

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

April 1, 2011 - September 30, 2011

EXECUTIVE SUMMARY

This semiannual report summarizes the major activities performed by the Office of the Inspector General (OIG) during the reporting period April 1, 2011 through September 30, 2011. During the reporting period, this office worked on seven audits or reviews. At the end of the reporting period, six audits or reviews and five investigations were in progress.

The OIG received 11 complaints during the reporting period, five of which resulted in the initiation of formal investigations. Three investigations were closed or transferred during the reporting period. Management officials acted on the recommendations made in the completed investigations from the previous reporting period.

The OIG continues to be involved with the Council of the Inspectors General on Integrity and Efficiency and the Council of Counsels to the Inspectors General.

INTRODUCTION

U. S. CONSUMER PRODUCT SAFETY COMMISSION

The U.S. Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency created in 1972, under the provisions of the Consumer Product Safety Act (CPSA) (P.L. 92-573) to protect the public against unreasonable risks of injuries associated with consumer products. Under the CPSA and the Consumer Product Safety Improvement Act of 2008 (CPSIA), Congress granted the CPSC broad authority to issue and enforce standards prescribing performance requirements, warnings, or instructions regarding the use of consumer products. The CPSC also regulates products covered by a variety of other acts, such as the Virginia Graeme Baker Pool and Spa Safety Act, the Children's Gasoline Burn Prevention Act, the Flammable Fabrics Act, the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

The CPSC is headed by five Commissioners appointed by the President with the advice and consent of the Senate. The Chairman of the CPSC is designated by the President. The CPSC's headquarters is located in Bethesda, MD. The agency has field personnel stationed throughout the country. The CPSC had a budget of \$113.8 million and 530 authorized full-time equivalent positions for FY 2011.

OFFICE OF THE INSPECTOR GENERAL

The OIG is an independent office established under the provisions of the Inspector General Act of 1978, as amended by the Inspector General Act Amendments of 1988, and the Inspector General Reform Act of 2008. The Inspector General Act gives the Inspector General the authority and responsibility to:

- conduct and supervise audits and investigations of CPSC programs and operations;

- provide leadership, coordination, and recommend policies for activities designed to: (i) promote economy, efficiency, and effectiveness in the administration of the CPSC's programs and operations; and (ii) prevent and detect fraud, waste, and abuse of CPSC programs and operations; and
- keep the Chairman and Congress fully and currently informed about problems and deficiencies relating to the administration of CPSC programs and operations and the need for progress or corrective action.

The OIG investigates complaints and information received concerning possible violations of laws, rules, and regulations, mismanagement, abuse of authority, and waste of funds. These investigations are in response to allegations, complaints, and information received from CPSC employees, other government agencies, contractors, and other concerned individuals. The objective of this program is to ensure the integrity of the CPSC and ensure individuals fair, impartial, and independent investigations.

The OIG also reviews existing and proposed legislation and regulations relating to the programs and operations of the CPSC concerning their impact on the economy and efficiency in the administration of such programs and operations.

The OIG was authorized seven full-time equivalent positions for FY 2011: the Inspector General, a Deputy Inspector General for Audits, an office manager, an Information Technology auditor, and three line auditors.

AUDIT PROGRAM

During this period, the OIG worked on seven (7) audits and reviews. A summary of each follows:

AUDIT OF FINANCIAL STATEMENTS (ongoing)

The Accountability of Tax Dollars Act of 2002 requires that the CPSC and other smaller agencies, which had not been required to perform annual financial audits in the past, begin performing annual audits of their financial statements. This audit is being performed to meet this statutory requirement.

The objectives of this audit are to ensure that the CPSC is meeting its responsibilities for: (1) preparing the financial statements in conformity with generally accepted accounting principles; (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met; (3) ensuring that the CPSC's financial management systems substantially comply with statutory requirements; and (4) complying with other generally applicable laws and regulations.

This audit is scheduled for completion in November of 2011.

