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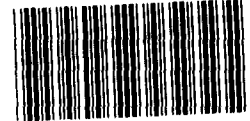


United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

July 28, 1992

The Honorable Paul Simon
United States Senate



147177

Dear Senator Simon:

This letter responds to your request that we examine the Consumer Product Safety Commission (CPSC). In discussions with your staff on May 1, 1992, we agreed to provide information on CPSC's mission, organizational structure, budget, and general performance, and changes in focus and activities. (Enclosure 1 presents our detailed findings.)

Our review shows that CPSC was vested in 1972 with broad authority and was expected to identify and remedy hazardous products. CPSC's chairman and 2 commissioners are the agency's chief policymakers. Two slots for additional commissioners have been vacant since 1986. Their decisions are carried out by an executive director, seven operating directorates, and other offices. (Enclosure 2 presents CPSC's organizational chart.) CPSC's budget decreased by 60 percent between 1975 and 1990, after adjusting for inflation. Also, CPSC had 41 percent fewer staff in 1990 than in 1975. (Enclosure 3 presents supporting figures for charts in the text.) Accordingly, CPSC gives priority to developing voluntary standards and focusing on activities to educate and inform consumers about product hazards. Recent studies have been critical of CPSC's performance, but the studies attribute different causes to CPSC's problems.

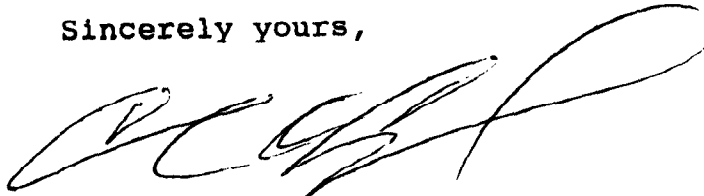
To assess CPSC's performance, we reviewed agency documents and analyzed CPSC data, interviewed agency officials, and surveyed the literature. We did not verify the accuracy or completeness of the data. We conducted our review from January through July 1992 in accordance with generally accepted government auditing standards.

GAO/HRD-92-37R, Information on CPSC

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If you have any questions or wish to discuss the information provided, please call me on (202) 512-7014.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'C. Crawford', written in a cursive style.

Clarence C. Crawford
Associate Director, Education
and Employment Issues

Enclosures - 3

MISSION

The Consumer Product Safety Act (P.L. 92-573; Oct. 27, 1972) was enacted to (1) protect the public against unreasonable risks of injury associated with consumer products; (2) assist consumers in evaluating the comparative safety of consumer products; (3) develop uniform safety standards for consumer products (thereby minimizing conflicting state and local regulations); and (4) promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. The Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency created to carry out the act's purposes.

In addition to the Consumer Product Safety Act, CPSC has responsibilities for consumer protection under the Flammable Fabrics Act (P.L. 83-88; June 30, 1953), the Refrigerator Safety Act (P.L. 84-930; Aug. 2, 1956), the Federal Hazardous Substances Act (P.L. 86-613; July 12, 1960), the Poison Prevention Packaging Act of 1970 (P.L. 91-601; Dec. 30, 1970), and the Fire Safe Cigarette Act of 1990 (P.L. 101-352; Aug. 10, 1990).

CPSC corrects consumer hazards by:

- issuing and enforcing mandatory standards,
- developing voluntary standards in conjunction with industry,
- banning products where standards would not be able to protect the public,
- obtaining the recall or repair of hazardous products,
- researching potential hazards, and
- conducting consumer information programs.

Accidental deaths involving consumer products decreased between 1976 and 1986, the most recent year for which CPSC has complete data. In this decade, deaths associated with consumer products declined by 27 percent. CPSC officials believe that their educational and enforcement efforts contributed to the decrease in accidental deaths; however, whether a causal link exists between CPSC actions and deaths involving consumer products is not clear.

Among the activities to accomplish its mission during fiscal year 1990, CPSC: (1) completed work on 11 voluntary safety standards, for example, on room heaters and chain saws; (2) worked with the U.S. Customs Service to intercept and prevent from entering the United States millions of dollars

worth of illegal fireworks and other products; (3) obtained the recall or stopped the sale of 198 different toys and obtained the recall of aerosol string (spray streamers) and infant "bean bag" cushions; (4) worked on 12 mandatory product standards; (5) addressed such long-standing safety issues as enforcement of the children's sleepwear standard; (6) negotiated agreement with each of the All-Terrain Vehicle (ATV) distributors for the distributors to perform undercover monitoring of about half of their dealers over the next 2 years to detect sales to underage youth; and (7) participated in safety information and education efforts with consumer groups, industries, state and local governments, and other organizations.

