Trouble in Toyland

The 22nd Annual Survey of Toy Safety

TexPIRG Education Fund ▪ November 2007

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Acknowledgements

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Executive Summary

For several years, we have reported that toys are safer than ever before, thanks to decades of work by product safety advocates and parents and the leadership of Congress, state legislatures and the Consumer Product Safety Commission (CPSC). Yet, as many have noted, 2007 has been described as the "year of the recall." Millions of toys, including famous playthings like Thomas the Tank Engine and Barbie, have been recalled in 2007. Many of these toys have been from leading manufacturers like Mattel, and most were imported from China. Most of the recalls have been for hazards previously identified in this report—excessive levels of toxic lead, dangerous small magnets, and choking dangers.

These troubling events have reminded Americans that no government agency tests toys before they are put on the shelves. These events provide a warning that as parents and other toygivers venture into crowded malls this holiday season, they should remain vigilant about often hidden hazards posed by toys on store shelves.

The dramatic wave of toy, food and other consumer product recalls has spurred intense attention from policymakers to the problems of consumer safety generally and the limits of the long-neglected Consumer Product Safety Commission specifically. The CPSC is the nation's smallest safety agency, yet it is responsible for 15,000 different products—from chain saws to escalators and from kitchen appliances to toys. Its current actual budget ($63 million) is less than half of what its 1974 startup budget ($34 million) would be today if merely corrected for inflation ($140 million). It has only one toy tester at its decrepit Maryland laboratory; worse, only 15 of 400 total staff (down from a 1980 peak of 978) are on duty full-time as port inspectors. That problem is exasperated because since the tragedies of September 11, customs inspectors and others that had buttressed this tiny force have been re-tasked.

In addition to expanding the agency's budget, policymakers are planning to give the CPSC more tools to hold corporate wrongdoers accountable and speed recalls, to ban toxic lead except in trace amounts and to greatly improve import surveillance.

The holes in the product safety net can, and must be, repaired to restore the confidence of parents and other toygivers that the gifts that they purchase will bring pleasure, not worry.

The 2007 ***Trouble in Toyland*** report is the 22nd annual Public Interest Research Group (PIRG) survey of toy safety. This report provides safety guidelines for parents when purchasing toys for small children and provides examples of toys currently on store shelves that may pose potential safety hazards. We visited numerous toy stores and other retailers to find potentially dangerous toys and identify trends in toy safety. This year, we focused on four categories of toys: toys that may pose choking hazards, magnetic toys, toys that are excessively loud, and toys that contain lead and other potentially toxic chemicals.

In the next section, we identify our key findings.

Findings:

- Choking Hazards -

Choking on small parts, small balls and balloons remains a leading cause of toy-related deaths and injuries. Between 1990 and 2005, at least 166 children died after choking or asphyxiating on a toy or toy part; nine children died in 2005 alone. The law bans small parts in toys for children under three and requires a warning label on toys with small parts for children between the ages of three and six.

Although most toys on store shelves are safe, we still found some toys that may pose choking hazards. Specifically:

• We found toys for children under three with small parts and toys with small parts for children under six without the required choke hazard warning label. Balloons, which cause the most choking deaths, are still marketed inappropriately for young children.

• Some toys may pose a choking or suffocation hazard even if they meet the letter of the law. Last year, two small children suffocated when oversized, plastic toy nails sold with a play tool bench became forcefully lodged in their throats.

We recommend making the test for small parts more protective of children under three. CPSC also should consider, at minimum, special labeling for toys shaped like corks or the toy nails, which pose special suffocation risks because of their shape.

- Magnetic Toys -

Over the last two years, one child died and many others were gravely injured after swallowing tiny but powerful magnets now commonly used in magnetic building toys, other toys and magnetic jewelry. If a child swallows more than one of these magnets, the magnets can attract to each other and cause intestinal perforation or blockage. CPSC should adopt and enforce strong mandatory guidelines for labeling magnetic toys to ensure parents know to seek immediate medical attention if a child swallows magnets.

- Loud Toys -

Almost 15 percent of children ages 6 to 17 show signs of hearing loss. In November 2003, the American Society for Testing and Materials adopted a voluntary acoustics standard for toys, setting the loudness threshold for most toys at 90 decibels. We found that several toys currently on store shelves may not meet the standards for appropriately loud toys; in fact, several toys we tested exceed 100 decibels when measured at close range.

