



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
STATEMENT OF COMMISSIONER THOMAS H. MOORE**

Submitted to the

Subcommittee on Financial Services and General Government

Senate Committee on Appropriations

Hearing date – April 30, 2008

Mr. Chairman, Ranking Member, and Members of the Subcommittee, thank you for providing me with this opportunity to present testimony before you today on the U. S. Consumer Product Safety Commission's (CPSC) Fiscal Year (FY) 2009 appropriations request.

In summary, for FY 2009, the President's funding request for the agency is \$80,000,000 which is equal to the level of funding provided by Congress for FY 2008. With this level of funding, we propose to hire up to 444 FTEs (Full Time Equivalents) from our budget submission level of approximately 380 FTEs. Additionally, we propose to continue our efforts to acquire a modern laboratory facility and to acquire additional office space, which we will need to accommodate some of our new hires.

However, it must be noted that the FY 2009 funding request does not take into consideration the cost of implementing the requirements of the "Virginia Graeme Baker Pool and Spa Safety Act" nor does the 09 funding request address the cost of implementing possible requirements of any final passage of a conference agreement on the "Consumer Product Safety Commission Reform Act" as passed by the Senate and the "Consumer Product Safety Modernization Act" as passed by the House.

On December 19, 2007, the President signed into law the Virginia Graeme Baker Pool and Spa Safety Act which is aimed at reducing the 260 pool and spa drownings each year involving children younger than 5 and reducing suction entrapment deaths and injuries. The Act addresses pool and spa safety issues by specifying requirements that would make pools and spas safer. The Act also authorizes the Commission to establish an incentive-based grant program for States, subject to the availability of appropriations. Additionally, the Act requires the Commission to “establish and carry out an education program to inform the public of methods to prevent drowning and entrapment in swimming pools and spas.”

For FY 2009, the Act authorizes \$7M for the Commission to carry out these requirements. Our staff has done an estimate of the cost of carrying out the requirements of the Act and advised the Commission that, for FY 09, we would need an additional \$7.887M - which would provide for start-up cost, contract cost, the cost of an additional 6 FTEs, and other costs associated with implementing the requirements of the Act. As I have indicated, the President’s request of \$80M does not include funding for these activities and Congress would have to include additional funds, above the President’s request, for the Commission to carry out these requirements.

IMPACT OF FY 2008 FUNDING

In order to fully understand our FY 2009 request, we must first look at what is transpiring for us in FY 2008. In FY 2008, the Administration’s budget contemplated funding the Commission at \$63,250,000 which would have resulted in an all-time low funded staffing level of 401 FTEs; a decrease of 19 FTEs from the FY 2007 funded level. As I indicated in my written statement to this Subcommittee last year, such a funding level would have had a devastating effect on the agency’s ability to maintain the broad range of skilled staff we need to address the full scope of the 15,000 types of consumer products under our jurisdiction. Congress, led by this Subcommittee, took up the cause of the American consumer by focusing on, and addressing, the serious deficiencies at the Commission resulting from our most recent years of shrinking resources by appropriating \$80.0 M, a \$16.75 M increase over the Administration’s request.

With the additional resources, the Commission has been able to start the process of reversing the effects of the Commission’s downward spiral in

staffing. The Commission is now able to begin filling critical vacancies, moving our staff level in the positive direction toward 420 FTEs. We have also started a process to reacquire headquarters office space that we forfeited in order to reduce our operating cost.

Part of our staffing increase has been directed to a n import safety initiative through the creation of a new Import Surveillance Division in the Office of Compliance and Field Operations. For the first time, CPSC will have permanent, full-time product safety investigators at key ports of entry throughout the United States. Initially, we have identified up to ten ports where we will assign personnel.

We are also implementing an Early Warning System (EWS) initiative which is designed to identify emerging product safety hazard patterns more quickly and effectively in children's products such as cribs, bassinets and play yards (playpens). FY 2008 funding will allow staff to continue to develop and implement processes and procedures to evaluate and characterize hazard scenarios and failure modes which should alert the Commission staff that a product hazard may exist and quick action to address it must ensue.

