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THIS MATTER IS NOT SCHEDULED FOR A BALLOT VOTE.

A DECISIONAL MEETING FOR THIS MATTER IS SCHEDULED ON: TBD

DATE: May 4, 2022

TO : The Commission
Alberta E. Mills, Secretary

FROM: Mary T. Boyle, Executive Director
Austin Schlick, General Counsel

SUBJECT: FY 2022 Midyear Review

This memorandum summarizes staff’s recommendations for the FY 2022 Proposed Operating Plan Alignment and Midyear Review.

Please indicate your vote on the following options:

I. Approve the FY 2022 Midyear Review, as drafted.

Signature Date

II. Approve the FY 2022 Midyear Review, with the following specified changes:

Signature Date

U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

National Product Testing and Evaluation Center
5 Research Place
Rockville, MD 20850



III. Do not approve the FY 2022 Midyear Review.

Signature

Date

IV. Take the other action specified below:

Signature

Date

Attachment:

Executive Director’s Memorandum on the Fiscal Year (FY) 2022 Proposed
Operating Plan and Alignment Midyear Review

**U.S. Consumer Product
Safety Commission**
4330 East-West Highway
Bethesda, MD 20814

**National Product Testing
and Evaluation Center**
5 Research Place
Rockville, MD 20850



United States Consumer Product Safety Commission

May 4, 2022

TO: The Commission

THROUGH: Alberta E. Mills, Secretary
Austin C. Schlick, General Counsel

FROM: Mary T. Boyle, Executive Director

SUBJECT: Fiscal Year (FY) 2022 Proposed Operating Plan Alignment and Midyear Review

OVERVIEW

This memorandum summarizes staff's recommendations for the FY 2022 Proposed Operating Plan Alignment and Midyear Review. The recommendations propose the following:

1. Align funding levels of the FY 2022 Operating Plan with the FY 2022 Consolidated Appropriations Act (Pub. L. No. 117-103), enacted on March 15, 2022.
2. Identify projects for allocation of potential unexecuted balances, should they become available.
3. Adjust FY 2022 American Rescue Plan Act (ARPA) spending and hiring.
4. Update the FY 2022 Mandatory Standards Activities to reflect revised staff plans.
5. Add measures for the Office of the General Counsel and Office of Legislative Affairs pursuant to Commission direction.

RECOMENDATION #1: ENACTED LEVEL ALIGNMENT

On March 15, Congress enacted a \$139.05 million appropriation for CPSC, which is \$30.95 million below the \$170.00 million level approved by the Commission in the FY 2022 Operating Plan. In addition, the enacted appropriation of \$139.05 million dedicated \$2.00 million more than the amount approved in the Operating Plan for the Virginia Graeme Baker Pool and Spa Safety Act (VGB) grant program and associated administrative costs. Accordingly, the FY 2022 Operating Plan must be adjusted by a total of \$32.95 million.

To achieve the required adjustment and align the FY 2022 Operating Plan with the FY 2022 enacted appropriation, staff proposes making changes to the FY 2022 Operating Plan, set out in additional detail in Attachment 1. The recommended adjustments are drawn from the projects and activities staff planned to pursue if the enacted level changed from \$135 million to the planned \$170 million. The projects, designated "Changes to Program," are set forth in Budget Table 1, on page 1, of the approved FY 2022 Operating Plan.

The Office of the Inspector General (OIG) is included in the proposed adjustments because the OIG funding is listed as a program change above the \$135 million level. As listed in the Recommendation # 2 project list, staff is including \$150,000 in contract funds to support OIG oversight of ARPA. However, the IG is requesting the Commission fund an additional FTE as proposed under the \$170 million level. Staff is



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transmitting the IG's request in an attached memorandum (Attachment 6). If the Commission approves the IG request, staff will make conforming changes to the Operating Plan to reflect that approval.

RECOMMENDATION # 2 USE OF UNEXECUTED BALANCES

In addition to aligning the FY 2022 Operating Plan with the FY 2022 enacted appropriation, staff is also recommending projects for allocation of potential unexecuted balances, should they become available. Unexecuted balances typically occur as a result of unplanned staffing variances, un-executable contract requirements, or actual obligations for specific projects that are less than the estimated budgeted amount. Staff has identified nearly \$3.7 million in potential projects for funding consideration and listed them in priority order based on staff's assessment of needs across the agency (Attachment 2). The actual amount of year-end unexecuted balances is not known at this time but is likely to be in the \$2 million to \$3 million range, which is below the approximately \$3.7 million total of potential projects listed for Commission consideration and prioritization.

