



Commissioners voting at decisional meeting held on November 8, 2023 @ 10:00 a.m.

Chair Alexander Hoehn-Saric
Commissioner Peter A. Feldman
Commissioner Richard Trumka Jr.
Commissioner Mary T. Boyle

(Final Minutes for the decisional meeting will be available in a few days)

ITEM:

CPSC Fiscal Year 2024 Operating Plan
(Briefing package dated September 29, 2023)

DECISION

The Commission voted (3-1) to approve the CPSC's Fiscal Year 2024 Operating Plan with amendments. (See attachments for Commission adopted amendments, as well as amendments that were not adopted by the Commission.)

Chair Hoehn-Saric and Commissioners Feldman and Boyle voted to approve the FY 2024 Operating Plan, as amended. Commissioner Trumka voted to not approve the FY 2024 Plan. The Commissioners issued statements regarding this matter (See attachments).

- Attachments:
1. Manager's Amendment (adopted by the Commission)
 2. Amendments proposed by Commissioner Trumka (Trumka Amendment 1 – Adopted by the Commission; Trumka Amendments 2, 3, 4 and 5 – not adopted by the Commission)
 3. Amendment proposed by Commissioner Boyle (adopted by the Commission)
 4. Statement by Chair Hoehn-Saric
 5. Statement by Commissioner Feldman
 6. Statement by Commissioner Trumka
 7. Statement by Commissioner Boyle

For the Commission

Alberta Mills

Alberta E. Mills, Secretary

Fiscal Year 2024 - Manager's Amendment

Technical Amendments

- OS10 – Strike Table 2 and replace with the Table below:

Presented in the table below are the FY 2024 operating budget levels for the *Debt Ceiling* and *Current Services* Levels for each organization and the FY 2024 FTE levels.

Budget Details: FY 2024 S&E Annual Appropriation	Debt Ceiling Level \$151.0M	Current Services Level \$162.6M	
<i>(Dollars in Thousands)</i>	Dollars		FTE
Non Pay			
Commissioners	\$126.7	\$169.0	21
Office of Hazard Identification & Reduction	\$5,943.0	\$7,619.0	171
Office of Compliance & Field Operations	\$1,287.0	\$1,589.0	163
Office of Import Surveillance*	\$675.0	\$865.0	63
Office of International Programs	\$512.0	\$721.0	7
Office of Financial Management, Planning & Evaluation	\$1,702.3	\$2,191.3	27
Office of Information & Technology Services	\$13,797.0	\$17,033.0	41
Office of Human Resources Management	\$422.0	\$528.0	13
Office of Facilities Services	\$1,616.0	\$1,719.0	9
Office of the Executive Director	\$67.0	\$84.0	7
Office of the General Counsel	\$330.0	\$440.0	38
Office of the Inspector General	\$446.0	\$557.0	7
Office of Communications	\$1,720.0	\$2,730.0	12
Office of Legislative Affairs	\$12.0	\$15.0	3
Office of EEO, Diversity and Inclusion	\$34.0	\$43.0	3
Subtotal Non-Pay Less Rent/Util/Security	\$28,690.0	\$36,303.3	585
Salaries	\$108,130.0	\$112,116.7	
Rent/Util/Security	\$10,180.0	\$10,180.0	
VGB Grants	\$2,000.0	\$2,000.0	
CO Alarm Grants	\$2,000.0	\$2,000.0	
Total Op Plan	\$151,000.0	\$162,600.0	585

**Debt Ceiling Level* reflects 8 staff transferred to ARPA funding for a total of 17 staff funded by ARPA. *Current Services Level* reflects all 17 staff funded by ARPA in *Debt Ceiling Level* being transferred to the annual appropriation.

