



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

MINUTES OF COMMISSION MEETING

January 30, 1986

Room 456 - 5401 Westbard Avenue
Bethesda, Maryland

The January 30, 1986, meeting of the U.S. Consumer Product Safety Commission was convened in open session by Acting Chairman Carol G. Dawson. Commissioners Sandra Armstrong, Anne Graham, Terrence Scanlon and Stuart M. Statler were present.

Ballot vote Decision. The following decision made by ballot vote of the Commissioners was placed into the record.

Memorandum of Understanding with EPA on TSCA Section 9 Procedures

The Commission voted to approve a memorandum of understanding with the Environmental Protection Agency (EPA) to establish procedures for the staffs of EPA and CPSC to follow with respect to possible referrals of chemicals to the Commission by EPA in accordance with section 9 of the Toxic Substances Control Act (TSCA). Voting to approve as drafted were Acting Chairman Dawson and Commissioners Graham, Scanlon, and Statler. Commissioner Armstrong voted to approve with certain specific changes.

Agenda Matters.

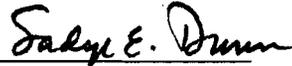
Fiscal Year 1986 Budget/Gramm-Rudman-Hollings

The Commission considered proposals to meet the anticipated sequestration of \$1,548,000 in 1986 Commission funds due to the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). The staff presented a proposed plan of reductions in four fund categories: (1) Operating Costs, 10% across-the-board cut, totaling \$270,000; (2) Common Costs, 5% across-the-board cut, totaling \$181,000; (3) Salaries, based on 542 full-time equivalents (FTE's), to be achieved through a limited hiring policy, totaling \$372,000; and (4) Contracts, eliminating or reducing a sufficient number of contracts to achieve the remaining necessary cost savings, totaling approximately \$725,000.

Following discussion, the Commission voted unanimously (5-0) to accept the staff recommended reduction plan as to operating costs, common costs, and salaries (FTE's). In regard to contracts, the Commission considered and amended, through separate votes, the staff recommended priority list of contract reductions that would be made to the extent to which such reductions are necessary, in order of I. Most Easily Cut; II. Cut with Difficulty; III. Cut with Extreme Difficulty; and IV. Already Obligated/Other. Attached is a copy of the 1986 Contract Reduction Priority List as amended by the Commission.

There being no further business on the agenda, Acting Chairman Dawson adjourned the meeting.

For the Commission:



Sadye E. Dunn
Sadye E. Dunn
Secretary

attachment

January 22, 1986

1986 Contract Reduction Priority List
(dollars in thousands)

As Amended 1/30/86
Commission Meeting

I. Most easily cut

FROM III O OIPA ONGOING/ SEASONAL PROGRAMS

- o Non-NEISS data, unobligated amount, eliminated in 1987 (\$27 remaining).....
- o Correspondence response, reduced in 1987 (\$170 remaining).....
- o Chain saws, EPI and Engineering.....
- o PSA, Engineering (\$200 remaining).....
- o State/local contracts (\$215 remaining).....
- o HS laboratory equipment.....
- o Economics special studies (\$20 remaining).....
- o Household chemical enforcement (\$25 remaining).....
- o Section 15 litigation contingency.....
- o Computer operations.....
- o Upholstered furniture.....

Amount

Commitment Total

\$40

\$46
\$50
~~\$110~~ \$10
\$100
\$35
\$20
\$10
\$25
\$50
\$50
\$5

\$46
\$96
\$206
\$106
\$341
\$341
\$37
\$396
\$446
\$496
\$501

FROM IV STATE/LOCAL CONTRACTS

II. Cut with difficulty

- to I [ATW media spots*.....
- o Riding Mowers*.....
- to III [Gas appliances, EPI and Engineering*.....
- o Portable electric heaters*.....
- to I [Fire toxicity tech transfer, ECON*.....
- to III [Fire toxicity hazard assessment, Engineering and HS*.....
- o State/local contracts, Coop. Ext. Service (NEHC) nursery safety (\$165 remaining).....
- o IAQ combustion products (\$250 remaining).....
- to III [ATV's, Engineering and HS*.....
- o Economics Special studies.....

