



August 4, 2007

Mattel, Inc.  
Attn: General Counsel  
333 Continental Boulevard  
El Segundo, CA 90245-5012

CT Corporation System  
Registered Agent for Mattel  
818 West Seventh St.  
Los Angeles, CA 90017

SENT CERTIFIED MAIL RETURN RECEIPT REQUESTED

Re: Notice of Intent to Sue for Failure to Submit  
TSCA Section 8(e) Notice to EPA in Timely Manner

To Whom It May Concern:

The Sierra Club provides you with this notice of intent to sue your company for its failure to notify Administrator Johnson of the U.S. Environmental Protection Agency (EPA) of your company's importation or distribution of products that contain substances known to create a substantial risk of injury to human health or the environment. Your company is required to take this action pursuant to Section 8(e) of the Toxic Substances Control Act (TSCA) (15 USC 2607(e)). Sierra Club submits this notice pursuant Section 20 of TSCA (15 USC 2619) and 40 CFR Part 702 Subpart C. It is prepared to file the lawsuit after 60 days if your firm does not document that it has fully complied with its responsibilities under TSCA.

Lead poisoning can have devastating effects on a child. In 2006, a child died after eating a lead-loaded charm on a pair of shoes. Effects from lead poisoning can also be subtle and include lower IQ, learning disorders and violent behavior. The federal government set a goal of eliminating lead poisoning by the year 2010 but remains far behind that goal.

Your company was the subject of voluntary recalls by the Consumer Product Safety Commission (CPSC) as described below.

- About 967,000 Sesame Street, Dora the Explorer and other children's toys on August 2, 2007
- About 180,000 American Girl Children's Jewelry items on March 16, 2007

CPSC took the action because it determined that the recalled product was a banned hazardous substance as defined by Section 2 of the Federal Hazardous Substance Act (FHSA) (15 USC 1261) because of dangerous levels of lead. Since your company requested the voluntary recall, your company had the documentation and studies that formed the basis of the CPSC's determination.

In its September 2006 TSCA Section 8(e) Guidance,<sup>1</sup> EPA specifically addresses the issue of lead and consumer products as follows:

Q.25. Are studies or reports showing absorption from manufactured products or articles of a chemical known to be capable of causing serious health effects potentially reportable under TSCA section 8(e)? For example, are studies or reports showing absorption of lead following oral or dermal exposure to a particular type of article for which it was not previously known that such absorption could occur potentially reportable under TSCA 8(e)?

A.25. Yes - The discovery of previously unknown and significant human exposure to a chemical, when combined with knowledge that the subject chemical is recognized or suspected as being capable of causing serious adverse health effects (e.g., cancer, birth defects, neurotoxicity), provides a sufficient basis to require the reporting of the newfound exposure data to EPA under section 8(e).

Q.26. Is the discovery of a hazardous or toxic constituent in a product reportable under TSCA section 8(e)?

A.26. Reporting of the presence of a hazardous or toxic constituent that was previously unknown to be contained in a product, including manufactured articles, should occur under TSCA section 8(e) where data shows that widespread or significant exposure to the toxic component has occurred or is substantially likely to occur, and such exposure presents a substantial risk of injury to health or the environment. Persons subject to TSCA 8(e) reporting should consider the toxicity of the constituent, the constituent's concentration in the product, and whether significant exposure to the toxic component has occurred or is likely to occur at any stage in the product's lifecycle from production through disposal. In cases of extremely toxic chemical substances in products in commerce, exposure may generally be presumed.

Sierra Club believes that your company's product presented a substantial risk of injury to the health of children in light of the dangers that prompted CPSC to act and due to the product's widespread distribution in commerce. Because your company requested the voluntary recall, it had knowledge of the danger posed by the product to children. And since it manufactured, imported, processed, or distributed this product in commerce, it was required to immediately inform the Administrator of the U.S. EPA as soon as it obtained information reasonably showing that the products presented a substantial risk of injury to health or the environment. (15 USC 2607(e)).

Based on Sierra Club's discussions with U.S. EPA and its search of EPA's on-line TSCA Section 8(e) database at [www.epa.gov/oppt/tsca8e/pubs/8eandfyisubmissions.htm](http://www.epa.gov/oppt/tsca8e/pubs/8eandfyisubmissions.htm), Sierra Club believes that your

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<sup>1</sup> U.S. EPA, "September 2006 Frequent Questions," available at [www.epa.gov/oppt/tsca8e/pubs/frequentlyaskedquestionsfaqs.htm#health2](http://www.epa.gov/oppt/tsca8e/pubs/frequentlyaskedquestionsfaqs.htm#health2).

company did not immediately notify U.S. EPA when it learned of the lead contamination in the product, and, in fact, it have never notified the agency consistent with TSCA section 8(e).