ORGANIZATION

The act allows for appointment of five commissioners by the President for staggered 7-year terms. Only three commissioner positions have been filled since 1986. The President appoints the commissioners, but cannot directly overrule an agency decision or fire a commissioner for making an unpopular decision. The CPSC chairman, who is one of the commissioners, and the other commissioners are CPSC's chief policymakers. Their decisions are implemented by an executive director who has line authority over seven operating directorates, including the Office of Hazard Identification and Reduction and the Office of Compliance and Enforcement. (See enclosure 2 for CPSC's organizational chart.)

CPSC carries out its mission through five primary activities: hazard identification and analysis, hazard assessment and reduction, compliance and enforcement, consumer information, and agency management.

CPSC PROGRAM ACTIVITIES

Hazard Identification and Analysis

Through its hazard identification and analysis program, CPSC identifies hazardous products and determines if a hazard-reduction strategy is needed. This program consists of five subprograms: surveillance data, investigation data, new project, economic studies, and program support.

The surveillance data subprogram collects data on injuries and consumer products likely to lead to injuries. CPSC uses these data to determine its actions on product hazards.

Data are collected through (1) the national electronic injury surveillance system (NEISS), that gathers data on product-related injuries from hospitals; (2) death certificates and medical examiner reports; (3) news articles; (4) consumer complaints; and (5) information from other interested parties, such as government agencies, attorneys, and physicians.

More detailed information about selected incidents identified under the surveillance data subprogram are collected and analyzed through the investigation data subprogram. The new project subprogram analyzes likely hazards with new products, new uses for existing products, or previously unrecognized or unaddressed safety problems. The economic studies subprogram provides specialized economic information to all interested parties. The program support subprogram provides necessary staff support for the hazard identification and analysis program, including economic analysis, epidemiology, and computer processing services.

Hazard Assessment and Reduction

The hazard assessment and reduction program develops and implements preventative hazard-reduction strategies. Strategies include developing standards for performance, labeling and banning products, working for changes in building codes, fostering new technology, and developing information for consumers and manufacturers on how to reduce the hazard.

Some hazards recently assessed or proposed for assessment include household fire and thermal burns, carbon monoxide and fuel gas leakage in households, and swimming pool and riding lawn mower accidents. With respect to household fires, for example, it is estimated that smoke detectors were inoperable in about one-third of the homes that experienced a fire and had smoke detectors. In 1991, in cooperation with the U.S. Fire Administration, the National Fire Protection Association, and the Congressional Fire Services Institute, CPSC organized a nationwide network to address smoke detector issues. A Field Investigation Committee was appointed to examine the problem of inoperable smoke detectors. Other initiatives have also begun to examine causes and possible solutions to household fire hazards.

Compliance and Enforcement

CPSC's compliance and enforcement program enforces the laws enacted by Congress and the regulations and standards developed to promote product safety. Three types of compliance activities are conducted by CPSC:

- CPSC identifies defective products and requires manufacturers to remove them from the marketplace or consumer use, correct the product, or replace the product.
- CPSC maintains surveillance over regulated consumer products and follows up on indications of potential noncompliance with the act. CPSC obtains correction of violations and, where appropriate, removes hazardous noncomplying products from consumer use, either voluntarily or through litigation.
- CPSC encourages industry to adhere to voluntary standards.

The Consumer Product Safety Act requires that hazardous consumer products be reported to CPSC, and CPSC encourages voluntary compliance through such techniques as attendance at industry seminars, media interviews, and distribution of pamphlets to manufacturers, distributors, and retailers concerning their responsibilities to report hazardous products to CPSC. CPSC also monitors compliance with reporting requirements and enforces requirements through litigation and civil penalties.

Consumer Information

CPSC informs consumers about product hazards through (1) distribution of product recall notices; (2) video news releases; (3) provision of information at trade shows, seminars, special events, and news conferences; (4) publication of an annual report; and (5) provision of direct services to the public, such as telephone hotlines.

Agency Management

This program provides the policy, executive direction, legal guidance, and administrative services necessary for CPSC to function as a federal agency. The program's offices include the commissioners and their staffs, General Administrative Services, and the Offices of Congressional Relations, Equal

Employment Opportunity and Minority Enterprise, Inspector General, and General Counsel.

