

Challenges in the CPSC: What Has Happened and What Comes Next

Alert

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The first six months of the second Trump Administration have brought a variety of transformations to the federal government. As many of these changes unfold on nearly a daily basis, it can be difficult to ascertain exactly what has happened and what it means for companies who do business in the U.S. One such change was the May 8, 2025, firing of three Commissioners of the U.S. Consumer Product Safety Commission (CPSC or Commission). Those three Commissioners were eventually reinstated, per a June 13 order by U.S. District Judge Matthew Maddox of the District of Maryland. However, on July 23, 2025, the U.S. Supreme Court issued a stay of that ruling, effectively upholding the firings while an appeal is heard by the U.S. Court of Appeals for the 4th Circuit. This article provides a synopsis of these changes and a discussion of their impact on the U.S. consumer products market.

WHAT IS THE CPSC?

The CPSC is an independent federal regulatory agency that oversees voluntary and mandatory product safety standards, issues recalls, conducts research on potentially hazardous products, and educates the public. The Commission's jurisdiction is limited to consumer products; other federal agencies have authority over vehicles, food, drugs, alcohol, tobacco, firearms, etc. The Commission was instituted by Congress in the Consumer Product Safety Act (CPSA) of 1972. By statute, the CPSC consists of five Commissioners, each appointed by the President of the United States with the advice and consent of the Senate. The CPSC Commissioners serve staggered seven-year terms. The CPSA requires that no more than three of the Commissioners may be affiliated with the same political party. Importantly, the CPSA states that "any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause."

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WHAT DOES THE CPSC DO?

The CPSC has wide congressional authority to conduct research on consumer products, maintain a publicly accessible product safety information database, and assist in recall efforts. The CPSA mandates that the CPSC rely upon voluntary product safety standards whenever compliance would adequately reduce the risk of injury caused by a consumer product. However, the Commission has the authority to promulgate mandatory product safety standards where it is "reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product." To date, the CPSC has promulgated many rules concerning a range of products, including children's products and durable infant goods, drywall, portable fuel containers, button cell batteries, clothing storage units, among many others.

If any stakeholder is adversely affected by a promulgated consumer product safety rule, judicial review can be sought in the U.S. Court of Appeals for the District of Columbia, or in whichever circuit the person or organization resides. Importantly, the CPSA states the petition for review must be filed no later than 60 days after the CPSC rule is promulgated.

WHO ARE THE CURRENT COMMISSIONERS?

Peter A. Feldman – Acting Chairman

Peter Feldman was appointed by President Donald Trump in October 2018, where he served the remainder of a term expiring in October 2019. Commissioner Feldman was re-appointed and confirmed to serve a new seven-year term, expiring in October 2026. He became the Acting Chairman of the CPSC in January 2025.

Douglas Dziak

Douglas Dziak was appointed by President Joe Biden in 2023, and began serving in March 2024 for the remainder of a term expiring in October 2025. Though Commissioner Dziak was appointed by President Biden, he is a registered Republican and his appointment did not violate the statutory limits for political party affiliation.

Alexander Hoehn-Saric

Alexander Hoehn-Saric was appointed by President Joe Biden in 2021 and has a term that expires in October 2027. Commissioner Hoehn-Saric served as the Chairman of the CPSC from October 2021 until January 2025, when he resigned his leadership role. However, he has remained as a CPSC Commissioner.

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Richard Trumka Jr.

Richard Trumka was appointed by President Joe Biden in 2021 and has a term that expires in October 2028.

Mary T. Boyle

Mary Boyle was appointed by President Joe Biden in 2022 to serve the remainder of a term set to expire in October 2025.

WHO WAS FIRED?

On May 8, 2025, President Donald Trump fired the three Democrats on the CPSC: Alexander Hoehn-Saric, Richard Trumka, and Mary Boyle for “neglect of duty or malfeasance in office.” The fired commissioners filed suit in Federal Court for the District of Maryland, citing 15 U.S.C. § 2053(a) as requiring that cause be given for their dismissals, which they alleged was not given. *See, Boyle v. Trump*, 2025 WL 1677099 (D. Md. June 13, 2025). District Judge Matthew Maddox, citing *Humphrey’s Executor v. U.S.*, 295 U.S. 602 (1935) and its progeny, found that “plaintiffs’ purported removals from office and efforts to prevent them from fulfilling their statutory duties as CPSC Commissioners violated 15 U.S.C. § 2053(a).” In so finding, Judge Maddox issued a writ of mandamus to have the Commissioners reinstated. The Trump Administration appealed the District Court’s decision to the U.S. Court of Appeals for the 4th Circuit. With respect to the order of reinstatement by Judge Maddox, the 4th Circuit declined to put the order on hold while the full appeal proceeds.