- OS26 – Make conforming changes in EXC Resource Summary section (due to updated Table 2)
- OS31 – Make conforming changes in EXIS Resources Summary section (due to updated Table 2)
- OS37 - Make conforming changes in OCM Resources Summary section (due to updated Table 2)
- OS40 - Make conforming changes in EXIT Resources Summary section (due to updated Table 2)
- OS45 - OLA Performance Measure 2024OP127 replace with: “Number of meetings offered to office staff of members of congressional authorizing and appropriations subcommittees that oversee CPSC.”
- OS46 – Replace ‘VGB & NZB Act Grants’ with ‘VGB Act & Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act Grants’
- OS50 – Delete project 22662

22662	Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) (Pub L. No. 110-140) – Grants Administration	4	EXFM
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- OS52 – Add projects 70002 and 71001

70002	Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) (Pub L. No. 110-140) Grants Program	4	EXFM
71001	Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act (Pub L. No. 117-103) Grants Program	4	EXFM

Hoehn-Saric – Reprogramming

Staff is authorized to reprogram funds to support the preparation of IDIs and other information for release in connection with public comment on proposed mandatory safety standards. Funds may be taken from any of the following projects, in staff's discretion:

- Up to \$50,000 from Commissioners' office budgets
- Up to \$400,000 from Laboratory Equipment and Operations Support (EXHR)
- Up to \$100,000 from Hotline (OCM)
- Up to \$329,000 from unplanned support for voluntary standards Children's/Nursery Product Hazards (EXHR)
- Up to \$75,000 from International Programs training and travel activities (EXIP)
- Up to \$25,000 from Information and Education Outreach Campaigns (OCM)

All projects from which funds are taken shall be prioritized for restoration should the funds be available.

Feldman – Directing timely assessment for actions against imminently hazardous consumer products

Purpose: To direct timely assessments for possible actions against imminently hazardous products

Text:

On page OS26-OS27, insert an additional bullet point under FY24 Priority Activities as follows:

“Conduct timely initial assessments to determine whether EXC cases involve imminently hazardous products as defined under CPSA Section 12. Staff shall report expeditiously to the Commission affirmative findings. Staff shall also keep the Commission reasonably apprised of its efforts under this provision.”

On page OS27, insert:

Insert a new row to Annual Milestones table to add a new key performance measure as follows:

EXC-M12	Conduct timely assessments of all EXC cases to determine whether an action under CPSA Section 12 is appropriate
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Make additional conforming changes throughout.

Trumka – Translations

On page OS-27, add to the Office of Compliance and Field Operations (EXC) list of FY 2024 Priority Activities: “Encourage commitments from recalling firms to communicate recall information to consumers in Spanish and additional languages commonly spoken in the United States. Staff shall report periodically on the results of these efforts.”

Boyle – Footnote 5

Revise Footnote 5 on OS9 to state as follows: “If the CPSC is appropriated funds above \$151,000,000, CPSC staff shall transfer employees’ salaries and expenses for up to 17 FTEs from ARPA to regular agency appropriations. If funds are available following such a transfer, including funds from unexecuted balances assessed through the mid-year evaluation, staff shall seek specific authorization from the Commission for additional expenditures, which may include, but will not be limited to, projects referenced above.”

Boyle – Recall Translations

Insert an addition to the Office of Communications (OCM) list of FY 2024 Priority Activities on OS37:

- Continue to make agency translation and dissemination of recalls and recall alerts in Spanish a priority, while evaluating cost-effective and timely translation service options that will enable the agency to sustain and expand outreach in languages other than English.

Revise OCM Annual Milestones on OS38 to add the following:

- OCM-M06: Identify and implement cost-effective and timely translation service options to reach speakers of Spanish, while still observing best practices for translations. Explore processes to sustain and expand agency outreach in languages other than English.