The additional resources for FY 08 will also allow the Commission to move in the direction of expediting the acquisition of a new state-of-the-art laboratory facility and equipment. We will commit \$8M of FY 2008 funding toward this effort. The Commission is taking the approach of acquiring a new facility as opposed to modernizing the present laboratory site based on current projections by CPSC staff, GSA, and OMB that acquiring a new facility would be a more cost effective, more expeditious, and more efficient process for the Commission than rehabilitating the present laboratory site .

Our laboratory situation is well known to most people who have focused on the problems presented by the Commission's limited resource allocations in recent budgets. We have been trying, through various avenues, to remodel or rebuild our existing facility for many years. We now appear to be getting closer to the reality of a new testing laboratory. The process with GSA has been frustrating, with their stated deadlines to us slipping again and again. Last year when GSA gave us the preliminary estimate of how much they were going to raise the rent at the current laboratory facility (with NO improvements) it seemed the last straw. (They have since backed off substantially from the threatened

initial rent increase.)

Finally, after much discussion, GSA was willing to start the process of looking at what other facilities might be available to see if the option of moving the lab was more cost effective than rebuilding the present one. Perhaps, by the end of this fiscal year we will have a much better handle on that option, but given the fits and starts of this process I am not as confident as I would like to be about the outcome. The cost estimates we are operating on are numbers from OMB and GSA, based on the assumption that we will indeed find appropriate new space for all of our current and future testing needs as well as office space for perhaps as many as 70 of our other employees. I am hopeful that at the end of this process we will have a clear picture of the efficiency and cost effectiveness of moving in this direction. For now, I must simply go on what information staff is presenting to me on this issue and I have consented to fully exploring this option.

We are also able, for the first time, to establish in our base funding, a capital fund to replace aging and outdated Information Technology (IT) equipment and we are able to dedicate funds to further the process of developing more advanced electronic applications for our IT system. These advanced electronic applications will be essential to the Commission's Import Safety and Early Warning System initiatives as well as an important element in converting our current, disparate database systems to a one-stop data acquisition system. Moreover, we are able to replace our outmoded resource management information system, for which vendor support was withdrawn due to the age of the system. Not included in this budget are resources to integrate and modernize our various database systems into one larger searchable format, an improvement to our data analysis capabilities that we have wanted for a long time. If Congress requires the agency to create additional publicly accessible databases—a move I strongly support—being able to do that in the context of improving our overall data capabilities would be especially helpful.

The FY 2008 increase will additionally provide for other important product safety related activities such as a modest increase in our contract funds for our rulemaking, research, and project support. And, because we need to be able to compete with other governmental agencies and the private sector for qualified candidates to fill our vacancies, the budget increases funds for our staff training and staff performance incentives.

Most important to me in our FY 2008 increase is our now present ability to begin rebuilding our staff. CPSC has been under a glaring spotlight for the last year. While it is not always a comfortable position for the agency to be in, for me, it has been welcomed and much needed attention. It brought to light, especially for Congress, the woeful state of the agency's resources, from its declining staffing levels to its aging and inadequate laboratory facilities. For too many years the agency had been forced to put a brave face on its situation by claiming it could do more with less. When we stopped getting enough resources to meet our basic needs that claim began to ring hollow and the agency was left without the necessary tools to properly police the consumer product marketplace.

Now, not only has Congress shown a willingness to give us the resources we so desperately need, but it has also positioned itself to increase our authorities and responsibilities. I am very thankful for Congress' efforts on our behalf. I do hope, however, that any final authorization bill that Congress passes gives the Commission the necessary time it will need to rebuild to meet our current responsibilities. Once we reach that point, then we can give full concentration to tackling the many new responsibilities that are projected to be part of a final reauthorization package.

Our FY 2009 budget assumes that we will have 444 staff on board for the beginning of FY 2009. This requires us to add nearly 65 new employees, a 17% increase over our budget submission level. That will bring us almost back to our fiscal year 2005 staffing level of 446 FTEs. When I first came to the agency in 1995, we had final FTE authority of 487 FTEs and averaged 474 FTEs on board for the year. So we still will need to hire another thirty people in fiscal year 2010 just to get us back up to our 1995 staffing level, a staffing level at which we handled that year's existing responsibilities fairly comfortably.

Over time we hope to be able to hire and train capable replacements for those that have left, but the experience that we have lost due to their departure will take years to recover. I am very optimistic that now, with the change in attitude about the Commission's importance that has manifested itself in our increased funding levels, we will be able to reverse the negative perceptions about the Commission and move in a positive direction on our staffing issues and, therefore, on product safety.