FEDERAL INFORMATION SECURITY MANAGEMENT ACT REPORTING REQUIREMENTS (ongoing)

The Federal Information Security Management Act of 2002 (FISMA) requires each federal agency to develop, document, and implement an agency-wide program to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source.

FISMA requires agency program officials, chief information officers, and inspectors general to conduct annual reviews of the agency's information security program and report the results to the Office of Management and Budget (OMB). OMB uses this data to assist

in its oversight responsibilities and to prepare this annual report to Congress on agency compliance with the act.

FISMA assigns specific responsibilities to federal agencies, the National Institute of Standards and Technology (NIST), and the Office of Management and Budget (OMB) to strengthen information system security.

This review will measure agency compliance with FISMA requirements and is scheduled for completion in November of 2011.

FOLLOW-UP REVIEW OF THE ADEQUACY OF PROCEDURES FOR ACCREDITING CONFORMITY ASSESSMENT BODIES AND OVERSEEING THIRD PARTY TESTING (ongoing)

The "Consumer Product Safety Improvement Act of 2008" (CPSIA) constituted a comprehensive overhaul of consumer product safety rules, and it significantly impacted nearly all children's products entering the U.S. market.

In relevant part, the CPSIA imposed a third party testing requirement on all consumer products primarily intended for children 12 years of age or younger. Every manufacturer (including an importer) or private labeler of a children's product must have its product tested by an accredited independent testing laboratory and, based on the testing, must issue a certificate that the product meets all applicable Consumer Product Safety Commission requirements. The CPSC was given the authority to either directly accredit third party conformity assessment bodies (hereafter referred to as "third party laboratories") to do the required testing of children's products or designate independent accrediting organizations to accredit the testing laboratories. The CPSC is required to maintain an up-to-date list of accredited labs on its website. The CPSC has authority to suspend or terminate a laboratory's accreditation in appropriate circumstances and is required to assess periodically whether laboratories should continue to be accredited. The third party testing and certification requirements for children's products are phased in on a rolling schedule. The statute requires the CPSC to issue laboratory

accreditation regimes for a variety of different categories of children's products.

The CPSC determined quickly that it lacked the necessary infrastructure to accredit the testing laboratories directly. Accordingly, to leverage its available resources, the CPSC decided to use an independent accrediting organization to accredit the testing laboratories. CPSC recognition requires a laboratory to be accredited by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement. The scope of accreditation must include the test methods required by CPSC laws and regulations; and the laboratory must apply to the CPSC for recognition and also must agree to fulfill the requirements of the CPSC program.

This review will assess the CPSC's implementation of the recommendations made in last year's review and provide guidance about ways to improve those procedures moving forward.

INFORMATION TECHNOLOGY INVESTMENT MANAGEMENT AUDIT (ongoing)

The Consumer Product Safety Improvement Act (CPSIA) calls for upgrades of the CPSC's information technology architecture and systems and the development of a database of publicly available information on incidents involving injury or death. The CPSIA also calls for the OIG to review the agency's efforts in these areas.

In order to assess objectively the current status of the CPSC's efforts in this area, and to help provide the agency with a road map to meet the goals set out in the CPSIA, this office used the Government Accountability Office's (GAO's) Information Technology Investment Maturity (ITIM) model. The ITIM framework is a maturity model composed of five progressive stages of maturity that an agency can achieve in its IT investment management capabilities. The maturity stages are cumulative; that is, in order to attain a higher stage of maturity, the agency must have institutionalized all of the requirements for that stage, in addition to those for all of the lower stages.

The framework can be used to assess the maturity of an agency's investment management processes as a tool for organizational improvement.

The GAO's ITIM maturity model framework offers organizations a road map for improving their IT investment management processes in a systematic and organized manner. These processes are intended to: improve the likelihood that investments will be completed on time, within budget, and with the expected functionality; promote better understanding and management of related risks; ensure that investments are selected based upon their merits by a well-informed decision-making body; implement ideas and innovations to improve process management; and increase the business value and mission performance of investments.

Under a contract monitored by the OIG, Withum, Smith & Brown (WS+B), an independent certified public accounting firm, performed an audit of the CPSC's Information Technology (IT) investment management processes, using the GAO's ITIM framework.