FUNDING AND STAFFING

CPSC's activities are funded and staffed at lower levels than during CPSC's early years. While CPSC's total funding was fairly stable from 1975 to 1990 (see figure 1), its 1990 funding, adjusted for inflation, reflects nearly a 60-percent decrease since 1975 (see figure 2).

Figure 1: CPSC Funding, 1975-90

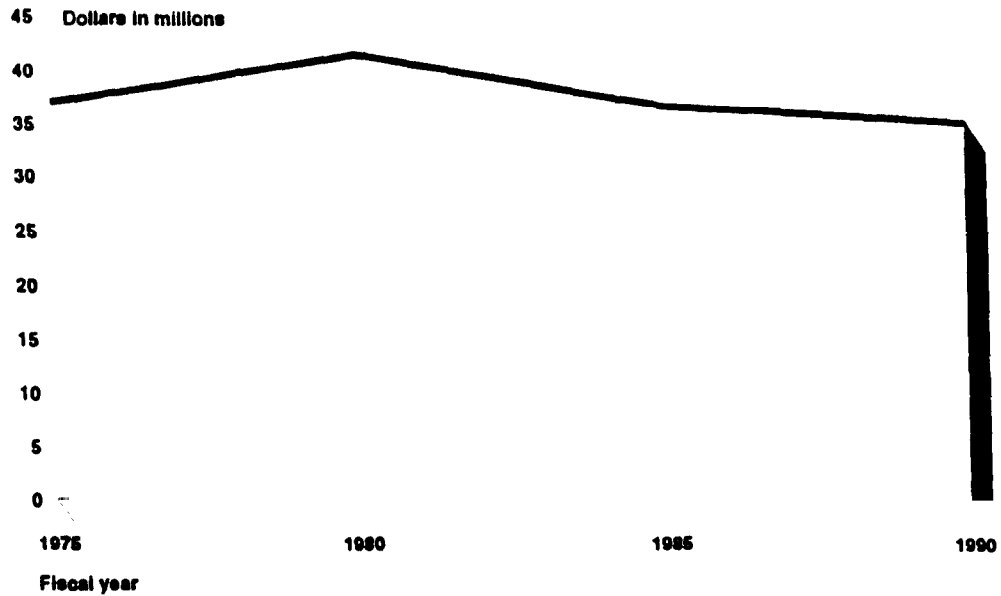
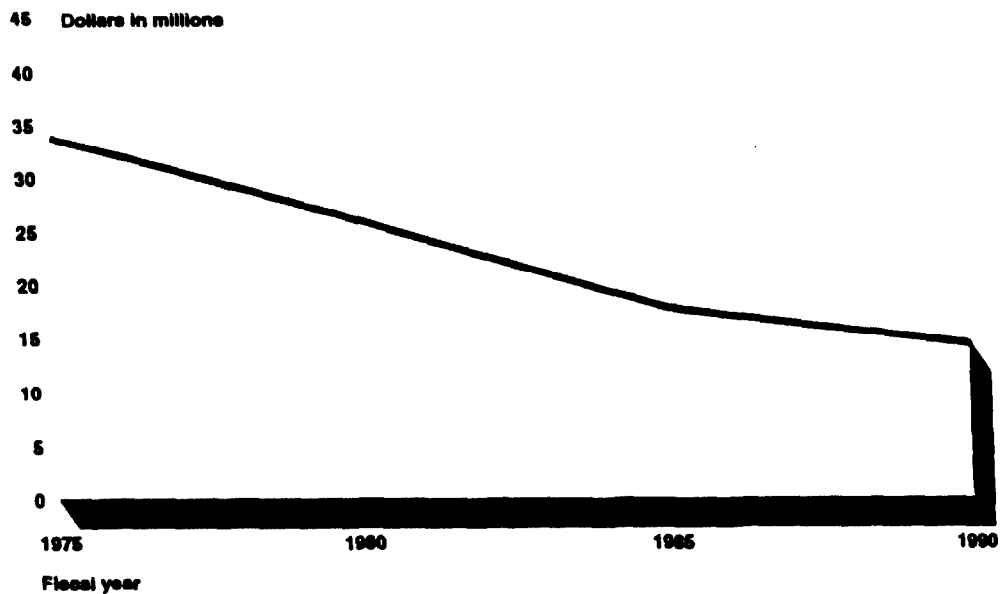


Figure 2: CPSC Funding, 1975-90, Adjusted for Inflation^a



^aCPSC used the Gross National Product Implicit Price Deflator to adjust for inflation. Dollars are stated in 1974 dollars.

