



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

August 21, 2006

Office of the Secretary  
United States Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

**Re: Petition HP 06-1, Petition Requesting Ban on Lead Toy Jewelry**

To whom it may concern:

Lead-poisoning is the most preventable environmental disease impacting young children. Illinois is particularly sensitive to this problem because it reports the highest number of lead-poisoned children in the nation, every year. According to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention ("CDC"), 310,000 preschool children in the United States have harmful levels of lead in their blood. While they are most commonly exposed to lead through lead-based paint in older homes, tainted food, candy, toys, water or other items can also be significant sources of lead exposure for children ages six and younger. Children can be lead-poisoned by a single lead exposure or cumulative small exposures over time.

With the federal goal of eliminating childhood lead-poisoning by 2010, it is imperative that the U.S. Consumer Product Safety Commission ("CPSC") take all action necessary to reduce childhood exposure to lead. One way is to prevent children from exposure to lead in children's products. Sierra Club's request for CPSC action under 5 U.S.C. § 553(e) makes good sense.<sup>1</sup>

First, CPSC should adopt regulations declaring that any toy jewelry containing more than 0.06% lead by weight for which there is a reasonably foreseeable possibility

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<sup>1</sup> On June 15, 2006, the Office of the Illinois Attorney General submitted comments to the Environmental Protection Agency ("EPA") regarding the Sierra Club's petition to the EPA.

that children could ingest be declared a banned hazardous substance pursuant to §§ 2(q)(1)(B) and 3 of the Federal Hazardous Substance Act, 15 U.S.C. 1261-1278. Adopting these regulations should be an interim step as CPSC works to determine if a lower lead concentration is more appropriate in children's products.

Second, CPSC should revise its December 22, 1998 Codification of Guidance Policy on Lead in Consumer Products ("Guidelines") to reflect CDC's most recent statement and study results regarding children's lead-poisoning. In 2005, CDC released a statement indicating that the 0.10% lead level on which CPSC's Guidelines were based was not intended to serve as a toxicologic threshold; it was intended to represent a level at which parents and communities should be alerted to danger and take action to prevent lead-poisoning. Furthermore, CDC's review of recent studies states that there were adverse health effects in children at BLLs <10µg/dL, indicating that 0.10% is not a safe threshold level for lead in children's products.

Finally, CPSC should convert its Guidelines into enforceable regulations. While the Guidelines are useful as a reference, they lack the force to change industry practice. If CPSC does not take preventative measures and enact federal regulations setting the maximum level of lead at 0.06% or lower, manufacturers and importers will continue to gamble on child safety by using hazardous amounts of lead in toy jewelry.

To this day, lead is used again and again in products for its most vulnerable victims – children.<sup>2</sup> Lead paint still coats everything from infant's romper snaps to Radio Flyer wagons, and lead has been found in crayons, sidewalk chalk, and vending machine jewelry at levels almost 550 times what is considered toxic in paint. To truly safeguard children against lead-poisoning, the 0.06% (or lower) standard should be applied to all children's products, not just toy jewelry. The Office of the Illinois Attorney General recommends that CPSC regulate children's exposure to lead in additional items including toys and clothing, because children can be lead-poisoned by anything to which they have access.

The need for federal regulation of lead levels in toy jewelry should not be underestimated. Just this year, the following manufacturers recalled almost two million units of toy jewelry for high lead contents: Art Accentz™ Changlz™ Metal Charms recalled 29,000 units of metal charms;<sup>3</sup> American Girl Inc. recalled 180,000 of children's jewelry;<sup>4</sup> Reebok International Ltd. recalled 300,000 units of heart-shaped charm bracelets;<sup>5</sup> Dollar Tree Stores Inc. recalled 580,000 mood necklaces and rings, glow-in-

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<sup>2</sup> KIDS IN DANGER, PLAYING WITH POISON: LEAD POISONING HAZARDS OF CHILDREN'S PRODUCT RECALLS, 1990-2004, *available at* [http://kidsindanger.org/04v1/publications/reports/2004\\_playingwithpoison.pdf](http://kidsindanger.org/04v1/publications/reports/2004_playingwithpoison.pdf).

<sup>3</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpsc/pub/prere/phtml06/06093.html>, Release #06-093.

<sup>4</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpsc/pub/prere/phtml06/06123.html>, Release #06-123.

<sup>5</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpsc/pub/prere/phtml06/06119.html>, Release #06-119.

the dark necklaces and rings, and UV necklaces and rings;<sup>6</sup> Oriental Trading Company recalled 25,000 units of beaded photo charm bracelets;<sup>7</sup> Selected Trading Corp. recalled 55,000 units of children's necklaces;<sup>8</sup> Liz Claiborne Inc. recalled 2,800 units of Juicy Couture children's jewelry;<sup>9</sup> and Twentieth Century Fox Home Entertainment recalled 730,000 units of metal charms enclosed with certain DVDs.<sup>10</sup>

Kids In Danger, a nonprofit organization dedicated to improving children's product safety, reported that between 1990 and 2004 over 152 million pieces of vending machine toy jewelry were recalled because of elemental lead.<sup>11</sup> Some of the toy jewelry contained 30% lead, a level that is over 550 times that which is considered to be toxic in paint and soil.<sup>12</sup> Moreover, of the products with known locations of manufacture between 1990 and 2004, only one was manufactured in the United States. Over 50% were manufactured in China.<sup>13</sup> With the increase in children's products coming from outside the U.S., it is imperative that regulations prohibit unsafe products *before* they enter the market.<sup>14</sup> In 2005, the two largest recalls were also for dangerous lead levels in toy jewelry.<sup>15</sup> Stravinia Operating Co. recalled 6 million units of children's necklaces and zipper pulls, and Hirschberg Schultz & Co. recalled 2.8 million metal picture frame charms sold at Michael's, Recollections and Hancock Fabrics stores.<sup>16</sup> In both 2004 and 2005, lead levels in the children's products with the highest number of recalls were not discovered until children became ill from lead-poisoning.<sup>17</sup> This year, the serious risk the products posed to children was demonstrated by the death of a child from Minneapolis, Minnesota who swallowed a piece of a trinket with high lead content.

