

Chairman's Amendment to the CPSC's FY 14 Operation Plan

On page __, after "**Lead (CPSIA § 101) (23705)**", strike:

"This project is a response to CPSIA § 101, which established limits for the lead content of children's products. This project provides FY 2014 resources for staff to work on requests the Commission receives for exceptions from the lead content requirements, including evaluating the effectiveness of XRF and other alternative technologies for the measurement of lead in paint, and preparing for Commission consideration a recommendation for an exception of a specified product or material from the lead limit and a rule providing for the determination that the lead content of certain specified products or materials does not exceed the lead limits."

and insert:

"Lead (CPSIA § 101) (23705)

The CPSIA requires periodic review of rules under Section 101. A portion of the resources allocated to this project will be used to conduct the statutory five-year rule review for inaccessible parts and a review of the limit for lead in paint. Resources will also be used to complete staff work on the BIC USA, Inc. petition for an exemption from the section 101 lead limits for a new line of writing instrument products designed for children 5 years of age and older (Docket No. CPSC-2013-0016).

Third Party Testing – Determinations (xxxxx)

A number of stakeholders have requested the Commission expand its determinations process. CPSC staff believes that the determinations of the types of materials listed in the four Requests for Information (RFIs) regarding Consideration of Opportunities to Reduce Third Party Testing Costs Consistent with Assuring the Compliance of Children's Products (briefing package dated August 29, 2012, OS No. 5716)—heavy metals, phthalates, adhesives in manufactured woods, and synthetic food additives—if scientifically defensible, could contribute to lower costs without negatively affecting the safety and compliance of children's products. This project will review the responses to the four RFIs, undertake additional necessary research and/or necessary testing with priority given to those materials most likely to provide the widest scope of relief. Based upon the outcome of staff's review of the materials and consistent with assuring compliance with all applicable consumer product safety requirements, staff will also begin drafting a notice of proposed rulemaking on expanding the list of materials that are eligible for determinations."

Staff is also directed to make any additional conforming changes throughout the Op Plan as needed to comply with this amendment.

p. 15, Insert at the end of the new section (created by Chairman Tenenbaum's amendment) entitled, "Third Party Testing – Determinations (xxxxx)":

"The Commission also directs staff to draft a statement of policy that sets forth a protocol for the submission of requests for determinations of equivalency between tests administered in CPSC's regulations and comparable tests administered in international standards. Such protocol, at a minimum, shall require requests for equivalency determinations to establish that the testing requirements of any alternative tests administered in an international standard will assure compliance with all applicable children's product safety rules, regulations, standards, or bans and are as stringent, or more so (including third party testing where required), as the current CPSC testing requirements. The burden of demonstrating equivalence shall be on the submitter of information and must include such data and technical support necessary to support the requested determination. In addition, the protocol shall clearly state that any determination recommended by staff must be approved by the Commission."

Reallocation of resources:

Two staff months from MIS25375 International Program Support (HIR).

Strike and Replace:

Page 13: ATV (22637) "Completion of rule" package

with:

Page 13: All-Terrain Vehicles (ATVs)(22637): This project provides support for staff to repropose a draft NPR for a rulemaking that began with the 2005 ANPR, and will fulfill the Congressional direction of the CPSIA and P.L. 112-28. As background preparation the draft NPR, staff will begin in Fiscal Year 2014 to address the activities set forth below in the following priority, as resources permit: (1) Consulting with the National Highway Traffic Safety Administration regarding the categorization of youth ATVs as well as the establishment of additional safety standards for ATVs; (2) Assessing the inclusion in the NPR of a performance standard related to preventing passengers on ATVs; (3) Contracting for further testing of a child-resistant ATV ignition prototype device; (4) Conducting a literature review and developing a testing strategy to evaluate steering and stability issues related to ATVs; (5) Conducting a literature review and analysis regarding roll-over protection systems for ATVs; and (6) Conducting an ATV off-road exposure survey (the first year of a three-year effort).

Reallocation of resources:

Reallocate 1 SM in ESME from MIS 22727, Section 104 Gates and Enclosures, to MIS 22637, ATVs. Staff is directed to adjust deliverable to Gates and Enclosures accordingly.

Flammable Refrigerant Amendment of Commissioner Buerkle

“ On p. 6, after “32 “flammable liquids (material handling)” add “33 flammable refrigerants” and renumber the remaining voluntary standard activities accordingly.”

(reallocation of resources: One staff month from MIS21498 Upholstered Furniture, agreed to by staff)

The Commission directs staff to develop a statement of work and solicit bids to initiate a study of equivalent tests in international safety standards (study). The CPSC is presently funded by a continuing resolution that expires on January 15th. Given the uncertainty of the final agency appropriation at this time, staff is directed to proceed with contracting for the study if sufficient surpluses from salaries or contracts materialize prior to the FY 2014 mid-year review. If there are insufficient surpluses to initiate the contract work prior to the FY 2014 mid-year review, then the staff is directed to identify lower priority offsets to fund the study as part of the FY 2014 mid-year recommendations presented to the Commission. The Commission recommends an allocation of up to \$300,000 for the study.

Staff is directed to include the above language in appropriate place in the FY 2014 Operating Plan.

(reallocation of resources: Two staff months from MIS25375 International Program Support (HIR), agreed to by staff)

Commissioner Adler's Amendment in Response to Commissioner Buerkle's Equivalency Amendment

p. 15, Insert at the end of the new section (created by Chairman Tenenbaum's amendment) entitled, "Third Party Testing – Determinations (xxxxx)":

"The Commission also directs staff to draft a statement of policy that sets forth a protocol for the submission of requests for determinations of equivalency between tests administered in CPSC's regulations and comparable tests administered in international standards. Such protocol, at a minimum, shall require requests for equivalency determinations to establish that the testing requirements of any alternative tests administered in an international standard will assure compliance with all applicable children's product safety rules, regulations, standards, or bans and are as stringent, or more so (including third party testing where required), as the current CPSC testing requirements. The burden of demonstrating equivalence shall be on the submitter of information and must include such data and technical support necessary to support the requested determination. In addition, the protocol shall clearly state that any determination recommended by staff must be approved by the Commission."

Reallocation of resources:

Two staff months from MIS25375 International Program Support (HIR).

COAB Amendment to the FY14 Operating Plan for a Letter to Congress

The Commission will draft a letter to Congress explaining the staff recommendation 4.11 from “Consideration of Opportunities to Reduce Third Party Testing Costs Consistent with Assuring the Compliance of Children’s Products” dated August 29, 2012 (which relates to allowing certification of a manufacturing process to be an acceptable method of satisfying the third party testing requirements of section 14(a)(2) and (i)(B)(2) of the CPSA. Said letter will also indicate the agency currently lacks the authority to implement this recommendation, and therefore requests Congress consideration of a statutory solution.

Resource allocation: Staff support would be minimal, with little technical and legal review yet putting this into Op Plan since it would draw this minimal amount of staff time