



UNITED STATES  
 CONSUMER PRODUCT SAFETY COMMISSION  
 4330 EAST WEST HIGHWAY  
 BETHESDA, MD 20814

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**BALLOT VOTE SHEET**

Date: April 30, 2014

TO : The Commission  
 Todd A. Stevenson, Secretary

FROM : Elliot F. Kaye, Executive Director  
 Stephanie Tsacoumis, General Counsel

SUBJECT : FY 2014 Midyear Review and Proposed Operating Plan Adjustments

BALLOT VOTE Due: May 6, 2014

By the attached memorandum, the Executive Director requests Commission approval of recommendations to amend the fiscal year (FY) 2014 Operating Plan as currently approved by the Commission to reflect:

- the additional \$1.0 million provided in the Consolidated Appropriations Act enacted on January 17, 2014 of which \$0.5 million will be added to salaries and expenses, and \$0.5 million will be added to the VGB grant program;
- a \$2.9 million surplus for FY2014 year-to-date, relating to staffing levels below those budgeted; and
- up to an estimated \$2.8 million in additional surplus for the balance of FY2014 (depending on staffing levels).

Staff sets forth in the attached memorandum a proposed reallocation of a total amount of \$3.4 million, representing the year-to-date \$2.9 million surplus plus \$0.5 million of the Consolidated Appropriations Act-related funds. Staff also proposes allocation of the \$2.8 million in potential additional surplus. Finally, staff is recommending adjustments to the mandatory standards activities set forth in the FY 2014 Operating Plan.

Please indicate your vote below:

- I. Approve the FY 2014 Midyear Review and Proposed Operating Plan Adjustments, as drafted.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

II. Approve the FY 2014 Midyear Review and Proposed Operating Plan Adjustments, with changes (please specify).

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

III. Do not approve the FY 2014 Midyear Review and Proposed Operating Plan Adjustments.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

IV. Take other action (please specify):

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attachment:

Executive Director's memorandum on the *FY 2014 Midyear Review and Proposed Operating Plan Adjustments*.



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April 30, 2014

TO: The Commission

THROUGH: Todd A. Stevenson, Secretary  
 Stephanie Tsacoumis, General Counsel

FROM: Elliot F. Kaye  
 Executive Director

SUBJECT: Fiscal Year (FY) 2014 Midyear Review and Proposed Operating Plan Adjustments

This memorandum summarizes staff's recommendations to align the FY 2014 Operating Plan funding levels, approved by the Commission on November 20, 2013, with the Consolidated Appropriations Act enacted on January 17, 2014 (the Omnibus), which provided \$1.0 million above the funding level approved in the FY 2014 Operating Plan. In addition, staff is providing recommendations on the reallocation of both existing and potential future surplus funds to existing or unfunded projects. Finally, staff is recommending adjustments to the mandatory standards activities set forth in the FY 2014 Operating Plan.

The Commission's decisions in response to this memorandum's recommendations will be appended to, and will modify, the FY 2014 CPSC Operating Plan as approved by the Commission.

**Final Enacted FY 2014 Operating Level**

**Recommendation #1.** Staff recommends that the Commission align the FY 2014 Operating Plan with the final enacted appropriation level per Table 1.

<i>Table 1.</i> <b><i>FY 2014 Operating Plan Adjustments</i></b>	<b>FY 2014 Omnibus Enacted</b>	<b>FY 2014 Op Plan Approved</b>	<b>Required Adjustment</b>
Salaries and Expenses Fund	\$117.0M	\$116.5M	+\$0.5M
VGB Grant Program	\$1.0M	\$0.5M	+\$0.5M
<b>FY 2014 Total Budget</b>	<b>\$118.0M</b>	<b>\$117.0M</b>	<b>+\$1.0M</b>

The final enacted FY 2014 CPSC appropriation is \$118.0 million, which includes \$1.0 million for the Virginia Graeme Baker Pool and Spa Safety Act (VGB) grant program. The \$1.0 million in VGB grant program funding is available until expended, meaning that the funds do not expire at the end of the fiscal year (September 30, 2014), and the agency can obligate the available funds in subsequent fiscal years.

