



November 2014

CONSUMER PRODUCT SAFETY OVERSIGHT

Opportunities Exist to
Strengthen
Coordination and
Increase Efficiencies
and Effectiveness

GAO Highlights

Highlights of [GAO-15-52](#), a report to congressional committees

Why GAO Did This Study

The oversight of consumer product safety is a complex system involving many federal agencies. As part of a mandate that requires GAO to identify federal programs, agencies, offices, and initiatives with duplicative goals or activities, GAO reviewed federal oversight of consumer product safety.

This review examines (1) which federal agencies oversee consumer product safety and their roles and responsibilities; (2) the extent and effects of any fragmentation or overlap in the oversight of consumer products; and (3) collaboration among agencies to address any negative effects of fragmentation or overlap.

To assess the involvement of multiple agencies in the oversight of consumer product safety, GAO conducted a multiagency survey and reviewed laws and regulations, and past GAO work. GAO also interviewed federal agency officials and consumer and industry groups.

What GAO Recommends

Congress should consider (1) transferring oversight of the markings of toy, look-alike, and imitation firearms from NIST to CPSC, and (2) establishing a formal collaboration mechanism to address comprehensive oversight and inefficiencies related to fragmentation and overlap. Also, GAO recommends that the Coast Guard and CPSC establish a formal coordination mechanism. CPSC, the Department of Homeland Security, and NIST agreed with GAO's matters and recommendation; other agencies neither agreed nor disagreed.

View [GAO-15-52](#). For more information, contact Alicia Puente Cackley, 202-512-8678, cackleya@gao.gov

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Opportunities Exist to Strengthen Coordination and Increase Efficiencies and Effectiveness

What GAO Found

GAO identified eight agencies that have direct oversight responsibilities for consumer product safety: the Consumer Product Safety Commission (CPSC), Department of Housing and Urban Development, Environmental Protection Agency, Food and Drug Administration, National Highway Traffic Safety Administration (NHTSA), Nuclear Regulatory Commission, Pipeline and Hazardous Materials Safety Administration, and the U.S. Coast Guard (within the Department of Homeland Security). All eight agencies conduct regulatory activities to promote consumer product safety, such as rulemaking, standard setting, risk assessment, enforcement, and product recalls. In addition, at least 12 other agencies play a support role in consumer product safety in various areas, such as public health and law enforcement.

Oversight of consumer product safety is fragmented across agencies, and jurisdiction overlaps or is unclear for certain products. In some cases, agencies regulate different components of or carry out different regulatory activities for the same product, or jurisdiction for a product can change depending on where or how it is used. For example, NHTSA regulates hand-held infant carriers when used as car seats, but CPSC regulates the carriers when used outside of motor vehicles. Agencies reported that the involvement of multiple agencies with various expertise can help ensure more comprehensive oversight by addressing a range of safety concerns. However, agencies also noted some inefficiencies, including the challenges of sharing information across agencies and challenges related to jurisdiction. For example, GAO found that the jurisdiction for some recreational boating products can be unclear and the potential exists for confusion regarding agency responsibility for addressing product safety hazards. Coast Guard officials said they work informally with CPSC when the need arises but that these interactions are infrequent. Without a more formal coordination mechanism to address jurisdictional uncertainties some potential safety hazards may go unregulated. In addition, the Department of Commerce's National Institute of Standards and Technology (NIST) oversees the markings of toy and imitation firearms to distinguish them from real firearms, which may be an inefficient use of resources because it does not leverage NIST's primary expertise related to scientific measurement. According to NIST, this function may be better administered by CPSC, which oversees the safety and performance of toys. However, this would require a statutory change.

Agencies reported that they collaborate to address specific consumer product safety topics, but GAO did not identify a formal mechanism for addressing such issues more comprehensively. Independent agencies, such as CPSC, are not subject to the Office of Management and Budget's planning and review process for executive agencies. Additionally, no single entity or mechanism exists to help the agencies that collectively oversee consumer product safety. GAO has identified issues for agencies to consider in collaborating, such as clarifying roles and including all relevant participants. Because no mechanism exists to help agencies collectively address crosscutting issues, agencies may miss opportunities to leverage resources and address challenges, including those related to fragmentation and overlap identified in this report.

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Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives
CBP	Customs and Border Protection
CDC	Centers for Disease Control and Prevention
CPSA	Consumer Product Safety Act
CPSC	Consumer Product Safety Commission
CPSIA	Consumer Product Safety Improvement Act
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FDA	Food and Drug Administration
FEMA	Federal Emergency Management Agency
FTC	Federal Trade Commission
GPRA	Government Performance and Results Act of 1993
GPRAMA	GPRA Modernization Act of 2010
HHS	Department of Health and Human Services
HRSA	Health Resources and Services Administration
HUD	Department of Housing and Urban Development
MOA	memorandum of agreement
MOU	memorandum of understanding
NCHS	National Center for Health Statistics
NHTSA	National Highway Traffic Safety Administration
NIEHS	National Institute of Environmental Health Sciences
NIH	National Institutes of Health
NIOSH	National Institute for Occupational Safety and Health
NIST	National Institute of Standards and Technology
NRC	Nuclear Regulatory Commission
NTSB	National Transportation Safety Board
OIRA	Office of Information and Regulatory Affairs
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PHMSA	Pipeline and Hazardous Materials Safety Administration

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November 19, 2014

Congressional Committees

The oversight of consumer product safety is a complex system that evolved over time and involves a number of federal agencies. Further, as globalization and technological advances expand the range of products available in U.S. markets, the challenge of regulating the thousands of product types has become increasingly complex. The Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risk of injury or death associated with the use of thousands of types of consumer products. However, many other federal agencies also have various roles and responsibilities related to consumer product safety oversight. The National Highway Traffic Safety Administration (NHTSA), U.S. Coast Guard (Coast Guard), Food and Drug Administration (FDA), and Environmental Protection Agency (EPA), among others, have jurisdiction over products such as automobiles and other on-road vehicles and their equipment, including tires; boats; drugs; cosmetics; medical devices; and pesticides. These agencies conduct a wide range of regulatory activities to oversee these products, such as risk assessment, rulemaking, and enforcement.

As the fiscal pressures facing the nation continue, so too does the need for federal agencies and Congress to improve the efficiency and effectiveness of government programs and activities.¹ As part of a mandate that requires GAO to identify federal programs, agencies, offices, and initiatives with duplicative goals and activities within departments and government-wide, GAO reviewed federal oversight of consumer product safety. Specifically, this review examines (1) which federal agencies oversee consumer product safety and their roles and responsibilities, (2) the extent and effects of fragmentation, overlap, or duplication, if any, in the oversight of consumer products, and (3) how do consumer product safety oversight agencies coordinate their activities and to what extent does that address any identified negative effects of fragmentation, overlap, or duplication.

¹GAO, 2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits, [GAO-14-343SP](#) (Washington, D.C.: Apr. 8, 2014).

To address these objectives, we reviewed relevant laws and regulations, as well as literature and our past reports on consumer product safety; fragmentation, overlap, and duplication; and mechanisms for interagency collaboration (see a list of related GAO products at the end of this report). To identify agencies that conduct consumer product safety oversight and to delineate their roles and responsibilities, we reviewed the following sources: (1) laws related to consumer product safety, as well as Federal Register notices for proposed and final rulemaking from August 2008 to October 2013; (2) the Consumer Product Safety Commission's web link to federal agencies with jurisdiction over consumer products; (3) our past reports; and (4) agency members of CPSC-identified interagency working groups. We then disseminated a questionnaire to the agencies we identified to (1) confirm their roles and responsibilities and (2) identify any other relevant agencies with whom they coordinate. We also asked questions about what types of statutory authority the agency has, its mission, other agencies with which it coordinates, barriers to coordination, and knowledge of any potential fragmentation, overlap, or duplication in oversight. We disseminated 33 questionnaires in total and obtained and analyzed at least one response from each of the 33 entities. We also interviewed federal agency officials and industry groups to gather information on the extent of fragmentation, overlap, and duplication, their benefits and challenges, and how coordination may help to address any negative effects. Appendix I contains a detailed description of our scope and methodology and appendix II is a reprint of the questionnaire we sent to the agencies.

We conducted this performance audit from July 2013 to November 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The existing system for consumer product safety, like many other federal programs and policies, has evolved in a piecemeal fashion. New laws and agencies have been established over time, resulting in a patchwork system with different agencies having different regulatory and enforcement authorities for different consumer products. Consumer product safety activities can include setting standards and conducting enforcement, product recalls, rulemaking, and risk assessment. Below is

a brief overview of some of the key laws that provide agencies with the authority to conduct consumer product safety oversight.

Pre-Consumer Product Safety Act (CPSA) laws:

- *Federal Food, Drug, and Cosmetic Act*, first enacted in 1938 to replace the Pure Food and Drug Act of 1906, provides FDA with various public health responsibilities, including to ensure the safety and effectiveness of medical products—drugs, biologics, and medical devices—and safety of cosmetics marketed in the United States.² The Federal Food, Drug, and Cosmetic Act, as amended, mandates FDA to, among other things, conduct pre-market reviews of the safety of all new drugs, as well as pre-market approval of some medical devices.
- *Federal Insecticide, Fungicide, and Rodenticide Act* provides for the federal regulation of pesticides. While various versions of a federal pesticide statute have been in place since 1910, Congress enacted substantial amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 1972.³ Under the current version of FIFRA, pesticides must generally be registered (licensed) by EPA before they may be sold or distributed in the United States. EPA may register a pesticide if it finds, among other things, that use of the pesticide will not generally cause unreasonable adverse effects on the environment. When EPA registers a pesticide, it approves directions for use of the pesticide, which must appear on the product label and be followed by users of the pesticide.
- *The National Traffic and Motor Vehicle Safety Act of 1966* established an agency which, under the Highway Safety Act of 1970, later became the National Highway Traffic Safety Administration (NHTSA).⁴ The National Traffic and Motor Vehicle Safety Act authorizes NHTSA

²Federal Food, Drug, and Cosmetic Act, ch. 675, 52 Stat. 1040 (1938); Pure Food and Drugs Act, ch. 3915, 34 Stat. 768 (1906). The Federal Food, Drug, and Cosmetic Act has been amended and expanded multiple times since 1938.

³Federal Insecticide, Fungicide, and Rodenticide Act, Pub. L. No. 92-516, 86 Stat. 998 (1972). The general definition of pesticide in the statute includes “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” 7 U.S.C. § 136(u).

⁴Highway Safety Act of 1970, Pub. L. No. 91-605, 84 Stat. 1713 (1970); National Traffic and Motor Vehicle Safety Act, Pub. L. No. 89-563, 80 Stat. 718 (1966).

to, among other things, promulgate federal safety standards for motor vehicles and equipment.

- *The Federal Boat Safety Act of 1971* authorizes the Coast Guard (within the Department of Homeland Security) to, among other things, establish minimum safety standards for recreational vessels and associated equipment and to require the installation or use of such equipment.⁵ The act was created to improve boating safety, to authorize the establishment of national construction and performance standards for boats and associated equipment, and to encourage greater uniformity of boating laws and regulations among states and the federal government.

CPSA and post-CPSA laws:

The CPSA, first enacted in 1972, establishes CPSC and consolidates federal safety regulatory activity relating to consumer products within the agency.⁶ CPSC is authorized to protect the public against unreasonable risks of injury associated with consumer products in general, and also to administer other laws such as those governing fabric flammability, hazardous substances, child-resistant packaging,

⁵Federal Boat Safety Act, Pub. L. No. 92-75, 85 Stat. 213 (1971).

⁶Consumer Product Safety Act, Pub. L. No. 92-573, 86 Stat. 1207 (1972). CPSA explicitly excludes from CPSC's jurisdiction various products that are covered by other agencies under other laws. See footnote 12 for more detail.

refrigerators, pool and spa safety, and toy safety.⁷ Congress enacted the Consumer Product Safety Improvement Act (CPSIA) in 2008 to strengthen CPSC’s authority to enforce safety standards and provide greater public access to product safety information.⁸

- *The Toxic Substances Control Act*, first enacted in 1976, authorizes EPA to obtain more information on chemicals and to regulate those chemicals that EPA determines pose unreasonable risks to human health or the environment.⁹ The act authorizes EPA to review chemicals already in commerce as well as chemicals yet to enter commerce.¹⁰ In addition, under the Toxic Substances Control Act, EPA can regulate the manufacture (including import), processing, distribution in commerce, use, or disposal of “chemical substances” and “mixtures,” including for use as or as part of a consumer product.

⁷These additional laws include: (1) the Flammable Fabrics Act, which among other things, authorizes CPSC to prescribe flammability standards for clothing, upholstery, and other fabrics (Act of June 30, 1953, ch. 164, 67 Stat. 111 (1953)); (2) the Federal Hazardous Substances Act, which establishes the framework for the regulation of substances that are toxic, corrosive, combustible, or otherwise hazardous (Pub. L. No. 86-613, 74 Stat. 372 (1960)); (3) the Poison Prevention Packaging Act of 1970, which authorizes CPSC to prescribe special packaging requirements to protect children from injury resulting from handling, using, or ingesting certain drugs and other household substances (Pub. L. No. 91-601, 84 Stat. 1670 (1970)); (4) the Refrigerator Safety Act of 1956, which mandates CPSC to prescribe safety standards for household refrigerators to ensure that the doors can be opened easily from the inside (Act of August 2, 1956, c. 890, 70 Stat. 953); (5) the Virginia Graeme Baker Pool and Spa Safety Act of 2007, which establishes mandatory safety standards for swimming pool and spa drain covers, as well as a grant program to provide states with incentives to adopt pool and spa safety standards (Pub. L. No. 110-140, Tit. XIV, 121 Stat. 1492, 1794 (2007)); (6) the Children’s Gasoline Burn Prevention Act of 2008, which establishes safety standards for child-resistant closures on all portable gasoline containers (Pub. L. No. 110-278, 122 Stat. 2602 (2008)); and (7) the Child Safety Protection Act of 1994, which requires the banning or labeling of toys that pose a choking risk to small children and the reporting of certain choking incidents to CPSC (Pub. L. No. 103-267, 108 Stat. 722 (1994)).

⁸Consumer Product Safety Improvement Act, Pub. L. No. 110-314, 122 Stat. 3016 (2008). CPSA was further amended in 2011 to provide CPSC with greater authority and discretion in enforcing current consumer product safety laws. Pub. L. No. 112-28, 125 Stat. 273 (2011).

⁹Toxic Substances Control Act, Pub. L. No. 94-469, 90 Stat. 2003 (1976).

¹⁰Existing chemicals are composed of those that were in commerce in 1979 when EPA began reviewing chemicals, as well as those listed for commercial use after that time.

Definition of a Consumer Product

CPSA defines a consumer product, for purposes of CPSC's jurisdiction, as "any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise," subject to a number of exclusions.¹¹ By statute, certain categories of products that are regulated by other agencies are excluded from the definition of "consumer product," and therefore CPSC does not have jurisdiction over them.¹² For purposes of our report, because we are looking at consumer products broadly rather than solely those in CPSC's jurisdiction, we use the broader definition of "consumer product," without the statutory exclusions. We include in our purview motor vehicles, pesticides, cosmetics, and some other products that CPSA excludes from its definition of a consumer product.¹³

Overview of GAO's Fragmentation, Overlap, and Duplication Work

In 2010, Congress directed us to identify programs, agencies, offices, and initiatives with duplicative goals and activities within departments and government-wide and report to Congress annually.¹⁴ Since March 2011, we have issued annual reports to Congress in response to this

¹¹Pub. L. No. 92-573, § 3(a)(1), 86 Stat. at 1208 (codified as amended at 15 U.S.C. § 2052(a)(5)).

¹²CPSA excludes from the definition of "consumer product" certain items, including any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer; tobacco and tobacco products; motor vehicles or motor vehicle equipment; pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act; any article which if sold would be subject to the firearm tax imposed by 26 U.S.C. § 4181, or any component of such article; aircraft, aircraft engines, propellers, or appliances; boats and certain related equipment subject to Coast Guard regulation; drugs, devices, or cosmetics under the Federal Food, Drug, and Cosmetic Act; and food under the Federal Food, Drug, and Cosmetic Act. 15 U.S.C. § 2052(a)(5).

¹³Our broad definition of "consumer product" does not include financial products, alcohol, tobacco, and food. We have conducted prior work on fragmentation, overlap, and duplication in federal food safety oversight. See, for example, GAO, *Federal Food Safety Oversight: Food Safety Working Group Is a Positive First Step but Governmentwide Planning Is Needed to Address Fragmentation*, [GAO-11-289](#) (Washington, D.C.: Mar. 18, 2011). We have a forthcoming report on fragmentation, overlap, and duplication in the financial regulatory system. We excluded tobacco and alcohol because of the unique regulatory structure for these products.

¹⁴Pub. L. No. 111-139, § 21, 124 Stat. 8, 29 (2010) (codified at 31 U.S.C. § 712 note).

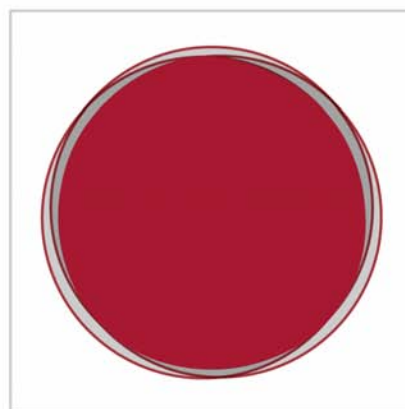
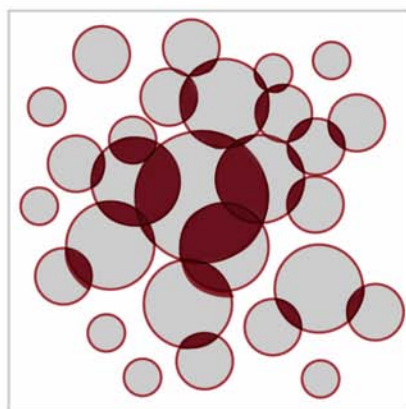
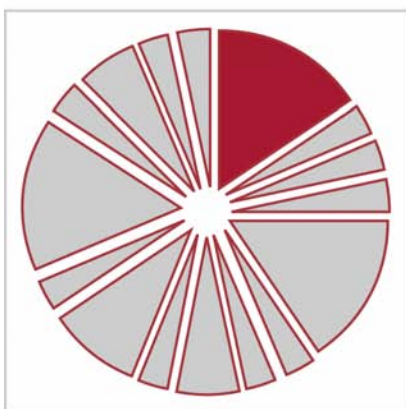
requirement.¹⁵ The annual reports describe areas in which we found evidence of fragmentation, overlap, or duplication among federal programs. The annual reports define fragmentation, overlap, and duplication as shown in figure 1.

Figure 1: Definitions of Fragmentation, Overlap, and Duplication

Fragmentation refers to those circumstances in which more than one federal agency (or more than one organization within an agency) is involved in the same broad area of national need and opportunities exist to improve service delivery.

Overlap occurs when multiple agencies or programs have similar goals, engage in similar activities or strategies to achieve them, or target similar beneficiaries.

Duplication occurs when two or more agencies or programs are engaged in the same activities or provide the same services to the same beneficiaries.



Source: GAO. | GAO-15-52

¹⁵For more information on GAO's work on fragmentation, overlap, and duplication in the federal government, see [GAO-14-343SP](#); GAO, *2013 Annual Report: Actions Needed to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, [GAO-12-279SP](#) (Washington, D.C.: Apr. 9, 2013); *2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue*, [GAO-12-342SP](#) (Washington, D.C.: Feb. 28, 2012); and *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, [GAO-11-318SP](#) (Washington, D.C.: Mar. 1, 2011).

Multiple Agencies Oversee Various Aspects of Consumer Product Safety

We identified 8 agencies that have direct oversight responsibility for various aspects of consumer product safety, based on our analyses of data collected from our questionnaire and interviews with agency officials. In addition, we identified at least 12 other agencies that have an indirect role in consumer product safety oversight.¹⁶ We distinguished agencies with direct versus indirect responsibility by whether they perform certain regulatory activities, as well as by how the agencies self-identified in their interviews.

Eight Agencies Have Direct Oversight Responsibility for Consumer Product Safety

Eight agencies reported that they have direct oversight responsibilities for consumer product safety: the Coast Guard; CPSC; Department of Housing and Urban Development (HUD); EPA; FDA; NHTSA; Nuclear Regulatory Commission (NRC); and Pipeline and Hazardous Materials Safety Administration (PHMSA). We considered an agency to have a direct oversight role if it met two criteria: (1) in its response to our questionnaire, the agency noted having statutory authority over consumer product safety through one or more of five regulatory activities—rulemaking, standard setting, enforcement, risk assessment, and product recalls; and (2) in subsequent interviews and follow-up discussions, the agency confirmed that it views itself as having a role in overseeing the safety of consumer products.¹⁷ We describe the oversight roles of these agencies in table 1. Some of these agencies oversee products, whereas others oversee components that might be found within a product (e.g., chemical substances or radioactive materials).

¹⁶In addition, the remaining agencies (13 of the 33) were characterized as not having a role in consumer product safety oversight.

¹⁷We used the information from the interviews, in addition to the questionnaires, as criteria for categorizing an agency as having a direct role because several agencies told us in interviews that they are not consumer product safety oversight agencies, even though they initially noted having regulatory authority for consumer product safety in their questionnaire responses.

