

U.S. CONSUMER PRODUCT SAFETY COMMISSION



OFFICE OF THE INSPECTOR GENERAL

SEMIANNUAL REPORT TO CONGRESS

April 1, 2012 - September 30, 2012



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

**Memorandum**

Date: October 30, 2012

TO : Inez Moore Tenenbaum, Chairman  
Nancy A. Nord, Commissioner  
Robert S. Adler, Commissioner  
Anne Meagher Northup, Commissioner

FROM : Christopher W. Dentel  
Inspector General

SUBJECT : Semiannual Report, April 1, 2012 through September 30, 2012

I hereby submit the Semiannual Report for the Office of the Inspector General for the period April 1, 2012 through September 30, 2012. The report, which is required by the Inspector General Act of 1978, as amended, summarizes the activities of this office during this six-month period. Section 5 of the Act requires that the head of the agency transmit this report to the appropriate Congressional committees within 30 days of its receipt.

I appreciate the cooperation and support received from the Commission staff during the reporting period.

Sincerely,

  
Christopher W. Dentel  
Inspector General

## **EXECUTIVE SUMMARY**

This semiannual report summarizes the major activities performed by the Office of the Inspector General (OIG), during the reporting period April 1, 2012 through September 30, 2012. During the reporting period, this office worked on eight audits or reviews. At the end of the reporting period, four audits or reviews and three investigations were in progress.

The OIG received a number of complaints during the reporting period, six of which resulted in the initiation of formal investigations. Five 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 \$114.5 million and 548 authorized full-time equivalent positions for FY 2012.

### **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 2012: 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 eight (8) 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 2012.

### **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 OMB to strengthen information system security.

This review will measure agency compliance with FISMA requirements and is scheduled for completion in November 2012.

### **PURCHASE CARD AUDIT**

This audit assessed the CPSC's Purchase Card Program and attempted to determine the extent to which the agency has taken corrective action regarding the findings made in an earlier audit of its purchase card program by Withum, Smith+Brown (WS+B).

The CPSC uses GSA's (General Services Administration) purchase card program, which is intended to streamline federal agency acquisition processes by providing a low-cost, efficient vehicle for obtaining goods and services directly from vendors. The CPSC, which is subject to the general guidance found in the Federal Acquisition Regulations (FAR), has also set forth agency-specific purchase card policies and procedures. The CPSC has approximately 148 employees who have been issued purchase cards and who make approximately 7,700 purchases each year. This audit reviewed a sample of these transactions, as well as assessed the effectiveness of the existing policies and procedures, in addition to the agency's actual compliance with same.

Overall, we found that the CPSC has a functioning Purchase Card Program in place; however, despite direction from the Chairman of the agency, management officials have not taken timely corrective action to address the deficiencies found in the 2010 audit of the agency's Purchase Card Program. OIG found that the program still had a number of internal control weaknesses and did not comply with a number of the policies and procedures governing the purchase card program. Our findings and the related recommendations regarding these issues included: a lack of adherence to, and enforcement of, existing CPSC-

specific Purchase Card Program policies and procedures; noncompliance with government-wide purchase card policies and procedures; and a lack of properly designed, implemented, and effective internal controls governing the CPSC's Purchase Card Program. Management has agreed to implement OIG recommendations, which included revising the CPSC directive governing the Purchase Card Program, continuous monitoring of purchase card transactions, and conducting a formal annual review over the program. A number of these recommendations have already been implemented.

#### **AUDIT OF TRAVEL CHARGE CARD PROGRAM (In progress)**

This audit will assess the CPSC's compliance with federal statutes and regulations governing the operation of its Travel Card Program. The Travel and Transportation Reform Act of 1998 requires federal employees to use travel charge cards for all payments of expenses related to official government travel, including hotels, transportation, and meal costs.

The General Services Administration (GSA) issues the Federal Travel Regulation (FTR) that implements the requirements of the Act and administers government travel cards through its SmartPay program. Each agency selects one of the five banks contracted by GSA as their travel card provider and negotiates their own task order under the SmartPay master contract. The task order identifies the specific charge card services the selected bank will provide the agency, and it documents the agreed-upon fees, including additional negotiated rebate percentages.

While responsibility for payment rests with the individual, agencies also have a responsibility, as well as a financial incentive, to ensure that accounts are paid timely and in full. GSA's master contract describes the agencies' travel card program responsibilities. These include ensuring that cardholders use the card only for authorized purposes, by monitoring account activity; and managing delinquencies and misuse by notifying the employee and management of delinquent accounts, taking appropriate disciplinary action, and, as a last

resort, collecting the overdue amount from the employee through salary offsets. Additionally, the negotiated rebate provides a financial incentive for the agency to act to ensure that its employees' overdue balances are paid in full. Because unpaid account balances reduce the amount of the rebate the agency receives, it is important that the agency minimize delinquent accounts. Monitoring and managing delinquencies also helps the agency avoid potential negative publicity that can come from unpaid accounts.

