



UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF COMMISSION MEETING

Decisional Matter: FY 2023 Proposed Operating Plan Alignment and Midyear Review **(Briefing package dated March 29, 2023)**

April 26, 2023

Chair Alex Hoehn-Saric convened the April 26, 2023, meeting of the U.S. Consumer Product Safety Commission in open session at 10:00 a.m. The meeting was held remotely and in person at CPSC Headquarters in Bethesda, MD. Commissioners Peter A. Feldman, Richard L. Trumka Jr., and Mary T. Boyle were in attendance.

Chair Hoehn-Saric made welcoming remarks and introduced the decisional matter pending before the Commission. He introduced staff members that were present to address questions from the Commission: Jason Levine, Executive Director; James Baker, Chief Financial Officer; Austin Schlick, General Counsel; Elaine Niedzwiecki, Administrative Officer; and Pamela Stone, Senior Counsel.

Chair Hoehn-Saric advised that each Commissioner would have five minutes to ask questions of staff, with multiple rounds if necessary, followed by consideration of amendments. Before the questioning session, the Chair stated that it was not appropriate to discuss in open session legal advice given to the Commission by the Office of the General Counsel.

The Chair then called for questions for staff. The Chair did not have any questions for staff. Commissioner Feldman had a question for Chief Financial Officer Baker. Commissioner Feldman asked Mr. Baker to speculate how many of the additional projects proposed by staff likely could be funded with the moneys that are expected to be available. Mr. Baker responded that he anticipated sufficient funding for nine or ten of the projects listed in Table 2 of staff's briefing memorandum. Commissioners Trumka and Boyle did not have any questions for staff. Chair Hoehn-Saric excused staff and commenced consideration of the FY 2023 Proposed Operating Plan Alignment and Midyear Review plan as proposed by staff, as well as any amendments to the plan.

Chair Hoehn-Saric introduced a Manager's Amendment that incorporated amendments from Commissioners Boyle and Feldman to provide additional resources for the Office of Compliance and Field Operations and the Office of the General Counsel to add staff and increase

enforcement activities to protect children and other vulnerable consumers. The Manager's Amendment also reflected Commissioner Boyle's interests in developing expertise to manage emerging hazards, particularly in the area of toxicology and PFAS, and in enhancing the commitment to equity in CPSC's data collection, research, and analysis. (See attachments for complete text of Manager's Amendment.)

Chair Hoehn-Saric first recognized Commissioner Boyle to present her portions of the Manager's Amendment (Boyle/Feldman Amendment 1, Boyle Amendment 1, and Boyle Amendment 2). Commissioner Boyle spoke about these amendments, and particularly emphasized her interest in building in-house staff expertise in these areas. Chair Hoehn-Saric then recognized Commissioner Feldman to speak on Boyle/Feldman Amendment 1. Commissioner Feldman noted that he encourages the agency to use all staffing authorities to increase enforcement activities. Chair Hoehn-Saric called for a second for the Manager's Amendment and Commissioner Trumka seconded the motion.

Chair Hoehn-Saric recognized each Commissioner in order of seniority for questions about the amendment, and the Commissioners discussed their respective positions and support for the amendment. After the discussions, the Chair called for a vote on the Manager's Amendment. The Commission voted unanimously (4-0) to adopt the Manager's Amendment.

The Chair then recognized each Commissioner by order of seniority for additional amendments. Commissioner Feldman introduced his first amendment (Feldman 1), which would provide funding for the Office of Communications to conduct a communications campaign regarding carbon monoxide safety. (See attachments for complete text of Feldman 1.)

Chair Hoehn-Saric called for a second and Commissioner Trumka seconded the motion. The Commission discussed the amendment and, hearing no further discussion, the Chair called for a vote on the amendment. The Commission voted unanimously (4-0) to adopt the Feldman 1 amendment.

