



U.S. CONSUMER PRODUCT SAFETY COMMISSION

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August 1, 2008

Mr. Clay Johnson
Chairman
President's Management Council
1650 Pennsylvania Avenue, N.W.
Room 260
Washington, D.C. 20503

Re: Updated Status Report for the CPSC's FOIA Performance Improvement Plan

Dear Mr. Johnson:

Enclosed is an updated status report for the U.S. Consumer Product Safety Commission ("CPSC"). Also enclosed are copies of (1) the portion of the CPSC's FY 2007 FOIA Annual Report (Section XII C, pages 15 and 16) that identifies deficiencies in implementing its FOIA Improvement Plan and the remedial steps taken and (2) the portion of the Commission's FOIA Improvement Plan (pages 6-8) that shows the original goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson

Enclosures

U.S. Consumer Product Safety Commission
Memorandum

Date: August 1, 2008

To: Clay Johnson, Chairman of the President's Management Council
(Facsimile number (202) 456-5938) (FOIAreporting@omb.eop.gov)



From: Todd A. Stevenson, Chief Freedom of Information Act Officer,
Director, Office of the Secretary, Division of Information Management,
Office of Information and Technology Services
U.S. Consumer Product Safety Commission

Subject: Updated Status Report for the CPSC's FOIA Performance Improvement Plan

- 1. FOIA Improvement Plan Area:** Initial Processing of FOIA Requests.
- 2. Identify the deficient milestone (including the original target date listed in the agency's FOIA Improvement Plan):** Reduce Backlog of FOIA Requests from anticipated 90 requests on December 31, 2006 to 75 requests by December 31, 2007. (See enclosures 1 and 2)
- 3. Steps taken to correct the deficiency:** On January 5, 2008, the CPSC began implementing an electronic FOIA processing application (FOIAXpress) and new document scanning procedures. FOIA staff spent extensive time with the contractors to develop workflows and customize the system to fit CPSC's requirements. The process involves extensive training of all FOIA employees, which is currently underway. Full implementation will take place by the end of calendar year 2008. The FOIA staff has been increased this year with three new FOIA specialist positions and a clerical position. The new employees will be in place and trained by the end of August 2008.
- 4. Future remedial steps and the dates by which the steps will be completed:** CPSC is currently working on a backlog reduction plan to correspond with the dramatic increase in incoming requests. With implementation of the FOIA processing application and upon completion of the training of the employees, we intend to reduce the backlog to 200 by December 31, 2008 from a backlog of 220 as of December 31, 2007.¹

¹ In fiscal year 2007, the CPSC had a dramatic increase in toy recalls resulting in a significant increase in related FOIA requests from the news media, attorneys and other sectors of the public. Most of these recalls involved imported toys containing violative lead levels. The related FOIA requests are complex, involving investigative and regulatory files which are extensive. Complex requests of this nature are time and resource intensive.

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1. **FOIA Improvement Plan Area:** Processing of Office of Compliance Corrective Action or CPSC Section 15 Files
 2. **Identify the deficient milestone (including the original target date listed in the agency's FOIA Improvement Plan):** Scan files for quicker handling and automated records redaction. To be completed by December 31 2007. Implement system to electronically send Compliance Update notices to Flammable Fabrics Manufacturers. To be completed by December 31, 2007. (See enclosures 1 and 2)
 3. **Steps taken to correct the deficiency:** As reported in the CPSC's Annual FOIA Report, at the end of calendar year 2007 the CPSC contracted for a scanning service to expedite this process. The project is ongoing. The details of the scanning process and the indexing and work components are being prepared at this time. Since the annual report was filed, the scanning of official records and files has been initiated. We intend to complete the project by December 31, 2008. Also as reported in the annual report, rather than electronically sending update notices to manufacturers, in early 2007, a page was added to the CPSC website where users can search for and review Flammable Fabrics Manufacturers and updated Continuing Guaranties.
 4. **Future remedial steps and the dates by which the steps will be completed:** With full implementation of the file scanning project scheduled for completion in December 2008 and with the webpage for Flammable Fabrics Manufacturers already updated, the goal will then be complete.
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ENCLOSURE 1

5. Public Release of Investigation Reports (IDIs) with Confidential or Sensitive Attachments or Information
 - a. Follow-up training for ITIM and NIIC staff to ensure that FOUO reports or those marked with Warning Cover Sheets are properly screened to identify or remove confidential information prior to public disclosure.

Staff training has been completed.

- b. Develop more explicit informational cover sheets for confidential reports to clarify reasons for confidentiality.

Completed.

Areas Under Consideration for Completion beyond 2007:

1. Redesign FOIA web page on www.cpsc.gov.

C. Identification and discussion of any deficiency in meeting plan milestones

1. FOIA Improvement Plan area to which the deficient milestone relates.

Initial Processing of FOIA Requests

2. Deficient milestone and the original target date from the FOIA Improvement Plan

Reduce Backlog of FOIA Requests from anticipated 90 requests on December 31, 2006 to 75 requests by December 31, 2007.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

On January 5, 2008, the CPSC began the implementation process of an electronic FOIA processing application (FOIAXpress) and new document scanning procedures. FOIA staff spent extensive time with the contractors to develop workflows and customizing the system to fit CPSC's requirements. The process involves extensive training of all FOIA employees. Full implementation will take place by the end of 2008.

