



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

MINUTES OF COMMISSION MEETING

October 16, 2019

Acting Chairman Robert S. Adler convened the October 16, 2019, 10:35 a.m., meeting of the U.S. Consumer Product Safety Commission in open session. Commissioners Ann Marie Buerkle, Elliot F. Kaye, Dana Baiocco and Peter Feldman were in attendance. Acting Chairman Alder made welcoming remarks and summarized the agenda for the meeting.

Decisional Matter: Fiscal Year (“FY”) 2020 Operating Plan (Briefing package dated September 17 2019)

After introducing the matter, Acting Chairman Adler introduced staff present to address questions from the Commissioners. Present to respond to questions was DeWane Ray, Deputy Executive Director for Safety Operations. Acting Chairman Adler advised that each Commissioner would have five minutes to ask questions of staff. The Acting Chairman had no questions for staff and asked each Commissioner if they had any questions for staff. Commissioners Buerkle, Baiocco and Feldman did not have any questions for staff. Mr. Ray responded to questions from Commissioner Kaye.

Acting Chairman Adler then excused staff and called for consideration of the Fiscal Year 2020 Operating Plan as proposed by staff as well as any amendments to the Operating Plan as it was proposed. Acting Chairman Adler did not have any amendments; however, he offered a brief statement regarding his concerns for senior citizen safety and advised of his plan to schedule a public Commission meeting in the near future to discuss the subject.

Acting Chairman Adler then recognized Commissioner Buerkle for any amendments. He advised her that she could take up to three minutes to explain her amendment. Commissioner Buerkle introduced a joint amendment with Commissioner Baiocco (COAB_CODB#1/CODB #1) and read the amendment into the record. The amendment directs staff to draft a Federal Register notice to withdraw the “Guidance Document on Hazardous Additive, Non-Polymeric Organohalogen Flame Retardants (OFRs) in Certain Consumer Products.” The amendment also provided that, if the withdrawal was approved, the corresponding Frequently Asked Questions would be removed from the CPSC’s website.

Acting Chairman Adler called for a second and Commissioner Feldman seconded the motion. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the

amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Kaye voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Buerkle if she had additional amendments. Commissioner Buerkle did not have any other amendments. Acting Chairman Adler then recognized Commissioner Kaye for amendments. Commissioner Kaye described and read his first amendment into the record (COEK/Kaye #1). The amendment states in part “in the Mandatory Standards Summary Table, under the category entitled, ‘Other Ongoing or Potential Rulemaking-Related Activities,’ strike – Stock (15j)” and change ‘NPR’ designation to ‘DA/TR.’” The amendment further states that under the Mechanical Hazards: Rulemaking Activities (General Use Products), the following statement should be added to the end of the project description: “In FY 2020, staff will provide the Commission with a report assessing industry-wide compliance with the current window covering voluntary standard (ANSI/WCMA/ A100.1), the adequacy of the current voluntary standard for addressing all of the hazards associated with window coverings and any technical changes they recommend to address any remaining safety concerns in the voluntary standard.”

The Commissioners moved to consideration of Commissioner Kaye’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners engaged in extensive discussion of the amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Acting Chairman Adler, Commissioners Kaye and Baiocco voted to adopt the amendment. Commissioners Buerkle and Feldman voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Kaye if he had additional amendments and recognized him for his second amendment. Commissioner Kaye described and read his second amendment into the record (COEK/Kaye #2). The amendment states that in “FY 2020, staff will include in its briefing package to the Commission a retrospective review of the voluntary standards for ROV as directed by the Commission in January 2017.” Commissioner Kaye described his rationale for the amendment. Acting Chairman Adler called for a second and Commissioner Baiocco seconded the motion.

The Commissioners moved to consideration of Commissioner Kaye’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After the discussions, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to not adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted not to adopt the amendment. Acting Chairman Adler and Commissioner Kaye voted to adopt the amendment.