CPSC'S SAFETY WORK CAN CONTINUE IN FISCAL YEAR 2009

By most measures, CPSC provides both tremendous service and tremendous value to the American people and we are very proud of our staff's accomplishments. Our agency is the major factor in the substantial decline in the rate of deaths and injuries related to consumer products since 1974. During that time, through our standards work, compliance efforts, industry partnerships, and consumer information, there has been a 43% reduction in residential fire deaths, a 74% reduction in consumer product-related electrocutions, a 41% reduction in consumer product-related carbon monoxide deaths, an 83% reduction in poisoning deaths of children younger than 5 years of age, an 88% reduction in baby walker injuries and a 84% reduction in crib-related deaths.

The FY 2009 request, on its face, is a request for level funding from FY 2008. What we really have, however, amounts to a \$5.8 million dollar increase. Assuming the projections on the lab are accurate, we will spend \$2 million less on the lab in 2009 and we have another \$3.8 million in other non-recurring, one-time costs that we are funding in 2008 that we don't fund in 2009 for a total of \$5.8 million in additional funds for 2009.

Of that, \$2.457 million will go to maintaining the costs of the 420 employees we anticipate having on board in FY 2008, along with increases in other fixed costs such as rent. Another \$3.218 million will go to hiring 24 new employees to supplement and to provide support for the Import Safety Initiative. We have also targeted \$125,000 for travel for the U.S. Sino Product Safety Summit. While I note that both the pending reauthorization bills anticipate the Commission receiving additional funding for the modernization of our testing and research laboratory, our budget requests for both FY 08 and FY 09 are constructed to utilize a large portion of the funding increases provided by Congress for the laboratory modernization, certainly a greatly needed improvement. The rest of the increases begin the crucial staff rebuilding and the acquisition of additional office space to accommodate the additional staff. Those concentrations leaves us little for anything else.

Now, there are certainly many questions remaining unanswered at this time concerning reauthorization legislation requirements. I know that there are many questions about what should be included as part of our request for our FY

2009 budget. At this particular moment, it is extremely difficult to determine what additional staff and funds we will need to meet the new responsibilities that Congress may give us. We have made no attempt to do that in the FY 2009 budget request as that would have been premature. The Acting Chairman's office in a response to a question presented by House appropriators had staff prepare estimates as to what those resources might be (some of those estimates are already going through second revisions), but we are all flying somewhat blindly until we have a final bill with definite requirements and timelines for Commission action. I hope that the deadlines in the final bill will take into account the time needed to hire and train new employees, to find them adequate office space and to integrate them and their skills into our existing workforce. The Commission hasn't had to hire at this pace since it was first established back in the 1970s.

We at the Commission strongly feel that many, many deaths and injuries have been prevented as a result of the heightened attention given to safety issues by manufacturers and consumers due to CPSC's leadership. However, we are very mindful that the product safety landscape is ever evolving because of more technologically complex products as well as an ever growing emphasis on imports. Last year's heightened activities with respect to imported toys, in particular, clearly illustrate the benefits of a strong CPSC federal presence in today's consumer product marketplace and therefore provide substantial justification for present and future funding to keep our safety programs intact.

CONCLUSION

As I have indicated, Congress is poised to come to agreement on a final reauthorization package. Both bills under consideration provide significant increases in our authorization levels for future years at the Commission. The authorization levels reflect my own views on how growth should be contemplated for the Commission, and I am hoping that future appropriations will be in line with the House and Senate final agreed upon authorization levels.

As I have previously discussed, the bills would also require the Commission to undertake a number of activities that I am not taking into consideration as I present this statement. The final legislative package will most certainly contain some significant new regulatory, enforcement and other mandates that could have some effect on what resources we would need to fully implement all of the requirements. When a final determination is made, we

certainly intend to communicate with this subcommittee with respect to future requirements and their effect on Commission resources.

Mr. Chairman, I want to thank this subcommittee for your recognition of the importance of our agency with respect to product safety for American consumers. The sale of unsafe consumer products remains a major national problem. Because of your attention and assistance, we are now on the way back to firm footing in preventing unsafe, potentially harmful consumer products from causing deaths and injuries to American consumers. The continued support of this Subcommittee is essential to a successful fulfillment of our mission.