For the Operating Plan to align with the enacted appropriation level, a \$1.0 million adjustment to the FY 2014 Operating Plan is required as follows: a \$0.5 million upward adjustment to Salaries and Expenses and a \$0.5 million upward adjustment to the VGB grant program.

### **Surplus Allocation Approach**

Consistent with past practice, and given the uncertainty of the year-end surplus amount, staff is recommending a two-tiered approach for allocating existing and potential future surplus funds. **Tier 1** recommends immediately allocating the currently-existing \$3.4 million surplus in accordance with Commission priorities. **Tier 2** proposes that the Commission authorize funding on other existing or unfunded projects *should* future surpluses become available during the remainder of the fiscal year. Because surplus funds are unplanned and not recurring, staff's recommendations for surplus reallocations are limited to non-recurring expenditures. For both **Tier 1** and **Tier 2**, staff has listed the projects in priority order in terms of perceived agency need.

### **Tier 1: Reallocate Identified \$3.4 Million Surplus**

The Commission currently has a realized budget surplus for FY 2014 of \$3.4 million. Of the \$3.4 million surplus, \$2.9 million is attributable to a lower than planned level of spending on employee salaries in the first half of the fiscal year, due to staffing levels that are below those budgeted, and \$0.5 million in additional appropriations available for salaries and expenses under the Omnibus, as described above in Table 1.

**Recommendation #2.** Staff recommends that the Commission reallocate \$3.4 million in existing surplus funds, as set forth below, and as summarized in Table 2, to non-recurring work that advances near-term Commission priorities.

<b><i>Table 2.</i></b> <b><i>Reallocate Surplus</i></b>	<b>Op Plan Changes</b>
Hazard Identification (EXHR)	+\$1,610K
Communications (OCM)	+\$400K
Information Technology (EXIT)	+\$1,200K
Import Surveillance (EXIS)	+\$200K
<b>Total Reallocation</b>	<b>+\$3,410K</b>

The projects and Commission priorities supported by the surplus reallocation are:

1. **Accelerate All-Terrain Vehicle (ATV) Data Analysis - EXHR (\$1,150K):** Conduct a literature review and develop a testing strategy to evaluate steering and stability issues. Purchase six additional model year 2014 ATVs. Contract for methodology development for static measures (*e.g.*, weight, track width, wheel base), dynamic testing (*e.g.*, lateral acceleration, steering) and rollover testing. This work is required to support a notice of proposed rulemaking (NPR) in FY 2015, as directed by the Commission in the FY 2014 Operating Plan and the FY 2015 Performance Budget Request to Congress.
2. **Model Year 2014 Recreational Off-Highway Vehicles (ROVs) and Testing - EXHR (\$310K):** Purchase model year 2014 ROVs and contract to perform tests that will be used to update data on vehicle characteristics. This work is required to support planned rulemaking activity in FY 2015, as directed by the Commission in the FY 2015 Performance Budget Request to Congress.
3. **Conduct Television/Furniture Tip-Over Campaign - OCM (\$400K):** Conduct a public service announcement campaign, building upon the existing "Anchor It and Protect a Child" campaign, to increase awareness of tip-over hazards and remediation actions that can prevent tragedies. The existing campaign uses an info-graphic, posters, blogs, public service announcements, video news releases, social media, and press interviews to raise awareness. This project will augment the existing campaign by using additional approaches, such as a new

public service announcement for TV and radio, designing and placing advertisements online, and working with retailers and global safety organizations to communicate to consumers the importance of anchoring and stability. CPSC data indicate that there are about 25,400 emergency room treated injuries from tip-overs each year and that a child dies every two weeks from a tip-over incident. The majority of incidents involve children 2-5 years of age.