Table 1: Eight Agencies with a Direct Oversight Role for Consumer Product Safety

Agency	Role of the agency as it relates to consumer product safety	Examples of consumer products that the agency regulates
Coast Guard	The Coast Guard regulates safety standards for recreational boats.	All original equipment installed on boats; limited equipment installed after purchase (inboard engines, outboard engines, stern drive units, and inflatable life jackets)
Consumer Product Safety Commission (CPSC)	CPSC oversees consumer products produced or distributed in the United States for sale to, or use by, consumers in or around a residence or school or in recreation or otherwise.	Toys, cribs, power tools that are used by consumers, lighters, and household products
Department of Housing and Urban Development (HUD)	HUD mitigates lead-based paint hazards in federally assisted housing. It also establishes federal standards for the design and construction of manufactured homes.	Structural materials in manufactured homes such as particle board, plywood, drywall, steel frames, and windows
Environmental Protection Agency (EPA)	EPA conducts risk assessments of pesticides and registers them for use in the United States. It also evaluates and manages risks of chemicals.	Insect repellents, toilet bowl sanitizers/disinfectants, ant traps, and flea powder Some household products such as window cleaners; flame retardants used in furniture and electronics ; and formaldehyde emissions from composite wood products (e.g., kitchen cabinets)
Food and Drug Administration (FDA)	FDA is responsible for ensuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, and electronic products that emit radiation. FDA also ensures the safety of cosmetics. Additionally, FDA regulates food and tobacco products, but are outside the scope of this study.	Prescription drugs, over-the-counter drugs, contact lenses, breast pumps, cosmetics such as lipstick and eye liner, cell phones, and toy laser products
National Highway Traffic Safety Administration (NHTSA)	NHTSA sets and enforces safety performance standards for motor vehicles and motor vehicle equipment.	Motor vehicles, motor vehicle equipment such as tires and motorcycle helmets, and child restraint systems (when sold for use in vehicles)
Nuclear Regulatory Commission (NRC)	NRC licenses and regulates civilian use of certain radioactive materials.	Consumer products that contain NRC-regulated materials such as tritium watches, smoke detectors, and electron tubes.
Pipeline and Hazardous Materials Safety Administration (PHMSA)	PHMSA ensures that hazardous materials are packaged and handled safely during transportation.	Hazardous materials (such as consumer fireworks, lithium batteries, and compressed gas) in transport

Source: GAO analysis of agency data. | GAO 15-52

Note: Some agencies have broader responsibilities than those listed in the table, which focuses on aspects of each agency's work that relate to consumer product safety.

These eight agencies conduct a range of regulatory activities related to consumer product safety, including rulemaking, standard setting, enforcement, risk assessment, and product recalls.

-
- *Rulemaking, standard setting, and enforcement.* All eight agencies reported conducting rulemaking, standard-setting, and enforcement activities. As an example of rulemaking, CPSC recently issued a final rule establishing a safety standard for strollers and infant carriages.¹⁸ CPSC issued the rule in response to a provision of the Consumer Product Safety Improvement Act, which required CPSC to promulgate consumer product safety standards for durable infant or toddler products.¹⁹ The rule incorporates by reference the most recent voluntary standard developed by ASTM International, a standard-setting organization. The standard includes requirements for improved test methods of various parts (e.g., brakes, wheels) and warning label clarifications. In an example of enforcement, PHMSA inspects consumer commodity shipments. PHMSA staff stated that they coordinate with other agencies to identify where hazardous substances are coming from and where they are going. In another enforcement example, under the Toxic Substances Control Act, EPA can initiate civil actions to seize an imminently hazardous substance, mixture, or any article containing such a substance or mixture.
 - *Risk assessment.* Six of the eight agencies reported conducting risk assessments, whereas PHMSA did not and the Coast Guard reported that its authority in this area is unclear.²⁰ As an example of risk assessment, EPA recently conducted an assessment for a flea and tick pet collar using the insecticide propoxur. EPA's risk assessment found, in some but not all use scenarios, unacceptable risks to children from exposure to propoxur pet collars. EPA noted that small children may ingest pesticide residues when they touch a treated cat

¹⁸Safety Standard for Carriages and Strollers, 79 Fed. Reg. 13,208 (Mar. 10, 2014).

¹⁹Pub. L. No. 110-314, § 104, 122 Stat. at 3028 (codified as amended at 15 U.S.C. § 2056a).

²⁰CPSC provided additional information on its risk assessment authorities, which it approaches in two ways. First, the agency noted that it is inferred that it would assess the risks associated with consumer products in order to implement the CPSA. For CPSC to issue a consumer product safety rule under section 7 of CPSA, CPSC must determine that the rule is reasonably necessary to prevent or reduce an unreasonable risk of injury. 15 U.S.C. § 2056(a). CPSC also conducts traditional chemical risk assessments under the Federal Hazardous Substances Act to determine whether a substance meets the definition of a "hazardous substance." See 15 U.S.C. §§ 1261, 1262. We have done prior work on CPSC's ability to stay generally informed about new risks associated with consumer products and use available information to identify product hazards. See GAO, *Consumer Product Safety Commission: Agency Faces Challenges in Responding to New Product Risks*, GAO 13-150 (Washington D.C.: Dec. 20, 2012).

or dog and subsequently put their hands in their mouths. EPA and the manufacturers agreed to do a voluntary cancellation of the product based on concerns that the residue on animals can be dangerous for children.²¹ The Coast Guard noted that its authority to conduct risk assessments is unclear. A Coast Guard official explained that statutory authority allows the Coast Guard to establish whether, according to their reasonable and prudent judgment, a defect creates a substantial risk of personal injury.

- *Product recalls.* Six of the eight agencies reported having regulatory authority to recall certain products under their jurisdiction, whereas NRC and PHMSA did not. As an example of a product recall, an official from the Coast Guard noted that the agency works with manufacturers and conducts between 10 and 20 recall campaigns annually of recreational boats, equipment originally installed on boats, and limited equipment installed after purchase. The Coast Guard officials recently worked with Honda, which has stopped manufacturing personal watercraft, when the company found it had a problem with boats it manufactured from 2002 through 2008. The manufacturer is now recalling these boats for possible fuel tank failure. The Coast Guard stated that it does not actually conduct the recalls but records the recalls and monitors the progress that the manufacturer completes in the performance of the recalls. According to the agency, once regulatory noncompliance or a substantial risk defect is discovered, the manufacturer normally voluntarily registers the recall campaign with the Coast Guard and performs the recall in accordance with statutory requirements and the Coast Guard regulations regarding recall notification.²² By statute, the manufacturer is required to notify the first purchaser, subsequent purchasers if known to the manufacturer, and the dealers and distributors. Based on the progress reports submitted to the Coast Guard by the manufacturer, the Coast Guard decides when it is practical to close the recall campaign. According to the agency, the Coast Guard has the authority to require a manufacturer to perform a recall, but this authority has rarely been used.

²¹Under the cancellation agreement, manufacturers are allowed to produce the pet collars until April 1, 2015, and will not be allowed to distribute the products after April 1, 2016. The agency determined that this agreement, which phases out use of the product, would be the best way to remove the product from the market expeditiously.

²²46 U.S.C. § 4310; 33 C.F.R. pt. 179.

In addition to the regulatory activities listed earlier, agencies reported other oversight activities they undertake. Specifically, CPSC noted that it can also collect data and conduct informational campaigns. NHTSA also stated that it can conduct consumer informational programs. For example, NHTSA noted the New Car Assessment Program, under which it conducts vehicle crash and rollover tests to encourage manufacturers to make safety improvements to new vehicles and provide the public with information on the relative safety of vehicles (e.g., through a safety rating using a five-star scale). Additionally, EPA noted its statutory authority to conduct licensing of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

At Least 12 Agencies Play an Indirect Role in Consumer Product Safety Oversight

Based on our analyses of information obtained through the questionnaires and interviews with agency officials, we identified at least 12 agencies that play an indirect role in the oversight of consumer product safety. We categorized an agency as having an indirect role if it met one of two criteria: (1) it did not conduct any of the five regulatory activities described in the previous section, but described other activities that supported consumer product safety oversight; or (2) it initially described a role in regulating consumer products, but in subsequent interviews, did not self-identify as a consumer product safety oversight agency.²³ An indirect role can include such activities as conducting underlying research to support regulatory activities and providing public health expertise, among others. We describe the overall work of these agencies and the specific roles that they play in relation to consumer product safety in detail in appendix III. The 12 agencies are the National Institute of Standards and Technology (NIST); Federal Communications Commission (FCC); Federal Emergency Management Agency (FEMA); National Institutes of Health (NIH); Health Resources and Services Administration (HRSA); Centers for Disease Control and Prevention

²³For example, although the Occupational Safety and Health Administration and Centers for Disease Control and Prevention initially noted regulatory authorities in their questionnaire responses, the agencies specified in interviews that they regulate the safety of products used in the workplace, and as such did not see their role as pertaining to consumer products but rather employee safety. The Federal Communications Commission noted a role regulating maximum levels of radiofrequency emissions from radio devices, but considered its role to be one of measurement expertise, not product safety. In addition, the National Institute of Standards and Technology noted a regulatory role over one item, toy guns, but primarily considered itself a nonregulatory agency. Thus we categorized these agencies as having an indirect rather than direct role.

(CDC); Federal Aviation Administration (FAA); National Transportation Safety Board (NTSB); Occupational Safety and Health Administration (OSHA); U.S. Customs and Border Protection (CBP); Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); and Federal Trade Commission (FTC).

These 12 agencies supported product safety in at least one of the following areas: (1) public health expertise; (2) law enforcement; (3) workplace safety; (4) transportation safety; and (5) other activities.

- *Public health expertise.* NIH, HRSA, and CDC reported providing public health expertise. For example, the National Institute of Environmental Health Sciences (NIEHS), within NIH, manages the National Toxicology Program, which studies substances in the environment, including substances used in personal care products, household products, foods, and dietary supplements, to identify any potential harm they might cause to human health. One example of a substance over which NIH and CPSC have coordinated is diisononyl phthalate (DINP). Phthalates are a group of chemicals used to make plastics more flexible and more difficult to break. The National Toxicology Program has provided CPSC with access to its scientific expertise and research on DINP. It also served on and provided DINP-related analysis to the Chronic Hazard Advisory Panel on DINP. This panel advised CPSC on whether DINP in consumer products poses a chronic hazard.
- *Law enforcement.* CBP, ATF, and FTC reported involvement in law enforcement. For example, FTC investigates and can take action against companies that engage in unfair or deceptive acts or practices in or affecting commerce, which can include making deceptive safety claims. One example where FTC has played a role in consumer product safety is through an administrative action it took against a manufacturer that falsely claimed that football mouth guards prevent concussions. FTC's settlement order with the manufacturer prohibits the company and its owner from, among other things, misrepresenting the health benefits of any mouth guard or other athletic equipment designed to protect the brain from injury. FTC has also taken other actions related to the safety of consumer products. For example, it has challenged several after-market braking devices that called themselves antilock brake systems (ABS) but that did not, in fact, function as well as factory-installed antilock brakes.
- *Workplace Safety.* CDC's National Institute for Occupational Safety and Health (NIOSH) and OSHA reported responsibilities for workplace

safety. For example, NIOSH conducts and publishes research on the occupational hazards associated with the use of tools (such as nail guns) and materials (such as spray foam insulation and methylene chloride). NIOSH's research focuses on worker safety, but consumers may benefit because they may purchase the same products for use in and around the home. In the case of nail guns, NIOSH stated that it had identified causes of worker injuries, developed recommendations to improve worker safety, and published the information in a variety of media and formats, including a joint publication with OSHA, to make it widely available. Sometimes, a manufacturer may end up making improvements to a product as a result of NIOSH's research, which may enhance consumer safety. NIOSH also conducts rulemaking, standard setting, and product recalls of respirators for use by workers, which also may be purchased by consumers.

- *Transportation safety.* FAA and NTSB reported responsibilities for transportation safety. For example, NTSB investigates every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. As part of its investigations, NTSB makes safety recommendations to other federal agencies on a variety of topics, including their oversight of any specific consumer products involved in the accidents. In the past, NTSB has made recommendations to NHTSA to improve the visibility of brake and turn lights and to modify performance and testing requirements for passenger-side air bags. More recently, NTSB has made recommendations to FAA to improve the safety of amateur-built aircraft.
- *Other activities.* NIST, FCC, and FEMA's U.S. Fire Administration reported involvement in other activities that support consumer product safety oversight. For example, with the increasing use of nanomaterials, NIST stated that it has collaborated with CPSC to measure and better understand the release of nanotechnology-based products and exposure pathways. According to NIST, in these collaborations, it has provided unique measurement expertise, for example, for determining the quantities and properties of nanoparticles released from flooring finishes and interior paints and their subsequent airborne concentrations.

Fragmented and Overlapping Oversight Can Help Agencies Leverage Expertise but Also Creates Inefficiencies

We found that oversight of consumer product safety is fragmented across multiple agencies with some overlap occurring—for example, when agencies regulate different uses of the same product. We did not find specific cases of duplication in oversight. Fragmentation and overlap can help provide more comprehensive oversight by allowing agencies to leverage one another’s expertise, resources, and authorities, but they can also create inefficiencies. In particular, NIST’s role as regulator for the markings of toy and imitation firearms may be an inefficient use of resources because it may not leverage the agency’s primary mission and expertise, which are related to scientific measurement. In addition, because of potential jurisdictional uncertainty regarding whether some recreational boating equipment should be regulated by the Coast Guard or CPSC, the potential exists for some hazards to not be adequately addressed.

Oversight Is Fragmented, and Jurisdictions Overlap When Multiple Agencies Regulate the Same Product, Its Components, or Its Uses

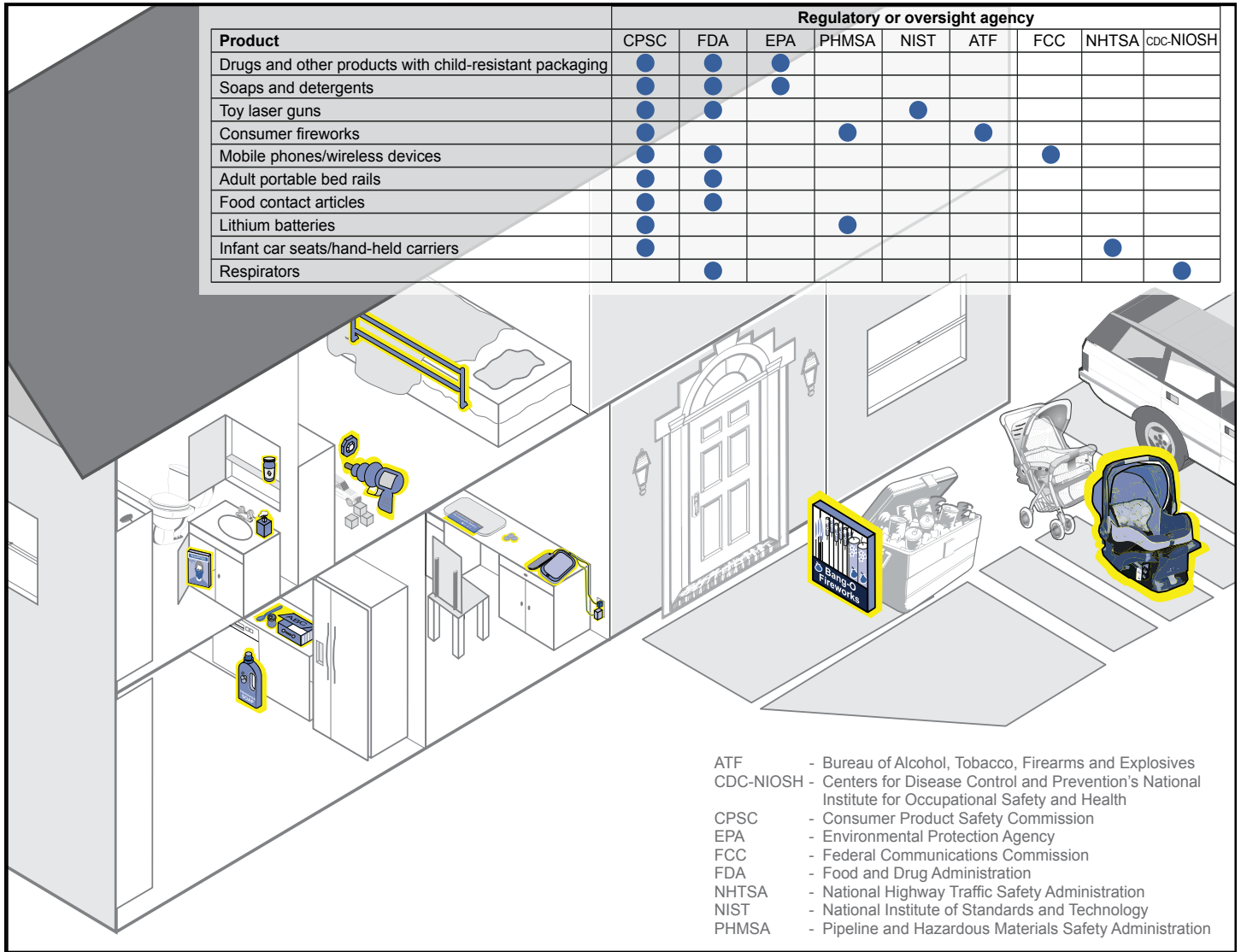
Federal regulatory oversight of consumer product safety is fragmented across multiple agencies, and some overlap occurs among these agencies based on their statutory authorities for certain products. The agencies we surveyed and interviewed provided several examples of regulatory oversight involving multiple agencies, including scenarios in which agencies regulate different components of the same product, regulate different uses of a product, or administer different regulatory oversight activities for the same product.²⁴ We did not find specific cases of duplication in oversight. Figure 2 contains examples of consumer products regulated by more than one agency. (See app. IV for a full-text presentation of the examples in fig. 2).

²⁴In addition to the examples included in this section of the report, agencies provided other examples of potential fragmentation or overlap in the oversight of consumer product safety in their questionnaire responses. For example, HUD noted in its questionnaire response that while it oversees manufactured—or factory-built—homes, FEMA orders large quantities of manufactured homes. In an interview, HUD said that FEMA orders these homes for use in areas affected by disasters and that FEMA may set additional requirements for their use. CPSC officials noted overlap in their questionnaire response in the area of chemical regulation and that this regulation in general involves several different agencies because chemicals, such as flame retardants, are used in a wide range of products and in different settings.

Figure 2: Examples of Consumer Products Regulated by More Than One Agency

Interactive

Directions: Hover over consumer products (in blue) or table text for additional information.



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

In the following examples, agencies regulate different components of a product, which can result in fragmentation and overlap.

- **Articles or equipment that come into contact with food (CPSC, FDA):** FDA regulates substances making up the surfaces of products, such as spoons, drinking glasses, and lunch boxes, that come into contact with and can potentially leach into food.²⁵ In contrast, CPSC regulates the parts of food containers or preparation articles that do not come into contact with food, as well as certain chemical substances.²⁶ An example of a product with overlapping regulation is spoons intended for use by infants. The substances making up the portion of the spoon that comes into contact with the food would generally be regulated by FDA to ensure the safety of substances in the spoon that may migrate into the food. However, if the spoon had a plastic coating, it could also be subject to CPSC's limits on the use of certain phthalates in children's products. In another example, in 2010, CPSC issued a voluntary recall of about 12 million drinking glasses because the designs on the outside of the glasses contained cadmium, a substance that can cause adverse health effects.

In 1976, CPSC and FDA signed a memorandum of understanding (MOU) that outlines each agency's jurisdiction over food contact articles and equipment. According to FDA, the agency began working with CPSC in 2012 to update the MOU to reflect the agency's current

²⁵Articles classified as "food" under the Federal Food, Drug and Cosmetic Act are excluded from the definition of "consumer products" under CPSA and are therefore excluded from CPSC's jurisdiction. 15 U.S.C. § 2052(a)(5)(I) (CPSA definition of "consumer product," excluding "food"); 21 U.S.C. § 321(f) (the Federal Food, Drug, and Cosmetic Act definition of "food"). According to FDA, articles having food contact surfaces, such as food containers, and products used for eating, cooking, and preparing food, from which there is migration of a substance from the contact surface to the food, are considered food "components" and thus "food" within the meaning of the Federal Food, Drug and Cosmetic Act and subject to regulation by FDA. See 21 U.S.C. § 321(f).

²⁶CPSC also regulates mechanical hazards (e.g., a broken pan handle) and the proper functioning of a product to prevent contaminated or spoiled food (e.g., slow cookers or refrigerators that fail to perform at proper temperatures).

authorities but did not continue with this effort due to other priorities.²⁷ However, according to FDA, the lack of an updated MOU does not indicate any coverage gap in the regulatory oversight of food contact articles. CPSC staff also noted that while their overall authorities for consumer product safety have changed since the MOU was first signed—for example, CPSC received the authority in 2008 to limit the use of phthalates in children’s products—the MOU still reflects CPSC’s current jurisdiction over food contact articles.²⁸

- **Toy laser products (CPSC, FDA):** FDA has jurisdiction over radiation-emitting products, including oversight responsibilities for ensuring manufacturers’ compliance with applicable safety performance standards and certification requirements.²⁹ For example, FDA can require that manufacturers incorporate safety features, warnings, and instructions for safe use. FDA’s jurisdiction potentially overlaps with CPSC’s for toy laser products, as CPSC regulates safety standards and testing requirements for children’s products, including toys.³⁰ For example, CPSC regulates toys to ensure that they do not contain small parts children could swallow and that the

²⁷Both CPSA and the Federal Food, Drug, and Cosmetic Act have been amended since 1976, when the MOU was signed, resulting in changes and additional authority. For example, the Food and Drug Administration Modernization Act of 1997 provided FDA with the authority to establish a food contact notification process, which according to FDA, is the primary means by which FDA regulates food additives that are also food contact substances. Food and Drug Administration Modernization Act of 1997, Pub. L. No. 105-115, § 309, 111 Stat. 2296, 2354 (1997) (amending 21 U.S.C. § 348).

²⁸Pub. L. No. 110-314, § 108, 122 Stat. at 3036 (codified as amended at 15 U.S.C. § 2057c).

²⁹21 U.S.C. §§ 360hh-360ss.

³⁰See 15 U.S.C. § 2056b. However, CPSC does not have the authority to regulate a risk of injury associated with electronic product radiation emitted from an electronic product. 15 U.S.C. § 2080(a). Thus, FDA has authority over a toy laser product that presents a radiation hazard. According to FDA, LASER stands for Light Amplification by the Stimulated Emission of Radiation. One type of laser consists of a sealed tube, containing a pair of mirrors, and a laser medium that is excited by some form of energy to produce visible light or invisible ultraviolet or infrared radiation. Other examples of products that incorporate lasers are compact disc and DVD players, fax machines, laser pointers, bar code scanners, cutting and welding tools, and laser speed detectors.

lead content of the paint is below the required threshold.³¹ Examples of toy laser products include “light sabers,” toy guns with mounted lasers for taking aim, and tops that project laser beams while they spin. In June 2013, FDA proposed laser safety regulations specific to toy laser products marketed to children that would restrict the amount of radiation emitted by toy lasers to the lowest laser class limits.³² FDA and CPSC indicated that they did not coordinate on the proposed rule for toy laser products, but according to FDA officials, the agencies collaborated on a draft guidance document concerning this rule that was issued in August 2013.³³ FDA also noted that the agency has organized a multiagency Laser Communications Working Group to educate consumers about laser safety.

