



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

MINUTES OF COMMISSION MEETING

September 24, 2019

Acting Chairman Ann Marie Buerkle convened the September 24, 10:00 a.m., meeting of the U.S. Consumer Product Safety Commission in open session. Commissioners Robert S. Adler, Elliot F. Kaye, Dana Baiocco and Peter A. Feldman were in attendance. Acting Chairman Buerkle made welcoming remarks and summarized the agenda for the meeting.

Decisional Matter: Final Rule to Review Current Fireworks Regulation
(Briefing package dated September 26, 2018)

After introducing the matter, Acting Chairman Buerkle introduced staff members present to address questions from the Commission. Present to respond to questions were Andrew Stadnik, Associate Executive Director, Laboratory Sciences, Dr. Rodney Valliere, Laboratory Sciences and Meredith Kelsch, Office of the General Counsel. Acting Chairman Buerkle stated that each Commissioner would be allotted five minute for questions to staff, with multiple rounds if necessary. Acting Chairman Buerkle did not have any questions for staff and asked each Commissioner if they had any questions for staff. Commissioners Adler and Baiocco had questions for the staff. Commissioners Kaye and Feldman did not have any questions for staff, however Commissioner Feldman reserved his right to offer comment for the record after the decisional meeting.

Acting Chairman Buerkle then excused the staff and called for consideration of the staff's recommendation for a final rule as outlined in the briefing package. Acting Chairman Buerkle called for a second and Commissioner Kaye seconded the motion. Acting Chairman Buerkle then introduced and explained her motion, which provided that if the Commission approved the staff's recommendation for a final rule, the Office of the General Counsel (OGC) would prepare the text for a federal register notice, consistent with today's Commission vote, that would be presented to the Commission for approval. The Acting Chairman noted that under the Commission's Decision Making Procedures the Federal Register Notice is an implementing document to which limited modifications could be made in the subsequent Commission vote. At this time, Acting Chairman Buerkle acknowledged that one or more of the Commissioners intend to offer an amendment to her motion. Acting Chairman Buerkle then called for any amendments to that effect.

Commissioner Kaye requested clarification on the impact of the limitations to the Commission vote. General Counsel Patricia Hanz addressed Commissioner Kaye's questions. She explained that the limitations would prevent substantive changes to the federal register notice thereby preventing changes to the underlying Commission action. Commissioner Kaye

Minutes of CPSC Decisional Meeting September 24, 2019; Final Rule to Review Current Fireworks Regulation

then introduced his amendment and read it into the record. Commissioner Kaye explained his amendment. Acting Chairman called for a second and Commissioner Adler seconded the motion. Acting Chairman Buerkle expressed that each Commissioner would have five minutes to ask questions. The Commission discussed the amendment. Commissioner Adler explained his support for the amendment. Commissioner Baiocco requested clarification regarding the vote options for the briefing package. Acting Chairman Buerkle explained that the briefing package was originally submitted to the Commission without a federal register notice, and that her motion would direct the Office of the General Counsel to generate a federal register notice that would be presented to the Commission for a vote; the Commission would be limited in making revisions to the text of the federal register notice, whereas, Commissioner Kaye's amendment would permit some flexibility for text revisions. Commissioner Feldman did not have any questions.

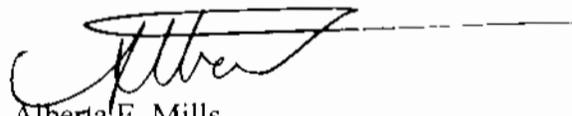
Acting Chairman Buerkle called for any additional questions regarding Commissioner Kaye's amendment and hearing none, called for a vote on the amendment. The Commission did not adopt Commissioner Kaye's amendment on a vote of 3-2; Acting Chairman Buerkle and Commissioners Baiocco and Feldman voting "No" and Commissioners Adler and Kaye voting "Yes".

Acting Chairman Buerkle then called for any other amendments or motions and, hearing none, called for a vote on her motion on the package before the Commission. The Commission did not approve staff's recommendations in the briefing package on a vote of 3-1-1; Acting Chairman Buerkle and Commissioners Baiocco and Feldman voting "No" Commissioner Adler voting "Yes" and Commissioner Kaye abstaining. No further action will be taken on the package before the Commission.

Acting Chairman Buerkle then proceeded to closing remarks. She informed Commissioners they would have up to 10 minutes per Commissioner for closing remarks. Acting Chairman Buerkle, Commissioner Adler and Commissioner Baiocco offered brief remarks. Commissioner Kaye and Commissioner Feldman did not offer statements.

There being no other business, Acting Chairman Buerkle then concluded and adjourned the meeting at 10:19 a.m.

For the Commission:



Alberta E. Mills
Secretary

Attachments: **Amendment Proposed by Commissioner Kaye (Not Adopted)**