Acting Chairman Adler asked Commissioner Kaye if he had additional amendments and recognized him for his third amendment. Commissioner Kaye described and read his third amendment into the record (COEK/Kaye #3). The amendment requires that “in the Mandatory Standards Summary Table, for Crib Bumpers under the category entitled, “CPSIA, as amended by Pub. L. No.112-28, and including Section 104 of the CPSIA,” to strike “FR” and replace with

“DA/TR” [Data Analysis/Technical Review]. Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Kaye’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. Commissioner Kaye described his rationale for the amendment. After the discussions, Acting Chairman Adler called for a vote on the amendment. The Commission voted (4-1) to adopt the amendment. Acting Chairman Adler, Commissioners Buerkle, Kaye and Feldman voted to adopt the amendment. Commissioner Baiocco voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Kaye if he had additional amendments and recognized him for his amendment. Commissioner Kaye described and read his fourth amendment into the record (COEK/Kaye #4). The amendment called for “In FY2020 staff to provide the Commission with a briefing regarding their evaluation of compliance with ATV action plans.” Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Kaye’s amendment. Each Commissioner was recognized in order of seniority for questions. After a brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Kaye if he had additional amendments and recognized him for his amendment. Commissioner Kaye described and read his fifth amendment into the record (COEK/Kaye #5). The amendment called for the last sentence under “Mechanical Hazards” to be replaced with the statement “The project encompasses sports and recreational equipment, household goods, residential elevators, and power equipment.”

The Commissioners moved to consideration of Commissioner Kaye’s amendment. Each Commissioner was recognized in order of seniority for questions. Commissioner Kaye described his rationale for the amendment. After a brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

After the vote, Acting Chairman Adler adjourned the meeting at 11:45 a.m. and stated that the meeting would resume at 12:30 p.m. for additional discussions.

Acting Chairman Adler reconvened the public meeting of the CPSC Operating Plan at 12:40 p.m. and resumed discussions of the agenda topic.

Acting Chairman Adler asked Commissioner Baiocco if she had any amendments and recognized her for her amendment. Commissioner Baiocco described and read her second amendment into the record (CODB #2). The amendment called for the eliminating footnote 2 Budget Table 2: the consumer ombudsman position designated for the Office of the Executive Director. Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco's amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment. Commissioner Baiocco described her rationale for the amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to not adopt the amendment. Acting Chairman Adler, Commissioners Buerkle and Kaye voted not to adopt the amendment. Commissioners Baiocco and Feldman voted to adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her third amendment. Commissioner Baiocco described and read her amendment into the record (CODB #3). The amendment called for the deletion of the helmet petition. It was noted that the petitioner withdrew the petition on September 17, 2019. Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco's amendment. Each Commissioner was recognized in order of seniority for questions. After a very brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her fourth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #4). The amendment required that under "Emerging Hazards", the sentence "The CPSC will also begin exploratory efforts related to the use of artificial intelligence/machine learning in consumer products" be deleted and replaced with "CPSC staff will collaborate with external partners and SDOs to begin exploratory efforts related to the use of artificial intelligence/machine learning in consumer products and identify areas where this technology is applicable to CPSC's mission and commence work in those areas." Acting Chairman Adler called for a second and Commissioner Feldman seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco's amendment. Each Commissioner was recognized in order of seniority for questions. As discussions ensued on the amendment, Commissioner Kaye moved to amend Commissioner Baiocco's amendment "to reflect that the Baiocco amendment be resource neutral relative to this provision of the Operating Plan." Acting Chairman Adler called for a second to Commissioner Kaye's amendment and Commissioner Buerkle seconded the motion. After further discussions, Commissioner Kaye clarified his amendment to Commissioner Baiocco's amendment as intended to "remain resource neutral consistent with dedicated resources for this project. However, if staff wants to write a conforming amendment, I would leave it to them to do it so that it is consistent with the intent of not adding additional resources to this dedicated project."

