



**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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approved and signed.

Memorandum

Date: October 5, 2018

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Mary T. Boyle, Acting Executive Director
Patricia M. Hanz, General Counsel

FROM: DeWane Ray, Deputy Executive Director
Safety Operations

SUBJECT: Staff Responses to Questions for the Record about the Fiscal Year 2019 Operating Plan

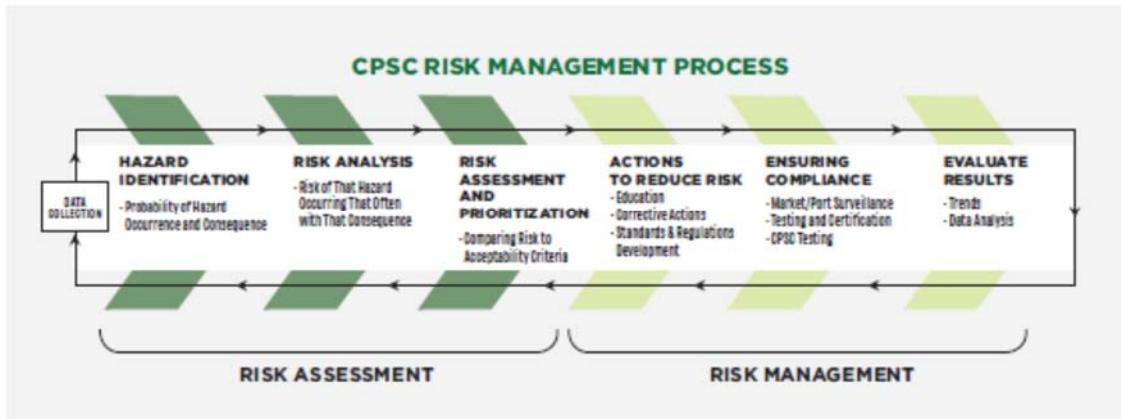
This memorandum provides staff responses to questions for the record from Commissioner Kaye about the Fiscal Year 2019 Operating Plan.

Questions:

Risk Prioritization

1. *As noted in the staff cover memo, the proposed FY 2019 Operating Plan “[f]ocuses resources on the highest priority consumer product safety risks[.]” (Memo p. 1). As we are not funded by Congress at a level sufficient to address all known consumer product safety risks, what methodologies and protocols did staff use to prioritize product-related risks for the proposed Op Plan consistent with the statement in the memo? Please provide to the Commission a chart that reflects the relative risk of products within our jurisdiction in descending order starting with those products staff deems most risky based on the methodologies and protocols it used to draft the proposed Op Plan. Please include on the chart an indication or notation as to which products on the chart have staff work associated with them as part of the proposed Op Plan*

To develop the proposed FY2019 Operating Plan, staff used the same process used historically to prioritize projects. This prioritization process is outlined in the CPSC Strategic Plan and focuses on the criteria in 16 CFR 1009.8, which sets forth the policy on establishing priorities for Commission action. A graphic representation of that risk management process follows.



In particular, staff continually reviews data and information from a range of sources, including NEISS, medical examiner reports, reports to SaferProducts.gov and product safety assessments, among many others. Staff then applies the criteria delineated in 16 CFR 1009.8 in its risk assessment and risk management phases:

- **Frequency and Severity of Injuries:** see, for example, NEISS Data Highlights¹ among other reports.²
- **Causality of Injuries:** this factor typically causes a significant reordering of priorities, as falls dominate both deaths (65%) and injuries (22%), but the causes are typically not addressable by CPSC action.
- **Chronic Illness and Future Injuries:** CPSC has maintained a focus on projects such as Chemical Hazards (MIS 23258 and MIS 23259) and Nanotechnology (MIS 23704) because of the potential for future illnesses and Commission role in reducing or eliminating them although they do not have the same incident data as other types of injuries and hazards.
- **Cost and Benefit of CPSC Action:** in planning stages, preliminary evaluations of costs and benefits are made, with CPSC seeking to maintain a balance between them. An example is sports-related injuries, of which there are many (8% of injuries), however, many are not addressable by CPSC action.
- **Unforeseen Nature of the Risk:** Examples of projects where this is a factor include Flammable Refrigerants and Spray Polyurethane Foam insulation, for which reported incidents are few and consumer awareness is limited.
- **Vulnerability of the Population at Risk:** while deaths and injuries for children's products have been fewer than for other products, CPSC historically has allocated significant resources on these (*e.g.*, more than one-third of active voluntary standards for children's products). Similarly, staff