Regulatory jurisdiction for some products changes depending on where or how the product is used, which can result in overlapping oversight, as in the following examples.

- **Infant car seats/hand-held infant carriers (CPSC, NHTSA):** Infant car seats can be used to protect a child inside a moving vehicle, but some (which are also called hand-held infant carriers) can also be

³¹CPSC regulations ban any toy or other article intended for use by children under 3 years of age that presents a choking, aspiration, or ingestion hazard because of small parts. 16 C.F.R. § 1500.18(a)(9). Additionally, all children’s products, including toys, must not contain a concentration of lead greater than 0.009 percent (90 parts per million) in paint or any similar surface coatings. CPSIA mandated CPSC to modify its regulations to lower the concentration of lead in paint that is permissible from 0.06 percent (600 ppm) to 0.009 percent (90 ppm), effective August 14, 2009, and this limit is subject to periodic ongoing review by CPSC. Pub. L. No. 110-314, § 101(f), 122 Stat. at 3020 (codified at 15 U.S.C. § 1278a(f)); 16 C.F.R. § 1303.1.

³²Laser Products; Proposed Amendment to Performance Standard, 78 Fed. Reg. 37,723 (June 24, 2013). FDA is proposing to amend 21 C.F.R. § 1040.11 by adding a new paragraph which would restrict to Class 1 under any conditions of operation, maintenance, service, or failure, any laser products that are made or promoted as children’s toys for use by children under 14 years of age. FDA is proposing this amendment to ensure children will not be harmed by laser radiation under any conditions including disassembly or breakage. Because the class of the laser within the toy could be higher than the class of the toy product itself, the amendment aims to protect children from unanticipated harmful exposure.

³³In this guidance issued to the industry in August 2013, FDA indicated that the whole toy needs to be certified as a laser product, unless the part of the toy that can emit laser light is removable and can emit laser light independently when separated from the other parts of the toy, in which case only that laser-emitting part would need to be certified. Minimizing Risk for Children’s Toy Laser Products; Draft Guidance for Industry and Food and Drug Administration Staff; Availability, 78 Fed. Reg. 48,172 (Aug. 7, 2013).

used to carry an infant outside of a vehicle and can attach to strollers. CPSC regulates hazards associated with the use of infant carriers outside of a motor vehicle, including soft infant carriers, framed carriers worn on caregivers' backs, and hand-held infant carriers, as part of their jurisdiction over durable infant and toddler products. Overlap with NHTSA occurs with hand-held infant carriers that are also used as car seats and are therefore considered "motor vehicle equipment" for the purpose of NHTSA's jurisdiction. For example, infant car seats sold for purposes that include motor vehicle use are considered child-restraint systems and must be certified as meeting federal motor vehicle safety standards.³⁴ In December 2013, CPSC issued a final rule, which incorporated an existing voluntary standard for hand-held infant carriers.³⁵ For example, this standard includes warning label requirements to address suffocation and restraint-related hazards, as well as testing procedures to ensure that the carrier handle automatically locks. NHTSA and CPSC indicated that they had coordinated on the rulemaking. For example, CPSC said that the agency had worked with NHTSA to assess the effectiveness of existing standards for hand-held infant carriers and to ensure that the warning label to address strangulation hazards does not interfere with NHTSA's label for air bags.

- **Adult portable bed rails (CPSC, FDA):** CPSC and FDA regulate portable bed rails for adult use. These are rails that are not part of a bed's original design, but can be installed against or adjacent to adult beds to protect people from falling and to assist them as they get in and out of bed. Jurisdiction depends on whether the adult portable

³⁴Federal Motor Vehicle Safety Standard No. 213 (codified at 49 C.F.R. § 571.213).

³⁵78 Fed. Reg. 73,415 (Dec. 6, 2013) (codified at 16 C.F.R. pt. 1225). Under Section 104 of CPSIA, CPSC is required to issue mandatory standards based on voluntary standards for certain durable infant and toddler products, including infant carriers. 15 U.S.C. § 2056a. Voluntary standards are generally determined by standard-setting organizations, with input from government representatives and industry groups, and are also referred to as "consensus standards." Under CPSIA, CPSC is required to work with various stakeholders and experts to examine and assess the effectiveness of existing voluntary standards for durable infant or toddler products and establish mandatory standards that are substantially the same as or more stringent than the voluntary standards for such products. In 2012, GAO reported on manufacturers' compliance with voluntary industry standards, including CPSC's ability to encourage compliance with voluntary standards and other authorities in this regard. See GAO, *Consumer Product Safety Commission: A More Active Role in Voluntary Standards Development Should Be Considered*, [GAO-12-582](#) (Washington, D.C.: May 21, 2012).

bed rails constitute medical devices.³⁶ FDA has jurisdiction over adult portable bed rails considered to be medical devices, and CPSC regulates adult portable bed rails that do not meet the definition of such devices. FDA noted that for consumers, there is little difference between the adult portable bed rails regulated by FDA or CPSC in terms of the physical product. FDA and CPSC have been working with manufacturers, health care practitioners, and consumer representatives since 2013, to develop a voluntary consensus standard for adult portable bed rails through an organization that develops standards (ASTM International). This voluntary standard would apply to all portable adult bed rails whether they are regulated by FDA or CPSC and should help ensure that there are no gaps in oversight of the safety of portable bed rails for adult use. The effort to establish a voluntary standard for bed rails was ongoing as of September 2014. CPSC and FDA also noted that they maintain an interagency working group that addresses the issues associated with adult portable bed rails. While this working group's primary focus is the development of the voluntary standard, CPSC and FDA said the group also exchanges technical information and compliance challenges to improve regulatory oversight.

- **Soaps, cleaners, and other household products (CPSC, EPA, FDA):** Jurisdiction over soaps, cleaners, and other household products depends on whether the product is formulated and marketed as a soap, cosmetic, drug, or pesticide, resulting in jurisdictional fragmentation and overlap. FDA regulates cosmetics and drugs; CPSC regulates household products, such as household cleaners, (including soap but excluding certain items, such as drugs, cosmetics,

³⁶Section 201(h) of the Federal Food, Drug, and Cosmetic Act defines a device, in part, as an instrument intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, or intended to affect the structure or function of the body. 21 U.S.C. § 321(h).

and pesticides);³⁷ and EPA regulates pesticides and certain chemicals that may also be contained in soaps, cleaners, and other household products.³⁸ Body-cleansing products that do not meet FDA's definition of "soap" but contain detergents and are used for cosmetic purposes are typically considered cosmetics under FDA's jurisdiction. FDA considers antibacterial or antimicrobial cleansing products to be drugs under its jurisdiction, even though they contain the chemical Triclosan, which is also regulated by EPA when used as a pesticide in other products.³⁹ CPSC has authority over products that are labeled and sold only as soap and that have specified chemical properties that exclude them from FDA's jurisdiction. With respect to other household cleaners, while FDA regulates the detergents used in cosmetics, CPSC has authority over cleansers that are not cosmetics or

³⁷FDA defines "soap" to mean articles that meet the following conditions: (1) the bulk of the nonvolatile matter in the product consists of an alkali salt of fatty acids and the product's detergent properties are due to the alkali-fatty acid compounds, and (2) the product is labeled, sold, and represented only as soap. 21 C.F.R. § 701.20. Products that meet this definition of soap are excluded from the definition of "cosmetic" in the Federal Food, Drug, and Cosmetic Act and are regulated by CPSC. 21 U.S.C. § 321(i) (excluding soap from the definition of "cosmetic" under the Federal Food, Drug, and Cosmetic Act). The CPSA excludes "cosmetics," as that term is defined in the Federal Food, Drug, and Cosmetic Act, from the definition of a "consumer product" under CPSC's jurisdiction. 15 U.S.C. § 2052(a)(5)(H). However, according to CPSC officials, the agency could use its authorities under the CPSA and the Federal Hazardous Substances Act to address any hazards associated with soaps that do not meet the definition of a cosmetic.

³⁸In addition to regulating pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, EPA, under the Toxic Substances Control Act, regulates "chemical substances" and "mixtures" of chemical substances. Certain items are excluded from the Toxic Substances Control Act's definition of "chemical substance," including but not limited to pesticides, foods, drugs, and cosmetics. 15 U.S.C. § 2602(2)(B). According to EPA, soaps, cleaners, and other household products may consist of or contain chemical substances and mixtures that are regulated under the Toxic Substances Control Act. Additionally, as noted above, EPA said that under the Toxic Substances Control Act, it can regulate the manufacture (including import), processing, distribution in commerce, use, or disposal of chemical substances and mixtures, including for use as or as part of a consumer product. Such consumer products could include the items described in this section (toy laser products, infant car seats, bed rails, fireworks, and wireless devices), except food contact articles, which are excluded from the Toxic Substances Control Act's definition of chemical substance. See 15 U.S.C. § 2602(2)(B)(vi).

³⁹Triclosan is an antimicrobial active ingredient contained in a variety of products where it acts to slow or stop the growth of bacteria, fungi, and mildew. There are currently 20 antimicrobial registrations, which EPA regulates under the Federal Insecticide, Fungicide, and Rodenticide Act. Triclosan is also an active ingredient in antibacterial hand soaps, and toothpastes and as such, is considered by FDA to be an over-the-counter drug under regulation by FDA under the Federal Food, Drug, and Cosmetic Act.

pesticides, such as laundry or dishwashing detergents. In addition, EPA staff noted that its jurisdiction overlaps with CPSC's with respect to some household cleaners, such as window cleaners. Even if the cleaners are not marketed as pesticides, EPA may still regulate certain chemicals contained in them. EPA also noted that they work with CPSC and other agencies when their jurisdictions overlap to share information and determine how to address a particular product hazard.⁴⁰

In addition, agencies can conduct different regulatory oversight activities for the same product, but requirements can overlap.

- **Fireworks (ATF, CPSC, PHMSA):** CPSC oversees fireworks that are used by consumers, which includes examining the length of the fuse to determine how quickly and how long it will ignite, among other things. PHMSA regulates the approval, importation, and transport of fireworks based on its authority to regulate the transportation of hazardous materials. PHMSA staff noted that some overlap exists between CPSC's and PHMSA's manufacturing requirements for fireworks. They explained that both sets of requirements have been incorporated into industry standards (standard 87-1 of the American Pyrotechnic Association), which PHMSA in turn has incorporated into its regulations governing the approval and transport of fireworks. Additionally, ATF enforces explosives laws and licenses manufacturers to use explosives, including in consumer fireworks.
- **Mobile phones and other wireless devices (FCC, FDA):** FCC and FDA share regulatory responsibilities for mobile phones and other wireless devices. Although FCC does not directly regulate the safety of mobile phones and wireless devices, it sets limits on the amount of radiofrequency energy these devices can emit and certifies that

⁴⁰EPA officials noted that the agency receives notification under the Toxic Substances Control Act from potential manufacturers when they plan to begin manufacture of a new chemical substance (i.e., those substances that are not already on the list of chemicals included in the Toxic Substances Control Act), including when such chemical substance may be used in consumer products. EPA can take action to prevent any unreasonable risks from consumer uses. Additionally, the Toxic Substances Control Act authorizes EPA to work with a federal agency with overlapping jurisdiction to determine whether an unreasonable risk "may be prevented or reduced to a sufficient extent" by action taken under the other agency's laws. 15 U.S.C. § 2608(a).

devices sold in the United States comply with FCC requirements.⁴¹ According to FDA, the agency, as part of its oversight of radiation-emitting products, ensures that mobile phones and other wireless devices do not emit radiofrequency energy at a level that is hazardous to the user. FDA also stated that as a health expert agency, its expertise was significant in developing the radiofrequency exposure limits from which the FCC radiofrequency emission limits are derived, and it is FDA that would have the jurisdiction to determine whether a product is unsafe.⁴² For example, while FDA does not review the safety of mobile phone devices before they are marketed, it can require manufacturers to replace or recall mobile phones that are shown to emit radiofrequency energy at a level that is hazardous. As we previously reported, FCC said it relies heavily on the guidance and recommendations of federal health and safety agencies when determining the appropriate exposure limit for radiofrequency energy.⁴³ As we discuss in the next section of this report, FDA, FCC, and other agencies are part of the Radiofrequency Interagency Work Group, which works to share information and research on radiofrequency energy-related issues.

Current Structure Helps Provide More Comprehensive Oversight but Also Creates Some Inefficiencies

Agency officials, as well as a consumer group and industry expert, told us that the involvement of multiple agencies with various areas of expertise can help ensure more comprehensive oversight of a product. Consumer product safety encompasses complex topics and often requires a range of expertise to address the breadth of products and potential safety hazards (e.g., manufacturing, transport, effects on the environment, or use in different settings). As a result, it may be impractical for any single agency to oversee consumer product safety alone. For example, CPSC staff noted that in the area of nanomaterials, no single agency has the

⁴¹According to FCC, the agency specifically certifies that devices sold in the United States comply with FCC requirements regarding maximum Specific Absorption Rates (SAR) to which humans can be exposed by devices that emit radiofrequency energy.

⁴²We previously noted that at high power levels, radiofrequency energy can heat biological tissue and cause damage. Though mobile phones operate at power levels well below the level at which this thermal effect occurs, the question of whether long-term exposure to radiofrequency energy emitted from mobile phones can cause other types of adverse health effects, such as cancer, has been the subject of research and debate. GAO, *Telecommunications: Exposure and Testing Requirements for Mobile Phones Should Be Reassessed*, [GAO-12-771](#) (Washington, D.C.: July 24, 2012).

⁴³[GAO-12-771](#).

resources to tackle the potential human health and environmental risks. Moreover, some agencies noted that each agency brings a different mission or focus to addressing consumer product safety problems. For example, CPSC staff noted that while CPSC and EPA both conduct risk assessments as part of their oversight of generators, EPA's focus is on how much pollution a generator emits into the environment, while CPSC focuses on the safety implications of how consumers use generators around their homes. CPSC staff noted that risk assessments from other agencies can serve as an additional check on their own safety assessments.

As part of providing more comprehensive oversight of consumer product safety within a fragmented and overlapping regulatory structure, agencies noted that they leverage one another's expertise, resources, and statutory authorities. For example, we previously reported that in 2009, CPSC led a task force to address hazards associated with high hydrogen sulfide emissions from imported defective drywall (i.e., sheetrock used in construction), which crossed the jurisdiction of several federal agencies.⁴⁴ Members of this task force brought their areas of expertise to this effort. For example, CPSC coordinated with EPA to conduct an elemental analysis of the drywall components; HUD's role was to develop guidance for the identification and remediation of problem drywall in homes; CDC's role was to assess the health effects and develop a public awareness campaign; and CBP's role was to help identify imports of defective drywall.

Because agencies have different missions and areas of expertise, they also have access to different data and information sources, and some agencies noted that sharing this information can increase their knowledge of product safety issues. For example, NHTSA noted that they share complaint and injury data associated with the use of hand-held infant carriers in motor vehicles with CPSC during joint investigations to inform CPSC's oversight of these products when used outside of motor vehicles. Some agencies stated that given their current regulatory authorities, they may need to rely on other agencies' authorities to address certain

⁴⁴GAO, *Consumer Product Safety Commission: Agency Faces Challenges in Responding to New Product Risks*, [GAO-13-150](#) (Washington, D.C.: Dec. 20, 2012). Additionally, in 2013, we reported on federal and other efforts to assist home owners who have experienced damage associated with defective drywall. See GAO, *Information on Defective Drywall*, [GAO-13-735R](#) (Washington, D.C.: July 31, 2013).

Communication and
Coordination Can Be Difficult
When Oversight Involves
Multiple Agencies

problems with unsafe products. For example, PHMSA noted that they do not have the authority to recall a product once it is in the possession of consumers, so they would rely on an agency such as CPSC or FDA to remove products from commerce that are under their respective jurisdictions.

While agencies noted some benefits to the current regulatory structure for consumer product safety, fragmentation also creates some inefficiencies, including challenges related to communication among federal agencies and with industry and consumers and to the ability to identify and respond to new and emerging product hazards.

Some agencies indicated that it can be difficult to find the right people with whom to coordinate if agencies or their staff have no pre-existing working relationships, if relationships change (such as through staff turnover), or if the agencies are large. For instance, program staff in EPA's Office of Pesticide Programs stated that it can be difficult to find the right people with whom to coordinate if they are not familiar with an agency's organization.

Moreover, agencies might not be aware of the regulatory activities of other agencies that relate to their oversight. For example, CPSC had issued a rule on child-resistant packaging for over-the-counter and prescription drug products containing specified levels of the drug imidazoline in 2012.⁴⁵ FDA officials said that the agency had not received adequate notification of the content of the rulemaking as it progressed, although CPSC initially made requests to FDA for data related to the issues covered by the rulemaking. FDA had concerns about certain provisions in the imidazoline packaging rule and felt that the final rule could have benefited from direct input from FDA. FDA staff noted that one way in which agencies learn about other agencies' rulemaking activities is through a planning and review process for draft rules led by the Office of Management and Budget's (OMB) Office of Information and Regulatory

⁴⁵Requirements for Child-Resistant Packaging: Products Containing Imidazolines Equivalent to 0.08 Milligrams or More, 77 Fed. Reg. 73,294 (Dec. 10, 2012).

Fragmentation and Overlap
Can Create Challenges
Related to Jurisdiction

Affairs (OIRA).⁴⁶ This planning and review process can also be a way to resolve disputes among agencies. However, independent agencies, such as CPSC, are not subject to OIRA's interagency planning and review process.⁴⁷ As a result, entities other than independent agencies, such as FDA would not see rules proposed by CPSC as part of this process. However, CPSC noted that while it does receive draft rules from some agencies (mostly from EPA) during the OIRA planning and review process, the timing of the review would probably be too late to address major issues. FDA stated that agencies may consult with one another outside of the OIRA planning and review process.

In another example, FDA expressed concern that CPSC's 2010 rule establishing requirements for cribs might eliminate cribs with drop-side rails that are necessary for medical purposes outside of hospital settings.⁴⁸ In response to CPSC's crib requirements, FDA is developing a proposed rule to regulate the safety and effectiveness of pediatric cribs, while allowing for the use of drop-side rails. FDA said they expect to issue the proposed rule in fall 2014. According to FDA staff, the agency has been coordinating with CPSC on how to publicly communicate their crib requirements. CPSC also noted in subsequent guidance that medical cribs are regulated by FDA and are not subject to CPSC's crib standards.

When consumer products fall under more than one agency's jurisdiction, it may be unclear which agencies have primary oversight responsibility for them. As we previously discussed, products such as body-cleansing products may be regulated by different agencies depending on how they are used or marketed. Additionally, multiple agencies have regulatory jurisdiction for the packaging of certain household substances to ensure

⁴⁶The Paperwork Reduction Act of 1980 established OIRA to provide central agency leadership and oversight of government-wide efforts to reduce unnecessary paperwork burden and manage information resources. Pub. L. No. 96-511, 94 Stat. 2812 (1980) (codified as amended at 44 U.S.C. §§ 3501-3521). In 1981, Executive Order 12291 authorized OIRA to review all proposed and final regulations from entities other than independent regulatory agencies (i.e., cabinet departments, as well as agencies that report directly to the President).

⁴⁷Executive Order 12866 establishes the process for centralized regulatory review and planning. Further, Executive Order 13579 states that independent regulatory agencies should follow the regulatory planning and review process but that these agencies are not required to comply.

⁴⁸75 Fed. Reg. 81,766 (Dec. 28, 2010).

that children cannot easily open them. Under the Poison Prevention Packaging Act, CPSC oversees child-resistant packaging for household substances, including cosmetics and drugs, except for substances that are defined as pesticides by the Federal Insecticide, Fungicide, and Rodenticide Act (e.g., antimicrobial or antibacterial products).⁴⁹ EPA regulates the child-resistant packaging of pesticides used in residential settings. EPA's standards for child-resistant packaging are required by law to be consistent with CPSC's requirements under the Poison Prevention Packaging Act and according to EPA's website, EPA and CPSC worked together to develop reference guides for the public on their respective child-resistant packaging requirements.⁵⁰ However, oversight over child-resistant packaging for antibacterial or antimicrobial body-cleansing products is unclear. EPA indicated that they do not regulate child-resistant packaging for antibacterial or antimicrobial body-cleansing products that contain the chemical Triclosan, which is also found in pesticides, because these products are regulated by FDA as over-the-counter drugs and not as pesticides by EPA.⁵¹ According to CPSC officials, the agency has not had occasion to consider whether it has jurisdiction over child-resistant packaging for antibacterial or antimicrobial body-cleansing products containing Triclosan even though CPSC's authorities under the Poison Prevention Packaging Act include over-the-counter drugs.

Moreover, as new products enter the consumer marketplace or when new uses or users arise for existing products, agencies face questions of jurisdiction. For example, CPSC staff noted that there are potential jurisdictional questions about products that could be used in both workplace and home settings, particularly as consumers have greater access to products that were previously limited to industrial settings, such

⁴⁹Pub. L. 91-601, 84 Stat. 1670 (1970) (codified as amended at 15 U.S.C. §§ 1471-1477).

⁵⁰7 U.S.C. § 136w(c)(3). EPA is authorized to establish standards, which shall be consistent with those established under the authority of the Poison Prevention Packaging Act, with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides.

⁵¹According to FDA, while the agency does not review child-resistant packaging for cosmetics, drugs, and other household substances, it does review the packaging of drugs and cosmetics for other purposes, such as to ensure the packaging of certain cosmetics is tamper resistant and to ensure the packaging of drugs is sterile and meets FDA's quality standards.

as certain lawnmowers and power tools. According to CPSC, if an industrial product is used by consumers on more than an occasional basis, the agency may have the authority to regulate it as a consumer product. To make this determination, CPSC said it would have to consider—on a case-by-case basis—a variety of factors, including the use of the product by consumers and the associated hazards, as well as how the product is marketed, priced, and distributed. While OSHA typically regulates the use of products in workplace settings, CPSC can recall consumer products if OSHA standards do not adequately address a product’s hazards.⁵² We also previously reported on nanotechnology as an emerging field and found that nanomaterials can be used in a wide range of consumer products that involve multiple agencies’ jurisdictions.⁵³ For example, we reported that consumer products that incorporate nanotechnology are as diverse as clothing, cosmetics, household appliances, and sporting goods.⁵⁴

Multiple Standards May Create Inefficiencies for Industry and Confusion for Consumers

Some agencies noted that when oversight responsibilities are shared by multiple agencies, manufacturers may have to meet multiple regulatory requirements, which can increase time and costs for manufacturers. For example, senior program officials in CDC’s National Institute for Occupational Safety and Health (NIOSH) told us that NIOSH and FDA both regulate a certain type of respiratory protective device and that this overlap increases time and costs for manufacturers in having to meet different requirements. NIOSH certifies respirators as meeting certain requirements for use in workplace settings, such as construction sites, to protect workers from dust and small particles; these respirators can also be sold to consumers. FDA regulates respirators for use in health care

⁵²According to OSHA, while the agency has standards with requirements for some products, such as safety glasses, the standards are intended to ensure workers are using the proper equipment to protect them against hazards in the workplace, not hazards from the product itself.