CPSC should enforce the acoustics standards for loud toys and consider strengthening them to be more protective of children's hearing.

- Lead in Toys -

Some toys can pose hidden hazards, exposing children to lead, a dangerous and bio-accumulative linked to lowered IQ, other serious health problems or even death in children exposed to this heavy metal. We found:

• Some children's toys and jewelry may contain high levels of lead In one case, we found a piece of jewelry that contained 65% lead by weight. We also found toys that exceeded lead paint standards by 50-500%.

CPSC has recalled more than 150 million pieces of lead-laden children's jewelry since 2004. In 2007, millions of plastic and wooden toys were also recalled for excessive levels of lead paint. Lead has no business in children's products, whether on paint or coatings or in metal toys, jewelry or other children's products (vinyl bibs, lunchboxes, etc). Under current CPSC regulations, lead paint is banned at levels greater than 600 parts per million (ppm). When lead is otherwise found in jewelry or toys or children's products, however, can only be determined to be a "banned hazardous substance" subject to recall if the lead is at high enough levels is also found to be "accessible." Regulations should simply ban lead except at trace amounts (90-100 ppm), whether in paint, coatings or any toys, jewelry or other products for use by children under 12 years old.

- Toxic Chemicals in Toys -

• Manufacturers are selling play cosmetic sets that include nail polish containing toxic chemicals, such as toluene and xylene. Since children often put their hands in their mouths, nail polish offers a direct route of exposure. CPSC should team up with the Food and Drug Administration to require manufacturers to stop using toxic chemicals in cosmetics marketed for children.

• This year, we found two toys with phthalate levels that, while less than 1% by weight, contain levels of phthalates that exceed limits allowed by a new California law scheduled to take effect in 2009.[1]

CPSC should ban phthalates in toys and other products intended for children under five and work with the Federal Trade Commission to ensure that toys labeled "phthalate-free" do not contain phthalates.

- Recommendations for Consumers -

Be vigilant this holiday season, and remember:

• The CPSC does not test all toys, and not all toys on store shelves meet CPSC standards.

• Our report includes only a sample of potentially hazardous toys. Examine toys carefully for potential dangers before you make a purchase.

• Report unsafe toys or toy-related injuries to the CPSC.

Introduction

Toys should entertain and educate children; however, poorly designed and constructed toys can cause injury and even death. According to data from the Consumer Product Safety Commission (CPSC), at least 20 children, none older than 13 years old, died in 2005 from toy-related injuries. Nine of the children died from choking or asphyxiating on a toy or toy part; another died after swallowing several magnets, which caused a fatal intestinal blockage. Approximately 202,300 people sought treatment in hospital emergency rooms in 2005 for toy-related injuries; at least 72,800 (36 percent) of those injured were younger than five years old. Riding toys, such as non-powered scooters, accounted for more injuries than any other category of toy—29 percent.[2]

Since 1986, we have conducted toy safety research and education projects to avoid such tragic and preventable deaths and injuries. Our toy safety reports over the last 21 years have led to at least 120 corrective actions or recalls by the CPSC and manufacturers.[a]

Much of our advocacy has focused on the leading cause of toy deaths: choking. Despite federal regulations designed to reduce toy-related choking deaths, at least 166 children choked to death on children's products between 1990 and 2005, a rate of about 10 deaths a year, accounting for more than half of all toy-related deaths. See Attachment B for more data on toy-related deaths.

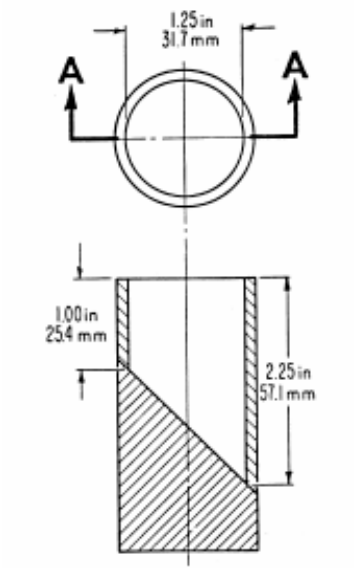
Choking Hazards

CPSC BANS SMALL PARTS FOR CHILDREN UNDER AGE 3

In 1979, CPSC banned the sale of toys containing small parts if they are intended for use by children under the age of three, regardless of age labeling. A small part is defined as anything that fits inside a choke test cylinder, which has an interior diameter of 1.25 inches and a slanted bottom with a depth ranging from 1 to 2.25 inches (Figure A). This cylinder is designed to approximate the size of a fully expanded throat of a child under three years old. If the toy or any part of the toy – including any parts that separate during "use and abuse" testing – fits inside the test tube, the product is a choking hazard and is banned for children under the age of three.

