



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 (staff)
 Commissioner Elliot F. Kaye
 Commissioner Dana Baiocco (staff)
 Commissioner Peter A. Feldman

ITEM:

Fees for Product of Records; Technical Amendments - Substitute Package dated October 17, 2019
(Original briefing package dated September 21, 2018, OS No. 4037)
(Updated/Amended package dated October 17, 2019)

DECISION:

The Commission voted unanimously (4-0) to approve publication of the October 17, 2019 substitute package in the *Federal Register*, with specified changes (see attachment).

For the Commission:

Alberta E. Mills
Secretary

*Ballot vote due April 1, 2020

(Commissioner Kaye transferred the ballot vote to a decisional meeting on September 25, 2018. On March 17, 2020 Commissioner Kaye transferred the decisional meeting back to a ballot vote and April 1, 2020 was established as the ballot vote due date).

Attachment: Commission Adopted Amendment from Commissioner Kaye

**Commissioner Kaye Amendment to Substitute Package Dated October 17, 2019 for
Notice of Proposed Rulemaking on Fees for Production of Records; Other Amendments to
Procedures for Disclosure of Information under the Freedom of Information Act**

II. Approve publication of the attached document in the *Federal Register*, with changes as specified.

A. On page 7, strike the following paragraph:

The proposed computer search fee would be charged on a per-quarter-hour basis, and the exact rate would be calculated and published annually, using the basic hourly pay rate of the average grade and step of GCOS staff who charged hours for FOIA projects in Fiscal Year 2019 (GS 12/4), plus 16 percent for the allowable OMB benefit rate, plus the per-hour rate for the allocable costs of maintaining the computer software and hardware used by CPSC staff for FOIA searches.

And replace that paragraph with the following paragraph:

The proposed computer search fee would be charged on a per-quarter-hour basis, and the exact rate would be calculated and published annually, using the basic hourly pay rate of the average grade and step of GCOS staff who charged hours for FOIA projects in Fiscal Year 2019 (GS 12/4), plus 16 percent for the allowable OMB benefit rate. CPSC program staff who work outside of the FOIA Office often conduct FOIA computer searches. However, CPSC staff has determined that the average grade and step of GCOS staff who charged hours for FOIA projects represents a reasonable agency-wide rate for operator costs in this category. The proposed computer search fee would not include CPU costs because any agency software or hardware costs directly attributable to searching for responsive records would be difficult to quantify and likely would be *de minimis*.

B. On page 8, strike “and for computer searches, the allocable cost of computer software and hardware used by CPSC staff to conduct FOIA searches.”

C. On page 26, strike “plus the per-hour rate for the allocable cost of maintaining the computer software and hardware that is used by CPSC staff to conduct FOIA searches.”