After the discussions, Acting Chairman Adler called for a vote on Commissioner Kaye's amendment to Commissioner Baiocco's amendment. The Commission voted unanimously (5-0) to adopt Commissioner Kaye's amendment. Acting Chairman Adler then called for a vote on Commissioner Baiocco's underlying amendment. The Commission voted unanimously (5-0) to adopt Commissioner Baiocco's amendment as amended.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her fifth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #5). The amendment required that under “Data Intake and Clearinghouse” add the sentence “To further demonstrate CPSC’s commitment as a data-driven agency, staff will identify, research, and evaluate other sources of data and data intake systems.” Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After extensive discussions, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioners Kaye voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her sixth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #6). The amendment called for the deletion of the Nanotechnology project. Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco’s amendment; however, during the discussions, Commissioner Baiocco withdrew the amendment before a vote was taken.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her seventh amendment. Commissioner Baiocco described and read her amendment into the record (CODB #7). The amendment required the addition of the following sentence under the Burden Reduction project: “In FY 2020, CPSC staff will provide a briefing package with Final Action recommendations for potential determinations for Manufactured Fibers and a briefing package with Final Action recommendations for testing exemptions for Spandex fibers for Commission consideration.”

The Commissioners moved to consideration of Commissioner Baiocco amendment. Each Commissioner was recognized in order of seniority for questions. After a brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Kaye voted to not adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her eighth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #8). The amendment called for the addition of a third bullet under the Information and Education (I&E) Outreach Campaigns to read “Collaboration with

stakeholder groups for I & E activities approved by the Commission.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco’s amendment. Each Commissioner was recognized in order of seniority for questions. After a brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Kaye, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Buerkle voted to not adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her ninth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #9). The amendment calls for the deletion of the statement “Number of collaboration activities initiated with stakeholder group – 55” and the corresponding “Key Performance Measure statement on page 44 (Appendix A)” under the Summary of Key Performance Measures (OCM).

The Commissioners moved to consideration of Commissioner Baiocco’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners briefly discussed the amendment. Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Kaye voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her tenth amendment. Commissioner Baiocco described and read her amendment into the record (CODB #10). The amendment required under FY 2020 Milestone Statement (EXIT), the deletion of the description of “Control ID number 2020M52” and replacement with “Completed update and upgrades to www.SaferProducts.gov, which includes among other things enhancements to user experience, such as making the website mobile-friendly and improving search capabilities.” Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco’s amendment. Each Commissioner was recognized in order of seniority for questions. After a very brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Baiocco if she had additional amendments and recognized her for her eleventh amendment. Commissioner Baiocco described and read her amendment into the record (CODB #11). The amendment required under FY 2020 Milestone Statement (EXIT), the addition of “another row (Control ID number 2020M62) with the following milestone: Completed update and upgrades to CPSC’s website.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Baiocco’s amendment. Each Commissioner was recognized in order of seniority for questions. During discussions,

Commissioner Kaye offered a “friendly amendment” to Commissioner Baiocco’s amendment, as a result, Commissioner Baiocco modified her amendment under the FY 2020 Milestone, to read “Add another row (Control ID number 2020M62) with the following milestone: Completed planned update and upgrades to CPSC’s website.” The Commission briefly discussed the amendment. After the discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

After this vote, Acting Chairman Adler adjourned the meeting at 2:15pm for a brief break and stated the meeting would resume at 2:35 p.m. for additional discussions.

Acting Chairman Adler reconvened the public meeting of the CPSC Operating Plan at 2:40 p.m. and resumed discussions of the agenda topic.

Acting Chairman Adler asked Commissioner Feldman if he had amendments and recognized him for his first amendment. Commissioner Feldman described and read his amendment into the record (COPF #1). The amendment called for “the CPSC, in consultation with the Commission, will allocate resources and one FTE at the discretion of the executive director and without negatively impacting the agency’s safety mission, for the purpose of hiring a Chief Technologist.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment. After several rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments. Commissioner Feldman requested to introduce an amendment identified as his “ninth” amendment (COPF #9) for the sake of convenience, and in light of the similarities between this amendment and his first amendment. After being recognized by Acting Chairman Adler, Commissioner Feldman described and read his amendment into the record. The amendment required that in “FY2020, the CPSC will continue its ongoing efforts to develop an agency wide data management and analytics strategy to support the CPSC mission, and allocate resources and one FTE, in consultation with the Commissioners, at the discretion of the executive director and without negatively impacting the agency’s safety mission, for the purposes of hiring a Chief Analytics Officer.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and their respective position on the amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his