CPSC uses three factors to determine whether a toy is intended for children under three years old, including the manufacturer's stated intent, such as the age labeling; the advertising and marketing of the product; and whether the toy is "commonly recognized" as being intended for a child under three years old.[3] Some items commonly recognized for children under three include (but are not limited to) squeeze toys; teethers; toys or articles that are affixed to a crib, stroller, playpen, or baby carriage; pull and push toys; bathtub, wading pool and sand toys; and stuffed animals.[4]

Figure A. Choke Test Cylinder



Some toys and products are exempt from this small parts regulation because they cannot be manufactured in a way that would prevent them from breaking into small parts when subject to use and abuse testing. These items

[a] Over the last few years, CPSC has not responded to our numerous Freedom of Information Act (FOIA) requests for information about recalls and enforcement actions taken as a result of our *Trouble in Toyland* report. This is an example of the need to reduce the agency's secrecy requirements and give the public a right to know (after all, these are toys that the CPSC has already acted on, not potential or unconfirmed hazards). As of 2002, CPSC had informed us of 105 PIRG-initiated recalls and enforcement actions. We estimate that the last four reports resulted in at least 15 additional CPSC enforcement actions, including two recalls.

include (but are not limited to) balloons, articles made of paper, writing materials such as crayons and chalk, modeling clay, and finger paints, watercolors and other paint sets. Children's clothing and accessories such as shoe lace holders, diaper pins, and barrettes also are exempt because they need to be small to perform their intended purpose.[5]

Pieces of paper, fabric, yarn, fuzz, elastic, and string that fit in the choke test cylinder also are exempt, as they are unlikely to pose a choking hazard.[6]

Characteristics of Toys for Children Under Three

The following are some general characteristics that make toys appealing to children under three.

Size and Weight: Small and lightweight, easy to handle.

Theme: Represents a common object found around the home, farm, or neighborhood.

Degree of Realism: Silly or cute, some realistic details.

Colors: Bright, contrasting colors covering large areas of the toy.

Noisemaking: Not loud or frightening.

Action and Movement: May be silly, should be easy for child to cause movement.

Type and level of skill: Lets child begin to learn skills or practice skills such as walking, stacking, and sorting; should be slightly beyond child's capabilities to maintain interest.

Source: Consumer Product Safety Commission

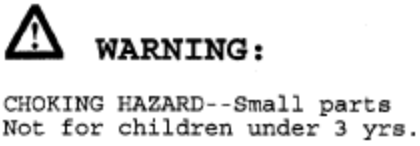
LABELS FOR TOYS WITH SMALL PARTS FOR CHILDREN OVER AGE 3

CPSC's new regulations, however, were not entirely effective; some manufacturers attempted to circumvent the small parts ban by labeling products intended for children under three for "ages three and up." This allowed parents to misinterpret these labels as recommendations, rather than warnings, and to purchase such toys anyway for children under three. The 1979 regulation also exempted a significant choking hazard, balloons, from any sort of warnings or regulations; it also became apparent that small balls that passed the small parts test could still pose a choking hazard, as they could completely block a child's airway.

Throughout the 1980s, consumer groups lobbied Congress and CPSC to increase the size of the small parts test and to require an explicit choke hazard warning on toys intended for older children, if the toys contained banned small parts. A 1992 campaign led by ConnPIRG and other child safety advocates resulted in a tough choke hazard warning label law that took effect in Connecticut on January 1, 1993. The Connecticut law laid the foundation for a federal standard, and in 1994, Congress passed the Child Safety Protection Act of 1994 (CSPA). President Clinton signed the CSPA into law on June 16, 1994.