\$50
\$35
\$140
\$75
\$50
\$190
\$50
\$150
\$240
\$20

\$551
\$586
\$726
\$801
\$851
\$1,041
\$1,091
\$1,241
\$1,481
\$1,501

546

220

* Priority Projects

Add Priority Projects ITEMS FROM II AS NOTED TO BOTTOM OF III

	Amount	Cumulative Total
III. Cut with extreme difficulty		
FROM I — o CHAIN SAWS, EPI and ENGINEERING	\$100	
o Toxicity support, HS.....	\$57	\$1,558
o PSAs, ECON and Engineering.....	\$220	\$1,778
40 to I — o OPIA ongoing & seasonal programs.....	\$75 35	\$1,853
o Laboratory support, HS and ENG.....	\$162	\$2,015
o Transcription services, OS.....	\$10	\$2,025
o Correspondence response.....	\$70	\$2,095
o IAQ.....	\$250	\$2,345
o Household chemical enforcement.....	\$25	\$2,370
FROM I — o STATE/LOCAL CONTRACTS	#35	
IV. Obligated/Other		<u>1644</u>
o Obligated to date:		
NEISS.....	\$638	\$3,008
Non-NEISS.....	\$27	\$3,035
Incident and mortality data.....	\$60	\$3,095
Recalls/alerts.....	\$25	\$3,120
Correspondence response.....	\$100	\$3,220
40 to I — State/local contracts.....	\$165 125	\$3,385
Evaluation/Management analysis.....	\$25	\$3,410
General/ongoing compliance.....	\$10	\$3,420
o Cigarette safety.....	\$930	\$4,350
		<u>1940</u>

SEPARATE VOTES ON '86 BUDGET/GRAMM-RUDMAN-HOLLINGS REDUCTIONS - 1/30/86 Commission Meeting
(Based on notes taken at Commission Meeting and Tapes of Meeting - Sadye Dunn, Secretary)

1. OPERATING COSTS

- ° 10% across-the-board cut = \$270,000
Armstrong, Dawson, Graham, Scanlon, Statler: YES

2. COMMON COSTS

- ° 5% across-the-board cut = \$181,000
Armstrong, Dawson, Graham, Scanlon, Statler: YES

3. SALARIES

- ° Savings based on 540 FTEs = \$452,000
Graham, Scanlon: YES
Armstrong, Dawson, Statler: NO
- ° Savings based on 542 FTEs = \$372,000
Armstrong, Dawson, Graham, Scanlon, Statler: YES

4. CONTRACTS (Reference staff prepared 1986 Contract Reduction Priority List,
Categories I, II, III, IV)

- ° Move from I to III (1) \$100,000 of Chain Saws, EPI and Engineering, and
(2) \$35,000 State/local contracts.
Armstrong, Dawson, Graham, Scanlon: YES
Statler: Abstain
- ° Move from I to III \$5,000 Upholstered Furniture
Armstrong, Statler: YES
Dawson, Graham, Scanlon: NO
- ° Adopt Contract Reductions in Category I as amended by above votes
Dawson, Graham, Scanlon, Statler: YES
Armstrong: NO
- ° Move from II to I \$50,000 Fire Toxicity Technology Transfer, Economics
Armstrong, Dawson, Graham, Scanlon, Statler: YES
- ° Move from II to I \$50,000 ATV Media Spots
Armstrong, Dawson, Statler: YES
Graham, Scanlon: NO
- ° Move from II to III (bottom of list) remaining priority projects in II
Armstrong, Scanlon, Statler: YES
Dawson: NO
Graham: Passed/did not vote
- ° Adopt Contract Reductions in Category II as amended by above votes
Armstrong, Dawson, Graham, Scanlon, Statler: YES

Continue, CONTRACTS

- ° Move from III to I \$40,000 of OIPA Ongoing and Seasonal programs
Armstrong, Graham, Statler: YES
Dawson, Scanlon: NO
- ° Move from III to II \$70,000 Correspondence Response
Armstrong, Statler: YES
Dawson, Graham, Scanlon: NO
- ° Adopt Contract Reductions in Category III as amended by above votes
Armstrong, Dawson, Graham, Scanlon, Statler: YES
- ° Move from IV to I \$40,000 of State/local contracts for National Conference
Armstrong, Graham, Statler: YES
Dawson, Scanlon: NO
- ° Adopt Contract Reductions in Category IV as amended by above vote
Armstrong, Dawson, Graham, Scanlon, Statler: YES