CPSC's staffing declined by 41 percent from 1975 to 1990, from 890 in 1975 to 526 in 1990 (see figure 3). (See enclosure 3 for supporting data.)

Figure 3: CPSC Staffing, 1975-90 (Staffing Ceiling by Fiscal Year)



SUMMARY OF RECENT STUDIES
ON CPSC'S GENERAL PERFORMANCE

Several studies in the past 5 years have reported concerns regarding CPSC's effectiveness and efficiency. In 1987 we concluded that CPSC's functions could more effectively be carried out by a single administrator rather than a commission, because it would be less costly and because the commissioners (at that time) did not: (1) make prompt decisions; (2) understand technical issues; (3) agree on the use of CPSC resources; or (4) delegate work.¹ For that study, we interviewed former CPSC chairpersons and executive

¹Consumer Product Safety Commission: Administrative Structure Could Benefit From Change, GAO/HRD-87-47, April 9, 1987.

officers as well as officials of other health and safety regulatory agencies.

Overall complaints from the Congress and consumer and industry groups were detailed in a 1989 study published in the Administrative Law Review.² The complaints cited that CPSC lacked a meaningful system of priorities, focused on minor hazards, regulated chronic hazards incompetently, failed to meet statutory deadlines, tolerated excessive delays by industry in developing voluntary standards, deferred to inadequate voluntary standards, did not monitor industry's compliance with voluntary standards, required excessive recordkeeping, harassed small businesses, did not aggressively promote product safety, and made conclusions not supported by available data. The study recommends that CPSC establish a proper balance between voluntary and mandatory standards. Another recommendation is that CPSC generally should not delay development of a mandatory standard when a serious risk is involved and industry has failed to take appropriate and timely voluntary action.

A 1988 study in the RAND Journal of Economics questioned the appropriateness of CPSC's selection of priority projects, and said that CPSC failed to economize on scarce administrative resources.³ The study added that CPSC concentrated on frequent and severe hazards regardless of whether those hazards were understood by consumers.

²"From Model Agency to Basket Case - Can the Consumer Product Safety Commission be Redeemed?" Robert S. Adler, Administrative Law Review, Winter 1989.

³"Revealed Bureaucratic Preference: Priorities of the Consumer Product Safety Commission," Lacy Glenn Thomas, RAND Journal of Economics, Spring 1988.

The Consumer Federation of America and Consumers Union pointed out in a 1990 joint report on CPSC's 1991 budget that

"Congress must step in and exercise its duty to make sure the federal government lives up to the commitment it made to protecting consumers from product-related death and injury when it created the Consumer Product Safety Commission."⁴

Accordingly, the groups recommended that Congress appropriate \$50 million for CPSC for fiscal year 1991 instead of the \$40 million CPSC requested.

Internally, CPSC's Office of Inspector General (OIG) prepares a semiannual report to the Congress. In its October-March 1992 report, the OIG stated "there was no indication of fraud, waste or mismanagement in the areas reviewed."

CHANGES IN CPSC ACTIVITIES

During the late 1970s, the chairman redefined the agency's role; notably, the agency's focus shifted from developing mandatory safety standards to encouraging industry groups to upgrade voluntary standards. During the 1980s, funding and staff cuts resulted in CPSC postponing or dropping work on many alleged hazards, closing most of its area offices, and reducing its injury data-gathering capabilities and its compliance investigations and inspections.

In early 1991, CPSC's long-range strategic planning task force began reviewing the way it conducts business, and may recommend organizational changes. A strategic plan for the 1990s, which will address the agency's long-range policies and goals and provide a broad timetable for commission actions, was originally due in April 1991. CPSC now expects to have this strategic plan completed about December 1992.

⁴"Pennies for Consumer Protection? A Report on the CPSC's 1991 Budget," Mary Ellen R. Fise, Consumer Federation of America, and M. Kristen Rand, Consumers Union, May, 1990.

