



U.S. CONSUMER PRODUCT SAFETY COMMISSION

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BETHESDA, MARYLAND 20814-4408

Record of Commission Action Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Ann Marie Buerkle
 Commissioner Robert S. Adler
 Commissioner Marietta S. Robinson
 Commissioner Elliot F. Kaye

ITEM:

Fiscal Year 2019 Performance Budget Request to Congress
(Briefing package dated January 24, 2018, OS No. 5309)

DECISION:

The Commission voted (3-1) to approve the FY 2019 Performance Budget Request to Congress together with the unfunded priorities list attached to their Ballot Vote Sheets (see attached). The FY 2019 Budget Request incorporating the unfunded priorities list as Appendix A will be submitted to Congress. Acting Chairman Buerkle, Commissioner Adler and Commissioner Robinson voted to approve. Commissioner Kaye voted to approve the FY 2019 Performance Budget Request to Congress with specified changes. (Proposed Kaye Amendments are also attached.)

For the Commission:

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

Alberta E. Mills
Secretary

*Ballot Vote Due February 2, 2018
(Commissioner Kaye extended the vote due date from January 30, 2018)

Attachments

Appendix A – Unfunded Priorities previously submitted by the Commission

- **Mission Operations (+\$2.85 million):** Restore mission operation reductions as described on p. 3, Summary of Changes.

- **Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) Grant Program (+\$1.3 million):** The FY 2017 Consolidated Appropriations Act included \$1.3 million, available until expended, to fund grants as established by the VGB Act, Public Law No. 11-140, Title XIV. Given that the FY 2017 appropriation for VGB grant funding was received near the end of the third fiscal quarter, and given that the funding was available until expended, the CPSC planned to execute that grant funding throughout FY 2017 and FY 2018.

Consequently, the CPSC's FY 2018 President's Request to Congress did not include additional funding for VGB grants, as adequate FY 2017 funds were available. However, the Financial Services House Subcommittee on Appropriations has subsequently proposed report language directing CPSC to fund an additional \$1.3 million in VGB grants in FY 2018, but the House appropriation bill does not provide the necessary appropriations and administrative guidance to execute the VGB grant direction. The CPSC cannot accommodate the issuance of VGB grants at the baseline level of \$123 million. Accordingly, the CPSC is requesting \$1.3 million in VGB grant funding in FY 2019 to be responsive to the Financial Services House Subcommittee's direction so that the CPSC can accommodate the issuance of additional VGB grants. If VGB grant funding above the \$123 million baseline is ultimately provided as part of the FY 2018 final appropriation, the CPSC will incorporate those funds into the FY 2019 baseline going forward.

- **Collaboration, Education, and Outreach (+\$1.0 million):** Consumers, safety advocates, industry, and government regulators need accurate and timely information about consumer product safety. Consumers need safety information to make informed decisions for themselves and their families. Safety advocates rely on accurate data to shape their policy recommendations. Industry needs information to stay in compliance with safety requirements. State and local government agencies need high-quality information to establish new safety requirements that advance consumer safety. To further the agency's priority of collaboration, education, and outreach, and Strategic Plan objectives to improve communication with consumers and stakeholders, the CPSC requests an additional \$1 million in funding. This additional funding will add new capabilities specifically to improve direct-to-consumer notification using cloud-based communication tools. Using this new tool, the CPSC will have the capability to target safety messages and information to the consumers who need the information, improve consumer response to safety information, and thereby, improve the return on our communication investment. In addition, the CPSC will use the additional funding to expand our existing education campaigns (e.g., *Pool Safety*, *Anchor It!*, *Safe to Sleep®*), including funding to assess the effectiveness of those campaigns so that the agency can refine and target its spending to the most effective channels. Lastly, the agency will use increased funding for direct stakeholder engagement and education. The CPSC recently hosted a recall effectiveness workshop attended by government, safety advocates and industry where many important, useful ideas were put forward. The CPSC plans to build upon that success with additional engagement forums using the requested funding.