amendment into the record (COPF #2). The amendment requires that bullet 3 under the “FY 2020 Priority Activities” be amended to read: “Focus on potential safety issues with Internet of Things/connected products through continued involvement with the multi-federal agency working group.” Acting Chairman Adler called for a second and Commissioner Baiocco seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After the discussions, Acting Chairman Adler called for a vote on the amendment. The Commission voted (4-1) to adopt the amendment. Acting Chairman Adler, Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Commissioner Kaye voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #3). The amendment required that under “Emerging Hazards”, the paragraph titled “13327- Emerging Hazards” be amended by inserting the words “as directed by the Commission” after “including work on voluntary standards development.” Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted (4-1) to adopt the amendment. Acting Chairman Adler, Commissioners Kaye, Baiocco and Feldman voted to adopt the amendment. Commissioner Buerkle voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #4). The amendment required “25727 – Burden Reduction be amended to read as follows: “This project provides funding for ongoing efforts towards potentially providing meaningful reduction of third party testing costs of children’s products, among other things. Also, CPSC staff will review comments received including but not limited to comments received in response to the June 16, 2017 *Request for Information on Potentially Reducing Regulatory Burdens Without Harming Consumers*, and develop recommendations for Commission consideration, within existing plan resources.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After a brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Buerkle, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Kaye voted not to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #5). The amendment required that under the “FY 2020 Priority Activities,” the following sentence be inserted: “Enforce the Child Nicotine Poisoning Prevention Act, including removal of noncompliant liquid nicotine containers from commerce.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment briefly and described their respective positions on the amendment. After the discussions, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #6). The amendment required that under “FY2020 Priority Activities” the following be inserted where appropriate: “Draft and transmit to the Commission for consideration and approval a plan to reconstitute a children’s product defect team within the Office of Compliance.” Acting Chairman Adler called for a second and Commissioner Kaye seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After vigorous discussions, Commissioner Feldman withdrew this amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #7). The amendment applied to E-commerce Modernization and requires that under “FY 2020 Priority Activities,” in bullet 6, insert “and propose to the Commission for implementation,” after the word “Determine.” Acting Chairman Adler called for a second and Commissioner Buerkle seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective position on the amendment. After a very brief discussion, Acting Chairman Adler called for a vote on the amendment. The Commission voted unanimously (5-0) to adopt the amendment.

Acting Chairman Adler asked Commissioner Feldman if he had additional amendments and then recognized him for his amendment. Commissioner Feldman described and read his amendment into the record (COPF #8). The amendment pertains to the Office of Communications (OCM) and required that under the “FY 2020 Priority Activities” the following sentence be inserted where appropriate: “Upon request by the Commissioner, provide timely updates to the Commission including information to support any safety claim made in OCM

press releases, social media posts, safety campaigns, and other external communications.” Acting Chairman Adler called for a second and Commissioner Baiocco seconded the motion.

The Commissioners moved to consideration of Commissioner Feldman’s amendment. Each Commissioner was recognized in order of seniority for questions. The Commissioners discussed the amendment and described their respective positions on the amendment. After multiple rounds of queries, Acting Chairman Adler called for a vote on the amendment. The Commission voted (3-2) to adopt the amendment. Commissioners Kaye, Baiocco and Feldman voted to adopt the amendment. Acting Chairman Adler and Commissioner Buerkle voted to not adopt the amendment.

After this vote, Acting Chairman Adler adjourned the meeting at 3:15 p.m. for a brief break. Acting Chairman Adler reconvened the public meeting of the CPSC Operating Plan at 3:35 p.m. and resumed discussions of the agenda topic.