4. **Update Injury Cost Model - EXHR (\$50K):** Update medical cost data currently from year 2000 and earlier, to 2010 and 2011, to enable improved benefit cost analysis. This project will analyze medical data developed for the Centers for Disease Control and Prevention (CDC) to update medical cost estimates in the Injury Cost Model, including such follow-on costs as ambulance, nursing home, and hospice costs. The updates will improve the injury cost estimates that CPSC relies on for planning purposes and regulatory analysis.
5. **Host NEISS Coders Training Symposium - EXHR (\$100K):** The proposed NEISS training symposium will be used to define and discuss coding best practices, including standardized approaches to inconsistently coded variables, new or amended product category codes, and illustrations of findings from the NEISS data. CPSC has conducted training sessions for coders at NEISS hospitals in past years, the most recent of which was in 2011. The training symposium will provide NEISS coders with improved consistency in data coding and improved data quality.
6. **Replacing Agency's Switching (IT network) Infrastructure - EXIT (\$1,200K):** The current 7-year-old network infrastructure (hardware and software) is nearing the end of its useful life. Within the last two months, the agency has experienced two severe failures with the equipment that have prohibited access to all IT systems by all users. A replacement of this infrastructure is needed to improve the network's reliability, speed, and capability. Staff has concluded, the annual capital budget is insufficient as structured and cannot accommodate the switch gear replacement costs within the funding profile. If not fully funded, the piecemeal replacement of the switches will continue over several years. This approach keeps the agency from taking full advantage of the efficiencies and technology advances, such as reliability, speed, capability, and administration, afforded by replacing IT equipment at one time. Staff plans to examine the IT capital replacement budget in upcoming budget exercises.
7. **X-Ray Fluorescence (XRF) Analyzers - EXIS (\$200K):** Purchase 12 XRF analyzers. The XRF analyzers support existing compliance investigators, new investigators who are being actively recruited and hired in FY 2014, and replace existing units that have reached the end of their life cycle.

#### **Tier 2: Authorize Projects for Potential Future Surpluses, if Available**

There are 5 months remaining in the current fiscal year. The agency is actively hiring additional staff up to the staffing ceiling of 548 employees, as approved in the FY 2014 Operating Plan. Until staffing levels reach the 548 person staffing ceiling, the agency will likely realize additional modest surpluses from the unexecuted salary budget prior to the fiscal year end. Accordingly, it is probable that an additional, modest surplus above the already realized \$3.4 million surplus may occur before September 30, 2014. The amount of future surpluses is unknown at this time.

To execute any future surpluses that might occur prior to September 30, staff has identified ~\$2.8 million in unfunded projects that could be executed before year-end. If authorized by the Commission, the agency would fund the recommended projects in priority order, subject to available surplus funding and acquisition feasibility of the project. Items that do not receive surplus funding through this authorization in FY 2014 could be revisited in a future fiscal year subject to resources and identified needs.

**Recommendation #3.** Staff recommends that the Commission authorize new work for existing or unfunded projects that would be initiated in priority order (see Prioritized Unfunded Projects listed below), should additional surpluses occur before the end of the fiscal year.

<i>Table 3.</i> <b><i>Potential Reallocation</i></b>	<b>Op Plan Changes Up to</b>
Import Surveillance (EXIS)	+\$425K
Hazard Identification (EXHR)	+\$1,785K
Information Technology (EXIT)	+\$540K
Facilities (EXFS)	+\$70K
<b>Total Potential Reallocation</b>	<b>+\$2,820K</b>

### **Prioritized Unfunded Projects**

The priority order projects that could be initiated, subject to available surplus funding, are:

1. **Fourier Transform Infrared (FTIR) Spectroscopy Analyzers (\$425K) - EXIS:** Purchase 10 new FTIR analyzers that staff will use to screen for phthalates at U.S. ports of entry. Lead and phthalates are the majority of violations found in samples collected at import. Staff cannot screen for phthalates at a port without an FTIR. Purchase of these 10 analyzers will provide each of the 16 U.S. ports of entry where CPSC already has a physical presence with phthalates screening capability.
2. **SharePoint Migration (\$140K) - EXIT:** SharePoint is an important tool for CPSC staff and is critical to functions of the agency, such as the 6(b) clearance process and performance management. The agency’s SharePoint environment is experiencing performance degradation, is two generations behind the most current version, and is nearing the end of its supported service life. This project will design and configure the SharePoint 2013 software, migrate data from the existing SharePoint version, and remedy current performance issues.
3. **Closed-circuit Television (CCTV) Security (\$70K) - EXFS:** Staff is in the process of reassessing physical security needs at both HQ and 5RP. As part of that process, staff has identified the need to add CCTV to HQ to allow the fourth floor security guard to monitor all entrances/exits to CPSC occupied space. This addition will provide the guard with a significantly enhanced ability to monitor the physical space at HQ. Currently, the guard is only able to monitor activity by physically patrolling the space.
4. **Toxicity Reviews – Flame Retardants in Children’s Products (\$100K) - EXHR:** The issue of chemicals, including flame retardants, in children’s products, continues to present questions for which CPSC staff is called upon to provide input. To date, agency resources have restrained the scope of work staff has been able to cover on this topic. This project will allow staff to accelerate and enhance its understanding by conducting a review to assess hazards posed by certain flame retardants used in children’s products.
5. **Age Determination Guidelines Update (\$200K) - EXHR:** The project will update the guidelines that relate children’s ages to toy characteristics and play behavior. The guidelines are used by CPSC, industry, and third-party testing laboratories to conduct age determinations. In support of the guideline updates, the project includes observational studies on the age appropriateness of a select list of toys that are hypothesized by staff to be purchased for, and

played with by, children younger than the existing labeling indicates. The existing guidelines were last updated in 2002.

6. **Gas Chromatography/Mass Spectrometry (GCMS) Machine (\$120K) - EXHR:** The GCMS machine proposed would replace an existing, outdated machine with limited capability. The existing machine has reached the end of its life cycle. The proposed GCMS would have two ports allowing for increased throughput analysis (or for an increased number of data items that can be processed at the same time) and sufficient detection limits to support pyrolysis, phthalates, flame retardants, and spray foam emissions, among others.
7. **Wireless IT Network System (\$200K) - EXIT:** The current wireless network systems at HQ and at 5RP are functional but very unreliable and volatile. Staff proposes replacing these systems with one integrated system that is more reliable and less volatile.
8. **Gerstel Rail Equipment (\$100K) - EXHR:** The Gerstel Rail autosampler will automate a number of phthalate sample preparation steps that are normally performed by hand, decreasing the time necessary to prepare phthalate samples and increasing the efficiency of phthalate testing. The autosampler performs multiple sample preparation steps, including adding solvent to the sample, mixing/heating the solution, filtering the solution, and directly injecting the sample into the GCMS analyzer for phthalate measurement.
9. **5RP's Test Equipment and General Support System (GSS) Networks Security Assessment (\$200K) - EXIT:** Currently, 5RP's test equipment and GSS networks are separate, making data analysis and reporting less efficient than preferred. The project will conduct a certification and accreditation on the existing network and provide recommendations to improve the security and efficiency of data that need to be shared between the networks.
10. **Standardization of the Small Scale Cyclic Testing (SSCT) System – Hardware & Software (\$180K) - EXHR:** SSCT is one of the systems used to test products for federal standards; voluntary standards; and perform custom-designed, investigatory tests. The current SSCT hardware lacks the capability to perform tests requiring direct application of a force, which limits its versatility. In addition, the current SSCT software is not compatible with other in-house cyclic testing systems making it a less efficient tool. Staff recommends updating the SSCT system to enhance its capability and efficiency by incorporating force-feedback functionality (its ability to provide feedback from the direct application of force on a product) and by standardizing the interface.
11. **Surface Grinder – Equipment, Tooling, and Installation (\$35K) - EXHR:** The Machine Shop would use the upgraded the surface grinder for finish-machining of test probes, test fixtures, and other custom-made test equipment. The surface grinder technology currently used is inefficient and time consuming.
12. **Small-Scale Cone Calorimeter Equipment (\$150K) - EXHR:** Staff would use the equipment to conduct material screening tests required by the Flammable Fabrics Act and to provide data in support of compliance and rulemaking activities (*i.e.*, mattresses, upholstered furniture).
13. **Geomagic – Software, Training, and Laser Scanner (\$50K) - EXHR:** This system would provide the agency with the following new capabilities: (1) reverse-engineer complex components and analyze products that are received as Product Safety Assessment samples; (2) verify dimensions of probes currently used to test products for compliance with mandatory standards; (3) calibrate probes used for testing children's products to ASTM standards; and (4) make non-contact dimensional measurements of biohazardous products.