Your company's obligation to notify EPA is only excused if your company had actual knowledge that EPA had been adequately informed of the risk posed by your company's products. Notifying CPSC does not relieve your company of its responsibilities to notify EPA. CPSC's press release is not sufficient to notify EPA. Sierra Club believes it is imperative that EPA be notified of the danger because EPA has clear authority under TSCA to investigate the situation, work to identify the breakdowns that resulted in the creation of the substantial risk, and take action to prevent such situations from recurring.

Sierra Club also believes that the manner of the recall resulted in only a small portion of the recalled products being removed from children's rooms. The products present an ongoing substantial risk of injury.

Please contact me at 317-442-3973 or [neltner@ikecoalition.org](mailto:neltner@ikecoalition.org) if you wish to discuss Sierra Club's concerns.

Sincerely,



Thomas G. Neltner, JD, CHMM  
Attorney for Sierra Club  
1701 Tilton Dr.  
Silver Spring, MD 20902  
[neltner@ikecoalition.org](mailto:neltner@ikecoalition.org)

cc:

Stephen Johnson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW.  
Washington, DC 20460

Alberto Gonzales, Attorney General of the United States  
U.S. Department of Justice  
10th and Constitution Avenue, NW.  
Washington, DC 20530

Sierra Club  
Attn: Aaron Isherwood  
85 Second Street, Second Floor  
San Francisco, CA 94105-3441

# NEWS from CPSC

## U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

August 2, 2007

Release #07-257

**Firm's Recall Hotline: (800) 916-4498**

CPSC Recall Hotline: (800) 638-2772

CPSC Media Contact: (301) 504-7908

### Fisher-Price Recalls Licensed Character Toys Due To Lead Poisoning Hazard

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission, in cooperation with the firms named below, today announced a voluntary recall of the following consumer product. Consumers should stop using recalled products immediately unless otherwise instructed.

**Name of Product:** Sesame Street, Dora the Explorer, and other children's toys

**Units:** About 967,000

**Importer:** Fisher-Price Inc., of East Aurora, N.Y.

**Hazard:**

Surface paints on the toys could contain excessive levels of lead. Lead is toxic if ingested by young children and can cause adverse health effects.

**Incidents/Injuries:** None reported.

**Description:**

The recalled involves various figures and toys that were manufactured between April 19, 2007 and July 6, 2007 and were sold alone or as part of sets. The model names and product numbers for the recalled toys, which are all marked with "Fisher-Price," are listed below. The toys may have a date code between 109-7LF and 187-7LF marked on the product or packaging.

**Sold at:** Retail stores nationwide from May 2007 through August 2007 for between \$5 and \$40.

**Manufactured in:** China

**Remedy:**

Consumers should immediately take the recalled toys away from children and contact Fisher-Price. Consumers will need to return the product and will receive a voucher for a replacement toy of the consumer's choice (up to the value of the returned product).

**Consumer Contact:**

For additional information contact Fisher-Price at (800) 916-4498 anytime or visit the firm's Web site at [www.service.mattel.com](http://www.service.mattel.com)

**Product List:**

33662 Elmo Light Up Musical Pal  
33664 Big Bird Light Up Musical Pal  
39038 Elmo Tub Sub

33663 Ernie Light Up Musical Pal  
34658 Elmo Stacking Rings  
39054 Sesame Street Shape Sorter

87946 Elmo Keyboard	90267 Ernie Splashin' Fun Trike
90609 Elmo Collectible	90611 Cookie Collectible
90612 Zoe Collectible	90613 Ernie Collectible
90614 Big Bird Collectible	90745 Construction Playset
93068 Elmo Boom Box	93107 Action Fire Engine
93307 Press N Go Elmo	93308 Rev & Go Cookie Monster
93492 Cookie Saxophone	93493 Elmo's Guitar
93615 Splash Tub Puzzle	93780 Music And Lights Phone
B7554 Count To Beat Elmo	B7888 Shake, Giggle & Roll
B7987 Elmo In The Giggle Box	B7989 Silly Parts Talking Elmo
B9620 Dora's Talking House	
C6908 Dora, Backpack, Perrito Figure Pack	
C6909 Diego Figure Pack	C6910 Swiper Figure Pack
C6911 Boots, Tico Figure Pack	G3825 Dora Talking Vamonos Van
G5112 Sing With Elmo's Greatest Hits	G9717 Giggle Doodler
H2943 Grow With Me Elmo Sprinkler	H3343 Cousin Daisy
H3344 Birthday Dora	H5569 Elmo & Pals (Elmo, Cookie, Ernie)
H5570 Elmo & Pals (Elmo, Zoe, Bigbird)	H4187 Dora Figures In Tube
H4628 Water Fun Tote	H8236 Dora 3 Pack Figures In Tube
H8237 Blue 3 Pack Figures In Tube	H8238 Sponge Bob 3 Pack Figures In Tube
H9124 Chef Dora	H9125 Bedtime Dora
H9186 Giggle Grabber Ernie	H9188 Giggle Grabber Oscar The Grouch
J0338 Diego Talking Field Journal	J0343 Go Diego Go Antarctic Rescue
J0344 Go Diego Go Deep Sea Rescue	J0345 Go Diego Go Mountain Rescue
J0346 Go Diego Go Talking Rescue 4 X 4	J5935 Giggle Grabber Soccer Elmo
J5936 Giggle Grabber Chef Cookie Monster	
J6537 Sesame Street Giggle Toolbelt	J6762 Queen Mami
J6763 Royal Boots And Tico	J6765 Prince Diego
J7983 Sesame Street Tub Pots & Pans	J9518 Sesame Street Giggle Drill
J9692 Dora's Talking Pony Place	K0617 Twins Nursery
K3414 Diego - Talking Gadget Belt	K3571 Go Diego Go Mobile Rescue Unit
K3580 Fairytale Adventure Dora	K4139 Go Diego Go Dinosaur Rescue
K4140 Toucan Motorcycle Rescue	L0305 Dora Figure
L3194 Surprise Inside Diego Eggs	L3215 Sesame Street Elmo
L3488 Sesame Street Birthday Figure Pack	Jack-In-The-Box
L3507 Sesame Street - Super Boom Box	
L5202 Birthday Dora	L5813 Diego Tub Trike
L8905 Pablo & Pals	M0351 Dora Figures Dora & Kitty
M0352 Dora Figures Diego & Bear	M0524 Go Diego Go Talking Gadget
M0527 Sesame Street Giggle Doodler	M0732 Dora's Talking House
M2051 Lets Go Rescue Center	M2052 Fairytale Castle



