

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

September 26, 2019

The Honorable Ann Marie Buerkle
Acting Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Acting Chairman Buerkle:

I write today to request information about the Commission's efforts to enforce the Child Nicotine Poisoning Prevention Act of 2015 (CNPPA).

As you know, liquid nicotine is a toxic product that poses serious health risks and can even cause death if significant amounts are absorbed by children. Furthermore, a recent wave of illnesses and even deaths linked to the use of liquid nicotine suspensions in vaping devices has highlighted the fact that these products often contain other potentially toxic substances that could be especially harmful to children.

To combat this threat to children, Congress passed the CNPPA four years ago. The law requires that all substances with liquid nicotine are placed in child-resistant packaging, including the use of flow restrictors. Unfortunately, non-compliant and dangerous packaging containing liquid nicotine remains on store shelves and for sale on Internet websites due to the Commission's slow pace of enforcement efforts. Furthermore, it is my understanding that your office may have directed Commission staff to delay or defer enforcement of the CNPPA requirements against manufacturers, distributors, and retailers of liquid nicotine products.

In the wake of a national health crisis involving vaping-related illnesses and deaths, the Commission's failure to enforce a law to keep these substances from poisoning small children is deeply troubling. In order to more fully understand the current regulatory environment at the Commission, I hereby request, as Ranking Member of the U.S. Senate Committee on Commerce, Science, and Transportation and pursuant to 15 U.S.C. 2055(a)(7), copies of the following documents:

- 1) A list of all incident reports received by the Commission (including, but not limited to, Section 15 reports and consumer provided incident reports) associated with liquid nicotine poisoning.

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- 2) Copies of all in-depth investigation (IDI) reports (including all associated attachments or documents) completed by Commission staff associated with liquid nicotine poisoning.
- 3) Copies of any presentations by Commission staff (including PowerPoint presentations) to you, the Office of the Chairman, or any other Commissioners' offices concerning enforcement policies or Office of Compliance actions against manufacturers, retailers, or distributors of liquid nicotine.
- 4) Copies of all correspondence, including e-mails, phone logs, and meeting logs, of any communications between employees of liquid nicotine manufacturers, distributors, retailers, or any associated trade associations, lobbyists, or representatives and you, the Office of the Chairman, or Commission staff from February 9, 2017, to the present.
- 5) A list of all instances, including any associated documents, where you directed Commission staff to cease work on, delay, or otherwise impede or limit resources for enforcement of the child-proof packaging or flow restrictors required on packages containing liquid nicotine under the CNPPA.
- 6) A copy of any Commission polls, requests, Record of Commission Action (RCA) or other associated documents issued by you or the Office of the Acting Chairman requesting any deferral or suspension of enforcement of the liquid nicotine packaging requirements under the CNPPA.

Please provide the requested documents as soon as possible, and in no event later than October 15, 2019. Thank you in advance for your assistance with this request.

Sincerely,



MARIA CANTWELL
Ranking Member

cc: The Honorable Robert S. Adler, Commissioner
The Honorable Elliot F. Kaye, Commissioner
The Honorable Dana Baiocco, Commissioner
The Honorable Peter A. Feldman, Commissioner