



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

MINUTES OF COMMISSION MEETING

October 24, 2017

Acting Chairman Ann Marie Buerkle convened the October 24, 2017, 10:00 a.m., meeting of the U.S. Consumer Product Safety Commission in open session. Commissioners Robert S. Adler, Marietta S. Robinson and Elliot F. Kaye were in attendance. Acting Chairman Buerkle briefly acknowledged that October 27, 2017 marks the 45th anniversary of the Consumer Product Safety Act.

Decisional Matter: Fiscal Year 2018 Operating Plan
(Briefing package dated August 30, 2017)

After introducing the matter and making an opening statement, Acting Chairman Buerkle called for any comments or questions. Present to respond to any questions were DeWane Ray, Deputy Executive Director for Safety Operations, Monica Summitt, Deputy Executive Director, Operations Support and Jay Hoffman, Director, Office of Financial Management. Acting Chairman Buerkle and Commissioner Kaye asked questions of the staff. Commissioner Adler and Commissioner Robinson did not have any questions for staff. Staff was excused after responding to questions.

Acting Chairman Buerkle called for consideration of the FY 2018 Operating Plan and any amendments. Acting Chairman Buerkle introduced a Manager's Amendment which outlined amendments from all of the Commissioners. The amendment included changes to several parts of the plan. Commissioner Kaye seconded the motion. Acting Chairman Buerkle, Commissioner Adler, Commissioner Robinson and Commissioner Kaye discussed and explained their respective portions of the Manager's Amendment. After the discussion, Acting Chairman Buerkle called for a vote on the matter. The Commission voted unanimously (4-0) to adopt the Manager's Amendment. The adopted amendment is attached.

Acting Chairman Buerkle called for other amendments. Commissioner Kaye moved that the FY 2018 Operating Plan be amended to change the language at certain parts pertaining to upholstered furniture flammability. Acting Chairman Buerkle seconded the motion. Commissioner Kaye explained the purpose of the amendment and the Commission discussed the amendment. After the discussion, Acting Chairman Buerkle called for a vote on the matter. The Commission voted (3-1) to adopt Commissioner Kaye's amendment. Commissioner Kaye, Commissioner Adler, Commissioner Robinson voted to adopt the amendment. Acting Chairman Buerkle voted to not adopt the amendment. The adopted amendment is attached.

Acting Chairman Buerkle called for any other amendments and hearing none, Acting Chairman Buerkle called for a vote on the FY 2018 Operating Plan as amended. The Commission voted unanimously (4-0) to adopt the FY 2018 Operating Plan as amended.

Acting Chairman Buerkle called for any other motions. Commissioner Adler moved that the Commission direct the staff to place activities related to the regulation of OFRs as one of the top three priority issues for consideration to receive unexecuted funds at the 2018 Mid-Year decisional. (The entire motion is attached). Commissioner Kaye seconded the motion. Commissioner Adler explained the purpose of the motion and the Commission discussed the motion. Hearing no further questions, Acting Chairman Buerkle called for a vote on the matter. The Commission voted (3-1) to adopt the motion. Commissioner Adler, Commissioner Robinson and Commissioner Kaye voted to adopt the motion. Acting Chairman Buerkle voted to not adopt the motion.

Acting Chairman Buerkle called for any other motions. Hearing none, Acting Chairman Buerkle called for closing statements. The Commissioners each made closing statements.

There being no other business, Acting Chairman Buerkle adjourned the meeting at 11:03 a.m.

For the Commission:



Alberta E. Mills
Acting Secretariat

Attachments: Manager's Amendments
Commissioner Adler's Motion
Commissioner Kaye's Amendment

Manager's Amendments to Staff Draft FY 2018 Operating Plan

1. Proposed Amendments to the Voluntary Standards Table:

- p. 6, in the Voluntary Standards Table, in #33 Crib Mattresses (include Supplemental Mattresses), add the words “and Aftermarket” after the word “Supplemental”.
- pp. 6-7, in the Voluntary Standards Summary Table, move #56 Furnaces (CO sensors) after #39 in the section in entitled, “Voluntary Standards Activities Related to Ongoing or Potential Rulemaking Activities.”

2. Proposed Amendments to the Mandatory Standards Table:

- p. 9, in the Mandatory Standards Table, add the phrase “/Crib Mattresses (include Supplemental and Aftermarket)” after the words “Consumer Registration Requirement for Crib Bumpers.”
- P. 9, in the Mandatory Standards Table, in the “Other Ongoing or Potential Rulemaking-Related Activities” section, add Organohalogen Flame Retardants and designate DA/TR in the FY 2018 column.

