



THE CITY OF NEW YORK

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Michael R. Bloomberg
Mayor

Thomas R. Frieden, M.D., M.P.H.
Commissioner

nyc.gov/health

August 18, 2006

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

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

Dear Sir or Madam:

The New York City Department of Health and Mental Hygiene (NYC DOHMH) is writing to comment on Petition HP 06-1, submitted by the Sierra Club to the Consumer Product Safety Commission (CPSC), requesting that CPSC issue regulations to ban lead in all toy jewelry. The NYC DOHMH strongly supports this request.

Childhood Lead Poisoning in NYC

Childhood lead poisoning is a serious but preventable public health problem. Over the last 35 years, New York City (NYC) has made significant progress in reducing childhood lead poisoning. Both the number of lead poisoning cases and the severity of cases in children have steadily declined. This success is largely attributable to government regulations introduced over the past four decades. These regulations prohibit the use of lead in gasoline, paint and other consumer products; and require the remediation of lead paint hazards in older housing. Government policies also promote the early identification of children with elevated blood lead levels (BLLs) through blood lead testing.

NYC has itself played an active role in efforts to prevent lead poisoning. The sale of paint containing lead for residential use was banned in 1960 and NYC law now requires the proactive repair of lead paint hazards in multi-unit residential buildings constructed before 1960 to protect children from exposure to lead before they are poisoned. When a child is identified with blood lead level greater than or equal to 15 micrograms per deciliter ($\geq 15 \mu\text{g/dL}$), the NYC DOHMH conducts an in-home risk assessment to identify both lead paint and non-paint sources of lead exposure and requires abatement of any lead paint hazards identified.

Despite the progress in NYC and the nation in reducing incidence and severity of childhood lead poisoning, it remains a serious public health problem. In 2004, 3,234 NYC children less than 6 years of age were newly identified with BLLs of 10 $\mu\text{g/dL}$ or greater.

While lead paint and lead dust remain the primary sources of lead poisoning in NYC children, lead exposure from non-paint sources is a growing area of concern. In addition to lead paint hazards, children may also be exposed to lead in jewelry and other children's products; imported foods, spices, cosmetics, and health remedies contaminated with lead; and lead-glazed pottery used in food preparation.

Evidence Supporting the Sierra Club Petition

A Clear Threat to Children's Health

In February 2006, a child in Minnesota died of lead poisoning after swallowing a jewelry charm containing lead; the charm was later found to be nearly 100% lead.¹ In July 2003, a 4 year-old boy in Oregon was hospitalized with a blood lead level of 123 µg/dL after swallowing a medallion purchased from a vending machine; when the medallion was analyzed it was found to be nearly 40% lead.² These cases demonstrate the need for strong federal action to protect children from acute as well as chronic exposure to lead in jewelry.

A Nationwide Problem

Since September 2003, CPSC has issued at least 12 recalls of jewelry containing lead. The approximately 160 million pieces of jewelry involved in these recalls ranged from vending machine jewelry that was sold for less than \$1.00 to a Juicy Couture brand necklace retailing for \$95.³ Jewelry involved in the recalls had been sold by major, nationwide retailers such as Wal-Mart, Walgreen's, Michael's Arts and Crafts Stores and the American Girl Stores, a division of Mattel, Inc.

In 2005, researchers at the University of North Carolina published the results of their analysis of the lead content of 285 pieces of costume jewelry sold in California by major retailers. Of the 311 samples taken (including duplicates for some items), 40% contained more than 50% lead. Thirty-six samples (12% of the total) contained more than 75% lead.⁴ A market survey by Health Canada in the year 2000 of jewelry that cost less than \$20.00 found that 69% of the 95 samples collected had a lead content of 50 to 100 percent.⁵ The results of these surveys raise concern about the extent of the problem and the potential for additional poisoning in young children.

