



Record of Commission Action
Commissioners Voting by Poll*

Commissioners Voting: Chair Alexander D. Hoehn-Saric
 Commissioner Peter A. Feldman
 Commissioner Richard L. Trumka Jr.
 Commissioner Mary Boyle

ITEM:

CPSC Strategic Plan 2023-2026
(Briefing Package dated December 7, 2022)

DECISION:

The Commission voted (3-1) to approve the CPSC Strategic Plan 2023-2026 with the specified changes described in the attached Commission adopted amendments.

Chair Hoehn-Saric, Commissioners Trumka and Boyle voted to approve the plan with the specified changes.

Commissioner Feldman voted to not approve the plan, and issued a statement with his vote (see attachment).

For the Commission:

Alberta E. Mills
Secretary

*Ballot vote due December 16, 2022
(Chair Hoehn-Saric extended the vote due date from December 13 to December 16, 2022).

Attachments: Commission adopted amendments/specified changes

Statement by Commissioner Feldman

I vote to approve the Strategic Plan 2023-2026 with the following specified changes:

On page OS-8:

Revise opening paragraph below “**CPSC Organizational Structure**” to read:

“The U.S. Consumer Product Safety Commission (CPSC) is a bipartisan commission that is authorized to consist of five members appointed by the President with the advice and consent of the Senate. The chart below depicts the organizational structure of the CPSC:”

On page OS-17:

Under “**Strategy 1.2.2,**” delete “Safety standards” and replace with “Voluntary standards”

On page OS-52:

Revise paragraph under “**Voluntary Standards**” so that it is identical to the language on page 29 of the FY2024 Budget Request (minus sub-headers):

A “voluntary standard” is a technical document that provides performance standards and test methods for consumer product safety. Such standards are reached through a consensus process among industry and a variety of stakeholders, including consumer groups. The CPSC’s statutory authority generally requires the agency to rely on voluntary standards, rather than promulgate mandatory regulations, if compliance with a voluntary standard is likely to eliminate or adequately reduce the risk of injury identified, and it is likely that there will be substantial compliance with the voluntary standard.

The CPSC staff works with organizations that coordinate the development of voluntary standards. Voluntary standards activity is an ongoing process that may involve multiple revisions to a standard within a single year or over multiple years; and staff participation may continue in subsequent years, depending on the activities of the voluntary standards committees and priorities of the Commission.

The CPSC staff participates actively in voluntary standards activities for identified products to improve the performance of the standard in protecting consumers from hazardous consumer products. Active participation extends beyond attendance at meetings, and it may include, among other activities, providing injury data and hazard analyses; encouraging developing or revising voluntary standards; identifying specific risks of injury; performing research; developing health science data; performing laboratory technical assistance; and/or taking other actions that the Commission, in a particular situation, determines may be appropriate.

On page OS-52:

Revise paragraph under “**Mandatory Standards**” so that it is identical to the language on page 26 of the FY2024 Budget Request (minus sub-headers) and renumber footnotes accordingly:

Mandatory regulations are federal rules that define enforceable requirements for consumer products.^[1] Typically, the regulations take the form of performance requirements that consumer products must meet, or warnings they must display, to be imported, distributed, or sold in the United States.

In general, the CPSC may set a mandatory regulation when it determines that compliance with a voluntary standard would not eliminate or adequately reduce a risk of injury or finds that it is unlikely that there will be substantial compliance with a voluntary standard.^[2] The Commission may also promulgate a mandatory ban of a hazardous product when it determines that no feasible voluntary standard or mandatory regulation would adequately protect the public from an unreasonable risk of injury.

On page OS-46:

Delete “Percentage of cases for which a corrective action plan (CAP) is accepted or public notice process initiated within 90 business days” and replace with “Percentage of cases for which a corrective action plan (CAP) is accepted or public notice of hazard is issued within 90 business days”

Delete “Percentage of initial assessments to determine whether to open a civil penalty investigation that are conducted within 90 business days” and replace with “Percentage of initial assessments to determine whether to open a civil penalty investigation that are conducted within 90 days”

^[1] In some jurisdictions outside the U.S., mandatory regulations are called “technical regulations.”

^[2] The CPSIA requires the Commission to promulgate mandatory regulations by adopting existing voluntary standards (in whole or in part) for some products, such as durable infant or toddler products, children’s toys, and all-terrain vehicles (ATVs). For additional information, please refer to the CPSIA at: www.cpsc.gov/regulations-laws--standards/statutes/the-consumer-product-safety-improvement-act.



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN
ON THE CPSC 2023-2026 STRATEGIC PLAN
DECEMBER 16, 2022**

Today, the U.S. Consumer Product Safety Commission (CPSC) voted to finalize the 2023-2026 Strategic Plan. Strategic planning is important to any organization, and when done right, is a critical operational and planning tool. Unfortunately, I could not support finalizing the Strategic Plan because its development was fundamentally flawed.

I have [shared](#) my concerns about the lack of a robust and complete consultation process. Rather than solicit views from diverse stakeholders in formulating this plan, a small group of senior agency career staff developed it without thorough consultation. Instead of engaging in the hard work of drafting a new plan from the ground up and tailoring it to current agency needs, staff recycled most of its work from the previous plan. While the draft plan was ultimately submitted for public comment, I believe we have missed an important opportunity to strengthen our strategic objectives based on a holistic and complete review.

Government strategic planning is mandatory under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010 (GPRAMA). Specifically, GPRAMA requires agencies like CPSC to consult with Congress when developing these plans, “including majority and minority views from the appropriate authorizing, appropriations, and oversight committees.” We did not do this. In addition to developing the Strategic Plan with only certain senior staff, the Commission failed to consult all of the Congressional offices GPRAMA requires. As a result, I believe we missed an opportunity to incorporate important Congressional feedback into our planning. The lack of consultation and failure to follow the statute damages our goodwill and puts at risk our pending requests to fund agency operations at \$196 million.

While I am unable to support this Strategic Plan, I hope that the Commission can learn from this process and, in future plans, engage all staff, Congress, and other stakeholders before an initial draft plan is complete. With all interested parties at the table, I am confident the Commission and the American public would benefit from a stronger plan to strengthen the agency and better protect consumers.