Acting Chairman Adler called for any other amendments or motions on the Fiscal Year 2020 Operating Plan. Having heard no further amendments or motions, the Acting Chairman then called for a motion to vote to approve the Fiscal Year 2020 Operating Plan as amended. Commissioner Buerkle moved to approve the operating plan as amended. Commissioner Feldman seconded the motion. The Commission voted (4-1) to adopt the Fiscal Year 2020 Operating Plan as amended. Acting Chairman Adler, Commissioners Buerkle, Baiocco and Commissioner Feldman voted to approve the Fiscal Year 2020 Operating Plan as amended. Commissioner Kaye voted to not approve the Fiscal Year 2020 Operating Plan as amended.

Acting Chairman Adler then proceeded to closing remarks. He informed Commissioners they would have up to 10 minutes per Commissioner for closing remarks. Acting Chairman Adler provided his closing remarks and then recognized each Commissioner. Commissioner Buerkle, Commissioner Kaye, Commissioner Baiocco and Commissioner Feldman each gave brief closing remarks.

There being no other business, Acting Chairman Adler then concluded and adjourned the meeting at 4:55 p.m.

For the Commission:

Abioye E. Mosheim
Assistant General Counsel, o/b/o
Alberta Mills, Secretary

Attachments: Commission Adopted Amendment (Proposed by Commissioners Buerkle and Baiocco #1 (also known as CODB #1))

Commission Adopted Amendments (Proposed by Commissioners Kaye #1, #3, #4, #5)

Commission Adopted Amendments (Proposed by Commissioner Baiocco #1 (also known as COAB-CODB#1), #3, #4, #5, #7, #8, #9, #10, and #11)

Commission Adopted Amendments (Proposed By Commissioner Feldman – #1, #2, #3, #4, #5, #7, #8 and #9)

Proposed Amendment by Commissioner Kaye (#2 not adopted)

Proposed Amendment by Commissioner Baiocco (#2 not adopted)

Proposed Amendment by Commissioner Baiocco (#6 withdrawn)

Proposed Amendment by Commissioner Feldman (#6 withdrawn)

COAB_CODB Amendment No. 1

On page 17 under 23259 Chemical Hazards Rulemaking Activities: Under the subcategory OFRs, add the following at the end:

In FY 2020, staff will present a draft Federal Register notice to withdraw the "Guidance Document on Hazardous Additive, Non-Polymeric Organohalogen Flame Retardants in Certain Consumer Products," 82 Fed. Reg. 45268 (Sept. 28, 2017). If withdrawal is approved by the Commission, the corresponding Frequently Asked Questions on CPSC's website will also be removed.

1. Window Coverings – 15(j) NPR Designation

On page 9, in the Mandatory Standards Summary Table, under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "— Stock (15j)" and change "NPR" designation to "DA/TR."

On page 16, under Project #22667- Mechanical Hazards: Rulemaking Activities (General Use Products), add the following to the end of the project description:

"In FY 2020, staff will provide the Commission with a report assessing industry-wide compliance with the current window covering voluntary standard (ANSI/WCMA A100.1), the adequacy of the current voluntary standard for addressing all of the hazards associated with window coverings and any technical changes they recommend to address any remaining safety concerns in the voluntary standard."

On pages 20-21, in the chart entitled, *FY 2020 Milestone Statement*, add "2020M24: Provided the Commission a report assessing industry-wide compliance with the current window covering voluntary standard (ANSI/WCMA A100.1), the adequacy of the current voluntary standard for addressing all of the hazards associated with window coverings and any technical changes they recommend to address any remaining safety concerns in the voluntary standard."

3. Crib Bumpers – Final Rule Designation in FY 2020

On page 9, in the Mandatory Standards Summary Table, for Crib Bumpers under the category entitled, "CPSIA, as amended by Pub. L. No. 112-28, and including Section 104 of the CPSIA," strike "FR" and replace with "DA/TR."

4. Staff Briefing on Compliance with ATV Action Plans

On page 24, under project #32253 – All Terrain Vehicles (ATVs) (CPSIA § 232): Compliance Enforcement, add the following to the end of the project description:

“In FY 2020, staff shall provide the Commission with a briefing regarding their evaluation of compliance with ATV action plans.”