- SMALL PARTS -

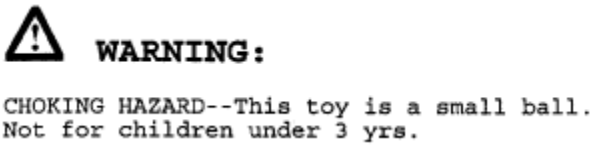
The 1994 CSPA requires that toys with small parts intended for children between the ages of three and six years old include the following explicit choke hazard warning:[7]



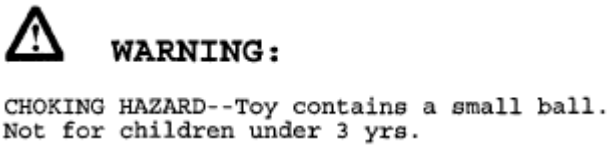
- SMALL BALLS -

The 1994 CSPA also strengthened the test for small balls from 1.25 inches in diameter to 1.75 inches. Balls with a diameter smaller than 1.75 inches are banned for children under three years old.[8] The law defines a ball as "any spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced."[9] According to this definition, toys that are spherical or have spherical parts but are not intended for use as a ball do not have to meet this test.

Round objects are more likely to choke children because they can completely block a child's airway. Any small ball intended for children over the age of three must include the following warning:[10]

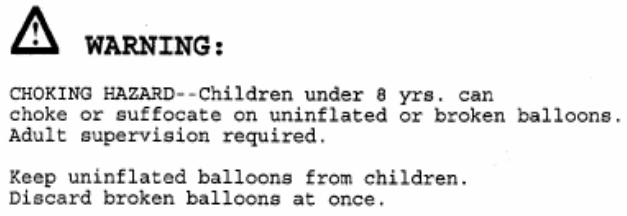


Any toy or game containing a small ball and intended for children between ages three and eight must include the following warning:



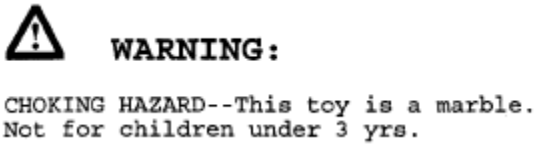
- BALLOONS -

Balloons pose a grave choking hazard to children, causing more choking deaths than any other children's product. Almost half (43 percent) of the choking fatalities reported to the CPSC between 1990 and 2004 involved balloons. The 1994 law requires the following choke hazard warning on all balloons:[11]

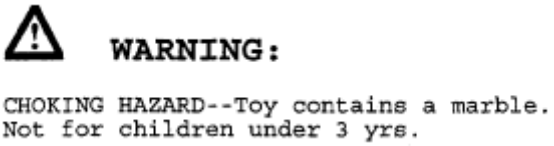


- MARBLES -

Any marble intended for children three years of age or older must bear the following cautionary statement on its packaging:[12]



Any toy or game containing a marble and intended for children between ages three and eight must include the following warning:



- BINS AND VENDING MACHINES -

Finally, the CSPA requires choke hazard labels on bins and vending machines. If toys or small balls requiring labels are sold in vending machines or unpackaged in bins, these vending machines and bins must display the statutory warnings.[13]

Findings: Choking Hazards

PIRG researchers surveying toy stores in the fall of 2007 identified the following trends:

- MOST TOYS ARE SAFE AND PROPERLY LABELED -

Overall, manufacturers and toy retailers are doing a good job of marketing and labeling small balls, balloons, small toys and toys with small parts, ensuring either that the bin in which the toy is sold or the toy packaging is labeled with the required choke hazard warning.

- SOME TOYS MAY NOT MEET CSPC REQUIREMENTS -

The law bans small parts in toys for children under three and requires a warning label on toys with small parts for children between the ages of three and six. PIRG researchers, however, still found toys for children under three with small parts and toys with small parts for children under six without the statutory choke hazard warning. See Attachment A for a list of toys that may not meet the CPSC standards for choking hazards.

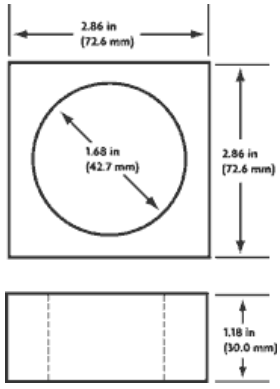
- NEAR-SMALL PARTS MAY POSE CHOKING HAZARDS -

In September 2006, CPSC and Playskool voluntarily recalled about 255,000 Team Talkin' Tool Bench toys following the deaths of two young children. A 19-month-old West Virginia boy and a 2-year-old Texas boy suffocated when oversized, plastic toy nails sold with the tool bench toys became forcefully lodged in their throats.[14]

The toy was labeled for children three and older but did not include a choke hazard warning; the toy nails in question, measuring three inches in height, passed the small parts test. This tragic incident is a reminder that some toys may pose a choking or suffocation hazard even if they pass the small parts test.