Trumka Amendments to FY 2024 Operating Plan

Trumka Amendment 1: On page OS-21, in the Mandatory Standards Summary Table, in the right-most column (entitled “FY 2024 Op Plan”), for the item entitled “Disclosure of Interests in Commission Proceedings,” strike “DA/TR” and replace with “FR”

Trumka Amendments to FY 2024 Operating Plan

Trumka Amendment 2: On page OS-21, in the Mandatory Standards Summary Table, in the right-most column (entitled “FY 2024 Op Plan”):

- For the item entitled “ATVs (All-Terrain Vehicles) – Other,” strike “DA/TR” and replace with “NPR”
- For the item entitled “Off-Highway Vehicle (OHV) Fire Hazards,” strike “DA/TR” and replace with “NPR”

On page OS-15, above “**22640 – Older Consumer Safety Hazards,**” add the following sentence (within the project description for “**22637 – All-Terrain Vehicles (ATVs): Rulemaking Activities**”):

“During FY 2024, staff will complete a review of ATV rollover incidents and complete a study to examine performance test methods for ATV stability.”

Staff shall reprogram funds to accomplish this. All projects from which funds are taken shall be added to the list on page OS-9 of the draft Operating Plan, such that restoration of the reprogrammed funds to these projects shall be treated as a priority for funding if appropriations exceed the Debt Ceiling level.

Trumka Amendments to FY 2024 Operating Plan

Trumka Amendment 3: On page OS-16, below the bulleted paragraph beginning “**Battery Ingestion**,” add the following bulleted paragraph:

- ❖ **Weighted Infant Blankets, Sleepers, and Swaddles:** This activity focuses on the risk of weighted sleep products for infants. In FY 2024, staff will pursue a mandatory standard to address foreseeable risks posed by these products. Further, within 30 days of approval of this Operating Plan, EXHR and OCM will update all safe sleep messaging and guidance to incorporate recent advice on weighted infant products from the Centers for Disease Control and Prevention and from the National Institutes of Health.

On page OS-21, in the Mandatory Standards Summary Table add an item entitled “Weighted Infant Blankets” and in the far-right column for that entry insert “NPR”

Trumka Amendments to FY 2024 Operating Plan

Trumka Amendment 4: On page OS-21, in the Mandatory Standards Summary Table, in right-most column (entitled “FY 2024 Op Plan”), for the item entitled “Section 106 Toys (Water Beads)” strike “NPR,” and replace with “NPR/FR”

Trumka Amendments to FY 2024 Operating Plan

Trumka Amendment 5: On page OS-21, in the Mandatory Standards Summary Table, in right-most column (entitled “FY 2024 Op Plan”), for the item entitled “Li-Ion Batteries Micromobility Products,” strike “NPR” and replace with “NPR/FR”

FY 2024 Operating Plan

Boyle Amendment

Boyle Amendment: Revise the Furnaces entry on the Mandatory Standards Table, OS 21, section titled “Other Ongoing or Potential Rulemaking-Related Activities,” to NOA, FR to correspond with the FY 2024 Budget Request. Staff shall make other confirming changes throughout the document.



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4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

CHAIR ALEXANDER D. HOEHN-SARIC

Statement of Chair Alexander Hoehn-Saric on Passage of the Fiscal Year 2024 Operating Plan

November 8, 2023

Today, the Commission voted to approve an Operating Plan for Fiscal Year 2024 that sets the path for the agency's work over the coming fiscal year.

As approved, the Plan will focus the agency on longstanding priorities to finalize mandatory standards for portable generators, table saws, furnaces, nursing pillows, infant and toddler rockers, and infant support cushions. We will also start essential work on new or updated standards for lithium-ion battery safety, water beads, infant water floats, and bassinets. And, under the Plan, we will keep tracking imports, testing products, gathering and analyzing data, and conducting the research that will inform our work in the future on ATVs, e-bikes, chronic hazards. We also will continue to educate and inform consumers on pool safety, safe sleep practices, button battery safety, and other subjects that empower consumers to protect themselves.

That is an ambitious list, particularly given the agency's budgetary limitations. The unfortunate, baseline assumption is that the CPSC will have our budget level cut by one percent, as outlined in the debt limit agreement struck by Congress this past summer. On its face, a one percent cut may not sound so bad. But as staff has laid out, due to expected salary increases and other costs we actually need at least \$10 million over last year's appropriation just to maintain our current level of activity. Put differently, a one percent cut results in an almost 20 percent cut to the non-salaried work of the Commission – from research to IT projects to laboratory equipment.

