



UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF COMMISSION MEETING

June 1, 2022

Chair Alex Hoehn-Saric convened the June 1, 2022, meeting of the U.S. Consumer Product Safety Commission in open session at 10:00 a.m. The meeting was held remotely. Commissioners Dana Baiocco, Peter A. Feldman and Richard L. Trumka Jr., were in attendance. The Chair made welcoming remarks and summarized the agenda item for the meeting.

Decisional Matter: FY 2022 Midyear Review
(Briefing package dated May 4, 2022)

Chair Hoehn-Saric introduced the decisional matter pending before the Commission and introduced staff that was present to address questions from the Commission: DeWane Ray, Deputy Executive Director, James Baker, Chief Financial Officer, and Austin Schlick, General Counsel.

Chair Hoehn-Saric advised that each Commissioner may 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 any legal advice given to the Commission by the Office of the General Counsel must remain confidential.

The Chair then called for questions for staff. The Commissioners did not have any questions for staff. Chair Hoehn-Saric excused staff and commenced consideration of the FY 2022 Midyear Review plan as proposed by staff, as well as any amendments to the plan. Commissioner Baiocco seconded the motion.

Chair Hoehn-Saric introduced a Manager's Amendment which reflected interest of Commissioners Feldman and Trumka in providing higher priority to the Population Attributable Risk and FOIA projects in Table 2 on Page 5 of the staff briefing package. The amendment directs staff to renumber the priorities and make any additional conforming changes throughout the FY 2022 Midyear Review as needed to comply with the amendment. Chair Hoehn-Saric called for a second and Commissioner Feldman 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 adopted amendment is attached.

The Chair then recognized each Commissioner by order of seniority for additional amendments. Commissioner Baiocco did not have any amendments. Commissioner Feldman introduced his amendment, Feldman #1. Commissioner Feldman described and read his amendment into the record and proceeded to explain the rationale for the amendment. The amendment would "provide 8 full-time equivalent staffers for the office of the Inspector General (OIG) to address the Inspector General's staffing issues ... to achieve its mission." Specifically, the amendment would allow the following: "a. in fiscal year (FY) 2022 to provide the Inspector General the authority to hire up to 8 (eight) full-time-equivalent (FTEs) staff members; and b. in FY2023, permit the Inspector General the authority to maintain up to 8 FTEs."

Chair Hoehn-Saric called for a second and seconded the motion. The Commission discussed the amendment, and hearing no further discussions, the Chair called for a vote on the amendment. The Commission voted (3-1) to not adopt the amendment. Chair Hoehn-Saric, Commissioners Baiocco and Trumka voted to not adopt the amendment. Commissioner Feldman voted to adopt the amendment. The proposed amendment is attached.

Chair Hoehn-Saric then asked Commissioner Feldman if he had additional amendments, to which Commissioner Feldman responded that he did not have additional amendments.

Chair Hoehn-Saric asked Commissioner Trumka if he had any amendments. Commissioner Trumka responded that he had two amendments. The Chair recognized Commissioner Trumka for his first amendment. Commissioner Trumka introduced his first amendment for the record and explained the rationale for the amendment, which would enhance technology currently utilized by staff to sort and analyze data pertaining to product injuries; specifically, "migrate SAS9.4" to "SAS VIYA" to advance the agency's capabilities in data collection and analytics. The amendment would also respond to a directive from Congress to the Commission to fund and improve the agency's data collection and analytical systems. The Chair called for a second to consider the amendment and Commissioner Baiocco seconded the motion.

The Commission discussed the amendment. After the discussions and hearing no further questions, Chair Hoehn-Saric called for a vote on the amendment. The Commission voted (3-1) to adopt the amendment. Chair Hoehn-Saric, Commissioners Baiocco and Trumka voted to adopt the amendment. Commissioner Feldman voted to not adopt the amendment. The Commission adopted amendment is attached.

The Chair recognized Commissioner Trumka for his second amendment. Commissioner Trumka introduced his second amendment for the record and explained the rationale for the amendment, which would "direct the Office of Communications, in consultation with the Division of Human Factors, to conduct a study of consumer behavior regarding recalls and factors relating to consumer willingness to report consumer product injuries... through the use of focus groups of consumers representative of the U.S. population." The Chair called for a second to consider the amendment and Commissioner Baiocco seconded the motion.

