(1). However, the Commission was not required to promulgate a final rule for a class of portable fuel containers within the scope of the PFCSA if the Commission determined that existing voluntary standards met certain requirements under the statute and published those determinations in the **Federal Register**. 15 U.S.C. 2056d(b)(3). Pursuant to the PFCSA, once the Commission made such a determination with respect to a voluntary standard, the requirements of that voluntary standard shall be treated as a mandatory consumer product safety rule. 15 U.S.C. 2056d(b)(4).

On January 13, 2023, the Commission published favorable determinations under section 2056d(b)(3)(A) of the PFCSA regarding three voluntary standards for portable fuel containers: ASTM F3429/F3429M–20, ASTM F3326–21, and section 18 of ANSI/CAN/UL/ULC 30:2022 (UL 30:2022). 88 FR 2206. Since the Commission's January 2023 determinations, ASTM F3429/F3429M–20 has been updated twice. In October 2023, the mandatory standard was updated to ASTM F3429/F3429M–23 and CPSC codified this standard in the Code of Federal Regulations (88 FR 74342, October 31, 2023), and in April 2024, the mandatory standard was updated to ASTM F3429/F3429M–24 (89 FR 34102, April 30, 2024). Pursuant to the PFCSA, each revised voluntary standard became enforceable as a

mandatory consumer product safety rule, in place of the prior version of the voluntary standard, because the Commission found that each revised voluntary standard met the requirements of the PFCSA. 15 U.S.C. 2056d(b)(5). The Commission has codified the current version of each voluntary standard that is mandatory standard under the PFCSA in 16 CFR part 1461.

B. Statutory Definition of Portable Fuel Container

The PFCSA defines the term “portable fuel container” as any container or vessel (including any spout, cap, and other closure mechanism or component of such container or vessel or any retrofit or aftermarket spout or component intended or reasonably anticipated to be for use with such container):

- intended for *flammable liquid fuels* with a flash point less than 140 degrees Fahrenheit, including gasoline, kerosene, diesel, ethanol, methanol, denatured alcohol, or biofuels;
- that is a consumer product with a capacity of 5 gallons or less; and
- that the manufacturer knows or reasonably should know is used by consumers for transporting, storing, and dispensing flammable liquid fuels.

15 U.S.C. 2056d(b)(8) (emphasis added). The statute does not expressly address whether the phrase “flammable liquid fuels” includes fuel additives that have a flash point less than 140 degrees Fahrenheit and are intended solely to improve engine performance, clean engine components, extend engine life, stabilize fuel, prevent weather effects from fuel, or serve another purpose unrelated to creating heat or power.

C. Fuel Additives Under the PFCSA

On May 24, 2022, the Commission published a notice of availability requesting public comment on staff’s voluntary standards evaluation under the PFCSA. 87 FR 31540. In response to the notice of availability, two commenters asked the Commission to clarify whether fuel additives are considered fuel under the statutory definition of portable fuel containers in the PFCSA. In the January 2023 determinations notice, the Commission published CPSC staff’s response to these comments, stating:

The PFCSA defines “portable fuel containers” as products “intended for flammable liquid fuels with a flash point less than 140 degrees Fahrenheit, including gasoline, kerosene, diesel, ethanol, methanol, denatured alcohol, or biofuels.” 15 U.S.C. 2056d(b)(8)(A). Fuels generally are considered substances that can be burned to

release energy, and liquids with a flash point below 140 degrees Fahrenheit are, by the definition of flash point, capable of being burned at that temperature. Staff assessed all known flammable liquid fuels with a flash point less than 140 degrees as part of the evaluation of the voluntary standards under the PFCSA. Accordingly, *while classification of a particular container for purposes of the PFCSA is case-specific, as a general matter, when a liquid with a flash point less than 140 degrees Fahrenheit is intended to be used as, or in, a fuel mixture to support combustion, it is a fuel under the definition of “portable fuel containers” as indicated in the PFCSA.*

88 FR 2209 (emphasis added).

In December 2024, the fuel additive manufacturer Auto-Mark, Inc. d/b/a Sea Foam Sales Company (Sea Foam) filed suit in the U.S. District Court for the District of Minnesota, asserting that the PFCSA should not be interpreted to include Sea Foam’s fuel additives. *Auto-Mark, Inc. v. Consumer Prod. Safety Comm’n*, 2025 U.S. Dist. LEXIS 183107* (D. Minn. Sept. 18, 2025). Sea Foam stated that its products should not be considered “fuel” because they do not create heat or power on their own and instead are used to clean the components of fuel and oil systems. *Id.* at *27. In September 2025, the court in an unpublished order noted that the dictionary definitions of “fuel” include “combustible matter used to maintain fire, as coal, wood, oil, or gas, in order to create heat or power” and “a material used to produce heat or power by burning.” *Id.* The court concluded that, “[g]iven the record presented at this time, the fuel-additive products at issue do not meet the dictionary definitions of ‘fuel’” *Id.*

II. Description of the Interpretive Rule

As noted above, the Commission previously published in the **Federal Register** staff’s response to comments concerning the status of fuel additives under the PFCSA, which stated that “while classification of a particular container for purposes of the PFCSA is case-specific, as a general matter, when a liquid with a flash point less than 140 degrees Fahrenheit is intended to be used as, or in, a fuel mixture to support combustion, it is a fuel under the definition of ‘portable fuel containers.’” 88 FR 2209. In light of the statutory text, the ordinary meaning of the term “fuel,” and the considerations discussed above, the Commission concludes this term in the Portable Fuel Container Safety Act does not encompass fuel additives that are intended solely to perform maintenance or performance-enhancing functions rather than to create heat or power. The Commission’s prior interpretation was articulated in January 2023, when the prevailing law under

Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc. was that courts must defer to an agency’s reasonable interpretation of an ambiguous statute that it administers. 467 U.S. 837 (1984). However, the Supreme Court subsequently overturned *Chevron* and articulated a new legal standard in *Loper Bright Enters. v. Raimondo*, which holds that “Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” 603 U.S. 369 (2024). Thus, even if the Commission disagreed about the best interpretation of “fuel” under the Act (which it does not), the ultimate authority for interpreting the Act lies with the courts. And, as noted above, the District Court has provided its interpretation.