But that cut does not represent the worst-case scenario. The House of Representatives is voting this week on an appropriations bill that would set our budget back to the levels we had several years ago and will consider amendments to cut it further – by as much as half.

Should those deep cuts go into effect, it is the American people who will suffer and the unscrupulous businesses and importers who will benefit.

- Hazardous products that could have been stopped at our borders will end up on store shelves and in homes.
- Recalls will be dramatically slowed, almost to a crawl.

- And our work to prevent deaths and serious injuries from common children's and household products, and especially from hidden hazards, will be delayed or stopped.

I hope and expect that once these facts are made clear, CPSC's funding levels will remain steady, but we must be ready to operate under tighter budgetary constraints while keeping a focus on our mission to advance our safety work as expeditiously as possible.

While we Commissioners are the face of the agency, it is the staff who are the true heroes. Their day-to-day work drives the recalls, hazardous product seizures, safety standards, and safety messaging that save lives. I thank them for all that they do.

It is our responsibility to guide staff and prioritize our limited resources in order to succeed in getting the safety work of the American people done. The majority of my colleagues recognize that. And I'm pleased we were able to move this plan forward. It will have a real impact on consumer safety.



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COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN
ON THE FISCAL YEAR 2024 OPERATING PLAN**

NOVEMBER 8, 2023

Today, the U.S. Consumer Product Safety Commission (CPSC) voted to approve its fiscal year (FY) 2024 Operating Plan. The plan is based on realistic funding assumptions. It requires the Commission to prioritize our work not for the funding environment we wish we had, but the reality we are likely to face.

Too often in the recent past, CPSC has tied key planning documents to aspirational figures with [no basis in reality](#). I voted against the FY [2023 Operating Plan](#) for that reason, among others. I have consistently called for Commission budgets and planning documents to reflect the current fiscal reality. I appreciate that the Commission today adopted a more practical approach. Keying our plans to realistic funding is responsible management.

I am pleased that this plan reflects a number of my priorities, including support for CPSC's import and compliance missions. This year, the Commission will work to enforce newly promulgated regulations for clothing storage units and button cell batteries and will continue to police the illegal sale of recalled goods. This plan holds harmless the staffing levels I have fought to increase over the years. As I [stated last week](#), these investments in our frontline law enforcement staff are paying dividends for American consumers.

My amendment to formalize CPSC's Section 12 review for enforcement against imminently hazardous products was adopted unanimously. CPSC is authorized to bring enforcement actions against these products but has used its authority sparingly over the years. The Operating Plan now encourages maximum use of these powers to protect consumers. It is my hope that this amendment will continue the progress to re-prioritize the agency's core enforcement mission.

As always, the Commission must make decisions to allocate the resources entrusted to us by American taxpayers. The plan's budgetary assumptions are consistent with the management principles we should follow as stewards of these funds. This plan is a consensus document and not necessarily what I would have drafted on my own. Nevertheless, it provides direction and certainty to execute our mission and protect consumers.



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COMMISSIONER RICH TRUMKA JR.

CPSC OPERATING PLAN FAILS TO ADDRESS GLARING SAFETY CONCERNS; Commissioner Trumka Forced to Vote “No”

Each year the Consumer Product Safety Commission (CPSC) decides its priorities for the upcoming year. This includes what rules we plan to put in place for which product hazards.

As Commissioners of CPSC we are charged with a heavy responsibility: to keep people safe. But the Operating Plan that passed against my objection today does not fulfill our duty. It leaves too many Americans in jeopardy. I put forward proposals to address the pressing safety issues of the day, and the majority of this Commission rejected them. That leaves us with an operating plan that fails to make sufficient progress towards the concerning hazards posed by water beads, weighted infant blankets, ATVs and side-by-sides, and lithium-ion batteries in e-bikes.

