

House Appropriations Amendment Prohibits CPSC from Finalizing Voluntary Recall Proposed Rule; Senate Advances CPSC Nominees to Floor

July 17, 2014

Yesterday, the U.S. House of Representatives approved the 2015 Financial Services and General Government Appropriations bill, which provides funding for the CPSC but includes an amendment that would prohibit the Commission from using those funds to finalize, implement, or enforce its proposed rule on voluntary recalls. The amendment, which was introduced by Rep. Marsha Blackburn (R-TN) late Tuesday night, was adopted on a vote of 229 to 194.

Introduced in November 2013, the [proposed rule](#) represents a departure from longstanding Commission practice regarding voluntary recalls. Specifically, the proposed rule would: (1) make corrective action plans that implement voluntary recalls legally binding; (2) allow the CPSC to mandate the adoption of legally binding compliance programs; (3) reduce flexibility in the voluntary recall process by standardizing recall notice content; and (4) limit a company's ability to disclaim that a product is defective or presents a substantial product hazard. As the [House Report](#) notes, the voluntary recall process is largely successful, but the proposed changes "would serve to negatively impact small businesses . . . , [and the Appropriations] Committee opposes making unnecessary changes to a recall system that has worked well over the past 40 years."

The House Report also expresses concerns over proposed changes to the Commission's public disclosure rules, which would affect companies' ability to prevent the CPSC's disclosure of information about the company, and notes that the proposed changes "threaten to undermine a successful partnership based on openness and trust between industry and the Commission." The Committee also characterizes the proposed changes to certification requirements as costly and burdensome.

On the other side of the aisle, the Senate Committee on Commerce, Science and Transportation on Tuesday approved three CPSC nominees – Elliott Kaye, Joseph Mohorovic, and current Commissioner Robert Adler. If confirmed by the Senate, [Mr. Kaye](#), the current CPSC Executive Director, would become Chairman. Mr. Mohorovic, senior vice president of strategic management in Intertek's consumer goods division, would become the second Republican Commissioner (joining Ann Marie Buerkle), and [Commissioner Adler](#), currently serving as Acting Chairman, would stay on for a second term. We will continue to monitor the progress of the appropriations bill and the Senate vote and keep you apprised of any developments.