#### **FOLLOW-UP REVIEW OF THE ADEQUACY OF PROCEDURES FOR ACCREDITING CONFORMITY ASSESSMENT BODIES AND OVERSEEING THIRD PARTY TESTING**

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 ("third party laboratories") to do the required testing of children's products or to 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 follow-up review of the adequacy of CPSC procedures for accrediting conformity assessment bodies assessed the CPSC's implementation of the recommendations made in last year's review. These recommendations were designed to deal with the review's findings that the formal standard operating procedures were often lacking, certain aspects of the review process appeared to be subjective, and internal control design was weak in some aspects of the program's management. This follow-up review found that, corrective actions had been taken on all seven recommendations in the original review report. Five of the recommendations had been fully implemented prior to the commencement of this review and should be considered closed. Two of the recommendations are "ongoing recommendations" and not subject to closure. The follow-up review found that with the exception of the two "ongoing" recommendations, management took steps to close out all the remaining recommendations and bring the CPSC into compliance with federal and agency regulations.

#### **INFORMATION TECHNOLOGY INVESTMENT MANAGEMENT AUDIT (ongoing)**

The 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 one stage, in addition to the requirements 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, the independent certified public accounting firm Withum, Smith + Brown (WS+B), 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 audit, 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 ITIM framework (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**

The CPSIA requires the 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 FISMA. Consequently, CPSC management reviewed and validated CPSRMS's system security through the performance of a C & A assessment, and it formally authorized CPSRMS to operate on January 16, 2011.

This review was 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 met those requirements and Section 212 of the CPSIA.

The review found that at the time fieldwork was performed, there were several inconsistencies and weaknesses in the C & A assessment of the CPSRMS. These weaknesses stemmed primarily from a lack of mature organizational processes and procedural documents required to ensure the adequate governance of the C & A process. In addition, management's lack of internal resources played a significant part in the weaknesses identified in the C & A assessment. Management concurred with and already implemented many of OIG's recommendations.

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

The CPSIA requires the 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 submitted on or after March 11, 2011, relating to the use of consumer products and other products or substances regulated by the Commission; 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 the comments must be published in the database at the same time as the Report of Harm, whenever practicable; in addition, access to the any Personally Identifiable Information (PII) provided by the Report of Harm submitter must be limited.

The purpose of this review was to meet the requirements of section 205 of the CPSIA by reviewing the CPSC to ensure that it complies with the requirements set forth in section 212 of the CPSIA. Overall, we found that the CPSC has substantially complied with the requirements of the CPSIA for the database. However, we did note one instance in which personal information regarding a consumer (name, contact, and medical information), had been made available to the public. The type of information in question is characterized by the government as Personally Identifiable Information (PII), and its actual or potential unauthorized release is referred to as a breach of PII.

This particular breach of PII occurred because the CPSC did not properly conceal or redact the PII contained in a publically available Report of Harm. The breach in question was not discovered until a public user of the database notified the CPSC that a Report of Harm on the database contained an attachment that included the Report submitter's name and phone number. The attachment also included a Web link to the report submitter's website, which included additional PII. The individual responsible for "scrubbing" the files to remove PII data before they were posted did not follow proper procedures. Instead, the individual

attempted to redact the PII contained in the report by using Microsoft Word (the program that had also been used to generate the attachment) to add objects (black rectangles) to cover the PII information in the attachment. However, the objects were alterable by public users of the database, rendering the redaction meaningless and the information underneath viewable. Management concurred with and had already implemented OIG recommendations designed to prevent future PII breaches before completion of the audit.

## 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 U.S. Secret Service.

Investigations	No. of Cases
Beginning of period	2
Opened	6
Closed	3
Transferred/Incorporated into existing investigation	2
End of the period	3

### REPORTABLE INVESTIGATIONS

**Alleged Threat Against the Life of the President by a Non-Government Employee** - A non-government employee contacted an employee of the CPSC and made threatening statements regarding the President of the United States. All available evidence was gathered, and the matter was transferred to the U.S. Secret Service.

**Alleged Misconduct by a Government Employee** - An anonymous complainant alleged that the Subject inappropriately detailed an unqualified employee into a supervisory position. Allegation was found not to be substantiated.

**Alleged Misconduct by a Government Employee** - An anonymous complaint alleged that a CPSC Official acted inappropriately when he played a role in the selection of a contractor for whom a

relative of his worked. It was determined that although the individual in question shared the same last name as the CPSC Official, there was no other relationship between the official and the contractor. Allegation was found not to be substantiated.

## **ONGOING INVESTIGATIONS**

Three investigations were ongoing at the end of the period. These cases involve allegations of violations of various agency or federal regulations and/or statutes.

## **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
- Federal Information Security Management Act
- Purchase Card Program
- Travel Card Program
- Changes in Agency Financial Management 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.....	14
Section 5(a)(1)	Significant Problems, Abuses, Deficiencies.....	4-13
Section 5(a)(2)	Recommendations with Respect to Significant Problems, Abuses, and Deficiencies.....	4-13
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.....	NA
Section 5(a)(5)	Summary of Instances Where Information Was Refused.....	NA
Section 5(a)(6)	Reports Issued.....	4-13
Section 5(a)(7)	Summary of Significant Reports.....	4-13
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 of 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.