Chair Hoehn-Saric then invited Commissioner Feldman to present his second amendment (Feldman 2). Commissioner Feldman stated that the amendment was designed to prioritize enforcement of the Small Parts Rule, but that he withdrew the amendment in light of the Manager's Amendment, which allocates increased resources for the Office of Compliance and Field Operations. He stated that he will be monitoring whether there is an ensuing increase in compliance activity in that area. (See attachments for complete text of Feldman 2.)

Chair Hoehn-Saric asked Commissioner Trumka if he had any amendments. Commissioner Trumka responded that he did not. The Chair then asked Commissioner Boyle if she had any additional amendments, and she responded that she did not.

Chair Hoehn-Saric called for any other amendments. Hearing none, the Chair then moved for a vote on staff's draft FY 2023 Proposed Operating Plan Alignment and Midyear Review plan as amended. The Chair called for a second and Commissioner Feldman seconded the motion. The Commission voted unanimously (4-0) to approve the staff's proposed FY 2023 Proposed Operating Plan Alignment and Midyear Review plan as amended.

Chair Hoehn-Saric stated that each Commissioner would have up to 10 minutes for closing remarks. The Chair provided his closing remarks and then recognized each Commissioner in order of seniority. Commissioners Feldman, Trumka, and Boyle each gave closing remarks.

There being no other business, Chair Hoehn-Saric adjourned the meeting at 10:23 a.m.

For the Commission:

Pamela J. Stone
Acting Secretary

- Attachments:
1. Commission Adopted Manager's Amendment
 2. Commission Adopted Amendments Proposed by Commissioner Feldman (Feldman 1)
 3. Amendment Proposed and Withdrawn by Commissioner Feldman (Feldman 2)
 4. Statement by Commissioner Feldman

MANAGER'S PACKAGEAmendments to FY 2023 Proposed Operating Plan Alignment and Midyear Review**Boyle/Feldman Amendment 1:** Enforce New Legal Requirements to Protect Children and Other Vulnerable Consumers

Insert, Ranked as # 1 in Table 2, *Recommended Projects*, (OS 6) a Project titled *Hire Additional EXC and OGC FTEs* in the amount of \$225.

Insert, as Ranked # 1, Table 3, *Project Descriptions*, (OS 6), a Project titled *Hire Additional EXC and OGC FTEs*, in the amount of \$225. The Project Description shall read: As authorized in the FY 2023 Operating Plan, EXC is directed to use all available hiring authorities to hire up to five new full-time-equivalent (FTE) staff to support increased investigation and litigation activity, and OGC is directed to use all available hiring authorities to hire up to one FTE to support this work. The additional positions will enable the Commission to build capacity for enforcement of rules aimed at protecting vulnerable consumers, especially children, from longstanding hazards, including unstable furniture tip-overs, cords on window coverings, ingestion of button and coin cell batteries, and unsafe infant products.

The project is estimated to cost approximately \$225,000, based on an annualization of the \$1,080,000 estimated annual cost for 6 FTEs. Based on the number of FTEs hired in EXC and OGC above current levels in the FY 23 Operating Plan, staff shall present adjusted FTE ceiling levels in the FY24 Operating Plan to reflect the additional FTEs hired as a result of this direction.

Boyle Amendment 1: Developing Expertise to Manage Emerging Hazards – Toxicology

In Table 2, *Recommended Projects*, (OS 6), re-order the priority list to move the project titled *PFAS Toxicity Data Review and Exposure Modeling* so it is ranked immediately below the project titled *Bicycle Engineering Review*.

In Table 3, *Project Descriptions*, (OS-9), re-order the priority list to move the project titled *PFAS Toxicity Data Review and Exposure Modeling* so it is ranked immediately below the project titled *Bicycle Engineering Review*. Revise the corresponding item description to add the following direction to staff: To ensure that CPSC continues to develop expertise on chronic hazards in general, and PFAS in particular, before entering into the proposed contract, staff will present a plan to the Commission for increasing staff levels within CPSC's division of toxicology to address chronic hazards going forward.

