



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

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Ann Marie Buerkle
 Commissioner Robert S. Adler
 Commissioner Elliot F. Kaye
 Commissioner Dana Baiocco
 Commissioner Peter A. Feldman

ITEM:

CPSC Fiscal Year 2021 Performance Budget Request
(Briefing package dated August 21, 2019 OS No. 4739)

DECISION:

The Commission voted (3-2) to approve the FY 2021 Performance Budget Request, as drafted. The FY 2021 Budget Request will be submitted concurrently to the Office of Management and Budget (OMB) and to Congress. Acting Chairman Buerkle, Commissioner Adler and Commissioner Feldman voted to approve the FY 2021 Budget Request as drafted. Commissioner Kaye and Commissioner Baiocco voted to approve the FY 2021 Budget Request with different respective specified changes that were not adopted by a Commission majority; see attachments.

For the Commission:

A handwritten signature in black ink, appearing to read "Alberta E. Mills", followed by a horizontal line extending to the right.

Alberta E. Mills
Secretary

*Ballot vote due September 4, 2019

Attachments:

Commissioner Kaye Amendments to the FY 2021 Performance Budget – **Not Adopted**
Commissioner Baiocco's Amendments to FY 2021 Performance Budget – **Not Adopted**

Commissioner Kaye Amendments to the FY 2021 Performance Budget

Staff is directed to increase the total request amount in the Fiscal Year 2021 Performance Budget Request by **\$5.5 million**, for a total request of **\$152.5 million**. To that end, staff shall add the following initiatives in the “Summary of Changes” (pages 1 -3), under “Changes to Program,” and, as appropriate, in the “Budget Discussion” sections (pages 12-17):

- **All-Terrain Vehicles (ATVs) (+\$2 million):** ATVs continue to be one of the most dangerous and deadly products within the agency’s jurisdiction. The agency requests additional resources to protect the public and address preventable deaths and injuries associated with these vehicles, especially of children. The CPSC has a multi-year research project plan to analyze ATV rider safety to inform potential Commission policy. The identified research plan cannot be fully funded at our current resource level. The CPSC would require \$2 million in additional resources to fund and accelerate identified agency work in furtherance of ATV rulemaking activities in accordance with the multi-year project plan. With these funds the agency will research and develop performance test methods to address three major hazard patterns associated with ATVs: (1) unnecessary instability; (2) access by children; and (3) passengers on ATVs.
- **Crumb Rubber Research (+\$1.5 million):** The agency would require an additional \$1.5 million to address existing shortfalls in critical, deferred hazard research to fund projects such as addressing the health effects associated the use of crumb rubber in children’s playgrounds.
- **Office of Compliance and Field Operations (+\$2 million):** The agency requests additional funding for staff resources to expand the Office of Compliance and Field Operations’ enforcement capabilities with respect to investigations, recalls, and monitoring of the marketplace. The expanded capabilities may include training and deployment of compliance officials in port surveillance activities, as needed.

In addition, staff shall amend the Mandatory Standards Table on page 28 of the proposed Fiscal Year 2021 Performance Budget Request as follows:

1. Under the category entitled, “CPSIA, as amended by Pub. L. No. 112-28, and including Section 104 of the CPSIA,” strike “Infant Inclined Sleep Products” and replace with “Bassinets and Cradles Update (Revisions to include Infant Inclined Sleep Products).”
2. Under the category entitled, “CPSIA, as amended by Pub. L. No. 112-28, and including Section 104 of the CPSIA,” add the following:

Children’s Clothing Storage Unit Tip-Overs (Section 104)	FR
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Commissioner Kaye Amendments to the FY 2021 Performance Budget

3. Under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "DA/TR" for Portable Generators and replace with "DA/TR/BP."
4. Under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "Window Coverings— Stock (15j)" and replace with "Window Coverings."

Staff is directed to make any additional conforming changes throughout the FY 2021 Performance Budget Request as needed to comply with these amendments, including but not limited to any conforming changes to the proposed appropriations language, executive summary, budget discussion, and tables to reflect the increased request amount of \$152.5 million.

II. Take Other Action - Approve the *Fiscal Year 2021 Budget Request* with the specified changes below:

1. Redirect \$1.0 million from Applied Research in Hazard Identification/Organohalogen Flame Retardant (OFR) Chemicals Assessment and allocate to a new category to be inserted on Page 3, entitled “E-Commerce and Supply Chain Safety Team” (+\$1.0 million) with the accompanying language set forth below:
 - a. The Agency requests funding for 6 additional FTEs and to purchase associated equipment to institute a team dedicated to the safety related challenges associated with e-commerce and the global supply chain. The rapid growth of the online marketplace and variations in e-commerce platforms pose many challenges for consumer product safety and the agency must modernize its approach in addressing these issues. The E-commerce and Supply Chain Safety team will serve as a coordinated business unit that lends expertise to all agency activities related to e-commerce, including supply chain issues, internet surveillance, hazard identification, investigations, and enforcement. This team will be part of, and enhance, the Office of Compliance. This team will also support the Office of Import Surveillance and the Office of Information Technology.