**Above are three examples of the recalled products.**

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The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Deaths, injuries and property damage from consumer product incidents cost the nation more than \$700 billion annually. The CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard or can injure children. The CPSC's work to ensure the safety of consumer products - such as toys, cribs, power tools, cigarette lighters, and household chemicals - contributed significantly to the 30 percent decline in the rate of deaths and injuries associated with consumer products over the past 30 years.

To report a dangerous product or a product-related injury, call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270, or visit CPSC's web site at [www.cpsc.gov/talk.html](http://www.cpsc.gov/talk.html). To join a CPSC email subscription list, please go to [www.cpsc.gov/cpsclist.aspx](http://www.cpsc.gov/cpsclist.aspx). Consumers can obtain this release and recall information at CPSC's Web site at [www.cpsc.gov](http://www.cpsc.gov).

# NEWS from CPSC

## U.S. Consumer Product Safety Commission

Office of Information and Public Affairs

Washington, DC 20207

FOR IMMEDIATE RELEASE

March 30, 2006

Release #06-123

**Firm's Recall Hotline: (800) 659-0164**

CPSC Recall Hotline: (800) 638-2772

CPSC Media Contact: (301) 504-7908

### Children's Jewelry Sold at American Girl Stores Recalled for Lead Poisoning Hazard

WASHINGTON, D.C. - The U.S. Consumer Product Safety Commission, in cooperation with the firm named below, today announced a voluntary recall of the following consumer product. Consumers should stop using recalled products immediately unless otherwise instructed.

**Name of Product:** American Girl Children's Jewelry

**Units:** About 180,000

**Manufacturer:** American Girl Inc., of Middleton, Wis., a division of Mattel Inc., of El Segundo, Calif.

**Hazard:**

The recalled jewelry contains high levels of lead. Lead is toxic if ingested by young children and can cause adverse health effects.

**Incidents/Injuries:** None reported.

**Description:**

The recall includes American Girl necklaces, bracelets, earrings and hair accessories for girls. The recall does not include jewelry for American Girl dolls. The jewelry's packaging features a red and white cardboard backing with "American Girl" and "Made in China" written on the front.

**Sold at:**

Only American Girl Place in Chicago and New York, and the American Girl Outlet in Oshkosh, Wis., from May 1999 through February 2006 for between \$8 and \$12. American Girl jewelry sold through its catalogue or Web site is not included in the recall.

**Remedy:**

Consumers should immediately take recalled jewelry away from children and return the items for a full refund (including applicable tax and return postage costs) to:

**American Girl Jewelry Recall  
P.O. Box 620974  
Middleton, WI 53562-0974**

**Consumer Contact:**

For additional information, contact American Girl at (800) 659-0164 between 7 a.m. and 10 p.m. CT, seven days a week, or visit American Girl's Web site at [www.americangirl.com/recall](http://www.americangirl.com/recall)



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To report a dangerous product or a product-related injury, call CPSC's hotline at (800) 638-2772 or CPSC's teletypewriter at (800) 638-8270, or visit CPSC's web site at [www.cpsc.gov/talk.html](http://www.cpsc.gov/talk.html). To join a CPSC email subscription list, please go to [www.cpsc.gov/cpsclist.asp](http://www.cpsc.gov/cpsclist.asp). Consumers can obtain this release and recall information at CPSC's Web site at [www.cpsc.gov](http://www.cpsc.gov).