Consistent with this interpretation, the Commission amends 16 CFR part 1461, “Portable Fuel Container Safety Act Regulation” by adding a new paragraph (b) to section 1461.2, Definition, which states that the Commission does not interpret the phrase “flammable liquid fuels” in the statutory definition of portable fuel container in paragraph (a) of section 1461.2 to include fuel additives that are intended to be added to liquid flammable fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or another purpose unrelated to creating heat or power.¹ This new paragraph is being added to section 1461.2 to inform the public that the Commission does not interpret the phrase “flammable liquid fuels” to include fuel additives as described in section 1461.2(b). This additional guidance provides regulatory certainty regarding the Commission’s interpretation of the PFCSA and the products that fall within the scope of the PFCSA, thereby providing clarity to manufacturers, retailers, importers, consumers, and other interested parties.

The interpretive rule does not impose any new legal obligations or substantive requirements on regulated entities. Rather, it explains the Commission’s interpretation of existing statutory language. Because this is an interpretive rule, the Administrative Procedure Act does not require the Commission to issue a notice of proposed rulemaking, and this interpretive rule is effective as of the date of publication in the **Federal Register**. 5 U.S.C. 553(b). This is consistent with the U.S. Attorney General’s definition for interpretative rules, described as “rules or statements

¹ The Commission voted 3–0 to publish this notification.

. . . to advise the public of the agency's construction of the statutes and rules which it administers" (Department of Justice, *Attorney General's Manual on the Administrative Procedure Act*, 30 n.3 (1947)). Additionally, the Commission is not required to conduct a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 604, and this interpretive rule has no preemptive effect. This interpretive rule contains no new information collection requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The Office of Information and Regulatory Affairs has found that this interpretive rule meets the Congressional Review Act criteria at 5 U.S.C. 804(2). However, the Commission has also found that a delayed effective date is impractical and unnecessary for this interpretive rule. 5 U.S.C. 808(2).

III. Burden Reduction

Executive Order 14192, "Unleashing Prosperity Through Deregulation" (E.O. 14192) states the policy of the executive branch "to alleviate unnecessary regulatory burdens placed on the American people." 90 FR 9065, Feb. 6, 2025; signed Jan. 31, 2025. In accordance with E.O. 14192, the Commission is reviewing its regulations to reduce regulatory burdens and costs.

This interpretive rule clarifies that fuel additives intended solely to improve engine performance, clean engine components, extend engine life, stabilize fuel, prevent weather-related degradation, or serve other purposes unrelated to creating heat or power are not "flammable liquid fuels" within the meaning of the PFCSA. Accordingly, portable containers intended solely for such fuel additives are not subject to the flame mitigation device requirements for portable fuel containers in 16 CFR part 1461.

This final rule is a deregulatory action under E.O. 14192. Staff estimates that this clarification avoids approximately \$545.7 million in annual compliance costs that otherwise would be incurred by manufacturers of fuel additive products. Discounted over 10- and 30-year periods using OMB-recommended discount rates of 3 and 7 percent, respectively, the present value of these avoided costs ranges from approximately \$3.8 billion to \$10.7 billion.

By clarifying the proper scope of the statutory definition of "portable fuel container" and eliminating unnecessary compliance obligations for products outside that definition, this interpretive rule advances the policy reflected in E.O. 14192 of reducing unnecessary

regulatory burdens on the American people while faithfully executing the law.

List of Subjects in 16 CFR Part 1461

Consumer protection, Portable fuel containers, Safety.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1461—PORTABLE FUEL CONTAINER SAFETY ACT REGULATION

- 1. The authority citation for part 1461 continues to read as follows:

Authority: 15 U.S.C. 2056d.

- 2. Amend § 1461.2 by adding paragraph (b) to read as follows:

§ 1461.2 Definition.

* * * * *

(b) The Commission does not interpret the phrase "flammable liquid fuels" in the statutory definition of portable fuel container in paragraph (a) of this section to include fuel additives that are intended to be added to flammable liquid fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or another purpose unrelated to creating heat or power.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AF81

Further Definition of "Swap" To Exclude Casino-Style Gambling Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rule; request for comments.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is adopting an interim final rule ("Interim Final Rule") to codify its longstanding position that casino-style gambling products, including wagers placed on sportsbooks and casino games, are excluded from the "swap" definition.

DATES:

Effective Date: This interim final rule is effective October 19, 2026.

Request for comment: Comments must be received by November 18, 2026.

ADDRESSES: You may submit comments, specifically referencing "Further Definition of 'Swap' to Exclude Casino-Style Gambling Products" and RIN 3038–AF81, by any of the following methods:

- **Regulations.gov:** Go to <https://www.regulations.gov> and press the "Search" button, then proceed as follows:

1. Under Refine Documents Results—check the box to "Only show documents open for comment";

2. Under Agency—select "See More" and check the box for "Commodity Futures Trading Commission," then press the Apply button;

3. Identify this proposal in the list of CFTC documents open for comment, press the "Comment" button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this proposal on www.federalregister.gov, click the "Submit A Public Comment" button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to Regulations.gov.

- **Mail:** Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- **Hand Delivery/Courier:** Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through Regulations.gov are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under