The Office of the Illinois Attorney General works actively to reduce childhood lead-poisoning, in part because Chicago and Illinois have the most lead-poisoning cases in the nation. Given that the Illinois Department of Public Health estimates that more than 81,000 children are being harmed by lead, we view lead-poisoning prevention as imperative. Some efforts in which the Office of the Attorney General has engaged include participating in a state-wide embargo of imported Mexican candy with dangerous

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<sup>6</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpscpub/prerel/prhtml06/061118.html>, Release #06-118.

<sup>7</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06538.html>, Alert #06-538.

<sup>8</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06150.html>, Release #06-150.

<sup>9</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06160.html>, Release #06-160.

<sup>10</sup> U.S. Consumer Product Safety Commission, *available at* <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06156.html>, Release #06-156.

<sup>11</sup> KIDS IN DANGER, PLAYING WITH POISON, *supra* note 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, see 4-5 and 7-8 (tables for children's products recalled since 1990 for lead paint hazards and elemental lead hazards, respectively).

<sup>15</sup> KIDS IN DANGER, DANGERS AT PLAY: CHILDREN'S PRODUCT RECALLS IN 2005, *available at* [http://kidsindanger.org/04v1/publications/reports/2006\\_Dangers.pdf](http://kidsindanger.org/04v1/publications/reports/2006_Dangers.pdf).

<sup>16</sup> *Id.*

<sup>17</sup> KIDS IN DANGER, HAZARDS OF CHILD'S PLAY: CHILDREN'S PRODUCT RECALLS IN 2004, *available at* [http://kidsindanger.org/04v1/publications/reports/2005\\_ChildsPlay.pdf](http://kidsindanger.org/04v1/publications/reports/2005_ChildsPlay.pdf).

levels of lead and issuing consumer alerts on recalled children's products containing lead. In 2003, our office joined forty-nine other Attorneys General in an agreement with paint manufacturers aimed at educating and warning consumers about the risk of lead paint exposure during repainting and renovation work. Currently, we are working to ensure that lunch bags do not contain excess levels of lead, and to strengthen Illinois' own Lead Poisoning Prevention Act ("LPPA").

The Illinois Legislature and Governor also recognize the seriousness of childhood lead-poisoning. Most recently, the Legislature passed HB 4853<sup>18</sup> which amended the LPPA, and on June 20, 2006, Governor Rod Blagojevich signed HB 4853 into law as PA 94-0879.<sup>19</sup> PA 94-0879 defines a lead bearing substance as any item containing or coated with more than 600 PPM lead (0.06%). It also broadens the definition of products banned in Illinois based on their lead content (above 0.06%) and use by children to include clothing, accessories, jewelry, decorative objects, edible or chewable items, candy, food and dietary substances. Additionally, PA 94-0879 requires manufacturers to clearly mark with warning labels, products containing excess levels of lead (above 0.06%) that are intended for use by the general public. Our office was proud to support this important legislation.

The Office of the Illinois Attorney General has enforcement authority under the LPPA, which we use to the best of our ability to track down lead-containing products. Ultimately, however, the only way to fully protect our children is to ensure that those products never enter the market in the first instance, through federal action that applies to all children's products. No matter how large our resource outlay to enforce the LPPA, there are some lead-containing products that will fall through the enforcement cracks and potentially harm children. What is more, such enforcement – necessitated by the failure thus far of federal agencies to prohibit the manufacture of lead-containing children's products – puts a severe strain on the resources of our office and other responsible state agencies, as we are compelled to spend our limited time and budgets chasing down lead-containing products that should never have been placed on the market in the first place. These efforts drain resources away from our efforts to address lead poisoning through other avenues, most notably enforcement of laws governing lead paint. Clearly, the more resource-efficient approach to protecting our children from lead is a front-end prohibition from the federal government rather than after-the-fact state investigations.

Sierra Club's requests of preventative measures and enforcement will make toy jewelry lead-safe for children. There is simply no functional benefit, besides purported cost savings, to manufacturing children's products with lead as opposed to alternative materials. No child's developmental potential should be jeopardized for playing with a toy or wearing an article of clothing.

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<sup>18</sup> Available on-line at <http://www.ilga.gov/legislation/94/HB/PDF/09400HB4853lv.pdf>.

<sup>19</sup> Available on-line at <http://ilga.gov/legislation/publicacts/94/PDF/094-0879.pdf>.

On behalf of the citizens of Illinois, I thank you for your consideration. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Madigan". The signature is fluid and cursive, with the first name "Lisa" written in a more compact, stylized script and the last name "Madigan" in a more legible, though still cursive, script.

Lisa Madigan, Illinois Attorney General

Sent via facsimile