UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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electronically approved and signed.

Date: April 14, 2010

TO   :   The Commission
              Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel
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SUBJECT :   Publicly Available Consumer Product Safety Information Database NPR

        Below are the staff responses to Commissioner Nancy Nord's follow-up questions to the
staff Briefing on the Publicly Available Consumer Product Safety Information Database NPR.
Commissioner Nord's questions are included below.

Follow-Up Question 1:

1. During the briefing today, you mentioned that we receive approximately 16,000 incident
   reports a year. What is the staff's estimate of the increased number of incident reports we
   will receive with the new public database?

   Staff Response
   The CPSC received approximately 16,000 telephone and web incident reports in 2009.
   This number does not include reports received through death certificates, retailer
   reporting, news clippings, and Section 15.

   On January 11th and 12th, 2010, CPSC staff hosted a two day workshop on the public
   database. During that workshop, staff asked participants if there was a way to predict an
   increase in the number of incident reports with the new public database. Workshop
   participants gave a wide range of predictions on what that number could potentially be.
   The unsubstantiated predictions ranged from a 0-50% increase. The staff is currently
   developing a model to quantify any potential change.

Follow-Up Question 2:

2. Given that the staff reviews all of the incident reports we receive, each of the offices with
   staff involved should have an estimate of the resources needed to complete these reviews.

If the public database proposed rule now before us were finalized as described, what is the general estimate of resources needed to implement this program?

Staff Response

The proposed rule on the public database does not prescribe a specific number or types of staff necessary to support the database. However, we are currently developing a model to estimate the number and types of resources required. There are several assumptions we are using to develop the model:

a) Staff will be needed during the incident report intake process. All reports will be processed through and entered into the new system through one, centralized point to ensure data quality. In addition, this staff will also review and edit reports for personally identifiable information and help respond to calls from submitters who may have questions.

b) Staff will be needed to review and process manufacturer comments for appropriate and timely distribution to CPSC subject matter experts or for posting to the public database. This staff will also provide administrative support to assist manufacturers with the use of the manufacturer portal (maintaining current accounts and setting up new registrations).

c) Staff will be needed to perform incident report triage in order to process incident data based on severity or other critical data the agency determines is in the public interest. This staff will insure timely disposition of incident data to CPSC's subject matter experts.

It should be noted that some existing staff resources are already devoted to intake of incident reports. In addition to an analysis on the type and number of additional staff needed to support the shift in receipt of these complaints to and through the new database, the model will also consider efficiencies gained as a result of the new system. These efficiencies may identify areas where existing staff resources could be reallocated to address new staffing requirements. Staff is currently working with senior managers in the program areas to complete the analysis.

Follow-Up Question 3:

3. At today's hearing you said that the statute would allow us to establish a date after which incidents occurred for posting on the new public database. If the Commission were to decide to post incidents that occurred either after a particular date or prospectively, would this provide a more manageable transition for receipt and review of incident reports in the new database?

Staff Response

The rule as drafted does not address this issue. In response to this concern, the staff proposes that reports submitted to the public database for incidents which occurred prior to August 14, 2008 (the date that CPSIA was signed into law) not be subject to the CPSIA statutory requirements, and not be made public. This is a policy decision for the Commission and not something required by the law.

However, retrospective incidents will still require staff effort to review, triage, and potentially investigate if they indicate a potential hazard. For this reason, the staff believes that only posting incidents after a particular date or prospectively will not have a significant impact on the transition to the new database.

Follow-Up Question 4:

4. What would be involved in setting up a beta test for a specific product area, such as cribs?

Staff Response

A new beta test at this point in the software development cycle will significantly and dramatically increase the risk of not meeting the statutorily defined implementation deadline. Software development vendor contracts are in place with timelines tied to specific contract deliverables. Introduction of a new beta test would require diverting the software developers and management oversight from the contracted deliverables at a critical point in our development plan.

Our current test plan includes focus group testing with internal and external stakeholders (representatives from industry, consumer groups, and others). This will serve the same purpose as the beta test you are suggesting and is currently planned for early Fall of 2010. This will enable us to meet the congressionally mandated deadlines for the database project.

Follow-Up Question 5:

5. Proposed Section 1102.26 would contain definitions and process for how claims of materially inaccurate information contained in reports of harm and manufacturers comments may be asserted and how they will be evaluated. Where a report of harm has been published, and someone asserts there is a material inaccuracy, there is no specified time for Commission staff to complete its investigation to made a determination. Inaccurate information about a product could be posted for an indefinite amount of time before a correction was made and this would be a serious disservice to consumers.

I believe some sort of timeframe should be established to complete an investigation of materially inaccurate information or justify when it will be completed. What would staff consider a reasonable amount of time to complete an investigation?

Will the fact that a report or comment is being investigated by staff for accuracy be posted on the report so that consumers will know there has been an assertion by someone that there may be inaccurate information and staff is looking into it?

Staff Response

The staff recommends expedited review of claims of materially inaccurate information but cannot make a recommendation on a specific time limit to review such claims in

advance of the rule. There are many factors that need to be considered such as the number of claims, length and complexity of claims and, available staff resources. The system is designed so that it may display status messaging to the external public including an assertion of material inaccuracy.

Follow-Up Question 6:

6. How will we prevent the duplicative counting of incidents if people go on the new public database to report the same incident that had previously been reported to CPSC through the existing formats?

Staff Response

The software is being designed to sort and select potential new duplicates based on predefined criteria. Such matches will be automatically flagged for CPSC staff review. If they are determined to be duplicates (e.g., same submitter reports the same incident) they will be noted as such and will not be published although they will be retained for staff use and future reference. Legacy data will not be included in the public database. Any incident reports collected prior to the launch of the public database will not be included however, if a submitter reports the same incident in the new database, that incident will be posted.