



## U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814-4408

### Record of Commission Action Commissioners Voting by Ballot\*

Commissioners Voting:      Chairman Inez M. Tenenbaum  
                                         Commissioner Thomas H. Moore  
                                         Commissioner Nancy A. Nord  
                                         Commissioner Anne M. Northup  
                                         Commissioner Robert S. Adler

### ITEM:

FY 2011 Midyear Review  
(Briefing package dated May 13, 2011, OS No. 3402)

### DECISION:

The Commission voted (4-1) to approve with changes the FY 2011 midyear review recommendations of the Executive Director. Chairman Tenenbaum and Commissioners Moore, Nord and Adler voted to approve the recommendations with three of the same amendments. Chairman Tenenbaum and Commissioners Moore and Adler voted to approve one other amendment. Commissioner Nord offered three other amendments that were not adopted. Commissioner Northup voted to not approve the review recommendations. Commissioners Nord and Northup issued the attached statements with their votes.

For the Commission:

A handwritten signature in black ink that reads "Todd A. Stevenson".

Todd A. Stevenson  
Secretary

\* Ballot vote due June 2, 2011

Attachments: Statement of Commissioner Nord  
Statement of Commissioner Northup



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STATEMENT OF COMMISSIONER NANCY NORD ON  
THE CPSC MID-YEAR FY 2011 BUDGET REVIEW  
June 3, 2011

The FY 2011 mid-year budget review offers us an opportunity to refine our spending initiatives and assure taxpayers that public funds are being spent in the most cost effective manner. I am not satisfied that the mid-year budget adjustments put before us accomplish this objective.

I am disappointed that my colleagues have again chosen to forgo funding a cost benefit analysis of the proposed rule for testing and certification, a rule that has the potential to markedly impact global manufacturing. I offered a similar amendment to the FY 2010 mid-year review, only to have the proposal rejected by my colleagues. As I stated a year ago, in the past, when the CPSC issued a major rule, it followed the lead of other agencies and went through this discipline. And when we did, the decision-making process was better informed because of the rigorous analysis that accompanied it. There still is no good reason why we are not doing such an analysis in this important case, especially since – like last year – the necessary funds are available and this testing rule is one of the most significant rules ever promulgated by this agency.

This economic analysis is a sensible way to ensure that we are structuring the testing and certification rule to get the most safety benefits for the least societal cost. And while some are fond of drawing attention to the CPSIA as a sort of justification for turning a blind eye to its use, it is important to note that CPSIA does not prohibit the agency from performing a cost benefit analysis. Moreover, when Congress passed the CPSIA, I believe that they expected that we would regulate in a rational way. But without understanding the costs and benefits associated with a new regulation, how can we honestly claim to be doing this? To not perform this analysis is both irresponsible and indefensible.

The CPSC's mid-year budget review shows that we have \$3.4 million in unallocated funds. To spend this money, it is proposed, among other things, that monies be dedicated to marketing-related activities that may not even be effective. I am particularly concerned that more than a quarter million dollars are being reallocated to expand the Neighborhood Safety Network (NSN) at this time. While I have been a long-time supporter of the objectives of the NSN – that is, to bring our safety message to hard-to-reach audiences – we have never done an analysis of the effectiveness of this campaign. Before investing substantial additional monies in a program like NSN, it seems to me that we should first analyze how and if it is actually helping us achieve the agency's objectives.

Until the program's effectiveness is appropriately measured, I offered an amendment to redirect these monies away from this and other marketing-related activities toward capital investment in modern equipment at the agency's new lab facility. For instance, the lab has identified equipment that will enhance the agency's ability to determine root causes of the failures of certain consumer products such as strollers and playpens without damaging these products by pulling them apart during inspection. That equipment is not funded in this budget. At this time of limited resources, it seems that investment in capital equipment should take priority over PR and marketing campaigns.

I am pleased that my colleagues accepted an amendment that I offered to reactivate the agency's long-dormant efforts to update our fireworks regulations. Deaths and injuries from fireworks has been a long-standing concern of this agency. With the passage of CPSIA, other rules were mandated and this rulemaking was therefore put on the back burner. Because the agency's fireworks regulations were promulgated many years ago, they need to be updated to recognize developments in these products. This rulemaking was initiated in 2006 and it is time to bring it to an appropriate conclusion.



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## STATEMENT OF COMMISSIONER ANNE M. NORTHUP ON THE 2011 MID-YEAR REVIEW RECOMMENDATIONS

June 2, 2011

Today, I voted against the Commission's mid-year budgeting recommendations for 2011. My vote is in opposition only to the agency's mid-year spending and budgeting decisions and not to the 2011 Operating Plan, which was included as part of today's ballot.

I appreciate that this Commission will have to keep a close eye on new hires and numbers of FTEs (full-time equivalents), which likely will mean we will need to do more with less in the coming months. However, in doing so, we do not also need to *spend* the cushion of money we may save by year's end (approximately \$3.4 million), including expected salary savings, on entirely new equipment, projects or otherwise non-essential items. Like last year, I instead proposed to my fellow Commissioners to send any unspent salary funds and other savings of the Commission back to the United States Treasury to help reduce the federal budget deficit. Unfortunately, my proposal was again rejected.

The number one issue facing Congress, reported on by the newspapers, and on the minds of most Americans is the national debt—and what a growing national debt and out-of-control federal spending means for families, the overall economy and the availability of jobs. For this reason, President Obama has called for freezes in annual discretionary spending and for all federal agencies to look at where they can cut back and reduce the unnecessary impact of federal regulations on industry. In less than four years, the federal debt held by the public has doubled in nominal terms.<sup>1</sup> The Congressional Budget Office's projections show the federal debt continuing to grow at an unsustainable rate. Those of us in positions to effect federal spending cannot simply ignore this fact, no matter how large or small our agency's annual budget may be in proportion to the overall problem.

Given this reality, as well as a reduced budget from Congress, the Commission's 2011 Operating Plan proposes to reduce the total number of estimated FTE's for the remainder of this fiscal year from a level of 576 in the Commission's original 2011 Budget Proposal, down to 540 in this year's Operating Plan. As a result, we anticipate accrued salary savings (and other unforeseen savings) of at least \$3.4 million by this October. The Commission voted today on a plan to *spend* that expected savings on various new equipment and projects. This decision amounts to spending money unnecessarily, because any new equipment and projects brought forward mid-year could not have been first priorities in our original budget. It also sends the confusing message to agency staff and the public that we are reducing new hires in order to "save"—when we are not actually planning to save any money. All we are doing is re-prioritizing spending. It is like a parent telling her child she will not be able to afford to send the child to a better school, and then buying a

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<sup>1</sup> <http://budget.senate.gov/republican/analysis/2011/2011-05-12WhitePaper.pdf>

brand new, more expensive car. Spending and saving are simply a matter of priorities – and I disagree with the priorities the Commission has set today.

As a Commissioner appointed to a federal agency, I am responsible not only for fulfilling the safety mission of this agency, but also for being a good steward of the taxpayers' hard-earned dollars. I believe there are a number of ways that this agency can save money for American taxpayers and better focus our priorities on genuine risks, including sending any accrued savings back to the Treasury to help reduce this year's federal deficit. I regret that my colleagues did not join in supporting my decision today to make a small contribution toward reducing the federal deficit.