RECOMMENDATION # 3: ARPA SPENDING ADJUSTMENT

The FY 2022 Operating Plan directed that \$14.6 million be funded by the 6-year ARPA appropriation. Of the \$14.6 million, \$12.7 million was dedicated for one-time, non-recurring projects, and \$1.9 million was allocated to fund 10 additional FTEs to be located at traditional ports of entry. The Operating Plan also assumed that \$13 million in ARPA funds for 58 FTEs and other recurring contract costs would be absorbed by the annual salaries and expenses appropriation, consistent with the FY 2022 Performance Budget Request to Congress. However, the funding level of the enacted appropriation cannot support this cost shift.

Given the uncertainty of future streams of annual appropriations to support positions funded by ARPA beyond FY 2026, when the ARPA funds expire, staff is recommending that the 68 ARPA-eligible positions (58 positions noted above plus the 10 additional positions at traditional ports of entry) be adjusted to 46. This number represents the current number of staff who have been hired, or are close to being hired, this fiscal year, including the 10 additional positions at the ports.

In summary, staff is recommending that \$22.81 million in ARPA funding be allocated in FY 2022 as follows: \$6.1 million for staffing costs for 46 positions; \$2.0 million for recurring contract costs; and \$14.71 million in one-time, non-recurring project costs as detailed in Attachment # 3. At the staffing levels and proposed projects in this memo, ARPA funds are expected to be depleted in early FY 2025.

RECOMMENDATION # 4: MANDATORY STANDARDS TABLE ADJUSTMENT

The FY 2022 mandatory standards activities are set forth on page 22 of the approved FY 2022 Operating Plan. In light of the recent Commission vote to grant the petition on adult portable bedrails and to direct staff to prepare a draft notice of proposed rulemaking, staff recommends adjusting the mandatory standards table to reflect that staff will submit a draft NPR package to the Commission in FY 2022. Staff recommends making this adjustment given the advanced staff work already completed in the context of the petition. (See Attachment 4).



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RECOMMENDATION # 5: PERFORMANCE MEASURES FOR OGC AND OLA

Pursuant to direction in the FY 2022 Operating Plan, staff is proposing to add two new measures each for the Office of the General Counsel and the Office of Legislative Affairs. Please see Attachment #5 for these proposed measures.

Attachments:

- Attachment 1: Recommendation #1
- Attachment 2: Recommendation #2
- Attachment 3: Recommendation #3
- Attachment 4: Recommendation #4
- Attachment 5: Recommendation #5
- Attachment 6: IG's Request for an Additional FTE



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Attachment 1

Recommendation #1: Align the FY 2022 Operating Plan with the FY 2022 Enacted Appropriation

Table 1. FY 2022 Enacted Appropriation Adjustments to Operating Plan (*dollars in millions*)

| | |
|--|------------------|
| FY 2022 Operating Plan | \$ 170.00 |
| Non-Pay Inflation | -\$1.15 |
| Support Robust Import Surveillance and Targeting | -\$8.30 |
| Expand Hazard Identification Capability | -\$16.10 |
| Expand Vigorous Compliance Through Increased Internet Surveillance | -\$1.50 |
| Enhance Communications | -\$1.60 |
| Bolster Agency Operational Support | -\$4.10 |
| Inspector General Support | -\$0.20 |
| VGB Grant Increase | \$2.00 |
| FY 2022 Enacted Appropriation | \$ 139.05 |



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Attachment 2

Recommendation #2: Authorize Projects to Fund from Unexecuted Balances, if Available