Chair Hoehn-Saric recognized each Commissioner in order of seniority for questions, and the Commissioners discussed their respective positions on the amendment. After the discussions, the Chair called for a vote on the amendment. The Commission voted (3-1) to adopt the amendment. Chair Hoehn-Saric, Commissioners Baiocco and Trumka voted to adopt the amendment. Commissioner Feldman voted to not adopt the amendment. The Commission adopted amendment is attached.

Chair Hoehn-Saric called for any other amendments and, hearing none, moved for a vote on staff's draft FY 2022 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 2022 Midyear Review plan as amended.

Chair Hoehn-Saric stated that each Commissioner may have up to 10 minutes for closing remarks. The Chair provided his closing remarks and then recognized each Commissioner. Commissioners Baiocco, Feldman and Trumka each gave closing remarks.

There being no other business, Chair Hoehn-Saric adjourned the meeting at 10:47 a.m.

For the Commission:

Alberta Mills
Secretary

- Attachments:
1. Commission Adopted Manager's Amendment
 2. Commission Adopted Amendments Proposed by Commissioner Trumka
 3. Amendment Proposed by Commissioner Feldman – Not adopted.
 4. Statement by Commissioner Feldman
 5. Statement by Commissioner Trumka

Manager's Amendment to the FY 2022 Proposed Operating Plan Alignment and Midyear Review

Replace existing Table 2 on page 5 with the following new Table 2 and make technical and conforming changes to the detailed project descriptions in Table 3 and elsewhere, as needed:

Table 2. Recommended Projects (dollars in thousands)

Rank	Org	Project	Amount
1	EXRM	Diversity, Equity, and Inclusion Consulting Services	\$500
2	OCM	Website Content Support	\$315
3	OCM	Drowning Prevention Campaign	\$288
4	OCM	Furniture/TV Tip-Over Prevention Campaign	\$66
5	EXHR	Organohalogen Flame Retardants (OFR) Research	\$750
6	OIG	ARPA Spending Oversight	\$150
7	EXHR	Population Attributable Risk	\$75
8	OGC	FOIA Support	\$300
9	EXHR	Electric Heaters	\$125
10	EXHR	Mower Hazard Mitigation	\$400
11	EXHR	Youth ATV	\$880
12	OCM	Hotline	\$300
Total			\$3,699

COPF AMENDMENT #1

NOT ADOPTED BY THE COMMISSION

Providing CPSC’s Inspector General with the Requisite Resources to Conduct Oversight without Additional Spending or Affecting Other Commission Functions

Purpose: To provide 8 full-time equivalent staffers for the Office of the Inspector General (OIG) to address the Inspector General’s staffing issues, and thus to achieve its mission.

- I. Consistent with Section 6(a)(7) of the Inspector General Act of 1978, as amended, staff is directed:
 - a. in fiscal year (FY) 2022 to provide the Inspector General the authority to hire up to 8 (eight) full-time-equivalent (FTEs) staff members; and
 - b. in FY2023, permit the Inspector General the authority to maintain up to 8 FTEs.
- II. Conforming changes and hold-harmless offsets:
 - a. staff shall:
 - i. in Attachment 2, as amended, delete MY#6 (ARPA Spending Oversight) in Table 2;
 - ii. make conforming changes in Table 2; and
 - iii. add one additional FTE to the Commission’s existing FTE total.
 - b. to offset costs associated with the hiring actions in Paragraph I and assure that no other existing FTE or non-OIG spending is affected, staff is authorized to convert funds allocated in the OIG Budget for Contracts & Operating Expenses and Training to Salaries and Expenses.

COPF AMENDMENT #2

NOT OFFERED FOR CONSIDERATION

Increasing Commission Transparency

Purpose: To use resources available as part of the Fiscal Year 2022 Operating Plan Alignment and Mid-Year review to increase agency transparency and address the existing Freedom of Information Act (FOIA) backlog.

In “Attachment 2” “Table 3” move MY#9, FIOA Support, to MY#3 and renumber the remaining projects as appropriate. Staff shall update “Attachment 2” “Table 2” accordingly.

