



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

MINUTES OF COMMISSION MEETING

April 14, 2021

Acting Chairman Robert S. Adler convened the April 14, 2021, 11:00 a.m., meeting of the U.S. Consumer Product Safety Commission in open session. The meeting was held remotely due to the COVID-19 pandemic. Commissioners Elliot F. Kaye, Commissioner Dana Baiocco and Commissioner Peter A. Feldman were in attendance.

Decisional Matter: Proposed Fiscal Year (FY) 2021 Spending Plan of the American Rescue Plan Act (ARPA) Funds
(Briefing package dated March 31, 2021¹)

Acting Chairman Adler made welcoming remarks and summarized the decisional matter before the Commission (FY 2021 Midyear 2 plan). The Acting Chair further stated CPSC's obligations with respect to the additional funds received by the agency under the American Rescue Plan Act (ARPA) to address product safety concerns associated with the COVID-19 pandemic.

Acting Chairman Adler then introduced staff that was present to address questions from the Commission: Mary Boyle, Executive Director, DeWane Ray, Deputy Executive Director for Operations, Joseph Martyak, Director, Office of Communications, and James Baker, Chief Financial Officer. Additional staff were also available to answer questions as needed.

Acting Chairman Adler advised that each Commissioner would have five minutes to ask questions of staff, with multiple rounds as necessary. Acting Chairman Adler did not have questions for staff and asked each Commissioner if they had questions for staff. Commissioners Kaye and Baiocco did not have any questions for staff. Commissioner Feldman had questions concerning the staffing and communication provisions in the plan. Staff responded to Commissioner Feldman's questions.

Hearing no further questions, Acting Chairman Adler excused staff, and moved that the Commission adopt the FY 2021 Midyear 2 plan as proposed by staff. Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion. Before calling for a vote on the proposed plan, Acting Chairman Adler called for any amendments to the plan. He further

¹ Commissioner Feldman transferred the ballot vote to a decisional meeting on April 8, 2021.

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explained that each Commissioner would have three minutes to describe and explain each amendment.

Acting Chairman Adler, Commissioners Kaye and Baiocco did not have any amendments. After being recognized by the Acting Chair, Commissioner Feldman described and read his first amendment into the record (Feldman #1). The amendment would prohibit compensation for non-government spokespeople including “actors, social media influencers, media personalities, or any other non-government spokespeople” unless such action is approved by a majority Commission vote, or on a pro bono basis. Commissioner Feldman noted that this amendment is similar to his “Feldman #5” amendment that was presented and adopted by the Commission in Midyear 1. Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

Acting Chairman Adler recognized each Commissioner in order of seniority and the Commissioners discussed their respective position on the amendment. Commissioner Feldman responded to questions from the Commissioners. After the discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-1) to adopt the amendment. Commissioners Kaye, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler voted to not adopt the amendment.

Acting Chairman Adler then recognized Commissioner Feldman for his second amendment. Commissioner Feldman described and read his second amendment (Feldman #2) into the record. The amendment would require staff to “include in its weekly Port and Field Staffing report to the Commission information that describes the percentage of consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system that were screened at import for possible violations of CPSC mandatory rules and/or voluntary standards.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commission discussed the amendment and Commissioner Feldman addressed questions from the Commissioners. Acting Chairman Adler called for additional questions and hearing no further discussions, called for a vote on the amendment. The Commission voted (3-1) to not adopt the amendment. Acting Chairman Adler, Commissioners Kaye and Baiocco voted to not adopt the amendment. Commissioner Feldman voted to adopt the amendment.

Acting Chairman Adler then recognized Commissioner Feldman for his third amendment. Commissioner Feldman described and read his third amendment (Feldman #3) into the record. The amendment required that “if, by September 30, 2021, the percentage of consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system that are screened at import for possible violations of CPSC mandatory rules and/or voluntary standards does not meet or exceed 90 percent, staff shall immediately hire, train, and assign up to 10 additional full-time equivalent personnel to be stationed at the highest volume ports of entry in order to achieve the 90 percent screening objective.” Acting Chairman Adler called for a second and Commissioners Kaye and Baiocco simultaneously seconded the motion.

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The Commission discussed the amendment. After discussions, Acting Chairman Adler called for additional questions and hearing none, called for a vote on the amendment. The Commission voted (3-1) to not adopt the amendment. Acting Chairman Adler, Commissioners Kaye and Baiocco voted to not adopt the amendment. Commissioner Feldman voted to adopt the amendment.