Table 2. Recommended Projects (dollars in thousands)

| Rank | Org | Project | Amount |
|--------------|------|--|----------------|
| 1 | EXRM | Diversity, Equity, and Inclusion Consulting Services | \$50 |
| 2 | OCM | Website Content Support | \$315 |
| 3 | OCM | Drowning Prevention Campaign | \$288 |
| 4 | OCM | Furniture/TV Tip-Over Prevention Campaign | \$66 |
| 5 | EXHR | Organohalogen Flame Retardants (OFR) Research | \$750 |
| 6 | EXHR | Electric Heaters | \$125 |
| 7 | OIG | ARPA Spending Oversight | \$150 |
| 8 | EXHR | Mower Hazard Mitigation | \$400 |
| 9 | OGC | FOIA Support | \$300 |
| 10 | EXHR | Youth ATV | \$880 |
| 11 | EXHR | Population Attributable Risk | \$75 |
| 12 | OCM | Hotline | \$300 |
| Total | | | \$3,699 |

If authorized by the Commission, the agency would fund the recommended projects in priority order, subject to available unexecuted balances and acquisition feasibility. Projects that are not funded this fiscal year could be revisited in a future fiscal year, subject to resource availability and identified needs.

Project Descriptions

Table 3. Project Descriptions (dollars in thousands)

| MY# | Project Title | Amount (in \$000) | Description |
|-----|--|-------------------|--|
| 1 | Diversity, Equity, and Inclusion (DEI) Consulting Services | \$50 | This project would fund consultant services to conduct a data analysis of the inclusion, equity, and diversity efforts and hiring at the agency. Additionally, the funds will be used to support analytics training for its hiring system; training for hiring managers on mitigating unconscious bias during the recruiting and interviewing process; recruitment incentives to enable the agency to offer an incentive to shortage category applicants who decline a position due to salary; and support for in-person recruitment/outreach activities, such as at universities and colleges returning to in-person fairs this spring. |



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| MY# | Project Title | Amount (in \$000) | Description |
|-----|------------------------------|-------------------|--|
| 2 | Website Content | \$315 | This project will provide increased support for web posting through contract support from two web content managers. As more program offices post important safety information on CPSC.gov, the workload has exceeded the capabilities of current Web Team resources. This additional funding would provide more resources for the Web Team to continue a high continuity of service to program offices, ensure timely web content postings, and work on content remediation projects, such as fixing broken links and archiving content. Without additional resources, postings may be delayed, and the timeframe to complete labor-intensive content updating will be extended. |
| 3 | Drowning Prevention Campaign | \$288 | Drowning is the leading cause of death among young children. CPSC's latest data show an increase in pool- or spa-related fatal drowning incidents among children younger than 15 years old (average 397 per year 2016-2018). This request would restore CPSC's Pool Safely campaign funds, allowing CPSC to raise awareness on drowning prevention efforts and share best practices and other life-saving information. The pandemic has had a negative impact on swim lessons and water safety skills, making many children more vulnerable to drownings. CPSC's educational outreach on drowning prevention is even more important in this environment. In addition, this funding would support distribution of Public Service Announcements on drownings, particularly to historically underrepresented communities that are affected disproportionately. These funds will also allow the agency to continue to maintain the PoolSafely.gov website, which would allow the agency to continue to provide important updates and provide coordination with CPSC on collaborator efforts to reduce drownings. |



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| MY# | Project Title | Amount (in \$000) | Description |
|-----|---|-------------------|---|
| 4 | Furniture/TV Tip-Over Prevention Campaign | \$66 | This request would restore Anchor It! Campaign funds. Furniture, TV, and appliance tip-overs have been involved in 581 fatalities since 2000, with 81 percent of the deaths involving children ages 17 and younger. CPSC's latest data estimates an annual average of 22,400 tip-over injuries, of which nearly 44 percent were children under 18 years of age. The Anchor It! campaign is intended to increase awareness of tip-overs and the need to anchor furniture and TVs among target audiences, driving behavior change that leads to a meaningful reduction in tip-over-related incidents that result in death or severe injuries. Restoring this funding would provide a more robust campaign, including the ability to distribute educational materials to consumers digitally and target vulnerable populations who are disparately impacted by tip-over incidents, injuries, and deaths. With these funds, the messaging is expected to garner 2.7 million engagements with these safety messages. |