January 22, 1986

1986 Contract Reduction Priority List
 (dollars in thousands)

As Amended 1/30/86
 Commission Meeting

	Amount	Commitment Total
I. Most easily cut		
From III o OIPA Ongoing & Seasonal Programs	140	
o Non-NEISS data, unobligated amount, eliminated in 1987 (\$27 remaining).....	\$46	\$46
o Correspondence response, reduced in 1987 (\$170 remaining).....	\$50	\$96
100 to III o Chain saws, EPI and Engineering.....	110 110	\$206
o PSA, Engineering (\$200 remaining).....	\$100	\$306
+ to III o State/local contracts (\$215 remaining).....	\$35	\$341
o HS laboratory equipment.....	\$20	\$361
o Economics special studies (\$20 remaining).....	\$10	\$371
o Household chemical enforcement (\$25 remaining).....	\$25	\$396
o Section 15 litigation contingency.....	\$50	\$446
o Computer operations.....	\$50	\$496
o Upholstered furniture.....	\$5	\$501
From IV o STATE/LOCAL CONTRACTS	140	
II. Cut with difficulty		
+ to I o [ATV media spots*.....	\$50	\$551
o [Riding Mowers*.....	\$35	\$586
+ to III o [Gas appliances, EPI and Engineering*.....	\$140	\$726
o [Portable electric heaters*.....	\$75	\$801
+ to I o [Fire toxicity tech transfer, ECON*.....	\$50	\$851
+ to III o [Fire toxicity hazard assessment, Engineering and HS*.....	\$190	\$1,041
o State/local contracts, Coop. Ext. Service (NEHC) nursery safety (\$165 remaining).....	\$50	\$1,091
o IAQ combustion products (\$250 remaining).....	\$150	\$1,241
+ to III o [ATV's, Engineering and HS*.....	\$240	\$1,481
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		<hr/> 546
		<hr/> 220

* Priority Projects

Add Priority Project Items From II As Noted

	Amount	Cumulative Total
III. Cut with extreme difficulty -		
FROM I - o Chain Saws, EPI and Engineering	\$100	
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o Correspondence response.....	\$70	\$2,095
o IAQ.....	\$250	\$2,345
o Household chemical enforcement.....	\$25	\$2,370
FROM I - o STATE/local contracts	\$35	<hr/> 1644
IV. Obligated/Other		
o Obligated to date:		
NEISS.....	\$638	\$3,008
Non-NEISS.....	\$27	\$3,035
Incident and mortality data.....	\$60	\$3,095
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		<hr/> 1940

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
ENVIRONMENTAL PROTECTION AGENCY
AND THE
CONSUMER PRODUCT SAFETY COMMISSION

I. PURPOSE

The purpose of this agreement is to set forth the working relationship between the Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC) to promote efficient administration of the Toxic Substances Control Act (TSCA) and the Acts administered by the CPSC, particularly the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), and the Poison Prevention Packaging Act of 1970 (PPPA).

This Memorandum of Understanding (MOU) establishes a process for notification and consultation to aid the preparation of and the response to TSCA section 9(a) reports submitted to CPSC. This MOU conforms to the general policies and legal responsibilities of each agency.

II. BACKGROUND

The Toxic Substances Control Act, 15 U.S.C. 2601 through 2629, was enacted into law in 1976. Its purpose is to provide authority to regulate toxic substances which present an unreasonable risk of injury to health or the environment.

The Administrator of the Environmental Protection Agency is responsible for carrying out TSCA's requirements. Within EPA, the Assistant Administrator for Pesticides and Toxic Substances has been delegated authority to oversee TSCA's functions.

EPA has authority to gather information on chemical risks, to require manufacturers to test selected existing chemicals for toxic effects, and to review most new chemicals before they are manufactured. To prevent unreasonable risks from existing chemicals, the agency may select from a broad range of control actions and may regulate at any stage in the chemical's lifecycle: from manufacturing through processing, distribution in commerce, use, and disposal.

Congress has excluded from TSCA's control pesticides as defined under the Federal Insecticide, Fungicide, and Rodenticide Act; food, drugs, cosmetics, and devices regulated by the Food and Drug Administration; tobacco; and certain other products.

The Consumer Product Safety Act became effective in 1973. Its goals include protecting the public against unreasonable risks of injury associated with consumer products and assisting consumers in evaluating the comparative safety of consumer products. The Consumer Product Safety Commission, consisting of five Commissioners appointed by the President, by and with the advice and consent of the Senate, was established as an independent Commission to carry out the goals of the CPSA.

Three of the Acts administered by the CPSC could be used in appropriate circumstances to address risks that EPA could otherwise address under TSCA: the Consumer Product Safety Act, 15 U.S.C. 2051 through 2083; the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 through 1276; and the Poison Prevention Packaging Act of 1970 (PPPA), 15 U.S.C. 1471 through 1476.

Under these Acts, the CPSC has authority to:

1. Work with consumers and industry to foster voluntary standards for product safety.
2. Set and enforce mandatory standards.
3. Ban unsafe products from the marketplace when a safety standard or cautionary label would not adequately protect the public.
4. Initiate and monitor recalls of hazardous consumer products.
5. Require child-resistant packaging for certain hazardous substances.
6. Provide information to help consumers select and use products safely.