⁵³GAO, *Nanomanufacturing: Emergence and Implications for U.S. Competitiveness, the Environment, and Human Health*, [GAO-14-181SP](#) (Washington, D.C.: Jan. 31, 2014).

⁵⁴GAO, *Nanotechnology: Improved Performance Information Needed for Environmental, Health, and Safety Research*, [GAO-12-427](#) (Washington, D.C.: May 21, 2012).

settings as medical devices (i.e., surgical N95 respirators).⁵⁵ FDA regulation of surgical N95 respirators includes premarket clearance requirements. FDA indicated that its clearance involves two steps: (1) First, FDA recommends that respirators be certified by NIOSH for use in occupational settings. (2) Second, once NIOSH has certified the respirators, FDA then begins its process for clearing them to be marketed in the United States as surgical N95 respirators. According to NIOSH, the impact on manufacturers includes the delay for the introduction of new products intended to provide respiratory protection, as well as barrier protection for health care workers, due to the time involved to apply to NIOSH for certification and then to FDA for clearance. According to NIOSH, manufacturers also incur costs for each application submitted to FDA and NIOSH, which includes processing fees imposed by the agencies as well as the commitment of personnel and other resources to assemble and monitor the applications and interface with the agency reviewers. In a request for information, NIOSH stated that it is considering incorporating requirements from FDA's clearance process for respirators, such as those pertaining to fluid resistance and flammability, into the NIOSH certification process.⁵⁶

In another example, program officials from EPA's Office of Pesticide Programs told us that a manufacturer approached the agency with concerns over having to sell two separate antimicrobial fruit and vegetable treatment products that met either EPA or FDA use requirements even though the product formula was the same.⁵⁷ EPA has jurisdiction if the product is used to rinse whole fruits or vegetables, while

⁵⁵A surgical N95 respirator is a NIOSH-approved respirator that has also been cleared by FDA as a medical "device." According to FDA's website, the "N95" designation means that when subjected to careful testing, the respirator blocks at least 95 percent of very small test particles. The Federal Food, Drug, and Cosmetic Act generally defines a "device" as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is (1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them; (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease; or (3) intended to affect the structure or any function of the body. 21 U.S.C. § 321(h).

⁵⁶Respiratory Protective Devices Used in Healthcare, Notice of request for information and comment, 79 Fed. Reg. 14,515 (Mar. 14, 2014).

⁵⁷An antimicrobial fruit and vegetable treatment product is a chemical solution that is added to water used for washing fruits and vegetables to reduce the presence of bacterial pathogens.

FDA has jurisdiction if the product is used to rinse processed (e.g., cut) fruits or vegetables. EPA noted that the manufacturer wanted a single product that could be used for either whole or processed fruits or vegetables. To address this concern, EPA said it coordinated with FDA to incorporate FDA's approval of the product for use on processed fruit and vegetables onto EPA's pesticide label for the product. As a result, the manufacturer was able to sell this product under a single label.

Additionally, consumer groups and some agencies and industry experts with whom we spoke said consumers could be confused about which agency to contact to report problems. FDA officials said that even informed consumers may not know which agency to contact to report product-related incidents. With fragmented and overlapping oversight, consumers may have to visit multiple websites to report or search for safety information on consumer products. For example, CPSC and NHTSA have websites for consumers to report and search for safety concerns related to the use of hand-held infant carriers and car seats, respectively. FDA also posts phone numbers on its website for consumers to report safety concerns with FDA-regulated products in each state. However, FDA said that their staff are trained to refer consumers to the appropriate agencies for concerns about products that are not under FDA's jurisdiction. In other cases, consumers may not be familiar with the agencies involved in the oversight of consumer products or their websites. For example, we previously examined consumers' awareness of CPSC's public consumer product safety information database SaferProducts.gov and found that none of the participants in consumer focus groups we conducted had heard of the website, and few had heard of CPSC.⁵⁸

Multiple Agencies Purchase the Same Data but Are Considering Options to Improve Efficiency through Data Sharing

Some agencies purchase the same data, resulting in multiple contracts for the same information, but are considering options that would help them better share these data. Deaths in the United States are reported to the CDC's National Center for Health Statistics' (NCHS) Division of Vital Statistics through contracts between NCHS and the various state and local jurisdictions that are responsible for maintaining death certificates and other vital records. NCHS publicly releases limited information from the death certificate data they receive, but the public file does not contain

⁵⁸GAO, *Consumer Product Safety Commission: Awareness, Use, and Usefulness of SaferProducts.gov*, [GAO-13-306](#) (Washington, D.C.: Mar. 11, 2013).

any written narratives, which would provide greater detail on the circumstances of the deaths. NCHS staff told us that these narratives can contain personally identifiable information and their contracts limit their ability to share data involving such information, including with other federal agencies. Additionally, CPSC told us they purchase death certificate information from states for select narrative information on cause of death, which is used to help identify consumer product-related deaths.⁵⁹

NCHS staff told us that they have been working with CPSC to identify ways to share information that do not compromise their contractual agreements. For example, NCHS told us that other agencies that examine cause-of-death narratives, such as NHTSA and FDA, have had staff work on-site at NCHS to review these data and develop programming that would allow NCHS to extract the information the agencies need. NCHS indicated they are considering development of a computer program that would automatically remove personally identifiable information from the death certificate records. CPSC suggested that it would be more efficient and cost-effective to have either a government-wide contract for purchasing these data or to have interagency agreements signed by other federal agencies with NCHS giving limited access to the full death certificate data. Additionally, they said that these agreements would have to contain strict data user clauses detailing restrictions on the use of the data containing personally identifiable information.⁶⁰ For example, CPSC noted that for the National Electronic

⁵⁹We previously reported that CPSC collects, reviews, and analyzes mortality data through contracts with each state as part of its hazard identification efforts. For example, in fiscal year 2011, CPSC received about 8,000 death certificates covering unintentional product-related deaths. [GAO-13-150](#).

⁶⁰In 2011, we reported on the need for agencies to apply strategic sourcing best practices throughout the federal procurement system. We suggested that acquisition leaders across the government more fully embrace the strategic sourcing initiative, beginning with collecting, maintaining, and analyzing data on current procurement spending. We also suggested that agencies conduct assessments of acquisition and supply chain functions to initiate enterprise-wide transformation. GAO, *2011 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, [GAO-11-318SP](#) (Washington, D.C.: Mar. 1, 2011). In addition, we reported in 2013 that selected agencies could better leverage their buying power and achieve additional savings by directing more procurement spending to existing strategically sourced contracts and further expanding strategic sourcing practices to their highest spending procurement categories. GAO, *2013 Annual Report: Actions Needed to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, [GAO-13-279SP](#) (Washington, D.C.: Apr. 9, 2013).

Injury Surveillance System, which CPSC administers, CPSC pays individual hospitals to code injury information specific to other federal agencies' missions through interagency agreements. However, NCHS staff noted that under their contractual agreements with states and localities, the data they maintain can only be used for statistical or research purposes and not for administrative or enforcement purposes.⁶¹ According to NCHS staff, its current contracts for death certificate data will expire in 2017; however, access to these data in any renegotiated agreements would still be determined by states and localities.

NIST's Role as Regulator for the Markings of Toy and Imitation Firearms May Be an Inefficient Use of Resources

The National Institute of Standards and Technology (NIST) currently regulates the markings of toy and imitation firearms to distinguish them from real firearms.⁶² However, during the course of our review, we found that NIST's oversight of toy and imitation firearm markings may not be efficient as it does not align with the agency's primary mission and area of expertise. According to NIST, this authority was delegated to NIST following the deauthorization of the Technology Administration of the Commerce Department under the America COMPETES Act of 2007.⁶³ However, NIST stated that the agency is a nonregulatory federal research

⁶¹We previously reported that federal agencies can face statutory restrictions on sharing administrative data. See GAO, *Federal Statistical System: Agencies Can Make Greater Use of Existing Data, but Continued Progress is Needed on Access and Quality Issues*, [GAO-12-54](#) (Washington, D.C.: Feb. 24, 2012).

⁶²Specifically, 15 U.S.C. § 5001 makes it unlawful to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm unless it has a marking approved by the Secretary of Commerce. The section further provides that each toy, look-alike, or imitation firearm shall have permanently affixed a blaze orange plug inserted into its barrel which shall be recessed no more than 6 millimeters from the muzzle end of the barrel, and gives the Secretary of Commerce the authority to provide for alternate markings or make adjustments to the marking system in certain situations. Under this authority, which was delegated to NIST, NIST regulations specify that approved markings include: (i) a permanent orange solid plug permanently affixed to the muzzle end and recessed no more than 6 millimeters from the muzzle end, (ii) an orange marking permanently affixed to the exterior of the barrel, covering the circumference of the barrel from the muzzle end for a depth of at least 6 millimeters, (iii) construction of the device entirely of transparent or translucent materials, (iv) coloration of the entire exterior surface of the device in white or certain bright colors. 15 C.F.R. § 272.3.

⁶³Pub. L. No. 110-69, 121 Stat. 572 (2007). The responsibility for the promulgation of regulations for the markings of toy, look-alike, and imitation firearms was provided to the Secretary of Commerce in 1988. Federal Energy Management Improvement Act of 1988, Pub. L. No. 100-615, § 4, 102 Stat. 3185, 3190 (1988). That authority was then transferred to NIST in 2007.

laboratory and its mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology in ways that enhance economic security and improve our quality of life. For example, as noted earlier, NIST has collaborated with CPSC to measure and better understand the release of nanotechnology-based products and exposure pathways. In another example related to measurement and protocol development, NIST stated it designed an apparatus to measure the visible power of laser pointers, which was consistent with NIST's experience in providing industry, research, and military agencies with laser power measurements traceable to international standards. As these examples indicate, the regulation of the markings of toy and imitation firearms does not align with NIST's mission nor its activities and expertise related to scientific measurement.

NIST staff stated that for imported imitation firearms, the review and compliance determination process for toy and imitation firearms can be cumbersome and time-consuming. NIST staff also noted that because there are few, if any, domestic manufacturers of toy and imitation firearms and because most are imported, Commerce regulations on the markings for toy and imitation firearms are enforced almost entirely by CBP. NIST explained that upon request from law enforcement (usually CBP), NIST issues informal or formal opinions on whether a toy or imitation firearm complies with markings regulations. However, NIST stated it can issue formal opinions only after physically inspecting the items in question at its headquarters in Gaithersburg, Maryland. According to NIST, because NIST has no presence at any ports of entry, CBP has to ship samples to NIST to be analyzed and then NIST has to return the samples. NIST also stated that a formal opinion may result in the toy or imitation firearm and corresponding shipment being subject to CBP seizure.

Because the regulation of toy and imitation firearms falls outside the scope of NIST's primary mission and functions and because NIST has no physical presence at ports of entry, NIST staff stated that the regulation and oversight of toy and imitation firearm markings may better be administered by another federal agency, such as CPSC, which also oversees other consumer products and toys and has a presence at ports of entry. NIST also explained that over the years, NIST has had discussions with CPSC on transferring the oversight responsibility for imitation firearms but it would require a statutory change. Although CPSC collaborates with CBP on enforcement activities such as import surveillance at ports of entry, CPSC staff agreed that it would be reasonable for CPSC to assume oversight for toy guns because the agency already regulates the safety and performance of toys. Although

neither NIST nor CPSC has conducted formal cost estimates for carrying out the oversight of the markings of toy and imitation firearms, continued regulation of the marking of toy and imitation firearms by NIST rather than CPSC does not leverage each agency's expertise and therefore may not be the most efficient use of scarce federal resources.

Jurisdiction for the Regulation of Some Recreational Boating Equipment May Be Unclear

Oversight of products that can be used on recreational boats is fragmented between the Coast Guard and CPSC, and the jurisdiction for some products can be unclear. As a result, we found that the potential exists for confusion regarding which agency has responsibility for addressing product safety hazards. Coast Guard staff told us that they regulate recreational boats and all originally installed associated equipment (i.e., equipment that was installed on boats by the original manufacturer).⁶⁴ Coast Guard staff also stated that because of limited staff resources, the Coast Guard through regulation has chosen to limit the scope of its recall activities related to equipment not originally installed on boats (i.e., after-market equipment, or equipment not installed by the original equipment manufacturer) to four items: inboard engines, outboard engines, stern drive units, and inflatable life jackets.⁶⁵ As a result, the Coast Guard relies on voluntary recalls from the manufacturer for all other associated equipment items other than the four types of items for which the Coast Guard has issued regulations.

While by law CPSC does not have jurisdiction over recreational boats and associated equipment, CPSC officials stated that they have authority over some products that can be used either on or off of a boat—such as boating gloves, a camping stove, or a refrigerator. However, CPSC excludes from CPSC's jurisdiction recreational boats and associated

⁶⁴Coast Guard staff told us it oversees recreational boats that are up to 20 feet in length. Larger recreational boats are generally subject to international standards and those set by the American Bureau of Shipping, such as licensing and insurance requirements. The Coast Guard also enforces standards for larger boats that enter U.S. ports, as well as commercial boats.

⁶⁵For the purposes of defect notification, by statute, the term "associated equipment" includes only items or classes of associated equipment that the Secretary of Homeland Security shall prescribe by regulation. 46 U.S.C. § 4310(a). Coast Guard regulations define "associated equipment" for defect notification as "the following equipment as shipped, transferred, or sold from the place of manufacture and includes all attached parts and accessories: (1) an inboard engine, (2) an outboard engine, (3) a stern drive unit, and (4) an approved personal flotation device." 33 C.F.R. § 179.03.

equipment which could be subject to regulation under the Coast Guard's statutory authority.⁶⁶ As excluded from CPSC's jurisdiction, associated equipment is defined by statute as a system, accessory, component, or appurtenance of a recreational vessel or a marine safety article intended for use on board a recreational vessel.⁶⁷ However, the Coast Guard's definition of associated equipment for defect notification purposes includes only inboard engines, outboard engines, stern drive units, and inflatable life jackets. The different definitions of associated equipment for different purposes could create jurisdictional uncertainty for many items of associated equipment aboard recreational boats. Coast Guard and CPSC both acknowledged a potential regulatory gap for certain boating equipment based on the Coast Guard's limited scope of oversight over after-market associated equipment and CPSC's lack of authority to regulate associated equipment.

Questions of jurisdiction were raised in an accident involving the use of a recreational vehicle. Specifically, Coast Guard staff told us that CPSC and the Coast Guard held meetings to determine jurisdiction when a fatality occurred involving an all-terrain vehicle (ATV)—which would typically be regulated by CPSC—that was used as a water vessel (some ATVs can be used for flotation due to very large tires along with the addition of an outboard motor). According to Coast Guard officials, the agencies ultimately determined that CPSC had jurisdiction in this case. In another case, questions arose about the Coast Guard's and CPSC's jurisdiction in addressing accidents involving kite tubes (inflatable rafts that are towed behind power boats and become airborne). Coast Guard staff noted that because this product was intended for use off the vessel instead of installed on the vessel, it did not fall under the Coast Guard's jurisdiction. However, according to Coast Guard staff, CPSC was not sure whether this product fell under its jurisdiction. Ultimately, CPSC

⁶⁶Specifically, CPSA excludes from the definition of a "consumer product," and therefore excludes from CPSC's jurisdiction, "boats which could be subjected to safety regulation under chapter 43 of Title 46; vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and equipment (including associated equipment, as defined in section 2101(1) of Title 46) to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any statute [mentioned above]." 15 U.S.C. § 2052(a)(5)(G).

⁶⁷46 U.S.C. § 2101(1). The definition of "associated equipment" excludes most radio equipment.

concluded that it had jurisdiction and conducted a recall of the product. Although CPSC does not have jurisdiction over recreational boats and associated equipment, consumer products used in recreation do fall within its jurisdiction.

Although no formal mechanism, such as an MOU, exists between the Coast Guard and CPSC, Coast Guard staff told us the informal and periodic coordination between the two agencies works well. However, our work on collaboration, which we discuss in greater detail in the next section, suggests that collaborating agencies should clarify roles and responsibilities and, if appropriate, document their agreement on how they will be collaborating.⁶⁸ Moreover, given the potential for lack of clarity regarding jurisdiction, ensuring strong communication channels is important. Coast Guard staff said that their ad hoc, informal coordination with CPSC works well but this coordination has been infrequent—one or two times a year at most—and at times Coast Guard goes for years without coordinating with CPSC.

In the example of kite tubes, the Coast Guard said that it received the initial accident reports from state boating administrators, who are required to report boating accidents to the Coast Guard. In this instance, the Coast Guard stated that it shared the accident reports with CPSC after it decided this product was outside the Coast Guard's jurisdiction. As stated previously, Coast Guard told us that through regulation it has chosen to limit the scope of its recall activities for associated equipment. However, because no formal mechanism exists between the Coast Guard and CPSC, there is a potential risk that hazards related to products for which jurisdiction is unclear may not be regulated. In addition, because of the potential gap in jurisdiction, it may at times be unclear which agency has regulatory responsibility for some products that may present safety risks, which underscores the need for strong communication between the two agencies.

⁶⁸GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

Agencies Report Coordinating on Specific Activities but Lack a Mechanism to Facilitate Comprehensive Oversight

In responses to our questionnaires, all eight agencies that have direct oversight responsibilities for consumer product safety identified a number of mechanisms they use to coordinate with at least two other agencies on specific issues. However, no coordinating mechanism exists to address federal consumer product safety efforts comprehensively. Consumer product safety agencies have different areas of expertise and functions, and no single agency can address oversight alone. Moreover, some oversight agencies are independent and not subject to OMB's planning and review process for executive agencies. As a result, there is no single entity or mechanism to help the agencies that collectively oversee consumer product safety address the challenges raised in this report, such as staying informed of the regulatory activities of other agencies, jurisdictional issues related to multiple agencies overseeing the same product, or data sharing issues. In addition, agencies may be missing opportunities to better leverage resources and address challenges, including those related to fragmentation and overlap identified in this report.

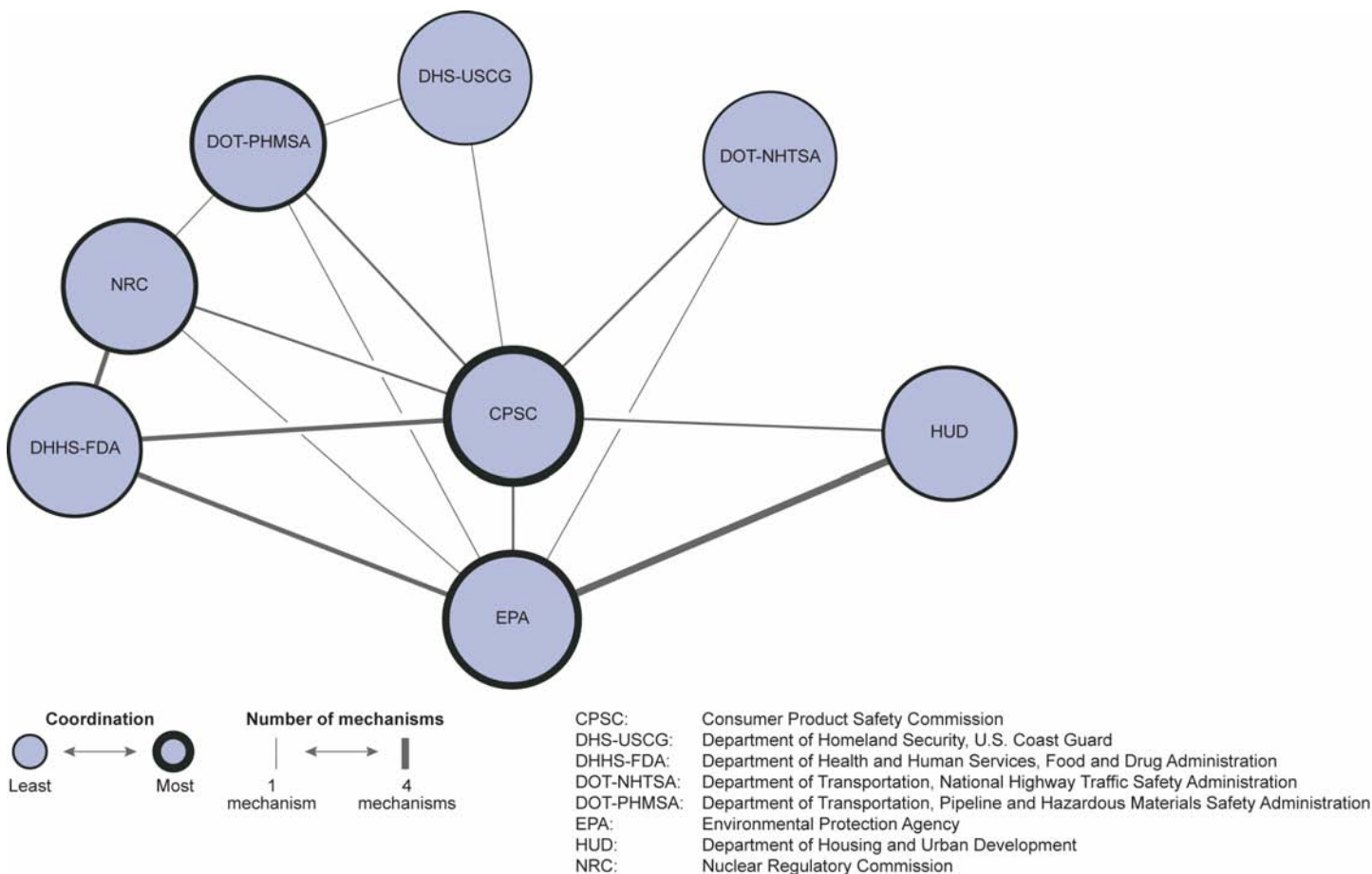
Agencies Report Coordinating through Various Mechanisms to Address Specific Activities

In their questionnaire responses, interviews and other documents, agencies reported collaborating on specific topics using various mechanisms. Collaboration mechanisms identified include (1) memorandums of understanding (MOU) or memorandums of agreement (MOA); (2) interagency agreements; and (3) working groups. Several agencies stated that coordination with other agencies was positive and generally working well. For instance, EPA stated that their relationships with FDA and USDA were particularly positive because they have so much commonality in their work. CPSC stated that they have strong collaboration and cooperation with a number of agencies related to enforcement (CBP and the Department of Justice) and science and technical issues (Department of Health and Human Services (HHS), CDC, NIH, NIOSH, and the National Toxicology Program). Additionally, agencies coordinate informally on a variety of topics.⁶⁹ For instance, NHTSA reported that it has an informal working relationship with EPA on the importation of motor vehicles that are subject to both the federal motor vehicle safety standards and to emission standards administered

⁶⁹In the questionnaire, we asked respondents to specify which formal mechanisms they use to coordinate such as an MOU or MOA, interagency agreements, working groups or other types of coordination. Some agencies responded that they had other interactions and indicated that they were informal arrangements.

by EPA under the Clean Air Act. PHMSA officials stated that they have an informal working group with CPSC and ATF that meets annually to discuss issues related to fireworks. They added that these meetings often include industry groups, such as the National Fireworks Association. All eight agencies with direct oversight responsibilities reported having coordinated with at least two or more other regulatory agencies. Moreover, agencies most frequently reported coordinating with CPSC and EPA (see fig. 3).