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| MY# | Project Title | Amount (in \$000) | Description |
|-----|---|-------------------|---|
| 5 | Organohalogen Flame Retardants (OFR) Research | \$750 | <p>This request provides resources for the organohalogen flame retardant (OFR) project. Staff identified the need for approximately \$1.5M per year in recurring funding for multiple years to conduct the research outlined in the staff plan (https://www.cpsc.gov/s3fs-public/OFR-plan-report-package-final.pdf). Of the \$1.5M, the request for \$750K would provide support for scientific analyses related to hazard identification (toxicity), exposure, and risk evaluation for more than 200 OFRs potentially used in numerous consumer products, including children's products, upholstered furniture, mattresses, and enclosures of electronic devices. Planned work is in the following areas:</p> <p>1) Read-Across Task Order to develop an approach/process guide for using methods and tools for class-based evaluations of chemical properties and toxicity, including read-across and quantitative structure-activity relationship approaches (QSAR).</p> <p>2) Class-Based Exposure Assessment Guide to develop approach/process guide for class-based exposure assessment.</p> <p>3) Scoping tasks for consultations with experts on appropriate scientific approaches to technical questions for work to be completed through contract mechanisms.</p> |



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| MY# | Project Title | Amount (in \$000) | Description |
|-----|-------------------------|-------------------|---|
| 6 | Electric Heaters | \$125 | This request funds a study of consumer behaviors and use patterns for electric heaters. Consumers may be using these products in ways that were not anticipated in the drafting of current standards and that may reduce safety. This project would fund focus groups to gain insights into current usage to determine if there is a mismatch between design and use that is leading to fire incidents. The information would provide staff with an understanding of how consumers are using these products and what they expect from these products. These insights would be used to inform standards development and information and education campaigns. |
| 7 | ARPA Spending Oversight | \$150 | These resources will provide funding for Office of the Inspector General (OIG) oversight of CPSC ARPA spending. |
| 8 | Mower Hazard Mitigation | \$400 | This funding supports a contract to perform dynamic testing of riding lawn mowers. The 4-year objective is to conduct testing and data analysis to support development of standards to address riding mower rollover hazards. This funding will build on work that has already been completed on measurements and data collected to develop an autonomous control system to safely test rollovers without a human driver. NEISS data indicate that the number of annual rollover incidents is in the thousands. This contract is designed to address rollovers through the design of an effective roll over protection system (ROPS) for smaller residential riding mowers. |



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| MY# | Project Title | Amount (in \$000) | Description |
|-----|------------------------------|-------------------|---|
| 9 | FOIA Support | \$300 | For many years, the FOIA Office has processed fewer requests than it has received, resulting in a backlog. For example, in FY 2021 the FOIA Office processed a record 548 requests, yet with 596 requests coming in, the backlog grew to 465 cases. When fully staffed, the FOIA Office is able to keep up with incoming requests but lacks sufficient resources to eliminate the historical backlog. This contract would provide experienced contract FOIA attorneys to work specifically on the backlog through December 2022, closing an estimated 77 FOIA requests per month during that time. Backlog reduction will improve FOIA compliance, reduce litigation risk, and serve government transparency. |
| 10 | Youth ATV | \$880 | This project would develop an autonomous capability for testing youth all-terrain vehicles (ATVs). This would fund a contract for the development of an autonomous capability for testing, similar to the one developed for testing adult off-highway vehicles. |
| 11 | Population Attributable Risk | \$75 | This project would enhance capabilities of the current tool used for evaluating chronic hazard risk by validating the input data, performing validation on the analyses, and improving the interface. The current tool's capabilities for characterizing chronic hazard risk are limited, with no system for capturing incident data. Also, there are major challenges in attributing chronic risk to particular product types. Previously, CPSC funded the development of the PAR framework for estimating and characterizing chronic risk. Without this funding the framework will have more limited utility. |
| 12 | Hotline | \$300 | In the FY 2022 Operating plan, the Commission set the Hotline metric for answering calls to be 95% of calls answered within 30 seconds, a change from the staff's proposed 80% metric. This change requires an increase in funding for the contract that governs the Hotline operation to support three additional staff needed to meet this goal. An increase in funds would likely increase the answer rate from 86% which was the measure attained in FY 2021. |