Subsequently, Solicitor General John Sauer filed an application with the [U.S. Supreme Court](#) to stay the District Court ruling reinstating the three fired Commissioners while the full appeal in *Boyle* moves forward. Sauer cited to *Trump v. Wilcox*, a recent Supreme Court decision lifting injunctions for federal firings, to support the claim that President Trump is entitled to direct the executive branch as he wishes. The fired Commissioners, however, argued that the District Court’s order should remain in place while the 4th Circuit Court of Appeals has an opportunity to hear the full appeal, because removing the Commissioners will “disrupt the status quo,” among other reasons.

On July 23, 2025, the Supreme Court responded to the Solicitor General’s emergency application and granted the stay of the District Court’s writ of mandamus, allowing the firings to proceed while the 4th Circuit hears the appeal. *Trump v. Boyle*, 2025 WL 2056889, *1 (U.S. July 23, 2025). The majority opinion affirms that, “our interim orders are not conclusive as to the merits,” as they have noted on many of the emergency decisions this year. However, it seems evident that the High Court is poised to revisit *Humphrey’s Executor*, a Supreme Court decision in 1935 that carved out an exception to the general principle that the U.S. President can fire subordinates for any reason. *Humphrey’s Executor* specifically held that Congress can create independent, multi-member regulatory agencies whose commissioners can only be removed for cause. Justice Kavanaugh’s concurring opinion in *Boyle*, explaining why he would grant

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certiorari, notes that, “when an emergency application turns on whether this Court will narrow or overrule a precedent [*Humphrey’s Executor*], and there is at least a fair prospect (not certainty, but at least some reasonable prospect), that we will do so, the better practice often may be to both grant a stay and grant certiorari before judgment.”

WHAT COMES NEXT?

The removal, reinstatement and subsequent removal of the three Commissioners presents several meaningful legal issues. First, 15 U.S.C. § 2053(d) details under what circumstances a quorum is present for the transaction of business at the CPSC. Ordinarily, three Commissioners are required to constitute a quorum. Currently, there are only two CPSC Commissioners active. However, the statute provides that, “if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two.” The firing, reinstatement, and re-firing of the three Commissioners presents questions as to how long the remaining Commissioners will have authority to act. Presumably, the six-month period begins with the most recent firing this month, allowing the remaining two Commissioners to legally act on behalf of the CPSC through January 2026.

Second, President Trump can presumably appoint new Commissioners to fill the fresh vacancies. Importantly, however, the CPSA makes clear that no more than three CPSC Commissioners may be affiliated with the same political party. As it stands, the two remaining Commissioners are Republicans, so President Trump would be limited to adding one more republican appointment to the CPSC.

Finally, the Commissioners’ case (*Boyle v. Trump*, cited *supra*) is still yet to be heard on the merits by the 4th Circuit Court of Appeals. At this point, it seems clear that the Supreme Court will only grant certiorari, if at all, after the 4th Circuit hears the case. *Boyle* is just one of several pending cases challenging the President’s firing of independent agency employees. Each of these cases turns on a common threshold issue: whether the Supreme Court will uphold, narrow or overturn the century-long precedent of *Humphrey’s Executor*. Justice Kavanaugh, concurring in *Boyle*, wrote, “further percolation in the lower courts is not particularly useful because lower courts cannot alter or overrule this Court’s precedents.” The tea leaves suggest the High Court will grant certiorari in one of these cases and revisit *Humphrey’s Executor* in the not-so-distant future, but only time will tell. As for the fired Commissioners, they will remain fired until either the 4th Circuit or the Supreme Court says otherwise.

For more information on recent developments at the U.S. Consumer Product Safety Commission, please contact [Michelle Corrigan Erikson](#) or the Stinson LLP contact with whom you regularly work.

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