Figure 3: Coordination between Eight Regulatory Agencies on Consumer Product Safety Activities



Source: GAO analysis of questionnaire responses. | GAO-15-52

Note: CPSC noted that that size of each circle is not proportional to the size of each agency's budget. CPSC also stated that they interact with multiple centers within FDA and multiple offices and programs within EPA.

Additionally, the 12 federal agencies that we identified as providing indirect consumer product safety support also reported collaborating with at least 1 or more of the 8 agencies with direct regulatory responsibilities. For example, CDC reported collaborating with HUD to identify and remedy repeat properties involving multiple cases of children identified with elevated blood levels, and OSHA reported that it meets with FDA as needed to discuss medical equipment used in the workplace. As previously discussed, these 12 agencies support product safety through activities such as public health expertise; law enforcement; workplace safety; transportation safety; and other activities.

We discuss some examples of interagency collaborative mechanisms that we identified in previous work on collaboration across federal agencies.⁷⁰ Table 2 shows four mechanisms identified in our prior work.⁷¹

Table 2: Select Mechanisms for Interagency Collaboration and Their Definitions

Collaboration mechanism	Definitions
Collaboration structures within the Executive Office of the President	Permanent or temporary groups that are sometimes referred to as task forces, councils, commissions, committees, or working groups
National strategies and initiatives	A document or initiative that is national in scope and provides a broad framework for addressing issues that cut across federal agencies and often across other levels of government and sectors
Interagency groups led by agency and department heads or by component and program-level staff	Groups led by agencies that are sometimes referred to as task forces, working groups, councils, or committees
Interagency agreements and memorandum of understanding	A written agreement between more than one federal agency or department

Source: GAO. |GAO-15-52

More specifically, agencies reported participating in collaborative groups on specific topics. These collaborative groups are listed by the type of mechanisms for interagency collaboration:

Collaborative Structure within the Executive Office of the President

- *Presidential Task Force on Environmental Health and Safety Risks to Children.* According to EPA, the purpose of this task force is to identify environmental health and safety risks to children that can be best

⁷⁰As we noted in a September 2012 report, experts defined an interagency mechanism for collaboration as any arrangement or application that can facilitate collaboration between agencies. GAO, *Managing For Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

⁷¹In [GAO-12-1022](#), we identify 12 mechanisms for interagency collaboration.

National Strategies and Initiatives

addressed through interagency efforts; recommend and implement interagency actions; and communicate to federal, state, and local decision makers information to protect children from risks. EPA stated that both EPA and HHS are the chairs of the task force. EPA also stated it has members on the asthma disparities, healthy settings, and climate change subcommittees who provide expertise and technical assistance for the subcommittees' activities. The task force is comprised of 17 federal departments and White House offices.⁷² CPSC also told us that their staff participates in the senior steering committee of the task force, such as the chemical exposures working group and the asthma working group.

- *National Nanotechnology Initiative/Nanotechnology Environmental & Health Implications Working Group.* CPSC and EPA reported coordinating on nanotechnology. For instance, EPA commented that EPA researchers participate in the U.S. National Nanotechnology Initiative/Nanotechnology Environmental Health Implications Working Group to share information on nanomaterials research. EPA is investigating how nanomaterials behave in the environment and how nanomaterial properties may be modified or exposure controls implemented to minimize and manage potential risks from products containing nanomaterials. According to a December 2012 news release, EPA and CPSC are collaborating in a worldwide research effort to assess any potential impacts of nanomaterials on people's health and the environment. The news release also states that this research is part of the U.S. government's efforts to assess the potential risks of nanomaterials and is coordinated by the National Nanotechnology Initiative.⁷³ The nano.gov website states that the National Nanotechnology Initiative consists of the individual and cooperative nanotechnology-related activities of federal agencies with a range of research and regulatory roles and responsibilities.

⁷²According to EPA's website, task force members include: CPSC; Departments of Housing and Urban Development, Agriculture, Energy, HHS, Homeland Security, Justice, Labor, Education, and Transportation; EPA, OMB, Council on Environmental Quality, Assistant to the President for Economic Policy, Assistant to the President on Domestic Policy, and the Council of Economic Advisors.

⁷³In January 2014, we reported on the results of a forum we convened on the future of nanomanufacturing and the environmental and health implications of nanomanufacturing. See [GAO-14-181SP](#).

Interagency Group Led by
Agency and Department
Heads

- *Healthy Homes Initiative/Federal Healthy Homes Work Group.* HUD and EPA reported that they participate in healthy homes activities. According to a 2013 healthy homes report, the Federal Interagency Healthy Homes Work Group (HHWG) consists of the Departments of Housing and Urban Development, Energy, Labor, and Agriculture; organizations within the Department of Health and Human Services, including CDC and the National Institutes of Health/National Institute of Environmental Health Sciences (NIEHS); EPA; and NIST. The work group was established to strengthen coordination among federal agencies to advance and implement the healthy homes model, including to (1) establish a comprehensive federal strategy to promote healthy homes, (2) identify and eliminate barriers that impede collaboration and complicate assisting those in need of federal technical assistance or funding, and (3) collaborate with key federal and nonfederal stakeholders to implement a healthy homes agenda at the community level.
- *Radiofrequency Interagency Work Group.* FDA commented that they exchange information with FCC on the current state of research, standards activity, and health effects of cell phone radiation and that most interactions are facilitated by FDA and FCC participation in the Radiofrequency Interagency Working Group. For example, FDA worked on the interference between consumer products and active medical implants, such as the interference between MP3 players and pacemakers. FDA responded that they have worked collaboratively (with FCC) to develop communications on wireless devices. According to FDA's website, the federal agencies in the working group include NIOSH, EPA, FCC, OSHA, and the National Telecommunications and Information Administration. The website also states that the federal agencies in this workgroup have responsibility for different aspects of radiofrequency safety and work to coordinate efforts at the federal level. Additionally, FCC staff told us that the working group meets every 2 months to share information. For instance, one topic discussed has been the development and eventual adoption of the FCC notice of inquiry regarding the propriety of its current radiofrequency emissions limits.
- *Federal Interagency Lead-Based Paint Task Force.* According to HUD, the federal Lead-Based Paint Task Force is co-chaired by HUD and EPA and meets several times a year to exchange information on issues related to lead-based paint; lead poisoning (both childhood and

adult); lead exposures from paint, dust, soil, and, at times, additional media; hazard and risk control methods; and other topics. HUD and EPA have an MOU in place that was established in 1989.⁷⁴ The task force is composed of about a dozen agencies, including CPSC. According to the MOU, the work of the task force is complex and requires familiarity with health effects and exposure to lead and practical considerations including costs, implementation issues, and technical feasibility of abatement methodologies. The MOU states that in addition to HUD and EPA, necessary expertise resides in other federal agencies such as CDC, CPSC, OSHA, and NIEHS, as well as state and local governments and private organizations. According to the MOU, HUD and EPA will consult with these groups to ensure the broadest possible input into the lead hazard research process.

Agencies Cite Challenges in Coordinating and Lack a Comprehensive Coordinating Mechanism for Product Safety Issues

Although agencies collaborate on a variety of issues, they also reported that they face challenges when they work collaboratively. In our discussions and follow-up with agencies, agency staff cited challenges such as resource constraints, training port personnel on regulatory standards related to imported products, and using different terminology. For instance, EPA noted that working with other agencies to gain agreement required time and energy. NHTSA explained that because it has no personnel assigned to the various ports of entry, the agency is dependent on CBP personnel to ensure that imported motor vehicle equipment complies with applicable standards. NHTSA stated that it has a close working relationship with CBP and provides periodic training to CBP personnel both in-person at the ports and electronically. However, NHTSA noted that due to the variety of automotive products offered for importation and the turnover of CBP port personnel, NHTSA repeats training at ports that handle the highest volume of products it regulates. FDA staff stated that agencies may use different terminology, making communication difficult. In addition, earlier we discussed challenges related to fragmentation and overlap that also relate to coordination and collaboration. These challenges include staying informed about the regulatory activities of other agencies related to, for example, child-resistant packaging for over-the-counter and prescription drug products; coordinating on jurisdictional issues, for example, those related to packaging for certain household substances, including cosmetics and

⁷⁴Memorandum of Understanding on Lead-Based Paint between the U.S. Department of Housing and Urban Development and the U.S. Environmental Protection Agency, April 3, 1989.

drugs; and considering options to share data rather than purchasing the same data under multiple contracts.

In past work, we have noted that interagency mechanisms or strategies to coordinate programs that address crosscutting issues may reduce potentially duplicative, overlapping, and fragmented efforts.⁷⁵ In October 2005, we identified practices that can help enhance and sustain collaboration among federal agencies, and in September 2012, we identified key considerations for implementing collaborative mechanisms.⁷⁶ More specifically, we concluded that while collaborative mechanisms differ in complexity and scope, they all benefit from certain key features such as having clear roles and responsibilities and involving all relevant participants.⁷⁷ Additionally, our prior work found that agencies that articulate their agreements in formal documents can strengthen their commitment to working collaboratively and that written agreements are most effective when they are regularly updated and monitored.⁷⁸ We noted that not all collaborative arrangements need to be documented through written guidance and agreements, particularly those that are informal. However, we have found that at times it can be helpful to document key agreements related to the collaboration.

Additionally, the Government Performance and Results Act (GPRA) Modernization Act of 2010 (GPRAMA) establishes a framework aimed at taking a more crosscutting and integrated approach to focusing on long-term outcome-oriented goals and improving government performance.⁷⁹ While agencies are required to work with OMB to develop such goals

⁷⁵[GAO-12-1022](#) and GAO, *Managing For Results: GPRA Modernization Act Implementation Provides Important Opportunities to Address Government Challenges*, [GAO-11-617T](#) (Washington D.C.: May 10, 2011).

⁷⁶GAO, *Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies*, [GAO-06-15](#) (Washington, D.C.: Oct. 21, 2005) and [GAO-12-1022](#). We broadly defined collaboration as any joint activity that is intended to produce more public value than could be produced when the agencies act alone.

⁷⁷These key features include (1) outcomes and accountability; (2) bridging organizational cultures; (3) leadership; (4) clarity of roles and responsibilities; (5) participants; (6) resources; and (7) written guidance and agreements.

⁷⁸[GAO-12-1022](#).

⁷⁹Pub. L. No. 111-352, 124 Stat. 3866 (2011). GPRAMA amends the Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285 (1993).

every 4 years, elements of this framework could be useful for oversight agencies in collaborating more comprehensively.⁸⁰ For instance, federal agencies can use their strategic and annual performance plans as tools to drive collaboration with other agencies and other partners and establish complementary goals and strategies for achieving results. Moreover, there are requirements that agencies discuss collaborative efforts in their strategic and performance plans. In both documents, agencies must describe how they are working with other agencies to achieve their own goals as well as cross-agency priority goals. Additionally, in the performance plan, agencies are to identify the various organizations, program activities, regulations, policies, and other activities that contribute to each of their goals, both within and external to the agencies. Agencies' priority goals and agency involvement in federal government priority goals provide additional opportunities to articulate the goals of collaborative efforts.⁸¹

While we identified a number of collaborative efforts among agencies aimed at addressing specific issues, we did not identify a collaborative effort aimed at facilitating comprehensive coordination among the many agencies with responsibility for consumer product safety oversight. A number of agencies have an oversight role, but no single entity has the expertise or authority to address the full scope of product safety activities. Although we previously noted that OMB's Office of Information and Regulatory Affairs (OIRA) has an interagency process for planning and reviewing draft rules within the executive branch, this process does not include independent regulatory agencies such as CPSC. Moreover, some independent regulatory agencies have stated their opposition to greater involvement by the President in setting their rulemaking requirements, such as the preparation of cost-benefit analyses and submission of rulemakings to OIRA for prior review.⁸² Without a collaborative

⁸⁰[GAO-11-617T](#).

⁸¹[GAO-12-1022](#).

⁸²In an October 2012 letter, the heads of six independent regulatory agencies wrote to the Chairman and Ranking Member of the Senate Committee on Homeland Security and Governmental Affairs expressing their concerns about pending legislation (at that time) that would authorize the President to require the agencies to prepare cost-benefit analyses for their economically significant rules. The six independent regulatory agencies were the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, Consumer Financial Protection Bureau, the Securities and Exchange Commission, Federal Deposit Insurance Corporation, and the National Credit Union Administration.

mechanism to facilitate communication across the relevant agencies and to help enable them to collectively address crosscutting issues, the agencies responsible for consumer product safety oversight may continue to be challenged by inefficiencies associated with fragmentation and overlap, including those we identified in this report.

Conclusions

Consumer product safety oversight is a broad area involving the expertise of many agencies with diverse missions. Fragmented and overlapping oversight among various agencies results in a number of challenges for the oversight of consumer product safety, including communication difficulties, inefficient use of resources, and unclear roles resulting in potential regulatory gaps. In particular, the role of NIST as regulator for the markings of toy and imitation firearms in section 5001 of title 15 of the U.S. Code (15 U.S.C. § 5001) is inefficient because such a role may not leverage the agency's primary mission and expertise in the area of scientific measurement. Transferring this authority to another agency would require a statutory change. In another example of a challenge associated with fragmented oversight, it is unclear whether some boating products fall under the jurisdiction of the Coast Guard or CPSC. In the absence of a formal mechanism to facilitate coordination and clarify roles and responsibilities, as indicated in our work on collaboration, some products that may present a safety risk may go unregulated.

In addition, while agencies reported collaborating using a variety of mechanisms to address specific topics, we did not identify a mechanism to facilitate more comprehensive collaboration. The inefficiencies we identified in this report suggest the need for greater collaboration, which in turn could help reduce some negative effects of fragmentation and overlap. Also, there may be instances where more formal arrangements would be beneficial. Due to the range of oversight areas and activities, no single agency is able to address a problem alone. Additionally, independent agencies such as CPSC are not subject to the executive branch planning and review process under OMB. Our body of work on collaborative practices and GPRAMA suggests that agencies need to consider taking a more crosscutting and integrated approach to addressing consumer product safety oversight. A broad interagency collaborative mechanism could help the agencies that are collectively responsible for the oversight of consumer product safety to address some of the key issues identified in our work on collaborative practices, such as clarifying agency roles and responsibilities, ensuring that all relevant participants have been included, and appropriately documenting key agreements on collaboration. Formal collaboration—both between two

agencies to address a specific issue and across multiple agencies to provide comprehensive oversight—can be useful in strengthening agency commitments in working together. Without taking these actions, agencies may not be able to fully leverage government resources and may not be able to regulate consumer products in the most efficient and effective manner.

Matters for Congressional Consideration

- To achieve greater efficiency and effectiveness, Congress should consider transferring the oversight of the markings of toy and imitation firearms in 15 U.S.C. § 5001 from the National Institute of Standards and Technology (within the Department of Commerce) to the Consumer Product Safety Commission.
- To improve existing coordination of oversight for consumer product safety, Congress should consider establishing a formal comprehensive oversight mechanism for consumer product safety agencies to address crosscutting issues as well as inefficiencies related to fragmentation and overlap such as communication and coordination challenges and jurisdictional questions between agencies. Different types of formal mechanisms could include, for example, creating a memorandum of understanding to formalize relationships and agreements or establishing a task force or interagency work group. As a starting point, Congress may wish to obtain agency input on options for establishing more formal coordination.

Recommendation

To clarify roles and facilitate greater communication and strengthen oversight of associated equipment related to recreational boats, we recommend that the U.S. Coast Guard and Consumer Product Safety Commission establish a formal approach to coordination (such as a memorandum of understanding) to facilitate information sharing and better leveraging of resources.

Agency Comments and Our Evaluation

We provided a draft of this report to the 20 agencies for their review and comment. CPSC, the Department of Homeland Security (DHS), and NIST agreed with GAO's matters and recommendation; other agencies neither agreed nor disagreed. We received comment letters from CPSC and the Department of Homeland Security that are reproduced in appendixes V and VI. We received technical comments from CPSC; Department of Commerce (NIST); Department of Health and Human Services (CDC, FDA, HRSA, NIH); DHS (CBP); HUD; Department of Justice (ATF);

Department of Labor (OSHA); EPA, FCC and NRC that we incorporated, as appropriate.

In commenting on the draft report, CPSC and NIST made the following comments related to the report's matters to Congress. Specifically, concerning the matter that Congress consider transferring certain oversight responsibilities from NIST to CPSC, CPSC suggested that we clarify that we are referring to requirements under 15 U.S.C. § 5001 and stated that it would be willing to accept responsibility for oversight of the markings of toy and imitation firearms provided that the transfer of authority from NIST includes a corresponding increase in appropriations. To clarify the matter, we added a reference to 15 U.S.C. § 5001 to the conclusions and matter. NIST stated in its technical comments that it supports the transfer of the oversight of the markings of toy, look-alike, and imitation firearms from NIST to CPSC and that the report was consistent with NIST's position regarding oversight of toy guns and imitation firearms. CPSC also stated that it would be comfortable with the establishment of a formal collaboration mechanism to address oversight in areas of shared or fragmented jurisdiction provided that such an approach does not compromise the agency's independence. With regard to the recommendation that the U.S. Coast Guard and CPSC establish a formal approach to coordination (such as a memorandum of understanding) to strengthen the oversight of associated equipment related to recreational boats, CPSC indicated that they support, and plan to pursue, this recommendation. The Department of Homeland Security also agreed with our recommendation and stated that the U.S. Coast Guard will work with CPSC to develop a formal memorandum of understanding to facilitate communication between agencies on oversight of items of associated equipment installed on recreational boats with an estimated completion date of April 30, 2015.

We are sending copies of this report to appropriate congressional committees, the Chairman and Commissioners of CPSC, and the Secretary of the Department of Homeland Security. The report also is available at no charge on the GAO website at <http://www.gao.gov>. If you or your staff have any questions about this report, please contact me at

(202) 512-8678 or cackleya@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.



Alicia Puente Cackley
Director, Financial Markets
and Community Investment

List of Congressional Addressees

The Honorable Barbara Mikulski
Chairwoman
The Honorable Richard C. Shelby
Vice Chairman
Committee on Appropriations
United States Senate

The Honorable Patty Murray
Chairman
The Honorable Jeff Sessions
Ranking Member
Committee on the Budget
United States Senate

The Honorable Thomas R. Carper
Chairman
The Honorable Tom Coburn
Ranking Member
Committee on Homeland Security
and Government Affairs
United States Senate

The Honorable Claire McCaskill
Chairman
Subcommittee on Financial and Contracting Oversight
Committee on Homeland Security
and Governmental Affairs
United States Senate

The Honorable Mark R. Warner
Chairman
Task Force on Government Performance
Senate Committee on the Budget
United States Senate

The Honorable Harold Rogers
Chairman
The Honorable Nita M. Lowey
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable Fred Upton
Chairman
The Honorable Henry Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Darrell E. Issa
Chairman
The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and Governmental Reform
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The objectives of this review were to examine (1) which federal agencies oversee consumer product safety and their roles and responsibilities; (2) the extent and effects of fragmentation, overlap, or duplication, if any, in the oversight of consumer products; and (3) how consumer product safety oversight agencies coordinate their activities and to what extent does that address any identified negative effects of fragmentation, overlap, or duplication.

For all three objectives, we reviewed relevant laws and regulations, as well as literature and our past reports on consumer product safety; fragmentation, overlap, and duplication; and mechanisms for interagency collaboration (see list of related products at the end of this report). We developed an inventory of agencies involved in consumer product safety oversight activities, the methodology for which is described in greater detail below. We also interviewed federal agency officials and industry groups to gather information on the extent of fragmentation, overlap, and duplication, their benefits and advantages, and options to address them. We analyzed agency and other documentation as available.

Inventory of Agencies That Conduct Consumer Product Safety Oversight Activities

To initially identify agencies that conduct consumer product safety oversight and to delineate their roles and responsibilities, we reviewed the following sources: (1) laws and regulations related to consumer product safety, as well as Federal Register notices for proposed and final rulemaking from August 2008 to October 2013; (2) the Consumer Product Safety Commission's (CPSC) web link to other federal agencies with jurisdiction over consumer products; (3) our past reports; and (4) agency members of CPSC-identified interagency working groups. We disseminated a questionnaire to the 33 agencies we identified to (1) confirm their roles and responsibilities and (2) identify any other agencies with whom they coordinate.

To verify agency roles and responsibilities, we developed a questionnaire that included a request for each agency to verify its oversight areas and relevant authorities.¹ We also asked questions about the types of statutory authority the agency has; its mission; other agencies with which it coordinates; barriers to coordination; and knowledge of potential fragmentation, overlap, or duplication. To minimize errors arising from

¹Please see appendix II for the questionnaire.

differences in how the questions might be interpreted and to ensure we had provided sufficient background and clarity of our scope, we conducted pretests with two different agencies in December 2013. We obtained feedback during the pretests and revised the questionnaire to improve organization and clarity.