Unfunded Priorities	In \$1,000s
➤ Mission Operations	\$2,850
➤ VGB Grants	\$1,300
➤ Collaboration, Education, and Outreach	\$1,000
➤ Hazard Research Collaborations and Data Analysis	\$1,550
➤ IT Security	\$500
➤ Data Analysis Expansion	\$500
➤ Internet Surveillance	\$950
➤ Enhance Voluntary Standards Coordination	\$150
➤ All-Terrain Vehicles	\$1,000
➤ Enhance Detection Capabilities	\$3,000
Total Unfunded Priorities	\$12,800

- **Hazard Research Collaborations and Data Analysis (+\$1.55 million):** The CPSC relies extensively on the data-driven, technical hazards analysis capabilities of the agency to direct national consumer product safety policy and to identify emerging consumer product safety risk. This analysis is often accomplished through collaborative research, working with other government agencies and private sector partners, and using the intrinsic technical capabilities of the agency. Applied research projects develop test methods, identify causes for safety incidents, characterize harmful effects, and develop performance requirements to address emerging hazards. This is existing, critical work that is foundational to achieving the agency's life-saving mission. Unfortunately, the resources to conduct this applied research and analysis have been increasingly strained, as the pace of new product development has increased, new markets emerge, existing types of products evolve, and consumer interaction behaviors change. The result is that research on known, priority hazards is repeatedly deferred to future years and the CPSC is increasingly reactive rather than proactive in assessing emerging consumer product safety issues (e.g., lithium-ion battery fires). The CPSC requests an additional \$1.55 million to address existing shortfalls in critical, deferred, collaborative hazard research and data analysis.
- **IT Security (+\$0.5 million):** The CPSC Inspector General has identified compliance with the Federal Information Security Management Act (FISMA) as an agency management challenge. The agency has made sustained progress in addressing FISMA noncompliances, but still has substantial gaps, particularly in federal records and privacy. The CPSC requests \$0.5 million in additional funding to accelerate FISMA compliance work related to the agency's privacy program to meet the agency's responsibilities to safeguard information collected, used, and managed in support of mission functions. Funding would be used to create the necessary privacy policies, conduct and inventory the agency's personally identifiable information (PII) data sources, update System of Record Notices (SORN), and evaluate the program resources required for a compliant privacy program going forward.
- **Data Analysis Expansion (\$0.5 million):** Currently, incident data from urgent care centers that typically treat non-life threatening injuries are not collected by the CPSC. Adding data from urgent care centers could enhance the CPSC's detective data analysis capabilities in identifying emerging consumer product hazards. The CPSC requests an additional \$0.5 million to further explore and enhance collection of incident data to include treatment of product-related injuries at urgent care centers to improve the agency's data analysis capabilities.
- **Internet Surveillance (+\$0.95 million):** The CPSC staff conducts extensive marketplace surveillance of consumer products by routinely scanning Internet websites for dangerous violative and recalled products. The request provides for three additional FTE who will be assigned and dedicated to Internet surveillance and utilizing any additional automated surveillance tools. These FTEs will concentrate efforts on monitoring online sales and working closely with website management of retail and resale sites to improve the methods that companies use to identify and address improper listings. These FTEs will also assist in responding to complaints from consumer or industry involving recalled or banned products being sold on websites. This request also provides additional funding for data analytics, including the automated collection and analysis of additional product safety information, including but not limited to information from publicly available product reviews and social media.
- **Enhance Voluntary Standards Coordination (\$0.15M):** The CPSC participates in the voluntary standards process for identified products to reduce the risks associated with hazardous consumer products by working with organizations that coordinate the development of voluntary standards. The CPSC is required to rely on voluntary standards rather than promulgate mandatory regulations, if compliance with a voluntary standard would eliminate or adequately reduce the risk of injury identified, and it is likely that there will be substantial compliance with the voluntary standard. This funding adds an FTE to support the CPSC's voluntary standards coordination work and enables increased CPSC staff participation generally in voluntary standards efforts.
- **All-Terrain Vehicles (ATVs) (\$1.0M):** The CPSC has a multi-year research project plan to analyze ATV rider safety to inform potential Commission policy. The identified research plan is unfunded. This request provides resources

to fund identified agency work on ATV mandatory standards in accordance with the multi-year project plan. The CPSC 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.