Acting Chairman Adler then recognized Commissioner Feldman for his fourth amendment. Commissioner Feldman described and read his fourth amendment (Feldman #4) into the record. The amendment required that “for the duration of the COVID-19 pandemic, staff shall provide, in the weekly Port and Field Staffing Report to the Commission, information regarding the remedial steps taken to mitigate the risks associated with the reduction in Commission port inspection activity during the COVID-19 pandemic, particularly threats to vulnerable populations, especially children and seniors.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commission discussed the amendment. Acting Chairman Adler called for additional questions and, hearing none, called for a vote on the amendment. The Commission voted (3-1) to not adopt the amendment. Acting Chairman Adler, Commissioners Kaye and Baiocco voted to not adopt the amendment. Commissioner Feldman voted to adopt the amendment.

Acting Chairman Adler called for any other amendments or questions and hearing none, called for a vote on the Midyear 2, “Proposed Fiscal Year (FY) 2021 Spending Plan of the American Rescue Plan Act (ARPA) Funds,” as amended. The Commissioners voted unanimously (4-0) to adopt the plan as amended.

Acting Chairman Adler stated that each Commissioner would have 10 minutes for closing remarks. The Commissioners each made brief closing statements.

There being no other business, Acting Chairman Adler adjourned the meeting at 12:07 p.m.

For the Commission:

Alberta Mills
Secretary

Attachment: Commission adopted amendment for the “Proposed Fiscal Year (FY) 2021 Spending Plan of the American Rescue Plan Act (ARPA) Funds” (Feldman #1 - Proposed by Commissioner Feldman).

Other amendments by Commissioner Feldman – Not adopted (Feldman #2, #3, #4).

COPF AMENDMENTS ON PROPOSED FY 21 SPENDING PLAN FOR THE AMERICAN RESCUE PLAN ACT

1. Prohibition on compensation for non-government spokespeople

ADOPTED

Purpose: To eliminate the use of taxpayer dollars to compensate actors, social media influencers, media personalities, or any other non-government spokespeople as a part of CPSC's Office of Communication's public service announcements.

The proposed fiscal year 2021 Spending Plan of the American Rescue Plan Act funds is amended, in Section 4, by inserting, at the appropriate place, the following:

“Prohibition on Compensation for Non-government Spokespeople: With the exception of approved contractors, non-government spokespeople shall not be compensated, directly or indirectly, as part of any project, unless a majority of the Commission approves or the engagement is on a pro bono basis. Any directives governing the use of influencers, supported by a majority of Commissioners, shall supersede this requirement.”

2. Weekly reporting on high-risk screenings required

NOT ADOPTED

Purpose: To ensure transparency in meeting the goals set forward in the port surveillance provisions of Title XX of Division FF of the Consolidated Appropriations Act, 2021, Pub. L. 116-260.

The proposed fiscal year 2021 Spending Plan of the American Rescue Plan Act Funds is amended by inserting, at the appropriate place, the following:

- (1) Staff shall include in its weekly Port and Field Staffing report to the Commission information that describes the percentage of consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system that were screened at import for possible violations of CPSC mandatory rules and/or voluntary standards.

3. Additional port inspectors to meet 90 percent screening objective

NOT ADOPTED

Purpose: To ensure compliance with the objective set forward in the port surveillance provisions of Title XX of Division FF of the Consolidated Appropriations Act, 2021, Pub. L. 116-260.

The proposed fiscal year 2021 Spending Plan of the American Rescue Plan Act funds is amended by inserting, at the appropriate place, the following:

- (1) If, by September 30, 2021, the percentage of consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system that are screened at import for possible violations of CPSC mandatory rules and/or voluntary standards

does not meet or exceed 90 percent, staff shall immediately hire, train, and assign up to 10 additional full-time equivalent personnel to be stationed at the highest volume ports of entry in order to achieve the 90 percent screening objective.

4. Remedial screenings of product inventories that entered the United States during the COVID-19 pandemic **NOT ADOPTED**

Purpose: To ensure transparency in meeting the goals set forward in the port surveillance provisions of Title XX of Division FF of the Consolidated Appropriations Act, 2021, Pub. L. 116-260.

The proposed fiscal year 2021 spending plan of the American Rescue Plan Act funds is amended by inserting, at the appropriate place, the following:

- (1) For the duration of the COVID-19 pandemic, staff shall provide, in the weekly Port and Field Staffing Report to the Commission, information regarding the remedial steps taken to mitigate the risks associated with the reduction in Commission port inspection activity during the COVID-19 pandemic, particularly threats to vulnerable populations, especially children and seniors.