Boyle Amendment 2: Embed the Commitment to Equity in Data Collection, Research and Analysis

Insert the following direction following Table 2, *Recommended Projects*, (OS 6): For every EXHR project that is funded, staff is directed to consider, and integrate as appropriate, tools to identify and address disproportionate risk to consumers that may vary according to race, ethnicity, gender, age, socio-economic or disability status.

Insert the following direction below Table 5, *Recommended ARPA Projects*, (OS 9): For every EXHR project that is funded, staff is directed to consider, and integrate as appropriate, tools to identify and address disproportionate risk to consumers that may vary according to race, ethnicity, gender, age, socio-economic or disability status.

COPF Mid-Year Amendments

COPF 1: Providing Resources for Carbon Monoxide Safety Campaign

ADOPTED BY THE COMMISSION

Purpose: To provide funding for the proposed Office of Communications Carbon Monoxide Safety Campaign.

1. On page OS 6, in Table 2, insert the following immediately below the “PFAS Toxicity Data Review and Exposure Modeling” project:

#	OCM	Carbon Monoxide Safety Campaign	\$250
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2. On page OS 9, in Table 3, insert Carbon Monoxide Safety Campaign project description immediately below the “PFAS Toxicity Data Review and Exposure Modeling” project:

#	Carbon Monoxide Safety Campaign	\$250	In response to an increasingly volatile climate producing severe weather events such as hurricanes, winter storms, floods, tornadoes, and wildfires – CPSC will conduct enhanced carbon monoxide safety outreach in targeted areas of the United States. These efforts will have a heightened focus on vulnerable, diverse populations which CPSC data show are disproportionately affected by carbon monoxide poisoning from portable generators.
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3. Make all appropriate conforming changes to the Carbon Monoxide Safety Campaign project rank.

COPF 2: Prioritizing Small Parts Rule Enforcement

WITHDRAWN

Purpose: To prioritize enforcement of the Small Parts Rule.

On page OS 10, after Table 3, insert:

Direction for Staff Using Existing Funds

The Children’s Product Defect Team is directed, using existing funding, to prioritize Notice of Violation issuance to firms that are known violators of 16 C.F.R. 1501 (Small Parts Rule) and/or are believed to market undersized toys, toy accessories, or other products to children under three years of age.



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814
COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN
ON THE FISCAL YEAR 2023 MIDYEAR REVIEW**

APRIL 26, 2023

Today, the U.S. Consumer Product Safety Commission (CPSC) voted unanimously to approve its Fiscal Year 2023 Midyear Review, which aligns CPSC's spending for the remainder of FY 23 with the actual funding we received.

I am pleased that my colleagues accepted an amendment I co-authored with Commissioner Boyle to strengthen CPSC's enforcement and investigation teams. Since joining CPSC, I have worked to provide additional resources for our compliance staff, field investigators, and port inspectors. As a result, the Commission has been more active at building and bringing cases, which is why it is now critical that we continue to grow our compliance capacity. This amendment makes good on a [provision](#) I sponsored last October to prioritize new compliance hires after we received our annual appropriation.

Strengthening our compliance ranks, as this Midyear Review does, will provide our compliance team with the additional resources needed to take actions such as enforcing the Small Parts Rule, which protects young children from choking and suffocation hazards. The recall of Calico Critters animal figures and sets [announced](#) in March was an important step in addressing the dangers that toys with very small pieces can pose. The plan we approved today is the next step in protecting children from these kinds of products.

I am grateful for the unanimous support of my colleagues for another amendment I offered to fund important carbon monoxide (CO) safety outreach. CO poisoning is a serious concern. As the agency [reported](#) just last month, in 2019 there were an estimated 250 unintentional non-fire CO poisoning deaths associated with the use of consumer products. This safety campaign will target populations and areas of the United States, including tribes and tribal lands, that are disproportionately harmed by CO poisoning from consumer products.

There are many other good ideas in this plan, including additional spending to help us understand the dangers posed by lithium-ion batteries used in micro-mobility and other devices. I will continue to work with my colleagues and our staff in the coming months to make sure we are setting the right priorities and providing the resources needed to protect children and other vulnerable groups from unsafe products.