- **Enhance Detection Capabilities (+\$3.0 million):** The CPSC analyzes data and relies upon domestic investigators and port inspectors to detect dangerous and noncompliant products before they reach consumers. The CPSC proposes to expand and enhance these existing detection capabilities. This would include significant increases to marketplace surveillance.

Commissioner Kaye's Amendments to the FY 2019 Performance Budget Request to Congress

Staff is directed to increase the total request amount in the Fiscal Year 2019 Performance Budget Request by \$2.85 million, for a total request of \$126.3 million. In addition, staff shall include the following "Critical Unfunded Commission Safety Priorities" Initiatives In the FY 2019 Performance Budget Request and on page 3, after "Changes to Program," shall add the following:

Critical Unfunded Commission Safety Priorities:

- **Enhanced Detection and Analytics Capabilities (+\$4.45 million):** Consumers rightly expect the government to prevent dangerous products from reaching consumers in the first place. The first main line of defense for this effort is at our nation's ports, especially since a great majority of recalled products are imported. The CPSC analyzes data and relies upon domestic investigators and port inspectors to detect dangerous and noncompliant products before they enter the country. Our current funding levels do not provide the agency with the resources to match consumers' expectations or their safety needs. The CPSC requests an additional \$3 million to expand CPSC port coverage through more CPSC staff at U.S. ports of entry to increase our coverage from 62 percent of consumer product imports to 65 percent in FY 2019, working toward the ultimate goal of covering 95+ percent of imported consumer products in the future.

Because we are not resourced sufficiently to prevent dangerous products from reaching store shelves or being sold online, the CPSC staff conducts extensive marketplace surveillance of consumer products by routinely scanning a portion of Internet websites for dangerous violative and recalled products. Our current funding levels leave critical safety gaps in our ability to more broadly and more quickly provide crucial marketplace surveillance. The CPSC requests an additional \$0.95 million to provide for three FTEs who will be assigned and dedicated to Internet surveillance and to utilize additional automated surveillance tools. These FTEs will concentrate efforts on monitoring online sales and working closely with website management of retail and resale sites to improve the methods that companies use to identify and address improper listings. They will also assist in responding to complaints from consumers or industry involving recalled or banned products being sold on websites.

To more efficiently scan for dangerous products and identify incident trends with products on the market, this request also provides additional funding for enhanced data analytic capabilities, including the automated collection and analysis of additional product safety information, including but not limited to information from publicly available product reviews and social media. This request includes funds to begin to address critical gaps in incident data collection and analysis as well. Currently, while the CPSC relies extensively on incident data collected from a representative sample of our nation's hospital emergency departments, we do not have the resources needed to include data collection from the growing number of urgent care centers that typically treat non-life threatening injuries. Adding data from urgent care centers could greatly enhance the CPSC's detective data analysis capabilities in identifying emerging consumer product hazards. The CPSC requests an additional \$0.5 million to further explore and enhance collection of incident data to include treatment of product-related injuries at urgent care centers to improve the agency's data analysis capabilities.

- **Severe Injury and Death Prevention Research Expansion (+\$2.55 million):** The CPSC relies extensively on data-driven, technical hazards research to direct national consumer product safety policy and to address consumer product safety risks. Applied research projects develop test methods, identify causes for safety incidents, characterize harmful effects and develop

Commissioner Kaye's Amendments to the FY 2019 Performance Budget Request to Congress

performance requirements to address emerging hazards. This is existing, critical work that is foundational to achieving the agency's life-saving mission. Unfortunately, the resources to conduct this applied research and analysis have been increasingly strained, as the pace of new product development has increased, new markets emerge, existing types of products evolve, and consumer interaction behaviors change. The result is that research on known, priority hazards is repeatedly deferred to future years and the CPSC is increasingly reactive rather than active in assessing emerging consumer product safety issues (e.g., lithium-ion battery fires), leaving consumers at greater risk because of insufficient resources. The CPSC requests an additional \$2.55 million to address existing shortfalls in critical, deferred hazard research, including funding to address fully any health effects associated the use of crumb rubber in children's playgrounds.