14. **Fire Lab – Oxygen Consumption Calorimetry System’s Fan and Filtration Modifications (\$600K) - EXHR:** The instrument used for performing open-flame mattress testing is the oxygen consumption calorimetry system. The system provides sufficiently accurate data for conformance testing to 16 C.F.R. part 1633, well within the known uncertainties inherent in the oxygen consumption calorimetry test method. Since CPSC has gained about 3 years of operating experience with the current system, staff has identified two refinements that would (1) enhance overall measurement accuracy and (2) reduce staff time involved in performing the tests and maintaining the equipment. This project will involve a design reassessment of the exhaust and filtration system, as well as construction and modifications.
15. **ATV/ROV Testing Equipment and Replacement Upgrades (\$250K) - EXHR:** The primary data-gathering equipment used to conduct compliance testing for ATVs is due for replacement, and temporary stop-gap measures (*e.g.*, adding memory to data acquisition hardware) have been exhausted. The proposed test equipment is dual purpose and can be used to meet the testing requirements for both ATVs and ROVs. These upgrades will not affect the separately proposed ATV and ROV work, as those projects will be completed through contractual work.

#### **Updates to Fiscal Year 2014 Mandatory Standards**

Staff has identified six proposed changes to the Commission-approved FY 2014 mandatory standards activities. The recommended changes will align the planned mandatory standards activities with the available resources and revised timelines (including the progress of voluntary standards activities) on which staff’s mandatory standards activities are predicated.

**Recommendation #4.** Staff recommends the Commission amend the FY 2014 Operating Plan Mandatory Standards Summary, as represented in **Attachment 1**.

The proposed changes to the FY 2014 mandatory standards activities and supporting justifications are:

- **High Chairs from NPR to DA/TR:** Staff recommends changing NPR to DA/TR in the FY 2014 mandatory standards work, with an NPR to the Commission in FY 2015. The revised ASTM International (ASTM) standard will not be approved and published in time for staff to deliver an NPR to the Commission in FY 2014. Staff has identified injuries that have occurred due to protrusions, restraints, and stability and is working closely with ASTM to update the voluntary standard before developing the NPR. ASTM drafted ballots covering these injury mechanisms, and these ballots require voting by ASTM members before the revised ASTM standard will be approved and published.
- **Infant Carriers (Handheld) FR Added:** Staff recommends adding the Infant Carriers (Handheld) FR to the FY 2014 mandatory standards summary to reflect work that staff has already completed. The package was submitted to the Commission on October 30, 2013. This final rule briefing package was originally scheduled to be sent to the Commission in late September 2013. At the end of September, staff determined that completion would need to be delayed for approximately 2 weeks, but the delay was compounded by the government shutdown. Thus, the project became a carryover project after the development of the FY 2014 Operating Plan.
- **Infant Slings FR Shifted to FY2015:** Staff recommends removing the Infant Slings FR from the FY 2014 mandatory standards work, with an FR to the Commission in FY 2015. ASTM updated its slings voluntary standard and published a revised version in February 2014. Completion of the NPR was delayed so that the revised voluntary standard could be incorporated and is scheduled to go to the Commission in May 2014. The revised timing of the NPR does not leave sufficient time to complete the FR in FY 2014.



