



**Testimony of Ann Marie Buerkle
Commissioner
United States Consumer Product Safety Commission**

Budget Hearing – Consumer Product Safety Commission

Before the

**U.S. House of Representatives
Committee on Appropriations**

**Subcommittee on Financial Services
and General Government**

February 25, 2016

Chairman Crenshaw and Ranking Member Serrano, thank you for holding today's hearing on the U.S. Consumer Product Safety Commission's Fiscal Year 2017 Budget and for giving me the opportunity to testify before you on these important issues. Your close attention to our budget is welcome, and it can truly affect the agency's behavior.

Your influence is well illustrated by the progress we have made on Recreational Off-Highway Vehicles, or ROVs. When I was here last year, the agency was heading in the wrong direction—pushing ahead with rulemaking towards a mandatory standard. That was in spite of strong, bipartisan congressional letters urging us to work with industry to develop voluntary standards. The power of the purse was harder to ignore. Once it was understood that insisting on an unnecessary mandatory standard was going to cost a serious amount of money, the strategy changed. Including language on this issue in our Appropriation has just about clinched a good result. The industry did its part, and worked hard to come up with a strong voluntary standard that will save lives and prevent injuries in the years to come. I thank you for your perseverance on this matter and encourage you to remain engaged on all CPSC issues.

I also want to thank you for devoting some of our last appropriation to test burden reduction. I continue to be dismayed at the extremely slow pace of our efforts, but there appears to be a glimmer of light at the end of the tunnel. Specifically, some of the 2015 funds we spent on test burden reduction could finally produce some modest relief for manufacturers this year. It looks like virtually all of the 2016 funds will be going towards development of instruments that could test for the presence of phthalates more cheaply. That technology could end up reducing the burdens of third-party testing, but it will take a few more years before we know whether it can be commercially successful. I will do what I can to make sure we spend this money wisely, and I will keep you well informed on our progress.

We are a country in fiscal peril. Our national debt is in excess of \$19 trillion. It is critical that every application of appropriated funds be transparent and that the federal agencies spending the American people's hard earned tax dollars are accountable for their actions.

Excessive government spending also contributes to our nation's economic woes in a second way. It feeds the regulatory state, whose cost is estimated at \$2 trillion *annually*, imposing an immense handicap on American

companies. The growing morass of regulation makes it more difficult and more expensive to do business in our country. The negative effects of such policies are felt throughout the American economy. Increased burdens resulting from cumbersome regulations will be passed on to consumers by way of increased prices for goods and services. A business needing to spend more capital to cut red tape will have less money to spend on things like safety innovations, research and development, creating new jobs, or increasing wages of existing employees.

CPSC only accounts for a relatively small portion of our nation's spending. However, because we have jurisdiction over approximately 15,000 different types of consumer products, we have a disproportionate impact on the regulated community, consumers and the marketplace.

I did not support the Commission's overall 2017 budget request of \$130.5 million, in part because it calls for a \$5.5 million increase over current funding levels. Nevertheless, I do not believe that any increase in funding is necessary to carry out our mission in the coming fiscal year. I firmly believe our mission and goals can be accomplished at current funding levels and that a carryover budget from FY2016 would give us the resources we need to be successful in FY2017.

The total amount of the requested budget increase is not my only concern. I also have reservations about how the funds would be spent. In particular, I question the need to double the agency's spending on nanotechnology research from \$2 million to \$4 million per year. While this is far less ambitious than last year's request, I still have not seen evidence that our current spending on nanotechnology exposure is producing valuable results. I respectfully submit that Congress should insist on an accounting for the huge sums already spent on nanotech across the government before allowing any increase.

I am pleased to see CPSC move towards a more fiscally responsible approach to growth in the area of import surveillance. In terms of port staffing as well as technology, we are analyzing our needs more carefully and scaling back our prior requests. To be clear, even on this smaller scale, I remain staunchly opposed to a user fee on imports. I believe that our operations are very different from those of other agencies who have been authorized to impose and collect import fees. Given CPSC's more limited

role at the ports, I continue to believe that our imposition of fees would—and should—raise constitutional concerns.

Even apart from the FY2017 budget request, your oversight is needed to make sure our spending follows Congressional intent. The Consumer Product Safety Act instructs us to keep consumers safe from unreasonable risks of harm. It is clear that Congress never intended us to eliminate all risk. All too often, however, the agency devotes our resources to risks that are exceedingly low. And even when it is clear that we cannot justify a mandatory standard under our statutes, the agency sometimes resorts to bullying tactics that circumvent the protections built into the rulemaking process. These actions undercut the claim that CPSC is a “data driven” agency.

The current CPSC administration is taking other steps that damage relations with manufacturers and retailers. The agency is vigorously pursuing the Chairman’s call for higher civil penalties, resulting in a three-fold increase in FY 2015 over FY 2014. The agency has never withdrawn its proposals to make voluntary recall plans legally binding, to require some recalling firms to admit their products are defective, and to weaken protections that help ensure CPSC’s statements about specific products are fair and accurate. And the agency has thrown a pall of uncertainty over the “Retailer Reporting” program, which has been a rich source of incident data for a decade and prompted more than a hundred safety recalls.

These actions and inactions create well-founded uncertainty and anxiety within the regulated community, and worse, a fear of retaliation. They undermine the trust and cooperation we need from these same firms when it comes to voluntary standards and other safety advances.

In closing, it is challenging to prioritize resources, especially when you have as large and vital a mission as CPSC. We all want to keep consumers safe, but we must find solutions that avoid imposing unnecessary burdens and wasting taxpayer dollars.

I welcome your questions.