In particular, toys shaped like corks or with spherical, hemispherical, or circular flared ends and attached to a shaft, like the toy nails that caused the two suffocation deaths, could pose particular hazards, even if they pass the small parts test. To "address a potential impaction hazard," the Standard Consumer Safety Specification for Toy Safety lays out requirements for toys with spherical ends that are intended for children under 18 months.[15] Under these specifications, toys of this design weighing less than 1.1 pounds, and intended for children up to 18 months of age, should not be capable of entering and penetrating past the full depth of the cavity of the supplemental test fixture, also used for some rattles and teethers (Figure B). A similar standard for toys intended for children over 18 months does not exist.

Figure B. Supplemental Test Fixture for Rattles, Squeeze Toys, and Teethers



- BALLOONS ARE MARKETED TO YOUNG CHILDREN -

The 1994 CSPA requires that all balloons include a choke hazard warning alerting

parents to the dangers of balloons and broken balloons for children under eight. Some balloons, however, are marketed for children under eight. For example, we found balloons marketed specifically for toddlers (e.g., "Baby's First Birthday") and balloons depicting characters appealing to younger children (e.g., "Curious George" or "Bob the Builder"). Manufacturers and retailers should stop producing and selling balloons aimed at children under eight years old.

See Attachment A for some examples of these inappropriately marketed balloons.

- MANY TOYS ARE OVER-LABELED -

Some manufacturers are over-labeling their toys, placing choke hazard warnings on toys without small parts or small balls. This over-labeling dilutes the weight of the warning. In the words of Celestine T. Kiss, an engineering psychologist with the CPSC, speaking to a group of toy manufacturers:

"It is...important that products not be over labeled. By that we mean, toys that do not need to have a label shouldn't have a label. I know that may sound logical, but we see toys coming in that have the small parts label on it, when there aren't any small parts. This creates a problem for the consumer, because then they don't know when to believe the label or not. Some companies think they are protecting themselves from lawsuits by just slapping the label on all of their toys, but they really are not helping the consumer."[16]

- MATTEL IS USING A NON-STATUTORY AND VAGUE WARNING -

Mattel, a large toy manufacturer, now includes a non-statutory and vague warning on some of its toys, saying "Small parts may be generated." Mattel often uses this warning on toys intended for children between the ages of three and six when the toys do not otherwise have the statutory choke hazard warning. For example, the packaging of many Mattel Hot Wheels products, age labeled for 3+ or 4+, includes the "Small parts may be generated" warning on the back but not the statutory choke hazard warning. Mattel also uses this vague label on many Fisher Price toys intended for children over the age of three but without small parts that would require a choke hazard warning. If a toy contains small parts or can easily break into small parts that pose a choking hazard, the company should use the statutory warning. Toys without small parts should not include this confusing label.

- RECOMMENDATIONS -

We call on CPSC to:

• Enlarge the small parts test tube to be more protective of children under three.

• Consider extending the standard for toys with spherical ends to apply to toys intended for children under six years old instead of under 18 months. At minimum, consider special labeling for toys shaped like the toy nails that caused two children to suffocate.

• Change the small-ball rule to include small round or semi-round objects, not just "balls" in the strictest definition.

• Discourage manufacturers from over-labeling their products with choke hazard warnings, as this could reduce the effectiveness of labels on products that genuinely pose a choking hazard.

• Demand that Mattel stop using the confusing and vague "Small parts may be generated" warning on its toys.

Magnetic Toys

Small but powerful magnets used in magnetic building toys and magnetic jewelry have come under increased scrutiny after CPSC received reports of several serious injuries and one death due to swallowing magnets.

Dangers of Powerful Magnets

Many magnetic toys on the market today use neodymium iron boron (NIB) magnets, which have increased in popularity with toy manufacturers as they have become available at lower cost from Chinese exporters. NIB magnets are most common in magnetic building sets, such as those manufactured under the brand names Magnetix and GeoMag, and magnetic jewelry, especially earrings and bracelets. Increasingly, the magnets are appearing in other types of toys, such as the Mattel/Fisher Price Polly Pockets and Barbie toys recalled for magnet hazards this year. The NIB magnets used in these toys are often the size of unpopped popcorn kernels, but slightly larger NIB magnets are so strong they can severely pinch fingers and other body parts and damage items ranging from credit cards to computers to pacemakers.