3. p. 10 – 19, Proposed Amendments to EXHR:

- p. 12, under “11179- National Electronic Injury Surveillance System (NEISS),” add the following language at the end of the section: “In FY 2018, CPSC plans to explore the collection of incident data to include the treatment of product-related injuries that are treated at urgent care centers. This project will provide the necessary foundation to further pursue this work in FY 2019.”
- p. 11, under “FY 2018 Priorities Activities,” add a new bullet point with the following language: “In FY 2018, CPSC staff will develop a plan to increase collaboration and coordination with all interested stakeholders, including domestic and foreign government partners, to address potential safety issues with IoT related products before they enter the marketplace.”
- p. 11, under “In FY 2018 Priority Activities,” add a new bullet point with the following language: “Explore and evaluate opportunities to cooperate with academic institutions researching global health incident data and healthcare spending, to enhance CPSC’s data collection and analysis and its evaluation of injury costs.”
- p. 14, under “21518 - Electrical Hazards: Voluntary Standards and Codes,” add the following at the end of the section, “In FY 2018, CPSC staff will submit to the Commission a report summarizing their work to-date, including any findings, as well as any recommendations for future work with respect to their efforts to address hazards associated with high-energy density batteries.”
- p. 14 -15, under “22637 – All Terrain Vehicles (ATV) Rulemaking Activities,” strike bullet point #2 and replace with the following bullet point, “continued technical work on passengers, stability and access by children in furtherance of mandatory rulemaking as required by the CPSIA.”
- p.15, under the project code 23259 – Chemical Hazards, Rulemaking Activities, add the following language in a separate paragraph beginning after the current final sentence: “This project also provides resources for the commencement of rulemaking activities relating to organohalogen flame retardant chemicals, including but not limited to, the development of a Chronic Hazard Advisory Panel (CHAP) as directed by the Commission at the September 20, 2017 meeting on Organohalogen Flame Retardants.

Staff will, in cooperation with the National Academies of Science (NAS), complete a scoping and feasibility study by March 1, 2018 of the direction given by the Commission at the September 20, 2017 meeting on Organohalogen Flame Retardants (“the Commission Direction on OFRs”) to convene a Chronic Hazard Advisory Panel (CHAP). Pursuant to the Commission’s preliminary assessment that OFRs as a class of chemicals may constitute a “hazardous substance” under the Federal Hazardous Substances Act (FHSA), the CHAP will identify and apply generally accepted scientific methodologies for assessing the toxicity of and exposure to OFRs as a class, consistent with the definitions set forth in the FHSA and the Commission Direction on OFRs, (including consideration that consumers are exposed not just to a single additive, but rather to mixtures of chemicals). Staff will focus its inquiries with NAS on two key points: 1) an assessment of the cost, timeframes, and approach of NAS assistance in the convening and administering of a CHAP as described above; and 2) any alternative approach, including associated costs and timeframes, to achieving such goals that NAS may offer.”

- p.15, under the project code 23259 – Chemical Hazards, Rulemaking Activities add the following language: “The project also includes staff engagement with stakeholders to understand current use of organohalogen flame retardants (“OFRs”) and alternatives to OFRs in electronics casings, including how the use or non-use of OFRs impacts fire safety.”
- p. 16, under “23335 – Combustion (Carbon Monoxide) Hazards: Voluntary Standards Activities,” add the following at the end of the section, “Specifically, in FY 2018, CPSC staff will evaluate the effectiveness of prototype portable generator CO detection and shut-down systems, including the effectiveness and reliability of these systems along with industry proposed shut-down thresholds, based on the hazard patterns from the death and injury incident data associated with these products.”
- p.16, add the following sentence under project code 23336 after the words “as appropriate”: “This project also provides resources for addressing potential rulemaking activities regarding the hazards of CO poisoning associated with furnaces.”

4. p. 20, Proposed Amendments to EXC:

- p. 20, under “FY 2018 Priority Activities,” at the end of bullet point #7 add the following language: “, including steps recalling firms can and should take.”

5. p. 31, Proposed Amendments to OCM:

- p. 31, under “FY 2018 Priority Activities,” move bullet #11 regarding micro targeting strategies up in the list making it bullet #4.
- p. 31, under “FY 2018 Priority Activities,” add a new bullet point with the following language: “Evaluate the effectiveness of one of the following CPSC campaigns: *Pool Safety*, *Anchor It*, or *Safe to Sleep*, including consumer recognition of the campaign, comprehension of the hazards and remedies, and behavior change as a result of the campaign using a nationally representative sample of at least 600 or more consumers from a stratified cross-section of regions.”

6. p. 35, Proposed Amendments to EXIT:

- p. 35, under "FY 2018 Priority Activities," move bullet #4 regarding cybersecurity to the top of the list making it bullet #1.
- p. 35, under "FY 2018 Priority Activities," add the following bullet point with the following language: "The Data Management Working Group will explore systems to aggregate and analyze external structured and unstructured data to enhance CPSC's ability to detect emerging hazards and the sale of noncompliant goods and recalled products and make recommendations as appropriate."

Commissioner Kaye Amendments to Staff Draft FY 2018 Operating Plan

1. p. 14, Proposed Amendment to EXHR:

- p. 14, under “21498 - Upholstered Furniture Flammability Rulemaking,” add the following at the end of the section, “While pursuing fire safety through voluntary standards efforts, staff shall support development of a voluntary standard that can be achieved without exposure to toxic chemicals either from the furniture itself or through combustion of the furniture.”

2. p. 20, Proposed Amendment to EXC:

- p. 20, under “FY 2018 Priority Activities,” add a new bullet point with the following language: “Publish Monthly Corrective Action Plan progress reports from recalling firms on a monthly basis to better inform consumers and other stakeholders about recall effectiveness.”

Commissioner Adler Motion Relating to FY 2018 Operating Plan

Direct staff to place activities related to the regulation of OFRs as identified in project code 23259, including but not limited to a CHAP as described in the Commission Direction on OFRs, as one of the top three priority issues for consideration to receive unexecuted funds at the 2018 Mid-Year decisional.