2. Redirect \$0.25 million from Strategic Goal 4: Communications to Strategic Goal 1: Workforce and add a Workforce subcategory for “Recruitment Initiatives” with the accompanying language set forth below.
 - a. On Page 10, add: Recruitment Initiatives to enhance and support recruitment efforts necessary to reduce skills gaps in expertise in new/emerging technologies and mission-support areas. In order to address the Agency’s staffing needs and to attract and maintain qualified staff, who specialize in technology and related specializations, we must identify candidates with the specialized expertise sought and be adequately positioned to compete in the job market by offering competitive salaries, professional development, and other incentives to recruit and hire talented candidates. In addition to competitive incentives, the Office of Resource Management, as well as Agency hiring officers, will need advanced training on this specialized recruitment initiative to ensure we are attracting and fulfilling the Agency’s Workforce Strategic Goals.

 - b. On page 10, Strategic Goal 1: “Workforce (\$6.5 million),” add \$0.25 million to the allocation (making the total \$6.75 million). To maintain the current budget request amount, on page 18, Strategic Goal 4: Communication, subtract \$0.25 million to the allocation to total \$8.65 million.

- c. Rationale: To offset the \$0.25 million for Recruitment Initiatives, the funds should be taken from the Office of Communications. While agency communications are important to promote the Agency's mission, a great deal of the Request contains overlapping and/or projects that are accounted for in other Goals. The Agency may continue generating strategic messaging using content already produced and available without the costs associated in prior years' budgets. In doing so, the Agency can also reduce printing and production costs associated with these projects. The need for this \$0.25 to recruit necessary staff to evaluate and study safety issues and potential hazards in the consumer products on the current and emerging markets will result in a larger, direct, and measurable benefit to the American consumer compared to its use for promotional messaging.
3. On page 2, under "Applied Research in Hazard Identification," No. 1 "Organohalogen Flame Retardant (OFR) Chemical Assessment":
 - a. Strike: "The CPSC requests that this funding for OFR Chemical Assessments be a recurring amount in this and future budget requests, available as no-year funding, until the research project is completed."
 - b. Replace +\$2.0 million with +\$1.0 million to offset the costs for proposed amendment #1, "E-Commerce and Supply Chain Safety"
 - c. Add: "The CPSC shall re-evaluate, in each budget year, whether these funds should continue to be expended for this project. Nothing in this request should prevent the CPSC from re-directing these funds or requesting in future budget requests funds to conduct an exposure and risk assessment of any new or alternative fire retardants that may be developed, introduced and/or used in consumer goods, in lieu of or in addition to OFRs.¹"

¹ The rationale for this proposed amendment is that, as currently drafted, the budget request limits and requires expenditures consistent only with the recommendation proposed by NAS in its 2019 report. Significantly, the NAS proposes that toxicity of the first 14 identified subclasses of OFRs may be initially assessed, but would thereafter be followed by a toxicity assessment of the remaining subclasses. This proposal is designed to stretch over multiple years and has an estimated cost of \$13 million to complete only the first 10 (of 14) subclasses, with an additional \$5.6 estimated expenditure for the remainder. The NAS concludes that once this multi-year research project is complete, "additional research, beyond the 14 subclasses, of similar scope would be needed to determine exposure and risk assessment and would require additional funding beyond the \$18.6 million...." The current budget language commits the Agency to this project with "no-year funding," until the research project is completed. I think is short-sighted and not fiscally irresponsible to commit to such a large and extended research project that may be subject to market and legislative changes. For example, there are plant-based fire retardants gaining momentum in the market. I do not think it is prudent to unconditionally agree to spend \$+18.6 million, over multiple years, to evaluate chemical class types, any of which might become obsolete or withdrawn from the market by the time it is completed. Indeed, if that becomes the case, we

- d. Strike the "\$2,000,000 shall remain available until expended to conduct research on organohalogen flame retardants" on Page 4, "Proposed Appropriations Language."

4. On page 43, Appendix A, under "Reductions to Program":

- a. Strike: "RAM System Operations (-\$1.0 million)" and accompanying language
- b. Add -\$1.0 million to "Hazard Identification and Reduction Operations (-\$2.5 million) increasing the reductions to -\$3.5 million

should have the ability, if appropriate, to use any allocated funds available at the time to research and/or conduct an exposure and risk assessment – in real time – of whatever product(s) that may replace or be introduced as alternatives to these chemicals. In other words, we should not lock the Agency into a long term, very expensive plan, that may (or may not) be relevant at its end. Stated simply, the Agency should have the option to discontinue the research and/or to reallocate the funds, if appropriate, to any new or alternative flame retardants that may come onto the market over the next few years and not be locked in to completing this research as the current language would require.