Dr. Marsha Kay of the Cleveland Clinic has stated: "Magnets are not like nickels and quarters, which simply pass through the digestive system. Magnets are much more serious. They should be treated like batteries or other foreign objects when they are swallowed."[17] If swallowed, one magnet may pass through the digestive system without incident. If two or more magnets are swallowed, however, they can attract each other in the body. If one magnet is in the stomach and another is in the small intestine, for example, they can cling together and quickly work their way through tissue, perforating the wall or creating a hole. Two or more magnets attracted to each other in the intestine also can create a bowel obstruction or perforation.[18]

As early as 2004, Dr. Alan E. Oestreich of Cincinnati Children's Hospital's Department of Radiology warned of the dangers of multiple magnet ingestion. In the journal *Radiology*, he wrote that "any time more than one magnet passes beyond the pylorus of a child (or, for that matter, an adult), an emergency danger of necrosis and perforation exists, and urgent surgical consideration is required. When two magnets lie in adjacent bowel loops, they may attract each other across the walls, leading to necrosis and eventually perforation and peritonitis."[19] He also warned radiologists suspecting magnet ingestion to avoid using MRIs to diagnose, since the magnetic imaging could tear the magnets through tissue if they are present.

MEGA BRANDS' MAGNETIX TOYS

In March 2006, CPSC and Rose Art Industries (a subsidiary of MEGA Brands) announced a "replacement program" for almost four million Magnetix magnetic building sets. In the release announcing the replacement program, CPSC stated that tiny magnets inside the plastic building pieces and rods can fall out. At the time of the announcement, CPSC was aware of 34

incidents involving small magnets, including one death and three intestinal perforations.[20]

In August 2005, a four year old named William Finley of California swallowed three magnets from a Magnetix toy. After he began experiencing extreme stomach pain, doctors found the powerful magnets he had swallowed had torn a hole in his intestine, causing bacteria to flow into his abdomen. In November 2005, a 21-month old boy named Kenneth Sweet Jr. died of blood poisoning and tissue necrosis; an autopsy showed that two separate sets of magnets had pinched parts of his small intestine.[21]

CPSC and Rose Art did not recall Magnetix toys on store shelves. Instead, Rose Art told consumers who are "uncomfortable having the product in your home" to return the sets to the company for a free replacement product suitable for children under the age of six.[22] As of September 30, 2006, MEGA Brands had received approximately 13,000 requests for replacements.[23] This means that most of the four million Magnetix toys sold before March 31, 2006 have not been returned and could remain in homes across the United States.

To address the design flaw that allowed the small magnets to fall out, the company reinforced the magnets with resin and instituted a quality control process at its manufacturing facilities, according to a company spokesman.[24]

MEGA Brands also modified the toy's packaging. The company now recommends the toys for children six or older, so standard Magnetix toys are no longer recommended for three year-olds. In addition, the company started adding a new warning to Magnetix packaging that states: "CAUTION: Do not ingest or inhale magnets. Attraction of magnets in the body may cause serious injury and require immediate medical care." Because the company did not issue a recall of the faulty toys already in stores, however, older stock may remain on shelves; as of early November, we were able to find Magnetix toys on store shelves without the design modification or new magnet warning.

In October 2006, the company settled a lawsuit with the families of 15 victims for $13.5 million. Terms of the settlement, which include no admission of liability, are confidential.[25]

In April 2007, the CPSC announced an expansion to the previous recall, due to reports of at least 27 intestinal injuries, including in children as old as 11 years. We are unaware whether CPSC has investigated whether the design modifications solved the problem.

____MAGNETS IN JEWELRY-

In a 2002 article, four physicians from Sheffield Children's Hospital (Sheffield, UK) discussed a rash of cases they had seen where children used magnetic jewelry to imitate pierced ears, noses, tongues and even penises. Some children they saw swallowed the magnets while attempting to use them, resulting in one near fatal surgical complication. Among the cases they saw:[26]

• A 10 year old boy presented with one magnet in each nostril, the magnetic force causing them to adhere tightly to the nasal septum. The magnetic attraction was so strong that even after only a few hours, an

area of pressure necrosis (tissue death) had started developing around each magnet.