This Commission heard first-hand from Ashley Haugen as she and other brave mothers came forward to tell the heart-breaking stories of their children who are currently suffering long-term effects after the ingestion of water beads. They also heard from Mayra Thomas-Romero as she discussed the tragic death of her beloved infant daughter Alicia Elizabeth Thomas, who passed while wearing a product deemed dangerous by NIH, CDC, and the American Academy of Pediatrics: a weighted infant sleep sack. Yet even after being made aware of the threats that water beads and weighted sleep sacks pose to children everywhere, my fellow Commissioners voted not to support my amendment that prioritizes these alarming hazards.

The Commission is also aware of the 106,000 emergency room trips per year caused by ATVs and side-by-sides, as well as the 750 deaths resulting from them each year. Despite these products being tied to the most deaths of any product category in our jurisdiction, my fellow Commissioners voted not to address the grave hazards they pose.

And it's truly disheartening that the Commission refused to move faster to address lithium ion battery fires in e-bikes, because there, we're ignoring a direct plea for intervention from industry. In July of this year, CPSC held a forum with experts including members of industry, voluntary standards bodies, the country's largest fire department, and consumer advocates. The clear takeaway, is that they were all calling on CPSC to set a mandatory rule for lithium-ion batteries in e-bikes as quickly as possible. Yet, my amendment to force a final rule

on this hazard in 2024 was rejected by my colleagues. They seem resigned to inch towards a longer process to solve the issue. But while we wait, people are at risk.

We need to intervene to prevent deaths in emerging products. And we can only do that if we act faster and more boldly. If what the American people expect out of CPSC is gradual progress on a modest set of goals, then that's what this operating plan has given them. Today, I offered amendments to address pressing and emerging hazards that would have made this Operating Plan something to be proud of. My fellow Commissioners rejected those amendments, and I won't put my name on a plan for this agency that falls short of what I know we can deliver for the American people.

So, what can be done? As far as water beads go, I believe that Congress can help. They could direct us to act faster. They could even give us greater tools to do that. I believe they must. With that said, I want to make clear that even with this operating plan, the people of this agency will save lives. It just does not go far enough, fast enough. It does not reflect what we need to be doing. It stops short of tackling pressing issues that would have a bigger impact.

I take no pleasure in voting no. But I will continue to do so if unambitious plans continue to be put before me for consideration.



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COMMISSIONER MARY T. BOYLE

STATEMENT OF COMMISSIONER MARY T. BOYLE ON FY 2024 OPERATING PLAN

NOVEMBER 8, 2023

We are living in uncertain times. We don't know what our bottom line will be, yet we are tasked today with establishing a blueprint of activities and projects we intend to accomplish in the coming year.

Last year at this time, I talked about the need to make the Operating Plan a living document, an aspirational set of goals that can change depending on circumstances, the progress of work, and available resources. That paradigm seems especially apt in this year's environment of flux, and with my amendment to today's Operating Plan, the Commission will be able to revisit some of the priorities we approved once the budgetary landscape comes into better focus.

Regardless of the final appropriation, though, one point must not be subject to change. And that is that this Operating Plan must be the final word on unfinished business. Table Saws. Portable Generators. Furnaces. Nursing Pillows. Infant Cushions. We must devote our full attention and focus to these final rules not only so that we can fulfill our longstanding obligation to address these issues—which we must—but also to create the capacity to embrace the challenges of the future.

These rulemaking activities have been on the Commission's agenda for too long, and we should no longer tolerate further delay. Rolling projects from one year to the next leaves little room for bold initiatives and new ideas.

I am happy we are committing to some new projects—such as regulations for e-bikes, battery safety for micromobility products, and safety standards for water beads. There is, however, much more we can be doing to tackle issues of the day, including e-commerce, artificial intelligence, and chronic hazards, so that we are poised to anticipate safety issues rather than merely react to them after the fact.

Our budget prospects may be tentative, but our commitment to safety must not waver.