On page 27, in the chart entitled, *FY 2020 Milestone Statement*, add “2020M34: Provided the Commission with a briefing evaluating ATV action plan compliance.”

5. Residential Elevators Compliance Activity

On page 24, under project #32400 – Mechanical Hazards, strike the last sentence and replace with the following:

“The project encompasses sports and recreational equipment, household goods, residential elevators, and power equipment.”

COMMISSIONER BAIOTTO – AMENDMENTS TO THE FY 2020 OPERATING PLAN

DB01

1. **JOINT – Proposed by Commissioner Baiocco and Commissioner Buerkle**

On page 17 under 23259 Chemical Hazards Rulemaking Activities: Under the subcategory OFRs, add the following at the end:

In FY 2020, staff will present a draft Federal Register notice to withdraw the “Guidance Document on Hazardous Additive, Non-Polymeric Organohalogen Flame Retardants in Certain Consumer Products,” 82 Fed. Reg. 45268 (Sept. 28, 2017). If withdrawal is approved by the Commission, the corresponding Frequently Asked Questions on CPSC’s website will also be removed.

DB03

3. On page 9: Mandatory Standards Summary Table, delete the line for the Helmet Petition

DB04

4. (Amendment language as proposed by CODB)

On page 14, under **13327 – Emerging Hazards:**

- Strike the sentence: “The CPSC will also begin exploratory efforts related to the use of artificial intelligence/machine learning in consumer products.”
- Replace with the following language: “CPSC staff will collaborate with external partners and SDOs to begin exploratory efforts related to the use of artificial intelligence/machine learning in consumer products and identify areas where this technology is applicable to CPSC’s mission and commence work in those areas.”

Commissioner Kaye moved to amend Commissioner Baiocco’s amendment in the following manner:

“I move to amend the Baiocco amendment to reflect that the Baiocco amendment be resource neutral relative to this provision of the Operating Plan.”

After it was seconded by Commissioner Buerkle, there was further discussion.

Before the vote was taken on the amendment to the Baiocco amendment, Commissioner Kaye clarified that his amendment to the Baiocco amendment was intended to:

“[Insert the words remain] resource neutral consistent with dedicated resources for this project. However staff wants to write a conforming amendment. I would leave it to them to do it so that it is consistent with the intent of not adding any additional resources to this dedicated project.”

DB05

5. On page 14, under **13330 – Data Intake and Clearinghouse:** add, “To further demonstrate CPSC’s commitment as a data-driven agency, staff will identify, research, and evaluate other sources of data and data intake systems.”

DB07

7. On page 18, under **25727 – Burden Reduction**: In the second paragraph, in the first sentence, after “Manufactured Fibers” add, “and a briefing package with Final Action recommendations for testing exemptions for spandex fibers.”
 - Full sentence shall read: “In FY 2020, CPSC staff will provide a briefing package with a Final Action recommendations for potential determinations for Manufactured Fibers and a briefing package with Final Action recommendations for testing exemptions for spandex fibers for Commission consideration.”

DB08

8. On page 35, under **42549 – Information and Education (I&E) Outreach Campaigns:** Add a third bullet, “Collaboration with stakeholder groups for I&E activities approved by the Commission.”

DB09

9. On page 36, under **Summary of Key Performance Measures (OCM):** Strike Control ID 2020KM4.3.01 – Number of collaboration activities initiated with stakeholder groups – 55, and delete the corresponding Key Performance Measure statement on page 44 (Appendix A).

DB10

10. On page 40, under **FY 2020 Milestone Statement (EXIT)**: Strike the description for Control ID number 2020M52 and replace with: “Completed update and upgrades to www.SaferProducts.gov, which includes, among other things, enhancements to user experience, such as making the website mobile-friendly and improving search capabilities.”

DB11

11. (Amendment language as proposed by CODB)

On page 40, under **FY 2020 Milestone Statement (EXIT)**: Add another row (Control ID number 2020M62) with the following milestone: Completed update and upgrades to CPSC's website.