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Attachment 3

Recommendation #3: Re-Align ARPA Funds, FTEs, and Projects for FY 2022

Table 4. Breakout of Proposed FY 2022 ARPA Funding (dollars in millions)

| FY 2022 ARPA Funded Items | | |
|--|--------|-----------------|
| Recurring Costs | | \$8.10 |
| <i>Pay (46 Staff)</i> | \$6.10 | |
| <i>eFiling Project Support</i> | \$1.00 | |
| <i>Email Listserv Technology and Access and Marketing Services</i> | \$0.30 | |
| <i>Enterprise Analytics Platform (EAP) Environment</i> | \$0.70 | |
| One-Time Costs | | \$14.71 |
| <i>Port Investigator Equipment</i> | \$0.30 | |
| <i>RAM Enhancements (eFiling Beta Pilot)</i> | \$5.50 | |
| <i>GDSN Integration with RAM-Phase 2</i> | \$0.90 | |
| <i>Web Crawler App</i> | \$2.00 | |
| <i>Modernize IFS</i> | \$1.40 | |
| <i>CO Safety Campaign</i> | \$0.30 | |
| <i>Youth Outreach Campaign</i> | \$0.30 | |
| <i>Modernize Legacy Epi Systems</i> | \$2.30 | |
| <i>NEISS Investigations</i> | \$0.20 | |
| <i>Additional NEISS Recruiting Support</i> | \$0.60 | |
| <i>Fuel Container Safety Campaign</i> | \$0.30 | |
| <i>ASL Signing Services</i> | \$0.03 | |
| <i>Outreach to Indigenous Communities Campaign</i> | \$0.33 | |
| <i>Consumer with Disabilities</i> | \$0.25 | |
| Revised FY 2022 Operating Plan for ARPA Funds | | \$ 22.81 |



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Table 5. ARPA Project Descriptions (dollars in thousands)

| Project Title | Amount (in \$000) | Description |
|---------------------------------------|-------------------|---|
| Port Investigator Equipment | \$300 | The newly established eCommerce Team is slated to establish a physical presence at locations with a high volume of de minimis shipments. Consequently, newly hired port inspectors will require equipment to perform mission-critical duties. |
| RAM Enhancements (eFiling Beta Pilot) | \$5,500 | This project will invest in enhancements for the Risk Assessment Methodology (RAM) required for eFiling (product registry) to fully develop the initial information structures necessary for the eFiling Beta pilot with GDSN and CPSC PGA Message Set implementations, Risk Modeling Initial improvements and associated data structures. This is not anticipated to be a final state ITDS/RAM eFiling implementation, but an initial state for all pieces and functions in place for initial industry Beta enrollment and evaluation build. Additional modifications are expected as part of and after the Beta test is completed. |
| GDSN Integration with RAM-Phase 2 | \$900 | Continue implementation of the Global Data Synchronization Network (GDSN). These efforts will enhance targeting capability at traditional ports and in the emerging eCommerce arena. GDSN Phase Two will consist of the implementation of a revised user interface, integration of the global barcode and QR code database, inclusion and validation of new business rules, and risk model enhancements. The end-of-year expectation is for an integrated GDSN implementation that informs eFiling Beta and supplements the ITDS/RAM system. The anticipated yield from this effort will grow in time as industry adapts to the new product code capability and eFiling Beta usage increases. |



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| Project Title | Amount (in \$000) | Description |
|---|------------------------------|---|
| Web Crawler App | \$2,000 | This project would provide funds to support the development of a standalone, cloud-based web crawling, web-scraping, digital image recognition system that would scour eCommerce platforms and other internet sites to identify the sale of violative and unsafe consumer products. The data pulled in by the system will be based on select criteria and will be scrubbed and then stored in the Data Lake. |
| Modernize IFS | \$1,400 | This project will fund an overhaul of EXC internal systems including critical, statutorily required data collection from regulated entities, such as the Dynamic Case Management system, the Consumer Product Safety Risk Management System, Section 15 Reports, the Sample Tracking System, and internally developed connections to connect these systems with the existing Integrated Field System (IFS). |
| CO Safety Campaign | \$300 | This project supports funding for carbon monoxide and portable generator safety campaigns directed towards vulnerable populations that will use a variety of approaches, collaborations, and concepts, and innovative marketing strategies on both local and national levels. |
| Youth Outreach Campaign | \$300 | This project would fund a Youth Outreach campaign focused on reaching high school-aged kids and college-aged young adults from vulnerable populations on ways to promote product safety in their communities. |
| Modernization of Legacy Epi System (formerly known as NEISS Improvements) | \$2,300 | The EPI System is a group of standalone PowerBuilder applications for processing and managing various EPI data, including Death Certificates, IPIL, as well as documents. It also covers processes for exchanging those data with IFS and CPSRMS. They were developed internally by ITSD for EPI to support its day-to-day operations. This project will fund the development of a replacement system for EPDATA, EHHA, ATVDB and data exchange processes with modern technologies. This new system, along with the new NEISS Data System, will be key systems for supporting EPI operations. |