- **1110 Rule from FR to DA/TR:** Staff recommends changing the 1110 Rule from FR to DA/TR in the FY 2014 mandatory standards work. The 1110 Rule NPR was published in FY 2013, and an FY 2014 FR was planned. Based on issues raised by commenters during the comment period, as well as requests from stakeholders, staff recommends reopening the comment period and conducting a public workshop with stakeholders to gain a better understanding of how to enhance the 1110 Rule more effectively. If the Commission concurs, staff will submit to the Commission a *Federal Register* notice to reopen the comment period and hold a public workshop during FY 2014.
- **1066 Rule from NPR to DA/TR:** Staff recommends removing the 1066 NPR from the FY 2014 mandatory standards work. As a result of staff-recommended changes to the 1110 FR project (see above), there are not enough staff resources available to work on the 1066 NPR in FY 2014.
- **Window Coverings BP Added:** This change makes the FY 2014 Operating Plan consistent with the FY 2015 Performance Budget Request to Congress that was approved by the Commission in March 2014.

**For Additional Information**

If you have any questions on these staff recommendations, please contact me directly, or contact Jay Hoffman.

**Attachments:**

**Attachment 1:** FY 2014 Operating Plan Mandatory Standards Summary (*revised*)

Attachment 1: Mandatory Standards Summary (revised)

Items by Major Categories		FY 2014 Op Plan	FY 2014 Op Plan Revised
CPSIA, including Danny Keysar Child Product Safety Notification Act			
	Bedside Sleepers*	FR	FR
	Chairs, Folding	DA/TR	DA/TR
	Chairs, High	NPR	Δ DA/TR
	Gates and Other Enclosures	DA/TR	DA/TR
	Hook-on Chairs	DA/TR	DA/TR
	Infant Bath Tubs	DA/TR	DA/TR
	Infant Bouncer Seats	NPR	NPR
	Infant Carriers, Frame	NPR	NPR
	Infant Carriers, Handheld*	--	Δ FR
	Infant Carriers, Soft*	FR	FR
	Infant Inclined Sleep Products	DA/TR	DA/TR
	Infant Slings	NPR, FR	Δ NPR
	Phthalates or Phthalate Substitutes	NPR	NPR
	Strollers*	FR	FR
Implementation of Public Law 112-28			
	ATVs – Rulemaking	DA/TR	DA/TR
Rule Review			
	Caps Intended for Use with Toy Guns	FR	FR
	Mattresses – Smoldering Ignition Hazard	DA/TR	DA/TR
Other Ongoing or Potential Rulemaking–Related Activities			
	Architectural Glazing	NPR	NPR
	Bed Rails (Adult)	DA/TR	DA/TR
	Bedclothes Flammability	DA/TR	DA/TR
	Certificates of Compliance – 1110 Rule	FR	Δ DA/TR
	Crib Bumper Petition	BP	BP
	Durable Nursery Products Exposure Survey	DA/TR	DA/TR
	Firepots and Fuel Gels	NPR	NPR
	Fireworks	DA/TR	DA/TR
	Information Disclosure under § 6(b) of the CPSA – 1101 Rule	FR	FR
	Participation in Voluntary Standards (GAO Report) – 1031 Rule	FR	FR
	Poison Prevention Packaging Act – Hydroxides	NPR	NPR
	Portable Generators	DA/TR	DA/TR
	Procedures for the Importation of Consumer Products and Substances – 1066 Rule	NPR	Δ DA/TR
	Rare Earth Magnet Sets*	FR	FR
	Recreational Off Highway Vehicles (ROVs)	NPR	NPR
	Revisions to FHSA Definition of “Strong Sensitizer”	FR	FR
	Substantial Product Hazard List – 15(j) Rule	NPR	NPR
	Surrogate Smoldering Ignition Source	DA/TR	DA/TR
	Table Saws	DA/TR	DA/TR
	Third Party Testing – Determination	DA/TR	DA/TR
	Upholstered Furniture	DA/TR	DA/TR
	Voluntary Recall Rule	FR	FR
	Window Coverings	--	Δ BP
<b>Number of candidates for rulemaking (NPR and FR):</b>		<b>22</b>	<b>19</b>

\* Carryover projects from FY 2013