CPSC's Organizational Chart

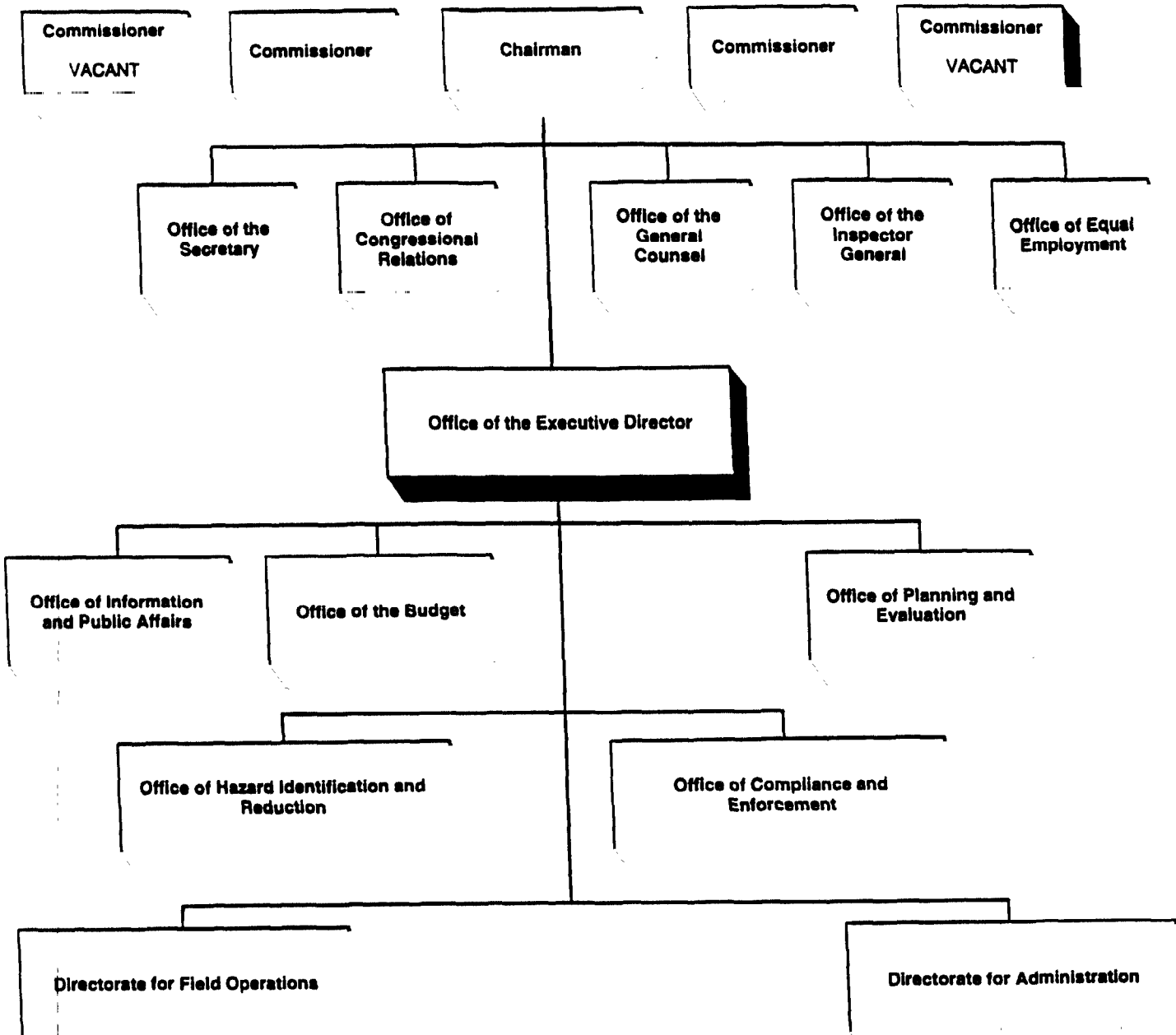


Table 1: CPSC Funding, 1975-90 (Data for Fig. 1)

<u>Fiscal year</u>	<u>Dollars in millions</u>
1975	37.0
1980	41.4
1985	36.5
1990	35.1

Table 2: CPSC Funding, 1975-90, Adjusted for Inflation⁵
(Data for Fig. 2)

<u>Fiscal year</u>	<u>Dollars in millions</u>
1975	33.7
1980	26.0
1985	17.7
1990	14.3

Table 3: CPSC Staffing, 1975-90 (Data for Fig. 3)

<u>Fiscal year</u>	<u>Staffing</u>
1975	890
1980	978
1985	587
1990	526

⁵CPSC used the Gross National Product Implicit Price Deflator to adjust for inflation. Dollars are stated in 1974 dollars.