(As amended and re-proposed; incorporated as a "friendly amendment")

On page 40, under **FY 2020 Milestone Statement (EXIT)**: Add another row (Control ID number 2020M62) with the following milestone: Completed planned update and upgrades to CPSC's website.

COPF 1

Agency Modernization

At the appropriate place, insert the following:

In FY2020, to expand agency expertise on innovation and the safety implications associated with emerging technologies, the CPSC, in consultation with the Commission, will allocate resources and one FTE, at the discretion of the executive director and without negatively impacting the agency's safety mission, for the purposes of hiring a Chief Technologist.

COPF 2

IoT Working Group

On page 12, under the heading "FY2020 Priority Activities", bullet 3 is amended to read: "Focus on potential safety issues with Internet of Things/connected products through continued involvement with the multi-federal agency working group."

COPF 3

Emerging Hazards

On page 14, the paragraph titled “13327 – Emerging Hazards” is amended by inserting the words “as directed by the Commission” after “including work on voluntary standards development.”

COPF 4

Burden Reduction

On page 18, the paragraph entitled “25727 – Burden Reduction” is amended to read as follows:

This project provides funding for ongoing efforts towards potentially providing meaningful reduction of third party testing costs of children’s products, among other things.

In FY2020, CPSC staff will provide a briefing package with Final Rule recommendations for potential determinations for Manufactured Fibers. Also, CPSC staff will review comments received, including but not limited to comments received in response to the June 16, 2017 *Request for Information on Potentially Reducing Regulatory Burdens Without Harming Consumers*, and develop recommendations for Commission consideration.

COPF 5

CNPPA Enforcement

On page 22, under the paragraph entitled "FY2020 Priority Activities," at the appropriate place, insert the following:

"Enforce the Child Nicotine Poisoning Prevention Act, including removal of noncompliant liquid nicotine containers from commerce."

COPF 7

E-commerce modernization

On page 28, under the paragraph entitled "FY2020 Priority Activities," in bullet 6, insert "and propose to the Commission for implementation." after the word "Determine."

COPF 8

Office of Communications

On page 34, the paragraph entitled "FY2020 Priority Activities," at the appropriate place, insert the following:

"Upon request by any Commissioner, provide timely updates to the Commission including information to support any safety claim made in OCM press releases, social media posts, safety campaigns, and other external communications."

COPF 9

Agency Modernization

At the appropriate place, insert the following:

In FY2020, the CPSC will continue its ongoing efforts to develop an agency wide data management and analytics strategy to support the CPSC mission, and allocate resources and one FTE, in consultation with the Commissioners, at the discretion of the executive director and without negatively impacting the agency's safety mission, for the purposes of hiring a Chief Analytics Officer.

2. ROV Termination Briefing Package

On page 16, under Project #22666 – Mechanical Hazards: Voluntary Codes and Standards, add the following to the end of the project description:

“In FY 2020, staff will include in its briefing package to the Commission a retrospective review of the voluntary standards for ROVs as directed by the Commission in January 2017.”

On pages 20-21, in the chart entitled, *FY 2020 Milestone Statement*, add “2020M25: Provided the Commission a retrospective review of the voluntary standards for ROVs as directed by Commission in January 2017.”

DB02

2. On page 2: Budget Table 2, delete footnote 2, "Includes one FTE for a consumer ombudsman position" and change the number "8" in Column 2, corresponding to the Office of the Executive Director to "7"

DB06

6. ****THIS AMENDMENT WAS PROPOSED, SECONDED, DISCUSSED, AND ULTIMATELY WITHDRAWN. NO COMMISSION VOTE WAS TAKEN****
On page 17, delete project **23704 – Nanotechnology**

COPF 6

Compliance Organization

On page 22, under the paragraph entitled "FY2020 Priority Activities," at the appropriate place, insert:

Draft and transmit to the Commission for consideration and approval a plan to reconstitute a children's product defect team within the Office of Compliance.