Congress has excluded from the Commission's responsibilities food, drugs, and cosmetics which are regulated by the Food and Drug Administration; pesticides which are regulated by the Environmental Protection Agency; automobiles, certain other vehicles, and their associated equipment which are regulated by the Department of Transportation; firearms, tobacco, and alcohol which are regulated by the Department of the Treasury; and certain other products.

Thus, EPA and CPSC have related responsibilities and objectives in carrying out their respective statutory powers. The possibility that EPA's activities could overlap with those of other agencies was recognized at the time TSCA was enacted and led to inclusion of section 9, "Relationship to Other Federal Laws," which, among other specifications, provides that the EPA Administrator "shall consult and coordinate" with other agencies in administering TSCA (see TSCA section 9(d)). In addition, section 9(a) of TSCA states that:

"If the Administrator has reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment and determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so presents such risk."

Section 9(a) contains additional responsibilities, including response requirements for the report-receiving agency.

It is desirable and in the public interest to set forth in this Memorandum of Understanding the working arrangements by which EPA and CPSC agree to carry out efficiently their responsibilities under section 9(a) of TSCA.

III. SUBSTANCE OF AGREEMENT

A. PRE-REPORT NOTIFICATION

1. Twice each year, by April 30 and October 31, EPA will provide CPSC with a written notice listing chemical substances under consideration for section 9(a) reports. The EPA Assistant Administrator for Pesticides and Toxic Substances will transmit the notice to the Chairman of the Consumer Product Safety Commission. EPA will also transmit one copy to CPSC's Associate Executive Director for Health Sciences (AED/HS).

2. EPA will include in the notice the following information:

- a. The substance's name(s) or identifier(s).
- b. An abstract describing the chemical(s).
- c. The anticipated quarter of submission.
- d. The name of a responsible party designated to manage the detailed activities of developing the potential section 9(a) reports. In most cases, EPA will designate the Office Director of the Office of Toxic Substances.

3. Within 30 days, the Chairman of CPSC will send a written acknowledgement of the list to the Assistant Administrator of the Office of Pesticides and Toxic Substances. The acknowledgement will include the name of the CPSC responsible

party designated to manage the CPSC response to each potential section 9(a) report. In most cases, CPSC will designate the Associate Executive Director for Health Sciences to manage the response.

4. The Pre-Report Notification is for administrative purposes only and does not represent an EPA decision regarding the consumer risks from the listed substances or the need for a section 9(a) report.

5. Acknowledging receipt of the notification is for administrative purposes only and does not represent a CPSC decision that specific action is needed, that there are only consumer risks, or that the risks can be adequately addressed under CPSC's legislation.

B. PRE-REPORT CONSULTATIONS

1. After EPA submits the Pre-Report Notification and CPSC acknowledges receipt, EPA and CPSC staff members will begin Pre-Report consultations. They will meet on the first Thursday of each month and use the notice as the basis for further discussions.

2. The discussions will cover but not be limited to:

a. The content of the reports.

b. The extent of exposure, (both to consumers and non-consumers) and the significance of the risks associated with the listed substances.

c. EPA and/or CPSC risk analyses.

d. The most effective means of reducing the risk under TSCA, other EPA or CPSC statutes, other Federal or State statutes, or any combination (or none) of these.

e. Anticipated section 9(a) referral report dates and anticipated CPSC response dates.

f. Data that CPSC may have available.

g. Other information appropriate for the referral.

3. By mutual consent, EPA and CPSC staff may agree to hold additional meetings or to cancel unnecessary meetings. They may also agree to exchange drafts or data pertinent to the report.

C. SECTION 9(a) REPORTS

1. After full consultation with CPSC, EPA, when appropriate, will issue a section 9(a) report, for publication in the FEDERAL REGISTER, including a response date of not less than 90 days.

2. Prior to FEDERAL REGISTER publication, EPA will ensure that the risk analysis associated with the report has had adequate internal and external peer review.

3. Prior to FEDERAL REGISTER publication, the Office Director, Office of Toxic Substances will notify the Associate Executive Director for Health Sciences by telephone as soon as the EPA Administrator has signed the report and also as soon as a FEDERAL REGISTER publication date is obtained. The Office Director, Office of Toxic Substances will transmit an information copy of the signed report to the Associate Executive Director for Health Sciences when the report is transmitted to the FEDERAL REGISTER.