According to WS+B's findings, at the time of their review, the CPSC had reached Stage 1 of the five-stage IT investment maturity model. The CPSC had already implemented several of the key practices and critical processes that constitute Stage 2, and WS+B provided recommendations on improving the CPSC's IT investment processes.

Another contract has been awarded to WS+B to review the CPSC's Information Technology Architectures with a special emphasis on the public database. Once again, the review is being conducted using the GAO's Information Technology Investment Management (ITIM): A Framework for Assessing and Improving Process Maturity, GAO-04-394G.

The audit will build upon the results of the prior assessment of the CPSC's IT investment management maturity and will evaluate what improvements have been made and where additional progress is needed.

REVIEW OF THE SECURITY OF THE CONSUMER PRODUCT SAFETY RISK MANAGEMENT SYSTEM (ongoing)

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Consumer Product Safety Commission (CPSC) to implement a publicly accessible, searchable database of consumer product incident reports.

This database, the Consumer Product Safety Risk Management System (CPSRMS), houses personal, proprietary, and confidential data and is a major application, as defined by NIST SP 800-18. Therefore, CPSRMS is required to implement specific security controls and complete a Security Certification and Accreditation (C&A) process. NIST SP 800-37 provides guidance and best practices for the C&A process that federal agencies are required to implement as a mandate of the Federal Information Security Management Act (FISMA). Consequently, CPSC management reviewed and validated CPSRMS's system security through the performance of a C&A assessment and formally authorized CPSRMS to operate on January 16, 2011.

This review is designed to evaluate the CPSC's C&A assessment (specifically, the six-step Risk Management Framework outlined in NIST SP 800-37) to ensure that it meets the requirements of NIST SP 800-37 and Section 212 of the (CPSIA).

REVIEW OF CONSUMER PRODUCT SAFETY RISK MANAGEMENT SYSTEM'S COMPLIANCE WITH CPSIA SECTION 212

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the U.S. Consumer Product Safety Commission (CPSC) to implement a publicly accessible, searchable database of consumer product incident reports.

Several content, organizational, and procedural requirements are defined in Section 212 of the CPSIA regarding the implementation and operation of the database. For example: the database is required to contain all Reports of Harm relating to the use of consumer products and other products or substances regulated by the Commission submitted on or after March 11, 2011; the information must be categorized in a manner consistent with the public interest; businesses must be allowed the opportunity to comment on the Reports of Harm and for those comments to be

published in the database at the same time as the Report of Harm, whenever practicable; and access to the any Personally Identifiable Information (PII) provided by the Report submitter must be limited.

The purpose of this review is to meet the requirements of section 205 of the CPSIA by reviewing the CPSRMS to ensure its compliance with the requirements set forth in section 212 of the CPSIA.

AUDIT OF ON-SITE CONTRACTOR ACTIVITY (cancelled)

This audit was designed to assess the Commission's policies, procedures, and internal controls over on-site contractors. Due to manning and resource requirement issues, this audit has been cancelled.

INVESTIGATIVE PROGRAM

A number of individuals contacted the OIG during the reporting period to discuss their concerns about matters involving CPSC programs and activities. Six of the individuals filed formal complaints, alleging waste, fraud, abuse, or mismanagement of CPSC resources. These complaints resulted in the initiation of six investigations. Several matters were transferred to CPSC officials (management or EEOC) or to other government agencies for final disposition after initial investigation indicated that these cases would be dealt with more appropriately outside of IG channels. Several investigations were closed after initial investigation determined that no action was required. One case was transferred to the Office of Special Counsel.

Investigations	No. of Cases
Beginning of period	3
Opened	5
Closed	2
Transferred/Incorporated into existing investigation	1
End of the period	5

REPORTABLE INVESTIGATIONS

Alleged Misconduct by a Government Employee - Complainant alleged Subject made a false official statement. Allegations were not substantiated by the evidence available.

Alleged Misconduct by a Government Employee - An anonymous complainant alleged that Subject has posted statements online that violated agency and EEOC policies. Allegation was substantiated and appropriate action taken by management.

