



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814**

**STATEMENT OF COMMISSIONER ELLIOT F. KAYE
ON THE PASSAGE OF THE FISCAL YEAR 2022 PERFORMANCE BUDGET REQUEST TO
CONGRESS**

June 10, 2021

On May 18, 2021, the Commission approved the Fiscal Year 2022 (FY 22) Performance Budget Request to Congress by a vote of 3 to 1. The Consumer Product Safety Commission's (CPSC's) FY 22 Budget Request for \$170 million reflects a 26% overall increase from our Fiscal Year 2021 level of \$135 million. This \$35 million proposed increase to the agency's budget and the one-time appropriation of \$50 million from Congress in the American Rescue Plan Act of 2021 are important steps toward rectifying years of woeful underfunding that has materially impacted the agency's ability to protect the public. I wish to thank Acting Chairman Adler, my colleagues, CPSC staff and the consumer product safety community at large for their efforts and support during the past few years to increase our budget.

These additional resources, if approved by Congress, will support many important initiatives and better help the agency address unresolved safety issues and emerging hazards by providing additional personnel, research and testing support. After years and years of advocating (often alone and against the political and budgetary tides) for additional resources for the CPSC, I was pleased to support this Budget Request for increased funding. I hope Congress and the Administration will continue down this path until the agency has all the funding it needs to fully accomplish its safety mission and to provide the public, especially children, with the protections it needs and deserves.

A few important proposed program enhancements and safety initiatives that are included in the FY 22 Budget Request are plans to address online consumer product sales, expand our import and lab work and continue our work on chronic safety

hazards associated with playgrounds and organohalogen flame retardants. I particularly want to point out the proposed work to improve our data collection and analysis to identify potential safety disparities among minorities and under-served communities. This proposal builds on an amendment of mine that the Commission included in the current year Operating Plan. This work is absolutely vital and long overdue. Also, included in the FY 22 Budget Request are plans to finally promulgate Final Rules to address hazards associated with furniture tip-overs, magnet sets and window coverings.

Although I strongly supported the draft FY 22 Budget Request, I did feel that there were a few critical areas where the safety data well-justifies the CPSC doing additional regulatory work. I was disappointed that the amendments I offered to that end were not adopted (see attachment).

My amendments would have provided an additional \$1 million for our compliance staff to increase our defect investigation capabilities and civil penalty enforcement. The additional \$1 million would have enabled product investigations to occur more expeditiously and helped staff to pursue, as appropriate, potential civil penalty cases, thus enhancing the agency's ability to remove defective products from the marketplace and deter bad actors.

In addition, I offered amendments directing CPSC staff to draft Notice of Proposed Rulemakings in FY 22 to address persistent safety hazards associated with the following consumer products: off-highway vehicles (fire and debris penetration hazards), button/coin cell batteries, liquid laundry packets and adult portable bed rails. Unfortunately, the FY 22 Budget Request does not include any mandatory rulemaking activities for button/coin cell batteries or liquid laundry packets.

To be clear, the incident data compels us to be much more aggressive in addressing all of these hazards. I was disappointed and, candidly, surprised that not one of my colleagues supported these amendments. While it is fantastic to request more funding, we should be including with the Budget Request specific and tangible proposals to address the ongoing hazards from these products. I remain hopeful that in a few months, when the Commission considers its Fiscal Year 2022 Operating Plan, there will be support for a work plan that expedites our rulemaking efforts with respect to these products and provides additional support for our defect investigations and civil penalty work.

In the meantime, this Budget Request was definitely worthy of support, in large part to continue the years-long advocacy toward a budget that properly funds the work that the public needs from us. Hopefully in the not-too-distant future, the CPSC's annual

appropriations will be in the \$300+ million dollar range. It would be more than justified with lives saved and injuries prevented.

Attachment A

Commissioner Kaye Amendments to the FY 2022 Performance Budget Request

Staff is directed to make following changes to the “Summary of Changes.”

1. On page 4, under “Changes to Program,” strike initiative entitled, “Enhance Communications (+\$1.6 million),” and replace with the following:
 - **Enhance Communications (+\$0.6 million):** The agency requests an additional \$0.6 million to enhance communications efforts alerting consumers, especially those who are disadvantaged and underserved, to the dangers of portable fuel containers, carbon monoxide (CO) poisoning, portable generators, and other high-risk consumer products. Two FTEs were funded with ARPA funds in FY 2021, and we seek to include funding for those 2 FTEs in this budget request.
2. On page 4, under “Changes to Program,” add the following initiative:
 - **Vigorous Compliance (+\$1.0 million):** The agency requests an additional \$1.0 million for increased defect investigation capabilities and civil penalty enforcement. There is a significant need to increase the agency’s investigative capacity through the addition of a cadre of trained investigators. An expanded investigative staff would enable product investigations to occur more expeditiously. With regard to penalty enforcement, CPSC Compliance attorneys perform both compliance enforcement work and civil penalty work related to violative or defective products in the marketplace. Civil penalty work is time consuming and the agency lacks sufficient resources to pursue the full volume of potential penalty cases. Additional civil penalty staff would allow the agency to work on a faster timeframe. The agency’s ability to move more quickly on both these fronts is vital to removing defective products from the marketplace and deterring bad actors.

On page 41, under “Appendix A: Unfunded Priorities,” staff is directed to reduce the total amount for the initiative entitled, “Vigorous Compliance,” by \$1.0 million for a total of \$4.8 million instead of \$5.8 million.

On page 27, staff shall amend the Mandatory Standards Table of the proposed Fiscal Year 2022 Performance Budget Request as follows:

1. Under the category entitled, “Other Ongoing or Potential Rulemaking-Related Activities,” strike “DA/TR” for “Off-Highway Vehicle (OHV) Fire and Debris

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Penetration Hazards” and replace with “NPR” in the “FY 2022 Request” column.

2. Under the category entitled, “Other Ongoing or Potential Rulemaking-Related Activities,” add a new line entitled “Batteries, Ingestion (Button/Coin Cell),” with “NPR” in the “FY 2022 Request” column.
3. Under the category entitled, “Other Ongoing or Potential Rulemaking-Related Activities,” add a new line entitled “Liquid Laundry Packets,” with “NPR” in the “FY 2022 Request” column.
4. Under the category entitled, “Other Ongoing or Potential Rulemaking-Related Activities,” add a new line entitled “Adult Portable Bed Rails,” with “NPR” in the “FY 2022 Request” column.

Staff is also directed to make any additional conforming changes throughout the FY 2022 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.