We sent the questionnaire to the relevant agency contacts in February 2014 as attachments to an e-mail message, in which we provided an introduction, contact information for GAO staff, and the time frame for completion. Many of the questions were open-ended, allowing officials to provide more in-depth information on oversight areas; interagency initiatives; and examples of fragmentation, overlap, and duplication. We disseminated 33 questionnaires in total and received at least one response from each of the 33 entities for a 100 percent response rate. We received multiple responses from some agencies, which we aggregated for reporting purposes at the agency or subagency level, as laid out in the U.S. Government Manual.² For example, we received multiple responses from various centers within FDA, which we aggregated to report out for FDA as a whole.

Respondents returned completed questionnaires by e-mail, and we reviewed each program's questionnaire to ensure agency staff had provided complete and consistent responses. From March 2014 through April 2014, we made telephone calls to agency staff and sent e-mails to follow up as necessary to clarify responses. We edited the questionnaire responses as necessary.

We used an independent contractor to keypunch the questionnaire data and provide us with a comprehensive data file. We verified all of our keypunched records with their corresponding questionnaires. We also performed data checks to identify incorrectly skipped questions, and followed up with agency staff as necessary.

Finally, we categorized the agencies to determine whether they have a direct, an indirect, or no role in consumer product safety oversight. We determined this categorization based on questionnaire responses and

²We aggregated according to the *U.S. Government Manual* for all agencies except the Department of Homeland Security (DHS). For DHS, we reported out for the separate components because they have different levels of involvement. The Coast Guard has a direct oversight role, whereas CBP and FEMA play indirect roles.

subsequent interviews with agencies. We categorized agencies as having a direct role if they answered in their questionnaire or in interviews that they have regulatory authority for consumer product safety oversight—specifically that they conduct rulemaking, standard setting, enforcement, risk assessment, or product recalls. We then confirmed in interviews and follow-up discussions that the agency views itself as having a role in overseeing the safety of consumer products. We categorized an agency as having an indirect role if it met one of two criteria: (1) it did not conduct any of the five regulatory activities described in the previous section, but described other activities that supported consumer product safety oversight; or (2) it initially described a role in regulating consumer products, but in subsequent interviews, did not self-identify as a consumer product safety oversight agency. Of the 33 questionnaires we received, we categorized 8 as having a direct oversight role, 12 as having an indirect oversight role, and 13 as having no role.

Examining the Extent of Fragmentation, Overlap, and Duplication

To examine the extent of fragmentation, overlap, and duplication in oversight for consumer product safety, we asked agencies in the questionnaire to identify potential examples of consumer products, product categories, or other areas where there may be fragmentation, overlap, and duplication in oversight across federal agencies. We summarized the responses and obtained additional details about agencies' oversight roles in these examples through interviews with and requests for written information from federal agency officials, as well as by reviewing relevant laws, regulations, agency websites, and other documentation. We also interviewed consumer groups and industry representatives about potential examples of fragmentation, overlap, and duplication in oversight.

We used the following definitions to determine whether the examples provided by the agencies constituted fragmentation, overlap, or duplication:³

- Fragmentation occurs when more than one federal agency (or more than one organization within an agency) is involved in the same broad area of national interest.

³GAO, 2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits, [GAO-14-343SP](#) (Washington, D.C.: Apr. 8, 2014).

-
- Overlap occurs when multiple programs have similar goals and activities or offer similar services to similar target populations.
 - Duplication occurs when two or more agencies or programs engage in the same activities or provide the same services to the same beneficiaries.

We determined whether the broad policy area of consumer product safety is fragmented based on more than one agency being directly involved in regulations related to consumer product safety. To determine the extent of regulatory overlap among the product or issue area examples provided by federal agencies and other groups, we examined whether multiple agencies share regulatory responsibility over the same product, including having regulatory requirements for the same product.

In addition to identifying the examples above, we interviewed several of the agencies about the potential advantages and challenges of having fragmented, overlapping, or duplicative oversight for consumer product safety. We also interviewed consumer groups and industry representatives about the effects of fragmentation, overlap, and duplication on consumers and industry. Based on the discussions with federal officials, consumer groups, and industry representatives, we identified potential inefficiencies involving fragmented, overlapping, or duplicative oversight.

Agency Collaboration and Negative Effects of Fragmentation, Overlap, and Duplication

We also used the questionnaire to address our third objective about how consumer product safety agencies collaborate. For instance, in the questionnaire, the agencies were asked whether they coordinate with other agencies on consumer product safety oversight. The questionnaire also asked agencies to identify what products or oversight areas they coordinated on and which mechanisms their agencies used, including (1) memorandums of understanding or agreement; (2) interagency agreements; (3) working groups; and (4) other. Additionally, in the questionnaire, we asked agencies to describe any specific interagency initiatives their agency participates in related to consumer product safety and what their agency's roles are in these initiatives. We also obtained additional agency information, where available, on examples of interagency collaboration and reviewed documentation describing these efforts and obtained input from agency staff.

To examine how consumer product safety oversight agencies collaborate and the extent that addresses any negative effects of fragmentation,

overlap, or duplication, we reviewed our prior reports on interagency collaboration and the Government Performance and Results Act (GPRA), as amended by the GPRA Modernization Act (GPRAMA) (see bibliography). For example, we reviewed GAO's interagency collaboration reports, which discuss key practices and considerations for implementing interagency collaborative mechanisms and the GPRAMA, which establishes a framework aimed at taking a more crosscutting and integrated approach to focusing on results and improving government performance. Additionally, we obtained information on challenges and barriers to coordination through the questionnaire and agency discussions. For instance, the questionnaire asked agencies to what extent, if at all, specific barriers affected their ability to coordinate with other agencies on consumer product safety oversight. Examples of barriers include (1) unclear roles and responsibilities of participating agencies, (2) lack of leadership, (3) lack of resources, (4) lack of statutory authority, and (5) lack of written guidance and agreements. We also obtained input from agencies on barriers associated with coordination identified in the questionnaire.

We conducted this performance audit from July 2013 to November 2014, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Consumer Product Safety Oversight Questionnaire

Below is a reprint of the questionnaire that we sent to 33 federal agencies to identify agencies that have an oversight role in consumer product safety and to examine the extent to which fragmentation, overlap or potential duplication exists among their activities.

Appendix II: Consumer Product Safety Oversight Questionnaire



U.S. Government Accountability Office
Consumer Product Safety Oversight Questionnaire

Introduction

GAO is conducting a study to identify federal agencies that have an oversight role in the safety of consumer products and to examine the extent to which overlap or potential duplication exist among their activities. As part of our study, we are seeking information from federal departments and agencies that will enable GAO to assemble a government-wide inventory of federal consumer product safety oversight agencies and their responsibilities. The following survey is intended to help us identify these agencies and describe their specific roles and responsibilities in overseeing consumer product safety and to identify instances of fragmentation, overlap, or duplication in the oversight of consumer products.¹

To identify agencies with consumer product oversight responsibilities such as risk assessment, rulemaking, enforcement, and recall, we reviewed the following sources:

- laws and regulations related to consumer product safety, as well as *Federal Register* notices for proposed and final rulemaking;
- agency websites and policy documents (e.g., Consumer Product Safety Commission's web link to federal agencies with jurisdiction over consumer products; federal agency budget and performance plans);
- past GAO reports and ongoing work on consumer product safety issues; and
- interviews with agency officials on which federal agencies have oversight responsibility for consumer product safety and discussions with consumer groups and industry groups.

The term "consumer product" as defined by statute (15 U.S.C. § 2052(a)(5)), means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. Consumer products include tangible products used by consumers but exclude financial products, alcohol, tobacco and food but not the food packaging. In addition, we are interested in a range of activities that impact consumer product safety such as testing, labeling, enforcement, research, regulation of product components e.g. chemicals, and consumer products used in workplace and other settings. The examples we have provided are not exhaustive, and we are hoping to spur your thoughts on what, if any, role your agency might have in consumer product.

¹For more information on GAO's work on fragmentation, overlap, and duplication in the federal government, see the following reports: GAO, *2013 Annual Report: Actions Needed to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits*, GAO-12-279SP (Washington, D.C.: Apr. 9, 2013); GAO, *2012 Annual Report: Opportunities to Reduce Duplication, Overlap, and Fragmentation, Achieve Savings, and Enhance Revenue*, GAO-12-342SP (Washington, D.C.: Feb. 28, 2012); and GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: Mar. 1, 2011).

Appendix II: Consumer Product Safety Oversight Questionnaire

We estimate that this questionnaire will take at least 30-45 minutes to complete. You may need to consult with other staff in your agency to answer some of the questions in the questionnaire. You may include additional information or supporting documentation as an attachment to your agency response. Please return this questionnaire via email to CPS@gao.gov by March 7, 2014. If you have any questions, please contact Meghana Acharya at acharyam@gao.gov; (415) 904-2158 or Srinidhi Vijaykumar at vijaykumars@gao.gov; (415) 904-2191 or Janet Fong at fongjl@gao.gov; (415) 904-2166.

Thank you for your time and assistance.

Instructions for Completing the Questionnaire

- Please use your mouse to navigate, clicking on the field or check box you wish to answer.
- To select a check box or a button, click on the center of the box.
- To change or deselect a check box response, click on the check box and the 'X' will disappear.
- To answer a question that requires that you write a comment, click on the answer box _____ and begin typing. The box will expand to accommodate your answer.

START HERE

SECTION I: Agency Contact and Verification of Agency Roles and Responsibilities

1) Please provide the following information for the contact within your agency, office, or component responsible for filling out this questionnaire, in case we need clarification of a response.

Name:

Title:

Email:

Phone:

2

**Appendix II: Consumer Product Safety
Oversight Questionnaire**

Agency, Office,
or Component:

2) We have identified your agency as potentially having a role in consumer product safety. Please see the following list of laws that we have identified which provide your agency with oversight authority. Below that please see the initial list of products, product categories or areas that we have identified for which your agency conducts oversight activities. Please then answer questions (2a) and (2b) to verify whether or not this is an accurate and complete list of laws and products or areas that pertain to your agency's consumer product safety oversight activities.

List of Relevant Public Laws

Examples of Consumer Products, Product Categories or Oversight Areas

Appendix II: Consumer Product Safety Oversight Questionnaire

2a). Are the laws and examples provided generally accurate and complete? *(Check only one box)*

- Yes →Skip to QUESTION 3
- Partial →Continue to QUESTION 2b
- No →Continue to QUESTION 2b

2b). If 'Partial' or 'No' to question 2a, please elaborate or provide correct information in the space below. If there are other major laws or oversight areas that we may have overlooked, please provide more detail below.

3) Does your agency have statutory authority for consumer product safety in any of the following areas? If yes, please enter the citation in the last column.

Regulatory Activities	Does your agency/entity have statutory authority in this area? <i>(Check only one box)</i>	If yes, what is the citation?
a. Risk Assessment	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	
b. Rule Making	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	
c. Standard Setting	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	
d. Enforcement	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	
e. Product Recalls	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	
f. Other <i>(please specify):</i>	Yes... <input type="checkbox"/> No... <input type="checkbox"/> Unclear... <input type="checkbox"/>	

**Appendix II: Consumer Product Safety
Oversight Questionnaire**

4) Please provide the mission statement for your agency that is primarily responsible for carrying out consumer product safety responsibilities, or provide a link to the statement if available. *(Note: Select the mission statement that most closely aligns with the consumer product safety responsibilities, specifically.)*

Appendix II: Consumer Product Safety Oversight Questionnaire

SECTION II: Coordination with Other Agencies Potentially Involved in Oversight of Consumer Product Safety

5) Below we list agencies that we have identified as potentially having statutory authority over some aspect of consumer product safety. Please complete column 2. If you answered "Yes" then also complete columns 3 through 6.

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
1 - Chemical Safety Board (CSB)					
Chemical safety related to consumer products.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency <hr/> Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
2 - Consumer Product Safety Commission (CPSC)					
Consumer products used in and around the home and for recreation (e.g., helmets, multi-level bunks and bunk beds, fire pots used with gel fuels, polyurethane foam, glazing materials, lithium cells and batteries, car seats, bed rails, and swimming pools). This excludes medical devices, automobiles and auto parts, and other product categories. CPSC sets requirements	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency <hr/> Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
for the accreditation of testing laboratories or other third-party conformity assessment bodies; regulation of certain chemicals; fireworks (construction, performance, and labeling); indoor air quality; chemical testing; nanomaterials. CPSC collects data on consumer product-related injuries and maintenance of National Electronic Injury Surveillance System emergency room data.					
3 - Department of Agriculture (USDA)					
3a) Department of Agriculture (USDA) Chemical testing	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
3b) Rural Housing Service (RHS) Quality and condition of rural housing; Healthy Homes activities: outreach and training to address housing deficiencies and hazards; incentives for participation in green building programs	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency }		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
including indoor air quality and healthy building materials criteria.	Go to next agency				
3c) National Institute of Food and Agriculture (NIFA) Nanotechnology; Healthy Homes activities: outreach education programs to address housing deficiencies and reduce risks to prevent childhood injuries and diseases from housing-related hazards.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other (please specify):		
4 - Department of Commerce					
4a) National Institute of Standards and Technology (NIST) Research services on standards, technical regulations, conformity assessment procedures; accreditation of testing laboratories for CPSC, Department of Health and Human Services, and Federal Communications Commission; research on nanomaterials; chemical testing; safety markings on toy guns and imitation firearms; information on voluntary standards.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other (please specify):		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
4b) National Technical Information Service (NTIS) Maintains government-funded scientific, technical, engineering, and business-related reports and other information related to consumer product safety.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
5 - Department of Defense (DOD)					
Consumer products used in military settings; chemical testing, lasers.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
6 - Department of Education					
Consumer products used in school settings; asthma prevention in schools.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
	Go to next agency				
7 - Department of Energy (DOE)					
Energy efficiency of consumer products (e.g., light bulbs); indoor air quality; Healthy Homes activities (e.g., weatherization); asthma prevention in homes.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other (please specify):		
8 - Department of Health and Human Services (DHHS)					
8a) Administration for Children and Families (ACF) Programs and services for children and families.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other (please specify):		
8b) Food and Drug Administration	<input type="checkbox"/> Yes →		<input type="checkbox"/> MOU or MOA		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
<i>(FDA)</i> Cosmetics, drugs; medical devices; electronic product radiation (e.g., mobile phones); laser products (including laser toys); setting testing standards; chemical testing. (We are excluding tobacco and food, but not food packaging.)	<input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
<i>8c) Centers for Disease Control and Prevention (CDC)</i> <i>National Center for Injury Prevention and Control and National Institute for Occupational Safety and Health (NIOSH)</i> Injury prevention research and coordination; research on preventing workplace illnesses and injuries (NIOSH); indoor air quality (NIOSH); Healthy Homes activities: childhood lead poisoning prevention (paint); smoke-free multifamily housing; radon exposure; chemical testing (NIOSH); asbestos (NIOSH); asthma prevention in homes and schools; pool chemicals.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
8d) Indian Health Service (IHS) Finance of public health services and injury prevention programs.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
8e) Health Resources and Services Administration (HRSA) Finance of public health services and injury prevention programs; asthma prevention in homes and schools.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
8f) National Institutes of Health (NIH) Injury prevention research; chemical testing (NCI); nanotechnology; Healthy Homes activities; asthma prevention in homes and schools.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
9 - Department of Homeland Security					
9a) Coast Guard (USCG) Boats (e.g., consumer products used on boats; consumer products related to boats; and privately-owned boats); flotation devices; explosives (storage, transport, loading and unloading in maritime settings); polyurethane foam.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
9b) Customs and Border Protection (CBP) Enforcement of consumer product safety laws at U.S. ports of entry (e.g., analysis of import data).	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
9c) Federal Emergency Management Agency (FEMA) – U.S. Fire Administration Fire safety associated with consumer products.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
	agency				
10 - Department of Housing and Urban Development (HUD)					
Construction and safety of manufactured homes, including particle board emissions, Healthy Homes activities: lead-based paint regulations covering HUD assistance programs, housing codes, multifamily housing and public housing radon policies, asthma prevention in homes.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency <hr/> Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
11 - Department of Justice (DOJ)					
11a) Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Ammunition, firearms; consumer explosives (including those used in hobby rockets). (We are excluding alcohol and tobacco.)	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency <hr/> Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
12 - Department of Labor (DOL)					
12a) Occupational Safety and Health	<input type="checkbox"/> Yes →		<input type="checkbox"/> MOU or MOA		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
Administration (OSHA) Consumer product safety in workplace settings; industrial, commercial, and farm products; regulation and accreditation of testing laboratories; communication of hazards to employers or employees; regulation of hazardous materials in the workplace, e.g., explosives and flammable liquids; setting standards for sanitation and temporary labor camps; formaldehyde emissions; indoor air quality; chemical testing; asbestos; polyurethane foam.	<input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
12b) Mine Safety and Health Administration (MSHA) Asbestos.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
13 - Department of Transportation (DOT)					
13a) Federal Aviation Administration (FAA)	<input type="checkbox"/> Yes →		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
Consumer products used on aircraft (e.g., consumer electronics) or related to aircraft (e.g., seat belts); transportation of lithium cells and batteries aboard aircraft; privately owned aircraft.	<input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
13b) Federal Railroad Administration (FRA) Consumer products used in camp cars (e.g., bunk beds).	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
13c) National Highway Traffic Safety Administration (NHTSA) Automobiles; motorcycles; car seats (when used in cars); tires; trucks; on-road motorcycle helmets.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
13d) Pipeline and Hazardous Materials Safety Administration (PHMSA) Transportation of hazardous materials (e.g., lighters and defective and recalled lithium cell batteries); fireworks (approval and classification for the importation and transportation of consumer fireworks); approval of third-party fireworks certification agencies; regulation of chemicals in transport including storage and transportation of Class I flammable liquids (49 CFR parts 172 through 177); polyurethane foam.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
14 - Environmental Protection Agency (EPA)					
Chemical safety of consumer products; setting testing standards; study and classification of chemical substances or mixtures, including cadmium and cadmium compounds; labeling and testing of chemicals; accreditation of lead-testing laboratories; review required industry studies on use of chemicals in consumer products; pesticides (including antimicrobial pesticides), fungicides; explosives (disposal and waste); formaldehyde emissions, indoor-air quality; lead; asthma prevention in homes and	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
schools, Healthy Homes activities such as lead standards, indoor air quality, and energy standards.					
15 - Federal Communications Commission (FCC)					
Oversees third-party accreditation of laboratories that test devices for harmful interference; setting certification requirements for mobile phone radio-frequency energy.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
16 - Federal Trade Commission (FTC)					
Textile composition labeling, consumer dissatisfaction with business practices.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
17 - National Transportation Safety Board (NTSB)					

Appendix II: Consumer Product Safety Oversight Questionnaire

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
Investigation of safety incidents (e.g., re: batteries on aircraft); issuing safety recommendations.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
18 - Nuclear Regulatory Commission (NRC)					
18a) Nuclear Regulatory Commission (NRC) Radioactive materials in consumer products.	<input type="checkbox"/> Yes → <input type="checkbox"/> No <input type="checkbox"/> This is our agency } Go to next agency		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
If you are aware of other agencies that are not listed but have oversight responsibilities for consumer product safety, please list them below and complete column 2. If you answered "Yes" then also complete columns 3 through 6.					
19. Other Agency:	<input type="checkbox"/> Yes → <input type="checkbox"/> No		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement		

**Appendix II: Consumer Product Safety
Oversight Questionnaire**

1. Agency <i>(examples of relevant products, product categories, or oversight areas)</i>	2. Does your agency coordinate with this agency on consumer product safety? <i>(Check only one box)</i>	3. Over what major products, categories or oversight areas does your agency coordinate with this agency? <i>(List products you know.)</i>	4. Which mechanisms does your agency use to coordinate with this agency? <i>(Check all that apply)</i>	5. Point of contact for the agency you coordinate with <i>(Name, Office, Phone, Email)</i>	6. Other comments
			<input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
20. Other Agency:	<input type="checkbox"/> Yes → <input type="checkbox"/> No		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		
21. Other Agency:	<input type="checkbox"/> Yes → <input type="checkbox"/> No		<input type="checkbox"/> MOU or MOA <input type="checkbox"/> Interagency Agreement <input type="checkbox"/> Working group <input type="checkbox"/> Other <i>(please specify)</i> :		

Appendix II: Consumer Product Safety Oversight Questionnaire

6) Please name and describe any specific interagency initiatives your agency participates in related to consumer product safety, and what your agency's roles are in these initiatives.

7) To what extent, if at all, have the following barriers affected your agency's ability to coordinate with other agencies on consumer product safety oversight? *(Check one box per row)*

Barriers	Great extent	Moderate extent	Small extent	No extent	Don't Know / No Basis to Judge
a. Unclear roles and responsibilities of participating agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Difficulty bridging organizational cultures (e.g. lack of common terminology and definitions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Lack of leadership (e.g. lack of long-term leadership or agreed upon roles and responsibilities if leadership is shared)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Difficulty with establishing clear outcomes and accountability (e.g. lack of clearly defined short-term and long-term outcomes and a way to track and monitor their progress)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Difficulty garnering participation (e.g. all relevant agencies may not have been included and they may not have the ability to commit resources)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Lack of resources (e.g. lack of funding and staff for the collaborative mechanism)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Lack of statutory authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Lack of written guidance and agreements (e.g. participating agencies have not documented their agreement, if appropriate, and have not developed ways to continually update and monitor these agreements)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Other <i>(please specify)</i> :	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Appendix II: Consumer Product Safety
Oversight Questionnaire**

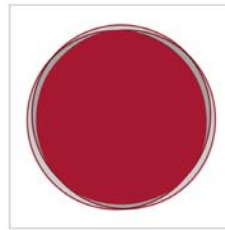
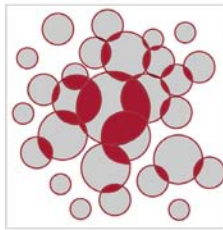
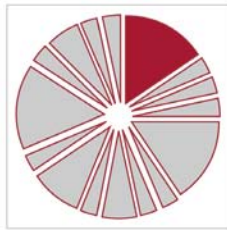
SECTION III: Potential Fragmentation, Overlap, or Duplication for Consumer Product Safety Activities

The next question (#8) asks about fragmentation, overlap, and duplication, the following describes these terms.