D. POST-REPORT CONSULTATIONS

1. After a section 9(a) report is published in the FEDERAL REGISTER, appropriate EPA and CPSC staff will continue the monthly meetings to follow up on the report and discuss the CPSC response.

2. The discussions will cover but not be limited to:

a. Content of the response.

b. The extent of exposure, (both to consumers and non-consumers) and the significance of the risks associated with the substance(s) included in the report.

c. EPA and/or CPSC risk analyses.

d. Possible remedial actions under TSCA, CPSC statutes, other Federal statutes, State statutes, or any combination (or none) of these.

e. Available EPA and CPSC data that may aid the response.

f. Other information pertinent to the referrals.

3. The EPA and CPSC staff may agree to hold additional meetings or to cancel unnecessary ones. They may also agree to exchange drafts and data pertinent to the response.

4. CPSC will respond to the EPA reports, within the response date, as specified in section 9(a) of the Toxic Substances Control Act.

E. SPECIAL PROVISIONS

1. Under exceptional circumstances, EPA may submit a section 9(a) report to CPSC that was not anticipated during the semi-annual notification process. Prior to issuing such a report for publication in the FEDERAL REGISTER, and as expeditiously as possible, the Assistant Administrator for Pesticides and Toxic Substances will notify the Chairman of CPSC in writing of EPA's intention to submit a report for an additional substance. The notification will include the information described in unit III.A.2. of this agreement. EPA will send an information copy of the notification to the Associate Executive Director for Health Sciences.

2. After written notice, EPA and CPSC will comply with all the provisions contained in Units III.A.3. through G of this agreement.

F. CONFIDENTIAL BUSINESS INFORMATION

Both agencies will comply with appropriate procedures, as reflected in the agencies' statutes, regulations and security manuals, for use and handling of the other's Confidential Business Information (CBI). Prior to any sharing of CBI between the agencies, both will agree to a separate Memorandum of Understanding setting out specific procedures for the transfer of CBI between the agencies, the use of one agency's CBI in documents prepared by the other, the storage of CBI, access to CBI by the agencies' contractors, and all other procedures necessary for complying with appropriate CBI use and handling standards.

G. DELEGATION OF RESPONSIBILITY

1. The Office Director of EPA's Office of Toxic Substances and CPSC's Associate Executive Director for Health Sciences are responsible for implementing the activities listed in this MOU.

2. EPA's Assistant Administrator for Pesticides and Toxic Substances and the Chairman of the Consumer Product Safety Commission are responsible for the activities described under Units III.A.1, A.3 and E.1 of this agreement. If the responsible parties listed under Unit G.1 of this agreement fail to reach resolution on the substantive activities described in this MOU, the Assistant Administrator and the Chairman will confer to determine appropriate means to resolve such concerns. They shall also confer if emergency or other critical circumstances indicate that their direct oversight is warranted.

IV. OTHER AGREEMENTS

A. ADDITIONAL AGREEMENTS

Nothing in this MOU precludes the agencies from entering into additional, separate agreements with each other as they deem appropriate to achieve the purpose of EPA's and CPSC's legislative requirements.

B. EVALUATION

One year after final agreement is reached, EPA and CPSC will jointly perform an evaluation to determine if the working arrangements need adjustment, revision, or clarification. Either agency may request the initiation of additional reviews if they find that adjustments could aid the implementation of their responsibilities under section 9(a) of TSCA.

V. NAME AND ADDRESS OF AGENCIES

1. Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460.
2. The Consumer Product Safety Commission
1111 18th Street, NW.
Washington, D.C. 20207.

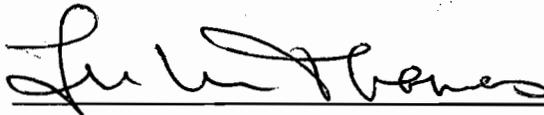
VI. PERIOD OF AGREEMENT

This agreement will become effective upon acceptance by both parties as indicated below and will continue indefinitely. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice to the other party.

(-14-)

APPROVED AND ACCEPTED FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY:

Dated: 12/19/85

A handwritten signature in cursive script, appearing to read "Lee M. Thomas", written over a horizontal line.

Lee M. Thomas,
Administrator,
U.S. Environmental Protection
Agency.

APPROVED AND ACCEPTED FOR THE U.S. CONSUMER PRODUCT SAFETY
COMMISSION:

Dated: 2/10/86

A handwritten signature in cursive script, appearing to read "Sadye E. Dunn", written over a horizontal line.

Sadye E. Dunn,
Secretary,
U.S. Consumer Product
Safety Commission.