- **All-Terrain Vehicles (ATVs) (\$2.0M):** ATVs continue to be one of the most dangerous and deadly products within the agency's jurisdiction. Additional resources are needed 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 requests \$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.
- **Critical IT Security Needs (+\$0.85 million):** While the CPSC continues to make sustained progress in Federal Information Security Management Act (FISMA) compliance and implementing other critical requirements, current funding levels prevent the agency from addressing critical security and privacy needs. The CPSC requests \$0.85 million in additional funding to address those needs by enhancing systems security and better ensuring information privacy.

Commissioner Kaye's Amendments to the FY 2019 Performance Budget Request to Congress

To reflect the inclusion of the initiatives above in the FY 2019 Performance Budget Request as well as other initiatives, staff is directed to make the following changes:

1. **Restore Mission Operations Reprogramming Offsets** – On page 3, under “Changes to Program” strike the following: “Reduce Mission Operations (-\$2.85 million): Funds are being repurposed within the baseline from mission -related activities to offset inflationary increases in pay and non-pay, as described above. The CPSC plans to analyze and streamline personnel as part of the agency reform initiative proposals and to defer some information technology system enhancements.”

On page 6, under “Risk Assessment Methodology (RAM)/Import Surveillance” strike the following: “We have no additional development or enhancement work on the RAM planned at the FY 2019 Request level; we will defer any required development work until future years.”

2. **Protect Consumers by Enhancing Detection and Analytics Capabilities** – On page 6, under “Port Presence” strike the following: “The CPSC is currently evaluating the percentage of ports where CPSC can provide coverage at the FY 2019 President’s Request level.” And replace with the following language: “If the CPSC receives the additional critical funding as requested in FY 2019, the agency will enhance detection capabilities by expanding its ability to detect noncompliant and/or hazardous goods before they enter the market either through our ports or from domestic manufacturers.”
3. **Further Modernize Incident Data Collection to Include Urgent Care Centers** – On page 7, under “National Electronic Injury Surveillance System (NEISS),” add the following language at the end of the section: “If the CPSC receives the additional critical funding as requested in FY 2019, the agency will further explore and enhance collection of incident data to include treatment of product-related injuries at urgent care centers.”
4. **Prioritize Severe Injury and Death Prevention Research Expansion**– On page 7, under “Hazards Research Collaborations and Testing” add the following language at the end of the section: “However, if the CPSC receives the additional critical funding as requested in FY 2019, the agency proposes to use its limited resources to prioritize work on certain hazard research, including work to fully address any health effects associated the use of crumb rubber in children’s playgrounds.”
5. **Reduce Deaths and Injuries through Stronger Mandatory Standards for Durable Nursery Products and ATVs** – On page 8, under “Mandatory Standards” strike the following: “The CPSC will also consider a draft NPR for crib mattresses.” And replace with the following language: “The CPSC will also consider a draft FR for crib bumpers and a draft NPR crib mattresses.” Also, after “[see Mandatory Standards table on pp. 22-23],” add the following language: “If the CPSC receives the additional critical funding as requested in FY 2019, the agency will provide additional resources to continue staff work to finalize an updated ATV mandatory standard.”
6. **Protect Consumers by Expanding Detection and Analytics Capabilities** – On page 9, under “Field Investigations” add the following language at the end of the section: “If the CPSC receives the additional critical funding as requested in FY 2019, the agency plans to increase the number

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of field investigators by 3 FTES and utilize additional automated surveillance tools and data analytics to assist in improving product safety and recall effectiveness.”

- 7. Address Critical IT Security Needs** - On page 14, under “IT Security” add the following language at the end of the section: “If the CPSC receives the additional critical funding as requested in FY 2019, the agency would use additional funds to address critical security and privacy needs.”
- 8. Monthly Progress Reports** - On page 34, in the Table under “SO 3.2 – Compliance and Field,” add the following bullet: “Continue to regularly publish monthly progress reports”

Staff is directed to make any additional conforming changes throughout the FY 2019 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 \$126.3 million.

Carla R. [Signature] 2/2/17