Fragmentation generally refers to those circumstances in which more than one agency or organization within an agency is involved in the same broad area.

Overlap generally occurs when multiple agencies have similar goals and engage in similar activities or strategies to achieve them (or target similar beneficiaries).

Duplication generally occurs when two or more programs are engaged in the same activities or strategies to meet a need, or provide the same services to the same targeted recipients or individuals.



Source: GAO.

**Appendix II: Consumer Product Safety
Oversight Questionnaire**

8) Are you aware of any potential examples of consumer products, product categories, or other areas of oversight where there may be fragmentation, overlap, or duplication in oversight across federal agencies? If so, please describe below.

Issue	Example (consumer products, product categories, or oversight areas involved)	Agencies involved in oversight
<i>8a. Fragmentation</i>		
<i>8b. Overlap</i>		
<i>8c. Duplication</i>		

9) Are there any potential regulatory or jurisdictional gaps in federal oversight of consumer products? Any areas you consider to be unclear?

Thank you for your assistance.

Please return this questionnaire via email to CPS@gao.gov by March 7, 2014.

Appendix III: Agencies That Indirectly Support Consumer Product Safety Oversight

We identified 12 agencies that indirectly support consumer product safety oversight. Table 3 provides an overview of each agency and its responsibilities. These agencies support product safety in areas such as public health expertise, law enforcement, and workplace safety.

Table 3: Twelve Agencies with an Indirect Oversight Role for Consumer Product Safety

Agency	About the agency	Agency's support role in consumer product safety oversight
Department of Commerce		
National Institute of Standards and Technology (NIST)	NIST is one of the nation's oldest physical science laboratories. It supports U.S. industrial competitiveness by advancing measurement science and technology.	NIST conducts research for the Consumer Product Safety Commission (CPSC) on product measurement in areas such as carbon monoxide emissions from portable generators and release of nanoparticles from flooring finishes and interior paints. NIST also coordinates federal, state, and local conformity assessment activities with private sector technical standards and conformity assessment activities. Finally, NIST plays a regulatory role in the markings of toy, look-alike, and imitation firearms.
Department of Health and Human Services		
Centers for Disease Control and Prevention (CDC)	CDC is the nation's health protection agency. It conducts critical science and provides health information to fight disease.	CDC provides public health expertise to CPSC and other agencies on issues such as drywall, lead poisoning, and portable generators. It also conducts research and makes recommendations to prevent worker injury and illness. For example, it has conducted research on the occupational hazards associated with the use of tools (such as nail guns and ladders) that may be used by consumers. Finally, CDC collects and maintains mortality statistics from states, which can potentially be used to support consumer product safety research.
Health Resources and Services Administration (HRSA)	HRSA works to improve access to health care by strengthening the health care workforce, building healthy communities, and achieving health equity.	HRSA administers the Poison Control Program, which provides grants to the nation's poison centers; maintains a nationwide, toll-free number to ensure access to poison center services; and implements media outreach.

**Appendix III: Agencies That Indirectly Support
Consumer Product Safety Oversight**

Agency	About the agency	Agency's support role in consumer product safety oversight
National Institutes of Health (NIH)	NIH is the nation's medical research agency and funds medical research around the world.	The National Institute of Environmental Health Sciences (NIEHS), within NIH, has a research program that focuses on the health effects of exposure to substances that may occur in consumer products. Examples of such substances include flame retardants, bisphenol A (BPA), dioxins, lead, and other heavy metals. Results from NIEHS research are published in the Open literature and are used by regulatory agencies as part of their decision making. NIEHS also manages the National Toxicology Program, which studies substances in the environment, including substances used in personal care products, household products, foods, and dietary supplements, to identify any potential harm they might cause to human health.
Department of Homeland Security		
U.S. Customs and Border Protection (CBP)	CBP is a law enforcement organization that facilitates lawful trade.	CBP promotes import safety among other things. It seizes and forfeits merchandise in conjunction with other agencies (such as CPSC).
Federal Emergency Management Agency (FEMA)	FEMA's U.S. Fire Administration works to prevent fire-related deaths and losses.	FEMA gathers raw fire incident data that provide information on products involved in fires. It is also involved in regular coordination of data collection and analysis and occasional research initiatives.
Department of Justice		
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)	ATF is a law enforcement agency that protects communities from violent crime through the enforcement of laws regarding the criminal use and trafficking of firearms and explosives, acts of arson, and the illegal diversion of alcohol and tobacco products. ATF also regulates the firearms and explosives industries through the enforcement of federal licensing laws relating to the manufacture and distribution of firearms and explosives, and the storage of explosive materials.	ATF enforces explosives laws and regulates the explosive materials used to manufacture consumer fireworks.
Department of Labor		
Occupational Safety and Health Administration (OSHA)	OSHA's mission is to ensure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education, and assistance.	OSHA sets standards for products such as ladders, safety glasses, and electrical products for use in the workplace. Consumers may benefit from guidance OSHA publishes on abating workplace hazards.

**Appendix III: Agencies That Indirectly Support
Consumer Product Safety Oversight**

Agency	About the agency	Agency's support role in consumer product safety oversight
Department of Transportation		
Federal Aviation Administration (FAA)	FAA's primary mission is to ensure the safety, security, and efficiency of the National Airspace System.	FAA responsibilities include the certification, production approval, and continued airworthiness of aircraft as well as the certification of pilots, mechanics, and others in safety-related positions.
Federal Communications Commission		
Federal Communications Commission (FCC)	FCC regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, Washington, D.C., and the U.S. territories.	FCC requires that all wireless communications devices—such as cell phones, notebooks, and wireless routers—sold in the United States meet its requirements regarding human exposure to radiofrequency energy.
Federal Trade Commission		
Federal Trade Commission (FTC)	FTC works to protect consumers by preventing fraud, deception, and unfair business practices in the marketplace.	FTC investigates and takes legal or other actions against companies that engage in deceptive or unfair practices, including making deceptive safety claims. FTC also educates consumers about product safety through its website and a consumer blog.
National Transportation Safety Board		
National Transportation Safety Board (NTSB)	NTSB's mission is to independently advance transportation safety. It investigates every civil aviation accident in the United States and significant accidents in other modes of transportation, including railroad, highway, marine, and pipeline.	As part of its investigations, NTSB makes safety recommendations to other federal agencies on a variety of topics, including their oversight of any specific consumer products involved in the accidents.

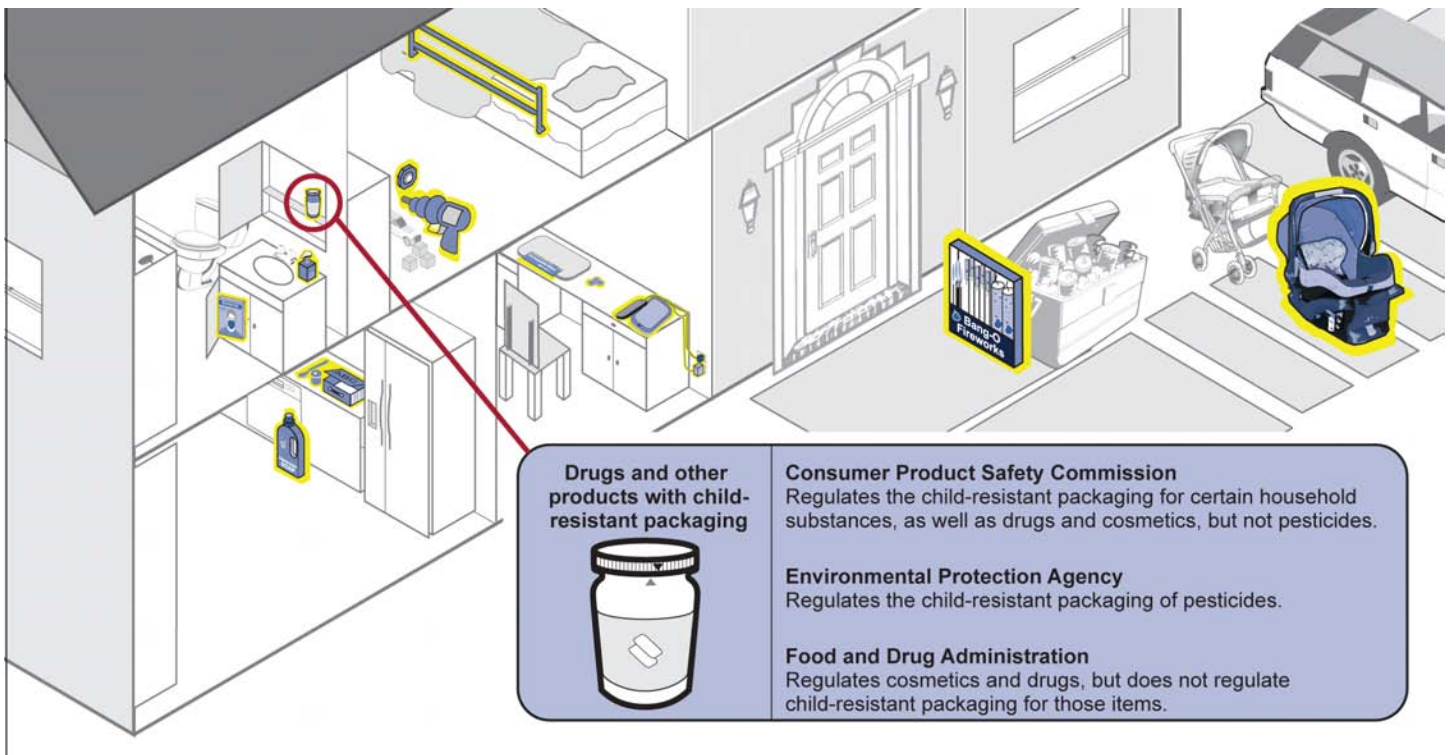
Source: GAO analysis of agency data. | GAO 15-52

Appendix IV: Full Text for Figure 2

Presentation of Examples of Consumer Products Regulated by More Than One Agency

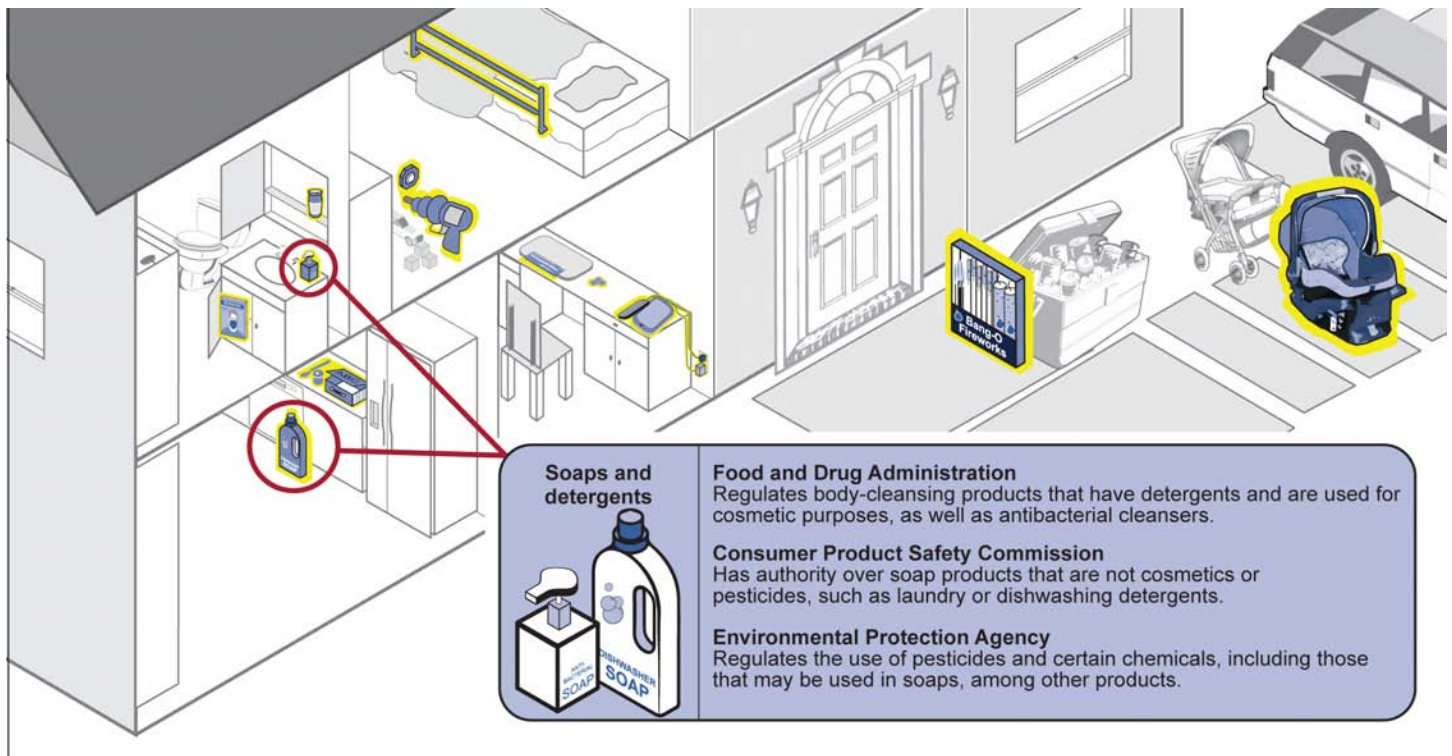
This appendix provides the full text for the examples of consumer products regulated by more than one agency that are depicted in figure 2

Figure 4: Drugs and Other Products with Child-Resistant Packaging



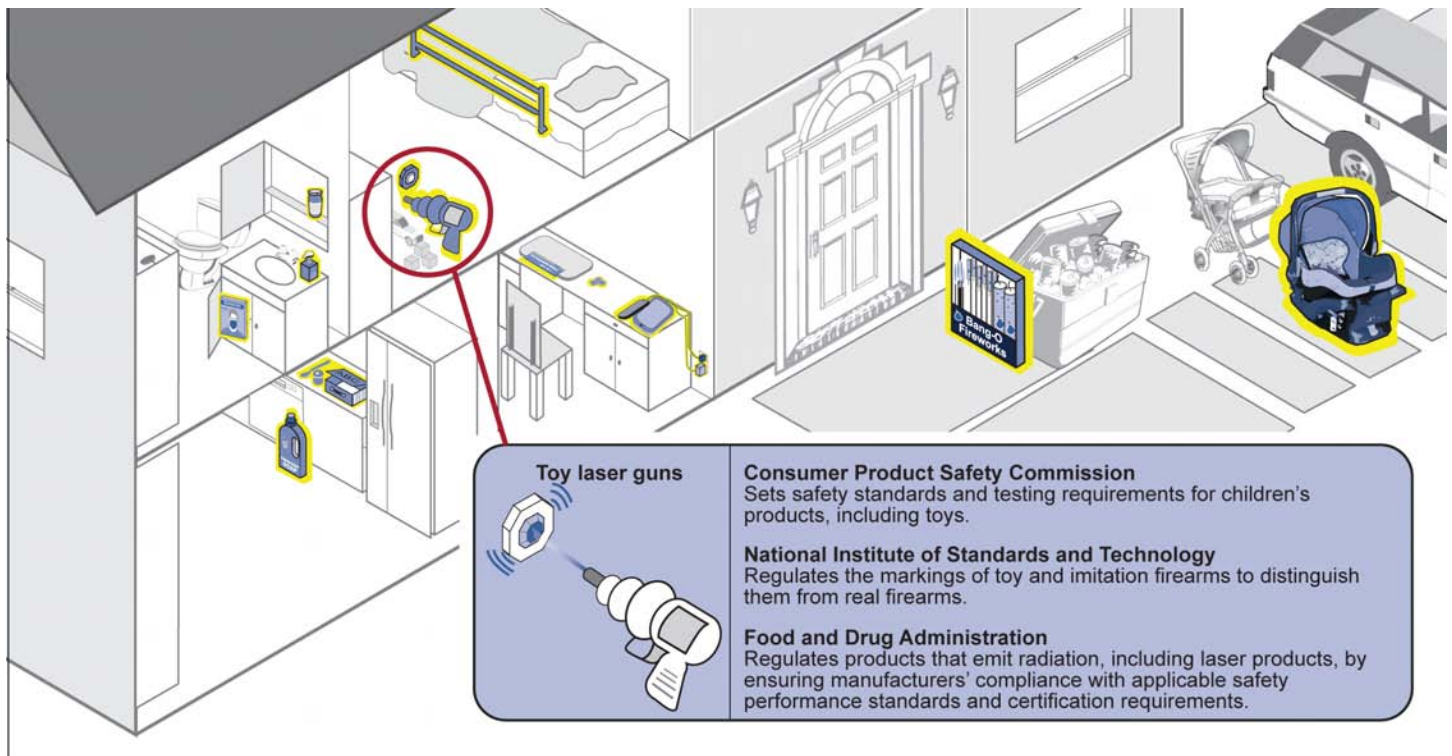
Source: GAO (analysis); Art Explosion (images). | GAO-15-52

Figure 5: Soaps and Detergents



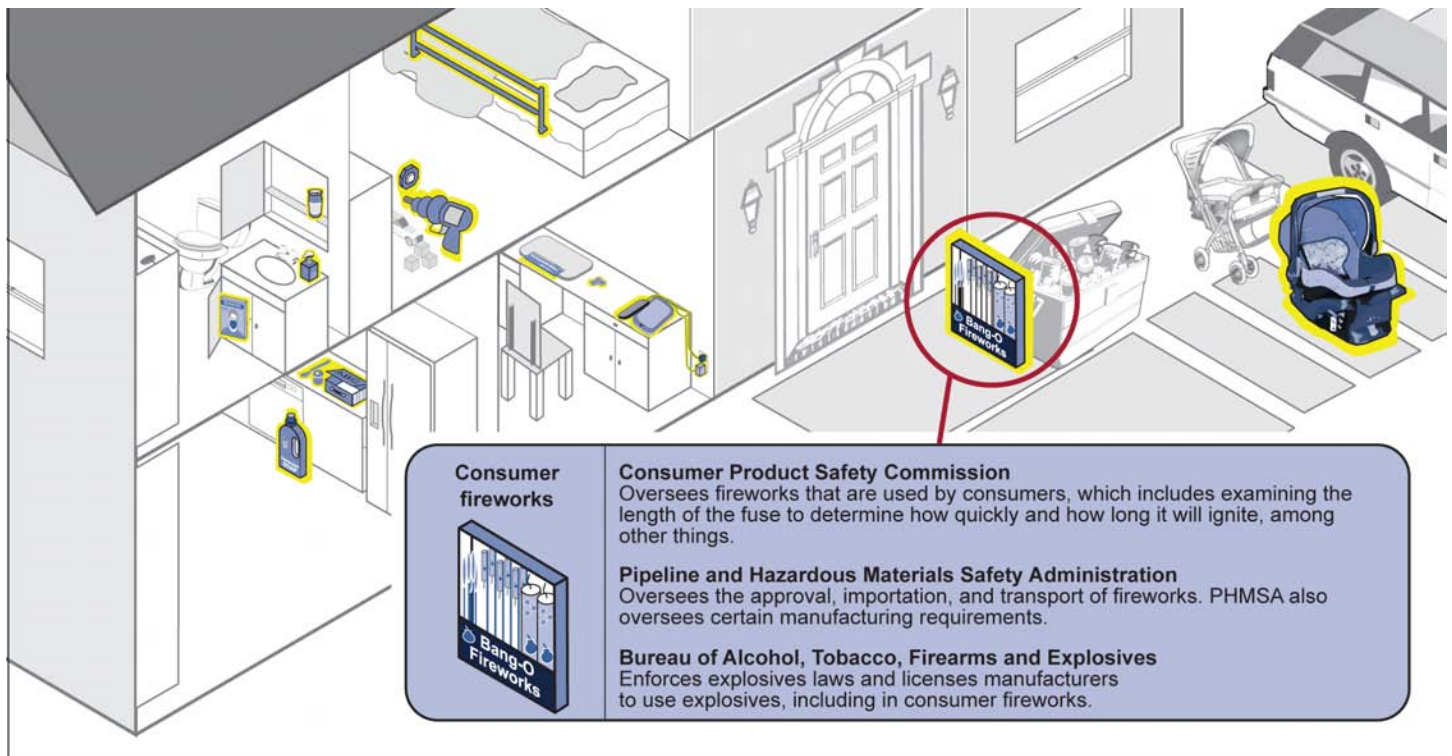
Source: GAO (analysis); Art Explosion (images). | GAO-15-52


