



## 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 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 January 22, 2020, OS No. 0004)

### DECISION:

The Commission voted (1-1-1). A majority was not reached and no action will be taken. Acting Chairman Adler voted to approve the FY 2021 Performance 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. Commissioner Feldman voted to not approve the FY 2021 Budget Request and filed a statement with his vote (see attachment).

For the Commission:

A handwritten signature in black ink, appearing to read "Alberta E. Mills", written over a horizontal line.

Alberta E. Mills  
Secretary

\*Ballot vote due February 5, 2020

### Attachments:

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

Commissioner Kaye Amendments to the FY 2021 Performance Budget Request to Congress

Staff is directed to increase the total request amount in the Fiscal Year 2021 Performance Budget Request by \$17.5 million, for a total request of \$152.5 million.

To that end, staff is directed to add all the initiatives, totaling \$12 million, listed in "Appendix A: Unfunded Priorities previously submitted by the Commission" on pages 39-40, to the "Summary of Changes" on pages 1 -2, under "Changes to Program," and, as appropriate, in the "Budget Discussion" sections on pages 5-19.

In addition, staff shall also add the following initiatives, totaling \$5.5 million, to the "Summary of Changes" on pages 1 -2, under "Changes to Program," and, as appropriate, in the "Budget Discussion" sections on pages 5-19:

- **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.

On page 13, under "Child Nicotine Poisoning Prevention Act Enforcement," staff shall strike the first sentence and replace it with the following:

**"Under the Child Nicotine Poisoning Prevention Act of 2015 (CNPPA), Pub. L. No. 114-116, the CPSC is charged with enforcing regulations that require 'special packaging,' including child resistant packaging and flow restrictors, for liquid nicotine containers that are being sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States.**

*Cris R. Kaye* 2/5/20

**Commissioner Kaye Amendments to the FY 2021 Performance Budget Request to Congress**

**Staff shall amend the Mandatory Standards Table on page 24 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," add "NPR/FR" for Crib Bumpers.
2. Under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "DA/TR" for Portable Generators and replace with "DA/TR/BP."
3. Under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "DA/TR" for Recreational Off-Highway Vehicles (ROVs) and replace with "NPR/FR."
4. Under the category entitled, "Other Ongoing or Potential Rulemaking-Related Activities," strike "DA/TR" for Window Coverings and replace with "NPR/FR."

**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 \$17.5 million.**

## **CODB PROPOSED AMENDMENTS TO THE FY 2021 PERFORMANCE BUDGET REQUEST**

1. Staff is directed to increase the total request amount in the Fiscal Year 2021 Performance Budget Request to Congress by \$12 million, for a total request of \$147 million, consistent with the Fiscal Year 2021 Performance Budget Request to OMB (as explained in ¶ 2 below).
2. Staff is directed to move to Page 1, the four Unfunded Priorities and corresponding funding amounts (which total \$12 million) as described in Appendix A (pages 39-40). Specifically, the following four Priorities (with corresponding text) shall appear under the subheading Changes to Program:
  - a. Information Technology (+\$4.0 million)
  - b. Applied Research (+\$3.0 million)<sup>1</sup>
  - c. Import Surveillance Port Coverage (+\$4.0 million)
  - d. Non-Pay Inflation (+\$1.0 million)
3. 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 \$12 million.
4. Under Appendix A, Staff is directed to add a new initiative “E-Commerce Surveillance” funded at +\$1.0 million, which would expand current CPSC Import Surveillance work and further describe additional work to be done by the CPSC to address Safe & Lawful E-Commerce for U.S. Consumers. Specifically, CPSC must take steps to interdict E-Commerce transactions involving smaller express-carrier operators or international mail packages, which are being exploited by traffickers of counterfeit and/or consumer goods that do not comply with federal safety standards and regulations. This work shall be consistent with the President’s January 31, 2020 Executive Order entitled “Ensuring Safe & Lawful E-Commerce for US Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights.” This work shall also be consistent with the efforts of U.S. Customs and Border Protection (CBP) to protect U.S. consumers from unlawful, counterfeit, and unsafe or non-compliant consumer goods sold through E-commerce and shipped into the United States using express consignment carriers, hub facilities, international posts, customs brokers, or international mail.

---

<sup>1</sup> Because Organohalogen Flame Retardant (OFR) Chemical Assessment is already addressed in the FY 20201 Budget Adjustments (pg.1), the last sentence of the Applied Research paragraph in Appendix A shall be stricken.

## **Statement of Commissioner Feldman on the CPSC FY 2021 Performance Budget Request**

I am disappointed that today the Commission was unable to come to an agreement on its Fiscal Year 2021 Performance Budget Request to Congress. I am pleased that the proposed request for FTEs will allow the commission to hire a Chief Technologist and a Chief Analytics Officer in order to expand agency expertise on innovation and the safety implications associated with emerging technologies, and to develop an agency-wide data management and analytics strategy, respectively. However, the proposed budget leaves a number of critical items unfunded, including information technology, applied research, and import surveillance priorities. No consensus exists to identify offsets to fund these critical priorities within the agreed-to \$135 million funding level. Accordingly, I cannot vote to approve this request.