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| Project Title | Amount (in \$000) | Description |
|---|-------------------|--|
| NEISS Investigations | \$200 | Staff collects data through NEISS on consumer product injuries, paying for the extraction of data from the hospital's medical records. With those records being focused on medical diagnosis and treatment, they may not have granular detail on the product in use and/or incident details. Staff contracts for follow-up investigations, based on call-backs to the patients involved. Currently, staff is engaged in two such studies, to support priority work. The first is on Off-Highway Vehicles, and the second is on micromobility devices. Both of these have challenges in limited identification/misidentification of the product involved that this funding seeks to resolve. |
| Additional NEISS Recruiting Support | \$600 | This project will provide support to recruit additional hospitals to participate in NEISS data collection. |
| Fuel Container Safety Campaign | \$300 | This project will support fuel container safety campaigns by conducting an education campaign to alert consumers to the dangers of using or storing portable fuel containers near ignition sources. |
| ASL Signing Services | \$25 | As required in Section 504 of the Rehabilitation Act, this project will support a contract for the acquisition of live captioning and sign language services for public hearings, Commission meetings, livestreams, and press conferences to provide access for individuals who are deaf, and/or hard of hearing. |
| Outreach to Indigenous Communities Campaign | \$325 | This project will support out-of-home outreach to indigenous communities. As part of fulfilling OCM's goal of expanding communication with underserved audiences and meeting Commission goals of reaching diverse audiences who are disparately impacted by consumer product safety hazards, OCM proposes an Outdoor (billboards, posters, public transportation) Product Safety Education Campaign focused on indigenous communities. Given the known challenges facing indigenous communities, including limited access to high-speed broadband internet networks and mobile data, an outdoor campaign would provide a valuable and highly visible presence for CPSC's product safety messaging. The project would be executed through a PR agency contract. |



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| Project Title | Amount (in \$000) | Description |
|-----------------------------|------------------------------|--|
| Consumers with Disabilities | \$250 | This request funds a study of safety incidents and issues for consumers with intellectual and developmental disabilities (IDDs). CPSC funded a study that included a literature review and limited interviews to identify what was known about risk for this vulnerable consumer group. That report found limited information but did highlight some disparities. This additional study seeks to fill in some gaps in knowledge, including conducting research on consumer activities and how they interact with products, usage patterns, and hazard patterns. This information would start to build a critical base for informing voluntary standards and I&E development. |



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Attachment 4

Recommendation #4: Update the FY 2022 Mandatory Standards Activities

Table 6. Mandatory Standard Activities Proposal

| Item | FY 2022 Op Plan | FY 2022 Op Plan Revised | Reason |
|--------------------------|----------------------------|--|--|
| Adult Portable Bed Rails | BP | NPR | Reflect the Commission vote on March 15, 2022, to direct staff to prepare and bring to the Commission a notice of proposed rulemaking. |



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Attachment 5

Recommendation #5: Add measures for the Office of General Counsel and Office of Legislative Affairs.

Table 7. Performance Measures Proposal

| Office | Control ID | Operating Performance Measure Statement | FY 2022 Target |
|---------------|-------------------|---|-----------------------|
| OGC | 2022OP112 | Number of Freedom of Information Act (FOIA) requests processed | 500 FOIA Requests |
| OGC | 2022OP113 | Percentage of financial disclosure forms for CPSC employees whose positions require filing reviewed and certified timely by OGC | 100% |
| OLA | 2022OP114 | Percentage of formal, written congressional letters acknowledged within three business days of receipt. | 100% |
| OLA | 2022OP115 | Number of monthly newsletters sent to Congress about the workings of CPSC. | 12 |



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Attachment 6



May 3, 2022

TO: Alexander Hoehn-Saric, Chair
Dana Baiocco, Commissioner
Peter A. Feldman, Commissioner
Richard L. Trumka, Jr., Commissioner