¹ https://www.cpsc.gov/s3fs-public/2017-Neiss-data-highlights.pdf?3i3POG9cN.rlyu2ggrsUkD1XU_zoiFRP

² See, e.g., <https://www.cpsc.gov/Research--Statistics/Injury-Statistics>

- continues to work on efforts related to senior-safety, despite the fact that most are related to falls and not highly amenable to CPSC risk management efforts.
- **Probability of Exposure to Hazard:** Examples of where exposure is a significant consideration include electrical equipment (*see, e.g.,* National Electric Code and other standards work) and cribs.
 - **Additional Criteria:** these include Congressional direction (*e.g.,* planned update of CPSC toy regulations following ASTM F963 update), Commission direction in previous Operating Plans, Performance Budget Requests and other Commission votes (*e.g.,* organohalogen petition), and keeping CPSC's regulations up to date (*e.g.,* Lab Accreditation IBR Update).

Staff does not have a chart of all products within our jurisdiction ranked by relative risk of products. However, staff applied the criteria discussed above to develop the projects within the operating plan. Specifically, the voluntary standards table (pp. 6 -7) and the mandatory standards table (p. 9) identify product specific activities that staff plans to work on in FY19, taking into account previous Commission direction, statutory requirements, and applying the criteria of 16 CFR 1009.8.

Burden Reduction (p. 18):

1. *Why was #25727 – Burden Reduction renamed from #25727 – Burden Reduction/Assure Compliance? Please list all the burden reduction projects that are included in this draft FY 19 Op Plan, whether they are specifically listed as a burden reduction project or not.*
2. *Why did the project description change from years past and why were the following statutorily mandated words (required by P.L. 112-28) deleted: “consistent with assuring compliance with all applicable rules, regulations, bans and standards” in reference to the third party testing costs of children’s products?*

The heading was shortened for stylistic purposes. All burden reduction actions related to third party testing requirements will still require that the burden be reduced while assuring compliance, consistent with statutory requirements. In addition, the project category was retitled to account for work that extends beyond specific statutory requirements related to the cost of third part testing requirements to include work on broader burden reduction issues. In FY19, the following burden reduction projects are planned (MIS 25727):

- NPR Manufactured Fibers
- Review of certification on classes of products where on-product certification is used
- Review of exemptions for flammability testing
- Evaluation of policies for detained shipments

Compliance (pgs. 21-25)

1. *What deliverables will staff produce in FY 19 with respect to the Fast Track and Recall Effectiveness projects? (p. 24)*

Staff has two annual milestones defined in the FY19 operating plan (p. 25). The milestone for Fast Track 2019M26 is an evaluation of the fast track program for possible changes to processes and policies. The milestone for recall effectiveness 2019M26 is to evaluate the inputs from the RFI.

2. *What would be the resource implications for a report to the Commission on existing CPSC efforts to enforce compliance with ATV action plans and data on industry-wide compliance with ATV action plans?*

Given current staffing levels and the ongoing restructuring in Compliance, the resource implications at this time would be significant. The restructuring aims to better position Compliance to assess and efficiently deploy limited resources. Additional significant new initiatives at this time could delay and encumber that process.

Information Technology Operating Plan Details (pgs. 36-39)

1. *What would be the resource implications for staff to develop a master plan outlining all the needed connections between our siloed systems (DCM, IFS, 360 etc) and a requirements analysis to integrate our systems as appropriate?*

Staff has identified as a priority activity a business process review (BPR) for IT modernization of the Integrated Field System (IFS). See Operating Plan, page 21. This review is the first step in modernizing IFS. It is likely to identify new workflows and procedures to break down silos both in process and in IT systems. Staff thus believes that this review is the appropriate precursor to any broader integration analysis.

In addition, a master plan as requested above would have significant resource implications and require additional funding for contract staff to augment existing CPSC staff. Historically, requirements analysis sufficient to produce executable plans for individual major systems has cost hundreds of thousands of dollars, taken about a year, and required significant staff time from mission area program and EXIT subject matter experts. The specific costs for this activity would be based on a competitive procurement process. However, it is anticipated that the internal resources required would be significant due to the need to model multiple major systems and the increased number of mission area programs that would be affected.