• After swallowing a number of small magnets over a period of time while imitating tongue piercing, a nine year old girl complaining of abdominal pain, vomiting, and diarrhea was found to have five perforations in the small bowel and one in the cecum. She stayed in intensive care for one week and an additional week in the general ward.

MAGNETS IN OTHER TOYS

As noted above, increasingly, the small magnets are appearing in other types of toys, such as the Mattel/Fisher Price Polly Pockets and Barbie toys – these are variously play dollhouses, dolls with accessories and action toys – that have been recalled for magnet hazards this year.

STANDARDS FOR MAGNETS IN TOYS

The CPSC has an ongoing investigation into magnetic toys and the dangers of NIB magnets in children's toys. In addition, a working group of ASTM International (formerly known as the American Society for Testing and Materials) has issued a voluntary standard for labeling toys containing powerful magnets. At a September 2006 meeting, the working group, comprised mainly of representatives of toy manufacturers, agreed to a draft label for certain magnetic toys, which took effect in 2007[27]. If the magnets can fall out of the toy or if the toy pieces are small enough to be swallowed, the ASTM guidelines require the following label warning of the potentially serious health impacts of swallowing magnets:

> WARNING: This product contains (a) small magnet(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled.

Findings: Small Magnets:

We found several examples of toys and jewelry that contain dangerous small magnets. Some of the toys were poorly designed and the magnets fall out. Oter products failed to include adequate warning labels.

Recommendations: Magnets

CPSC has the authority to enforce the ASTM voluntary standards and exercises that authority at its discretion. It should conduct ongoing surveillance of this new hazard, expand its modest education campaigns and aggressively recall magnet toys that do not meet the standard or fail "use and abuse" testing. At least two recent magnet recalls, Magnetix and Mattel Polly Pockets, have later been expanded. CPSC should re-examine the record and determine whether all reporting rules were followed and consider legal action if they were not.

Excessively Loud Toys

Between one-quarter and one-third of Americans with hearing loss can attribute it, at least in part, to noise.[28] Children are especially vulnerable to noise-induced hearing loss, which often happens gradually and without pain, from over-exposure to loud noises.[29] Almost 15 percent of children ages 6 to 17 show signs of hearing loss.[30] Noise-induced hearing loss can be caused by a one-time exposure to loud sound as well as by repeated exposure to sounds at various loudness levels over an extended period of time.[31]

The Occupational Safety and Health Administration reports that prolonged exposure to sounds at 85 decibels (dB) or higher can result in hearing damage.[32] The American Academy of Pediatrics and the National Campaign for Hearing Health also use 85 decibels as a threshold for dangerous levels of noise.

The symptoms of noise-induced hearing loss increase gradually over a period of continuous exposure. Sounds may become distorted or muffled, and it may be difficult for the person to understand speech. Even minor hearing loss in children can affect their ability to speak and understand language at a critical time in their development.

The following are the accepted standards for recommended permissible exposure time before hearing damage can occur. For every three decibels over 85 decibels, the permissible exposure time before possible damage is cut in half.[33]

Decibel Exposure Time Before Hearing Damage Can Occur[34]

Continuous dB	Permissible Exposure Time
85 dB	8 hours
88 dB	4 hours
91 dB	2 hours
94 dB	1 hour
97 dB	30 minutes
100 dB	15 minutes
103 dB	7.5 minutes
106 dB	< 4 minutes
109 dB	< 2 minutes
112 dB	1 minute
115 dB	30 seconds

A report commissioned by the European Union about noise from toys concluded that children are unlikely to play with toys for more than three hours per day on average; they also are unlikely to be exposed to noise from toys for more than 1.5 hours per day. The report also notes, however, that children "are exposed to many sources of noise, not just toys, during everyday life. Any consideration of permissible noise exposures from toys, and of corresponding noise emission limits for toys, needs to take these other noise sources into account."[35]

STANDARDS FOR LOUD TOYS

In November 2003, ASTM finalized new specifications for sound-producing toys that are "intended to minimize the possibility of hearing damage that might be caused by toys

that are designed to produce sound."[36] CPSC has the authority to enforce the ASTM voluntary standards and exercises that authority at its discretion. These standards include the following: [37]

• Hand-held, table-top, floor, and crib toys should not produce continuous sound that exceeds 90 dB when measured from 25 centimeters (about 10 inches).