Figure 6: Toy Laser Guns



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

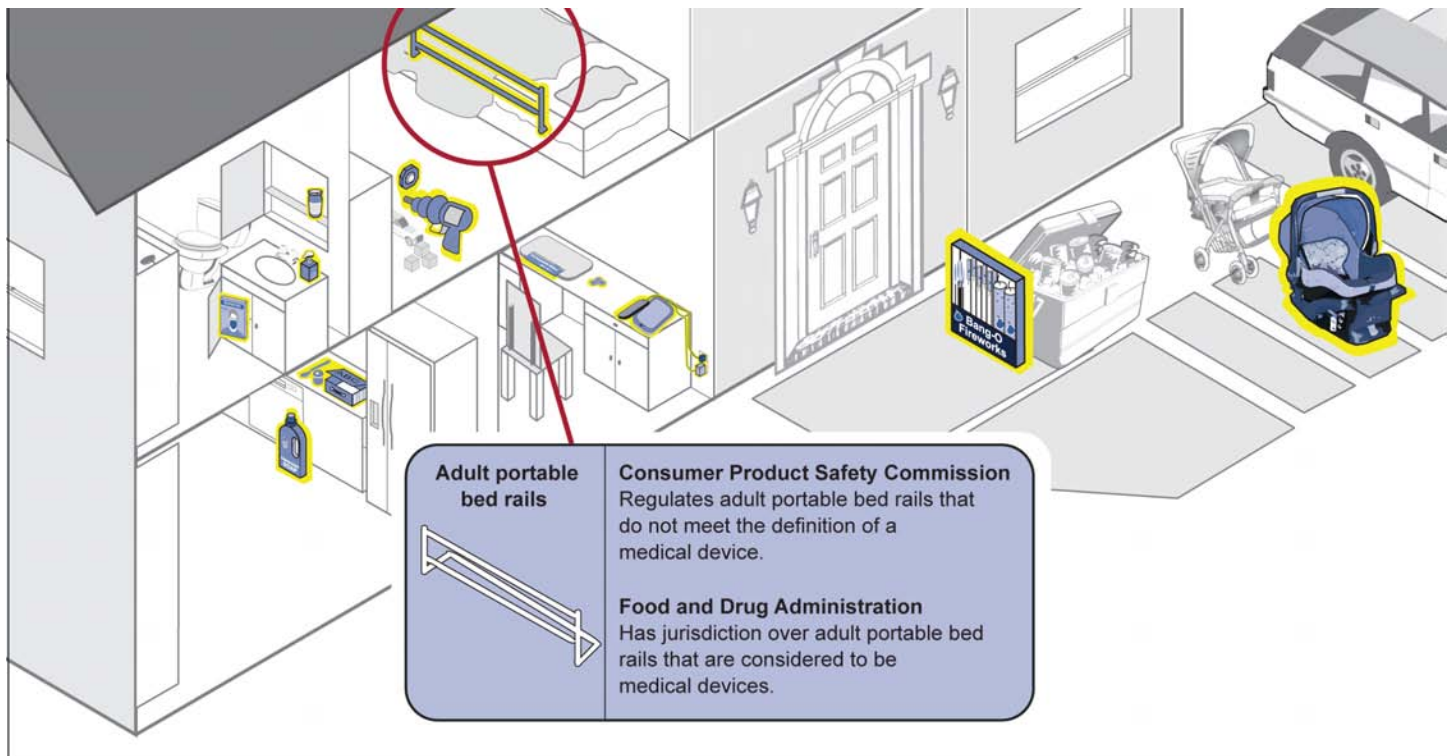
Figure 7: Consumer Fireworks



<p>Consumer fireworks</p> 	<p>Consumer Product Safety Commission Oversees fireworks that are used by consumers, which includes examining the length of the fuse to determine how quickly and how long it will ignite, among other things.</p> <p>Pipeline and Hazardous Materials Safety Administration Oversees the approval, importation, and transport of fireworks. PHMSA also oversees certain manufacturing requirements.</p> <p>Bureau of Alcohol, Tobacco, Firearms and Explosives Enforces explosives laws and licenses manufacturers to use explosives, including in consumer fireworks.</p>
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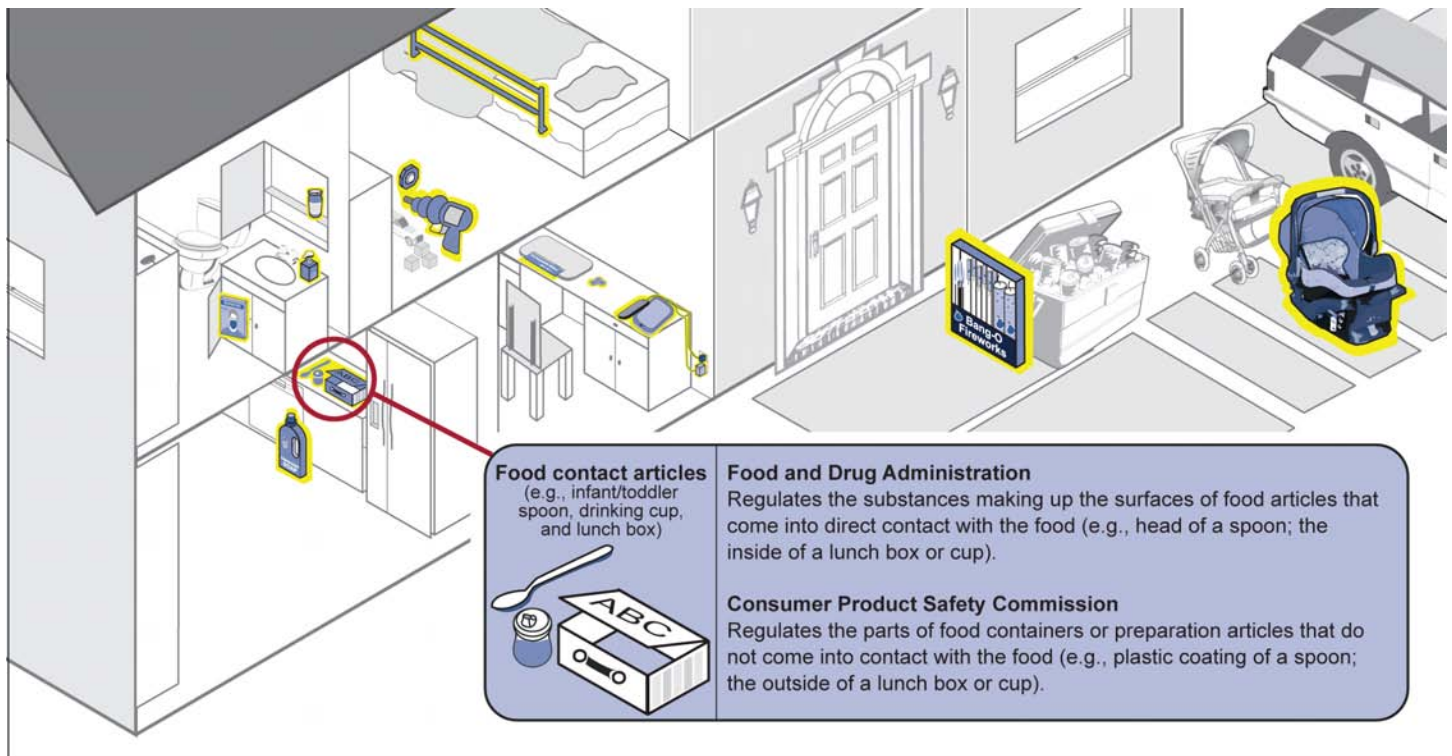
Source: GAO (analysis); Art Explosion (images). | GAO-15-52

Figure 9: Adult Portable Bed Rails



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

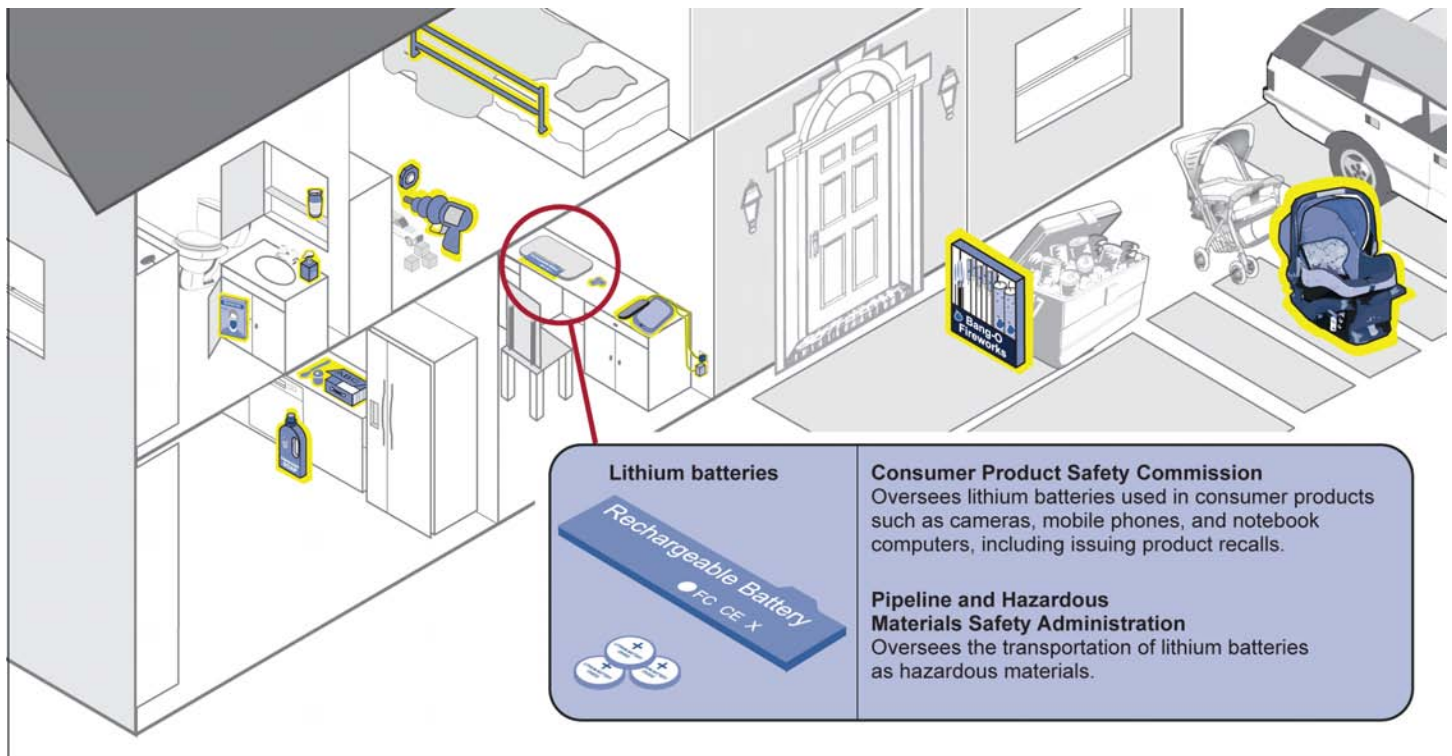
Figure 10: Food Contact Articles



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

Appendix IV: Full Text for Figure 2
Presentation of Examples of Consumer
Products Regulated by More Than One Agency

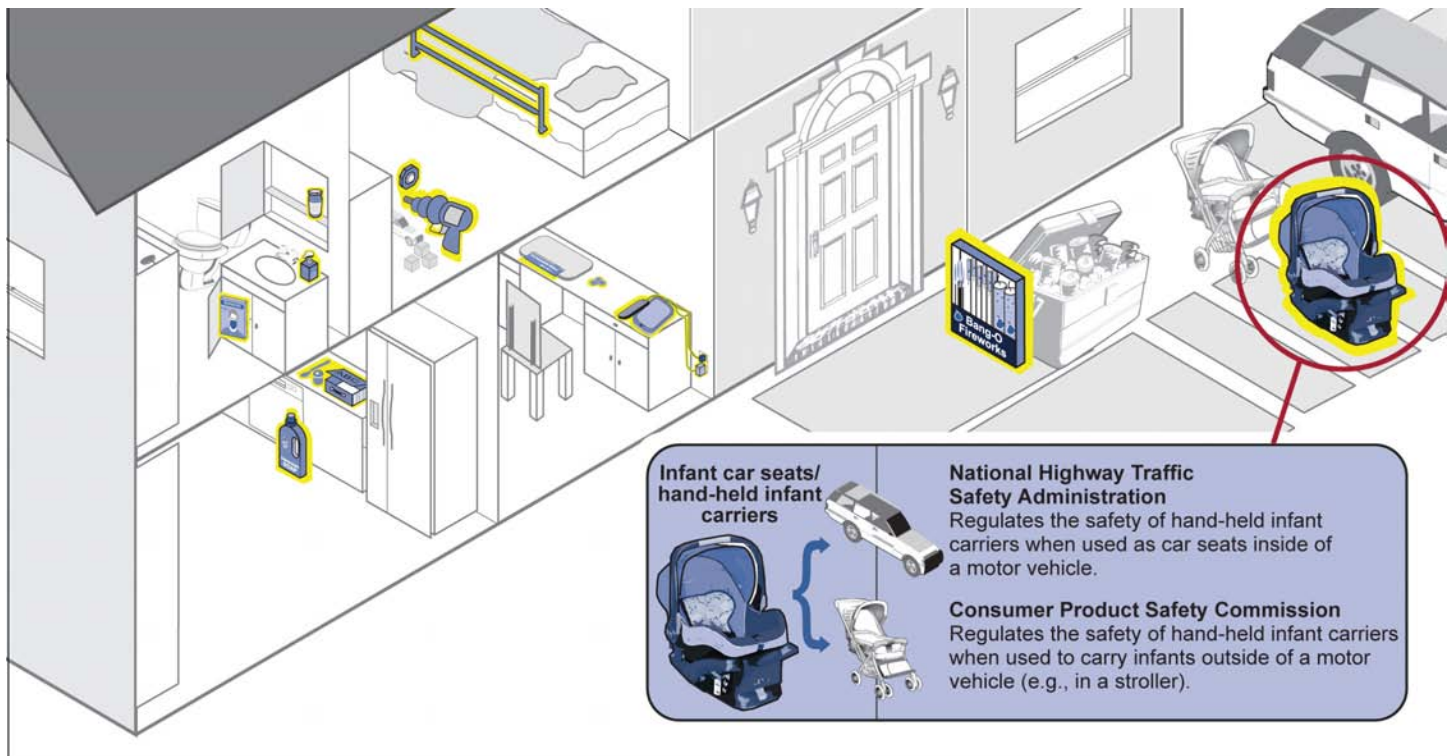
Figure 11: Lithium Batteries



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

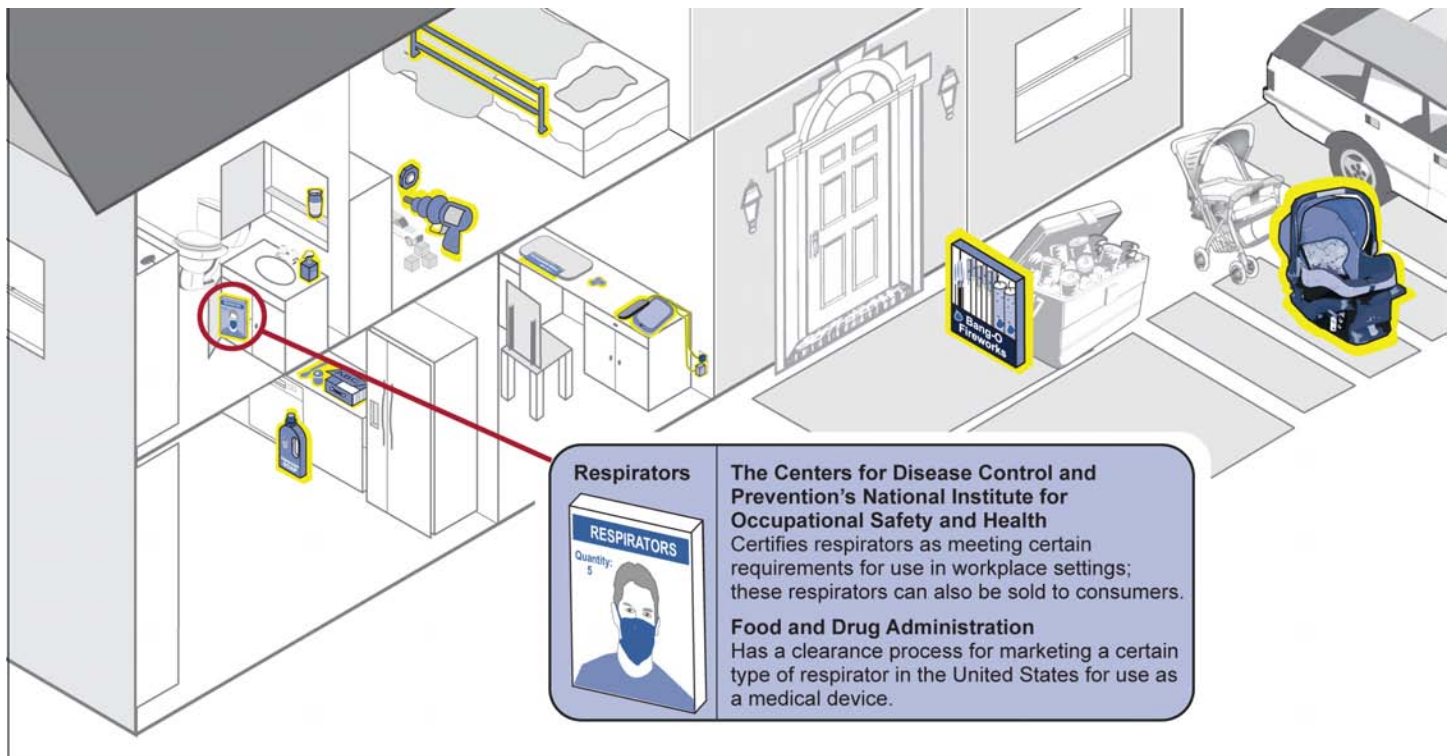
Appendix IV: Full Text for Figure 2
Presentation of Examples of Consumer
Products Regulated by More Than One Agency

Figure 12: Infant Car Seats/Hand-held Infant Carriers



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

Figure 13: Respirators



Source: GAO (analysis); Art Explosion (images). | GAO-15-52

Appendix V: Comments from the Consumer Product Safety Commission



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

October 23, 2014

Ms. Alicia Puente Cackley
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
411 G Street, NW
Washington, DC 20548

Dear Ms. Cackley:

The U.S. Consumer Product Safety Commission (CPSC) appreciates the opportunity to review and provide comments on the draft U.S. Government Accountability Office report "Consumer Product Safety Oversight: Opportunities Exist to Strengthen Coordination and Increase Efficiencies and Effectiveness." The Commission has the following comments on GAO's specific recommendations:

First, with respect to the recommendation regarding imitation firearms, we think it would be preferable to state the recommendation in terms of 15 U.S.C. § 5001, rather than in terms of "markings" generically. (The Commission already exercises jurisdiction relating to marking and labeling of toys, which would include many imitation firearms.) We would be willing to accept responsibility for administering 15 U.S.C. § 5001 provided that the transfer of authority from NIST includes a corresponding increase in appropriations.

Second, with respect to the recommendation regarding a formal collaboration mechanism to address oversight in areas of shared or fragmented jurisdiction, the Commission would be comfortable with such an approach provided that it does not compromise the agency's independence.


Third, we also support, and plan to pursue, the recommendation that the U.S. Coast Guard and CPSC establish a formal coordination mechanism.

Thank you again for providing us with the opportunity to comment on the draft report.

CPSC Hotline: 1-800-638-CPSC (2772) ★ CPSC's Web Site: <http://www.cpsc.gov>

Sincerely,


Elliot F. Kaye
Chairman


Robert S. Adler
Commissioner


Marietta S. Robinson
Commissioner


Ann Marie Buerkle
Commissioner


Joseph P. Mohorovic
Commissioner

Appendix VI: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

October 23, 2014

Alicia Puente Cackley
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: GAO Draft Report GAO-15-52: "CONSUMER PRODUCT SAFETY OVERSIGHT:
Opportunities Exist to Strengthen Coordination and Increase Efficiencies and
Effectiveness"

Dear Ms. Cackley:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

The Department appreciates GAO's inclusion of the U.S. Coast Guard (USCG) as part of this audit and recognition of its efforts related to regulating safety standards for recreational boats. The USCG is committed to ensuring the public has a safe, secure and enjoyable recreational boating experience by implementing programs that minimize the loss of life, personal injury, and property damage while cooperating with environmental and national security efforts.

The draft report contained one recommendation with which the Department concurs. Specifically, GAO recommended that the U.S. Coast Guard and Consumer Product Safety Commission:

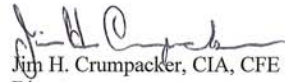
Recommendation: Establish a formal approach to coordination (such as a Memorandum of Understanding) to facilitate information sharing, and better leveraging of resources.

Response: Concur. The U.S. Coast Guard's Boating Safety Division, Recreational Boating Product Assurance Branch, will work with the Consumer Product Safety Commission to develop a formal Memorandum of Understanding to facilitate communication between agencies on oversight of items of associated equipment installed on recreational boats. Estimated Completion Date: April 30, 2015.

**Appendix VI: Comments from the Department
of Homeland Security**

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker, CIA, CFE
Director

Departmental GAO-OIG Liaison Office

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Alicia Puente Cackley, (202) 512-8678 or cackleya@gao.gov.

Staff Acknowledgments

In addition to the contact name above, Debra Johnson (Assistant Director), Janet Fong (Analyst-in-Charge), Meghana Acharya, JoAnna Berry, William Chatlos, David Dornisch, Catherine Hurley, Jill Lacey, Marc Molino, Patricia Moye, Jennifer Schwartz, and Srinidhi Vijaykumar made key contributions to this report. Other contributors include Timothy Bober, Christine Broderick, Benjamin Licht, Steven Putansu, and Michelle Sager.

Related GAO Products

Consumer Product Safety Commission: Challenges and Options for Responding to New and Emerging Risks. [GAO-15-17](#). Washington, D.C.: October 14, 2014.

2014 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits. [GAO-14-343SP](#). Washington, D.C.: April 8, 2014.

Nanomanufacturing: Emergence and Implications for U.S. Competitiveness, the Environment, and Human Health. [GAO-14-181SP](#). Washington, D.C.: January 31, 2014.

Information on Defective Drywall. [GAO-13-735R](#). Washington, D.C.: July 31, 2013.

2013 Annual Report: Actions Needed to Reduce Fragmentation, Overlap, and Duplication and Achieve Other Financial Benefits. [GAO-13-279SP](#). Washington, D.C.: April 9, 2013.

Consumer Product Safety Commission: Awareness, Use, and Usefulness of SaferProducts.gov. [GAO-13-306](#). Washington, D.C.: March 11, 2013.

Consumer Product Safety Commission: Agency Faces Challenges in Responding to New Product Risks. [GAO-13-150](#). Washington D.C.: December 20, 2012.

Managing For Results: Key Considerations for Implementing Interagency Collaborative Mechanisms. [GAO-12-1022](#). Washington, D.C.: September 27, 2012.

Consumer Product Safety Commission: A More Active Role in Voluntary Standards Development Should Be Considered. [GAO-12-582](#). Washington, D.C.: May 21, 2012.

2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue. [GAO-12-342SP](#). Washington, D.C.: February 28, 2012.

Managing For Results: GPRA Modernization Act Implementation Provides Important Opportunities to Address Government Challenges. [GAO-11-617T](#). Washington D.C.: May 10, 2011.

Federal Food Safety Oversight: Food Safety Working Group Is a Positive First Step but Governmentwide Planning Is Needed to Address Fragmentation. [GAO-11-289](#). Washington, D.C.: March 18, 2011.

Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue. [GAO-11-318SP](#). Washington, D.C.: March 1, 2011.

Consumer Safety: Better Information and Planning Would Strengthen CPSC's Oversight of Imported Products. [GAO-09-803](#). Washington, D.C.: August 14, 2009.

Results-Oriented Government: Practices That Can Help Enhance and Sustain Collaboration among Federal Agencies. [GAO-06-15](#). Washington, D.C.: October 21, 2005.

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