COPF AMENDMENT #3

**NOT OFFERED FOR
CONSIDERATION**

Improving Freedom of Information Act Responsiveness

Purpose: To include performance-based metrics to measure FOIA response timeliness

On page 17, after “Number of Freedom of Information Act (FOIA) request processed” insert “, as follows:”. Below the newly inserted text, add the following table:

Request Type	Processing Timeline
Simple Request	70 days
Complex Request	107 days
Expedited Treatment Request	14 days

Trumka Amendment 1: **ADOPTED BY THE COMMISSION**

On page 11, in Table 4, under “One-Time Costs,” add a project entitled “Migrate SAS 9.4 to SAS VIYA” for \$2.2 million. Also, add the following project description to Table 5, “ARPA Project Descriptions:”

Office	Project	Description	Amount
EXHR	Migrate SAS 9.4 to SAS VIYA	Fund transition of CPSC SAS capabilities to the cloud computing environment, including migrating all existing SAS 9.4 code to SAS VIYA and restore ability to mine text data (\$1,320K) and transition contract support to advance report automation, classification of consumer product incidents, and anomaly detection (\$880K)	\$2,200

Trumka Amendment 2: **ADOPTED BY THE COMMISSION**

On page 11, in Table 4, under “One-Time Costs,” add a project entitled “Consumer Behavior Study” for \$200,000. Also, add the following project description to Table 5, “ARPA Project Descriptions:”

Office	Project	Description	Amount
OCM	Consumer Behavior Study	Direct the Office of Communications, in consultation with the Division of Human Factors, to conduct a study of consumer behavior regarding recalls and factors relating to consumer willingness to report consumer product injuries, including—but not limited to—through the use of focus groups of consumers representative of the U.S. population.	\$200



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN ON
FY 2022 MIDYEAR/ARPA SPENDING PLAN**

June 1, 2022

Today, by a unanimous vote, the Commission approved a spending plan accounting for the difference in the Consumer Product Safety Commission's (CPSC) actual appropriation from what it had anticipated as it planned for fiscal year 2022. Additionally, the Commission approved a list of projects funded with American Rescue Plan Act of 2021 (ARPA) dollars. I supported the plan as it offers several worthwhile projects, but I do have reservations about some of the inclusions, and, importantly, what was excluded.

One of my amendments, which was adopted by the Commission, will ensure funding to meet our Freedom of Information Act (FOIA) obligations and to clear the existing FOIA backlog. For too long CPSC has fallen short in this area. I commend our General Counsel for his commitment to improve the FOIA office, and I look forward to working with him to adopt additional timeliness performance metrics for the coming fiscal year. Ultimately, these efforts will increase transparency and accountability to the American people.

I am concerned that the Commission failed to strengthen our Office of Inspector General (OIG). I offered an amendment that would have authorized OIG to hire one additional staff member rather than spending money on a contract that cannot be executed successfully. My proposal was carefully constructed to hold other Commission operations harmless without requiring any additional spending. While no one is completely satisfied with the appropriation we received from Congress, the budgetary arguments against this amendment do not hold water. I heard the Inspector General loud and clear when he said he could not spend contract dollars responsibly. Rather than take him at his word, my colleagues decided to move forward with a plan that does not fully empower our chief watchdog. I find that outcome unfortunate.

As the Commission continues its work in fiscal year 2022 and beyond, I hope my colleagues will join me in making accountability and transparency a top priority as we work to protect American consumers.



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

COMMISSIONER RICH TRUMKA JR.

CPSC SECURES BIPARTISAN SUPPORT TO MITIGATE CHRONIC HAZARDS, BOLSTER ENFORCEMENT, ANALYZE DISPARATE IMPACT ON DISADVANTAGED GROUPS, AND IMPROVE CONSUMER COMMUNICATION

JUNE 1, 2022

Today, the Commission approved a spending plan for the remainder of Fiscal Year 2022 and directed the agency's use of outstanding American Rescue Plan Act (ARPA) funds. With a shoestring budget, we faced difficult decisions on how best to prioritize among life-saving projects. In each of those decisions we put consumers first.

I am especially proud that we secured bipartisan support for three amendments:

- First, we elevated a cutting-edge tool to assess the impact of chronic hazards, many of which disproportionately hurt low-income communities and communities of color. It will improve how this agency understands and addresses cancers, reproductive system disorders, and developmental delays caused by chemicals in consumer products.
- Second, we adopted an amendment to upgrade the software that the agency uses to process and store data. With this upgrade, the agency will gain new capabilities to mine data for potential product safety violations, so we can judiciously enforce our laws and rules against bad actors. At the same time, it will allow us to drill down into how specific product hazards affect communities of color, low-income Americans, and other vulnerable groups.
- Finally, we are funding consumer behavior research, including focus groups, to improve consumer participation in product recalls and encourage consumers to use a key agency tool for reporting hazardous products: saferproducts.gov.

Six months into my time as a CPSC Commissioner, I am as encouraged as ever that we will continue to do better in our mission to provide confidence that products are safe for consumers and their families.