4. Future remedial steps and the dates by which the steps will be completed.

With implementation of the FOIA processing application, we intend to reduce the backlog to 200 by December 31, 2008.

1. FOIA Improvement Plan area to which the deficient milestone relates.

Processing of Office of Compliance Corrective Action or CPSC Section 15 Files
2. Deficient milestone and the original target date from the FOIA Improvement Plan

Scan files for quicker handling and automated records redaction. To be completed by December 31 2007.

Implement system to electronically send Compliance Update notices to Flammable Fabrics Manufacturers. To be completed by December 31, 2007.
3. Steps taken to correct the deficiency and the dates by which the steps were completed.

At the end of 2007 the CPSC contracted for a scanning service to expedite this process. The project is ongoing. The details of the scanning process and the indexing and work components are being prepared at this time. We intend to complete the project by December 31, 2008.

In early 2007, a page was added to the CPSC website to automatically search for and review Flammable Fabrics Manufacturers and updated Continuing Guaranties.
4. Future remedial steps and the dated by which the steps will be completed.

No additional steps necessary. With full implementation of the file scanning project and webpage for Flammable Fabrics Manufacturers, the goal is complete.

D. Other executive order-related activities

1. Not applicable

E. Descriptions of the FOIA exemptions

1. The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C)

ENCLOSURE 2

includes specific discussions of IDIs, Compliance information and other FOUO documents and is designed to impress upon employees the importance of following the requirements of the CPSA before information is disclosed.

The training sessions also cover the use of the warning cover page(s) that accompany sensitive records and are intended to make staff aware of the restricted nature of the documents that will be entrusted to them.

To ensure that particularly sensitive information such as potential "Grand Jury" information or active local or state law enforcement records are protected, cover page warnings should be more explicit. The warnings can (1) contain a clear message that the report cannot be released to the public, (2) be more specific about the reason for the warning and contain a line describing the confidential information, and (3) contain a statement about how to have the report processed for release by ITIM.

D. Areas Selected for Improvement

Anticipated To Be Completed By December 31, 2006

1. Initial Processing of FOIA Requests (See Section A)

Based upon our review, we have identified the following as potential areas of improvement:

- a. FOIA tracking system - improve tracking and report capabilities.
- b. Designation of Public Liaisons.
- c. Reduce Backlog of FOIA Requests from 145 requests on December 31, 2005, to 90 Requests.
- d. Research and evaluate equipment and software for the scanning and automatic redaction of records.
- e. Upgrade and replace copying machines for the ITIM.

2. Processing of Office of Compliance Corrective Action or CPSA Section 15 Files

Based upon our review, we have identified the following as potential areas of improvement:

- a. Office of Compliance file database index - enhance the search items to include a field for FOIA request numbers where a file has been previously processed for a FOIA request to eliminate duplication of search.

- b. Ensure staff is trained to ensure that consumers understand privacy issues involved in the release of information regarding identity to the public.

3. CPSC Website – www.cpsc.gov – FOIA Information

Based upon our review, we have identified the following as potential areas of improvement:

- a. Improve the “Make a FOIA Request form and application.”
- b. Add more guidance on what specific and descriptive information is needed from requesters to clarify their FOIA requests.
- c. Establish a FOIA Requester Service Center.

4. Staff Resources and Training

Based upon our review, we have identified the following as potential areas of improvement:

- a. Phase One of intra-organizational cross training of staff to reduce backlog.
- b. Reallocate staff resources within EXIT to provide an additional position to perform scanning services for the ITIM.
- c. Provide customer service training for staff.

5. Public Release of Investigation Reports (IDIs) with Confidential or Sensitive Attachments or Information

Based upon our review we have identified the following as potential areas of improvement:

- a. Educate CPSC employees on the disclosure requirements and develop warning and explanation sheets to cover confidential reports.
- b. Remind CPSC employees that requests for public information must be processed through the ITIM-FOI or NIIC offices.

Anticipated To Be Completed By December 31, 2007

1. Initial Processing of FOIA Requests (See Section A)

- a. Reduce Backlog of FOIA Requests from anticipated 90 requests on December 31, 2006, to 75 Requests.

- b. Train ITIM staff and implement new automated FOIA scanning and redaction system.
 - c. Upgrade and replace color printers for the ITIM.
 - d. Train NIIC to directly process more FOIA requests.
 - e. Create a database of other CPSC organizations' reports.
2. **Processing of Office of Compliance Corrective Action or CPSA Section 15 Files**
 - a. Scan files for quicker handling and automated records redaction.
 - b. Implement system to electronically send Compliance Update notices to Flammable Fabrics Manufacturers.
3. **CPSC Website – www.cpsc.gov – FOIA Information**
 - a. Implement a system for the public to easily track their FOIA requests.
 - b. Develop and implement customer feedback section on FOIA website.
4. **Staff Resources and Training**
 - a. Complete Phase Two of intra-organizational cross training of staff to reduce backlog.
 - b. Require all FOIA staff to utilize government-wide FOIA training.
5. **Public Release of Investigation Reports (IDIs) with Confidential or Sensitive Attachments or Information**
 - a. Follow-up training for ITIM and NIIC staff to ensure that FOUO reports or those marked with Warning Cover Sheets are properly screened to identify or remove confidential information prior to public disclosure.
 - b. Develop more explicit informational cover sheets for confidential reports to clarify reasons for confidentiality.

Areas Under Consideration for Completion beyond 2007:

1. Redesign FOIA web page on www.cpsc.gov .