FROM: Christopher W. Dentel, Inspector General CHRISTOPHER DENTEL

Digitally signed by CHRISTOPHER DENTEL
Date: 2022.05.03 09:35:47 -0400

SUBJECT: Midyear Review - Adequacy of Resources for CPSC OIG in Fiscal Year 2022

We are requesting the return of the full time equivalent (FTE) position previously approved for the Office of Inspector General (OIG) for Fiscal Year (FY) 2022. Cutting this position will curtail our ability to provide adequate oversight of the agency. Although acknowledging the resource constraints facing the CPSC, we still feel that, for the reasons detailed below, it is appropriate for the Commission to fund the position. We note that, in terms of actual expenditures, our projected budget for salaries for FY 22 with the additional FTE would still be below the authorized level from FY 21.

The CPSC has received \$50 million in American Rescue Plan Act of 2021 (ARPA) funding as well as receiving additional funding for its grants program. There has been an expansion of the CPSC's operations into new and potentially risky programs (OCM's diversity efforts, Internet surveillance, de minimis shipment port expansion, etc.) Further, the CPSC is seeking a substantial increase in overall funding over the next several years in order to allow it to better address evolving issues related to consumer safety.

To provide adequate oversight for FY 2022 and beyond, this office sought and received agency approval to receive an additional \$48,000 for obtaining contractor oversight services as well as an additional FTE position to provide organic oversight of agency programs including the use of ARPA funds in FY 2022 and beyond.

The agency received substantially less than the amount of annual budgetary funding anticipated for FY 2022. As a result, last month the OIG was informed that it would receive neither the requested position nor the additional contract funding. Although we acknowledge the fiscal challenges facing the agency, and we accept the reduction in contract funding as appropriate, we feel it is shortsighted to cut a position dedicated to oversight at a time when the agency is facing increased oversight challenges. Examples of these challenges include ensuring that the CPSC's ARPA funding is used effectively as well as in accordance with the criteria provided by Congress and monitoring the operations of its grants program.



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Both the ARPA funds and grants program represent high risk areas to the CPSC. The ARPA funding's risk factors include its relative size to the agency's budget as a whole and the specificity of the associated congressional criteria for its use. These risks are aggravated by the CPSC's ongoing challenges involving internal control and cost accounting. The grants process is inherently risky due to the complexity of the relevant rules and the possibility of fraud. These risks are compounded by the relative lack of agency experience dealing with grants and the CPSC's lack of a permanent grants manager. Without additional resources, we will not be able to provide adequate oversight of the CPSC's operations.

While we appreciate management's offer of \$150,000 in contracting funds to be used for ARPA oversight, for the reasons set out below, performing the oversight work in-house is more appropriate than contracting it out. The contracting funds offered would only cover oversight costs for one year. The ARPA funds will need to be monitored for the next four years and the effectiveness of the programs put in place using those funds will be a continuing area of oversight. In making our original determination to seek additional staff, we determined that the advantages of performing the work "in-house" outweigh the advantages of contracting it out. Contractors would come into the agency "cold" and require time to familiarize themselves with agency operations and culture. Contracting out work tends to be cost effective when it involves a task that is standardized across the government (Financial Statement Audit, FISMA, etc.). The ARPA requirements for the CPSC are unique.

The functions for which the ARPA funds will be used and the programs in question are closely linked to the CPSC's mission. This is important because another disadvantage of contracting work out is the loss of the knowledge gained throughout the course of the audit. The knowledge gained when contractors perform an audit leaves the agency with the contractors rather than being retained by the OIG. The knowledge gained from performing audits in-house often leads to future audits and aids in the OIG's planning and risk assessment processes.

We are aware that one of management's concerns is that there may be flat funding for the agency in future fiscal years. We note that this is a ubiquitous problem facing all agency programs and that the single FTE in question would be a de minimis cost to the agency. As of the last pay period for which we have records, the CPSC had only 503 FTE positions filled against the agency's target of 539 FTEs. Thus, there are still vacant FTEs against which our position could be drawn.

We propose that, rather than providing our office the additional \$150,000 recommended by agency management, we instead receive the authorization to hire an additional FTE position.