Alleged Misconduct by a Government Employee - An anonymous complaint alleged that a CPSC Official violated the Hatch Act. After preliminary investigation, the matter and all relevant evidence gathered to date, was transferred to the Office of Special Counsel, the agency with primary jurisdiction over Hatch Act violations.

ONGOING INVESTIGATIONS

Five investigations were ongoing at the end of the period. These cases involve allegations of violations of various agency or federal regulations and/or statutes; one of the ongoing investigations has been accepted by the U.S. Department of Justice for criminal prosecution.

OTHER ACTIVITIES

LEGISLATION AND REGULATIONS

The OIG reviews internal and external legislation and regulations that affect the OIG specifically or the CPSC's programs and activities generally. Procedures applicable to the following subjects were reviewed and commented upon during the reporting period:

- Consumer Product Safety Improvement Act
- Consumer Product Safety Act
- Use of Social Media by the CPSC
- Unauthorized Release of Personally Identifiable Information
- Training of Managers and Supervisors
- Agency Privacy Program
- Hatch Act
- Conflict of Interest
- Equal Employment Opportunity Program
- Federal Information Security Management Act
- Morale of Employees
- Purchase Card Program
- Travel Card Program
- Changes in Agency Acquisition Policies
- Anti-Deficiency Act
- Federal Service Labor-Management Relations Statute
- Merit System Principles
- Prohibited Personnel Practices
- Improper Payment Reduction Act

COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

The Inspector General, as a member of the Council of Inspectors General on Integrity and Efficiency (Council), maintains active membership with the Council and its associated activities. The Council identifies, reviews, and discusses issues that are of interest to the entire IG community. The Inspector General attended regular meetings held by the Council and joint meetings of the Council and GAO. The OIG's staff attended seminars and training sessions sponsored or approved by the Council and its associated activities.

COUNCIL OF COUNSELS TO THE INSPECTORS GENERAL

The Inspector General is a member of the Council of Counsels to the Inspectors General. The Council considers legal issues of interest to the Offices of Inspectors General. During the review period, the Council reviewed existing and pending laws affecting the CPSC, in general, and to the Office of the Inspector General, specifically, and it provided other support to the Inspector General, as needed.

REPORTING REQUIREMENTS SUMMARY

Reporting requirements specified by the Inspector General Act of 1978, as amended, are listed below:

<u>Citation</u>	<u>Reporting Requirements</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations.....	11
Section 5(a)(1)	Significant Problems, Abuses, Deficiencies.....	4-11
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies.....	4-11
Section 5(a)(3)	Significant Recommendations Included in Previous Reports on Which Corrective Action Has Not Been Taken.....	NA
Section 5(a)(4)	Matters Referred to Prosecutive Authorities.....	10
Section 5(a)(5)	Summary of Instances Where Information Was Refused.....	NA
Section 5(a)(6)	Reports Issued.....	4-11
Section 5(a)(7)	Summary of Significant Reports.....	4-11
Section 5(a)(8)	Questioned Costs.....	NA
Section 5(a)(9)	Recommendations That Funds Be Put to Better Use.....	NA
Section 5(a)(10)	Summary of Audit Report Issued Before the Start of the Reporting Period for Which No Management Decision Has Been Made.....	NA
Section 5(a)(11)	Significant Revised Management Decisions.....	NA
Section 5(a)(12)	Management Decisions with Which the Inspector General is in Disagreement.....	NA
Section 845 of The NDAA of 2008	Significant Contract Audit Reports.....	NA

PEER REVIEW RESULTS

The last peer review conducted by another Office of Inspector General on the CPSC's OIG was issued on May 23, 2011, and it is available on the CPSC OIG's Web page. All recommendations made in that peer review have been implemented.

The last peer review conducted by the CPSC's OIG on another Office of Inspector General occurred on December 9, 2010, and it involved the National Endowment for the Humanities Office of Inspector General (NEH OIG). No deficiencies were noted, and no formal recommendations were made in that review.