¹ Centers for Disease Control and Prevention, "Death of A Child After Ingestion of a Metallic Charm – Minnesota, 2006." *Morbidity and Mortality Weekly Reports*, March 23, 2006

² Centers for Disease Control and Prevention, "Brief Report: Lead Poisoning from Ingestion of a Toy Necklace – Oregon, 2003". *Morbidity and Mortality Weekly Report* June 18, 2004

³ Consumer Product Safety Commission "Juicy Couture Children's Jewelry Recalled for Lead Poisoning Hazard" May 10, 2006

⁴ Maas RP, Patch SC, Pandolfo PJ, Druhan JL, and Gandy NF "Lead Content and Exposure from Children's and Adult's Jewelry Products." *Bull. Environ. Contam. Toxicol.* (2005) 74; 437-444. Another 8% of the samples contained 10-50% lead, and 7% contained 3-10% lead. The remaining 46% contained less than 3% lead – suggesting that it is feasible for manufacturers to substantially lower lead content. (Total equals more than 100% due to rounding.)

⁵ "Health Canada Warns of Lead Danger from Children's Jewelry" *Canadian Medical Association Journal* January 8, 2001; "Health Canada Details Rules for Lead in Kids Jewelry" CTV.ca June 1, 2005

While DOHMH supports the growing efforts by states and cities to enact legislation to address the problem of children's jewelry that contains lead, it is clear that federal action would be most appropriate because the problem is nationwide and because much of the lead-containing jewelry is manufactured abroad.

The Failure of Voluntary Guidance

In 1998, CPSC issued voluntary guidance to manufacturers recommending that they "eliminate the use of lead that may be accessible to children from products used in or around households, schools or in recreation." The guidance document also advised manufacturers, importers, distributors, and retailers to ensure that products containing a hazardous amount of lead do not reach the market by having a sample of the products tested prior to distribution.⁶ In 2005, CPSC issued additional voluntary guidance focused solely on children's jewelry. This document sought to clarify the amount of lead CPSC would consider hazardous. It also outlined the protocols that would be used by CPSC in testing products suspected of containing excessive lead.⁷

It is clear this voluntary guidance has failed to deter manufacturers from producing children's jewelry that contains lead. The evidence of this failure includes the 12 jewelry recalls issued by CPSC over the last 3 years; 8 of those recalls occurred after the release of the 2005 CPSC guidance document, cited above, that deals specifically with toy jewelry. Just last week, on August 14, 2006, the Baltimore Department of Health released a report on tests it conducted on 17 samples of children's jewelry. Four of the items contained more than 600 parts per million (ppm) of lead. Of these, one contained more than 68,000 ppm of lead; another, more than 3,500 ppm.⁸

Recommendations

The 1998 guidance document issued by CPSC -- if converted into regulations -- could provide an effective framework to protect children from exposure to lead in jewelry. The document makes it clear that manufacturers are responsible for addressing the problem at the point of production but it also holds importers, distributors and retailers responsible for assuring that the jewelry they sell is lead-safe or lead-free before it reaches the marketplace. CPSC regulations also should:

- Apply to plastic as well as metal jewelry since polyvinyl chloride (PVC) often contains lead.

⁶ Consumer Product Safety Commission "Codification of Guidance Policy on Lead in Consumer Products" 16 CFR Part 1500 .

⁷ Consumer Product Safety Commission "Interim Enforcement Policy for Children's Metal Jewelry Containing Lead" February 3, 2005

⁸ Baltimore City Health Department "Lead Contamination Found in More Children's Jewelry" Press Release, August 14, 2006

- Set a limit on lead content that is no higher than 600 ppm; the level should be lower if that is necessary to protect children who swallow or mouth the jewelry from acute as well as chronic exposure.⁹
- Define children's jewelry to include costume jewelry that is likely to be accessible to young children even if it is marketed to teenagers or adults.
- Be designed not only to promote compliance with mandatory limits on the lead content of children's jewelry but also to spur manufacturers to produce jewelry for both adults and children that is completely lead-free.

When CPSC identifies manufacturers, distributors or retailers who have knowingly sold children's jewelry containing lead, the agency should seek the maximum penalties provided in the Federal Hazardous Substances Act.

We urge CPSC to move as quickly as possible to address this serious problem.

Yours truly,

Deborah Nagin

Deborah Nagin, Director
Lead Poisoning Prevention Program
NYC Department of Health and Mental Hygiene

⁹ In determining the maximum lead content for children's jewelry, CPSC should not treat a BLL of 10µg/dL as a safe level of exposure as it has done in both the 1998 and 2005 guidance documents. After reviewing the latest scientific research, CDC has concluded that the data demonstrate that there is "no 'safe' threshold for blood lead levels in young children." Centers for Disease Control and Prevention, "Preventing Lead Poisoning in Children" August 2005