• Close-to-the-ear toys should not produce continuous sound that exceeds 70 dB when measured from 25 centimeters.

• Toys with impact-type impulsive sounds should not produce a peak sound in excess of 120 dB when measured from 25 centimeters.

• Toys with explosive-type sounds should not produce a peak sound in excess of 138 dB when measured from 25 centimeters.

These standards, while a solid step in the right direction, may not be sufficient to ensure that loud toys will not harm children's hearing. Overall, the sound limits are too high, since exposure to sounds at 85-90 decibels over two hours and sounds at 120 decibels over just 30 seconds can cause hearing loss. Moreover, these standards are voluntary for toy manufacturers, not mandatory. As with other ASTM voluntary standards, CPSC has enforcement authority and exercises that authority at its discretion. Finally, the standards are based on peak sound pressure levels measured from a distance of 25 centimeters. Children often play with toys at a much closer distance than 25 centimeters—even holding a toy up to their ears—and therefore could experience the noise at a more powerful level. [38]

Toy Survey Findings: Loud Toys

We measured the loudness of several toys, taking the readings from 25 centimeters (9.84 inches), 10 centimeters (3.94 inches) and 1 centimeter (.39 inches) to determine the range of noise to which a child playing with a toy could be exposed. We found that several toys currently on toy store shelves may not meet the ASTM standards for appropriately loud toys. In fact, some exceed 100 decibels when measured at close range. Our results are in Attachment A.

Recommendations: Loud Toys

To protect children from loud toys, we offer the following advice for parents:

• If a toy seems too loud for you, then it is probably too loud for your child.

• Put tape over the speakers of any toys you already own that are too loud or remove the batteries.

• Report a loud toy to the CPSC.

CPSC should:

• Enforce the new ASTM standards to the fullest extent.

• Consider strengthening the standards to be more protective of children's delicate ears. Specifically, CPSC and ASTM should consider lowering the threshold for hand-held toys from 90 decibels to no higher than 85 decibels.

Lead in Toys and Children's Products

Health officials and children's health advocates have long sought to reduce children's daily exposure to lead, which can stunt mental and physical development. Lead-based paint is a common and long-term concern recently reiterated by the massive recalls of popular toys including Thomas the Tank Engine, Dora the Explorer, other Sesame Street characters, and Spongebob Squarepants, to name some of the iconic toys subject to recall in 2007.

Since 2004, another hazard has come to the fore: lead in children's jewelry. Lead has also been found in children's lunchboxes and vinyl bibs[39] and other products.

The wave of recalls of lead-tainted toys, jewelry and other children's products has led to intensive scrutiny of current regulations, which only clearly ban lead in paint. The CPSC can recall other products as banned hazardous substances if they contain excessive levels of lead, but only if that lead is determined to be "accessible."

Following a petition by the Sierra Club and other environmental groups, the CPSC has begun a rulemaking[40] to strengthen the ban on lead in some children's metal jewelry. The CPSC rule, if adopted, would be a positive step, but cumbersome and narrow. It would fail to simplify standards or reduce lead levels in all toys and children's products to levels that protect health at the trace levels that the American Academy of Pediatrics has recommended.[41]

Lead is used in pewter alloys and as a component in lower-grade tin commonly used in inexpensive and costume jewelry. Lead also may be present in plastic or polyvinyl chloride (PVC) jewelry components and in the paint used on fake pearls. Most of the lead-tainted jewelry and lead-painted toys sold in the United States originates from Asian manufacturing facilities, but some of it is manufactured domestically.

THE DANGERS OF LEAD:

Exposure to lead can affect almost every organ and system in the human body, especially the central nervous system. Lead is especially toxic to the brains of young children. A child exposed to a single high dose of lead—such as by swallowing a piece of metal jewelry containing lead—can suffer permanent neurological and behavioral damage, blood poisoning, and life-threatening encephalopathy. Exposure to low doses of lead can cause IQ deficits, attention deficit hyperactivity disorder, and deficits in vocabulary, fine motor skills, reaction time, and hand-eye coordination.[42]

Children are more vulnerable to lead exposure than adults, since young children often put their hands and other objects in their mouths; their growing bodies absorb more lead; and children's developing brains and nervous systems are more sensitive to the damaging effects of lead.

Scientists have not identified a "safe" level of lead exposure for children.[43] Research published in the *New England Journal of Medicine* in 2003 showed that children can lose IQ points at levels of lead in blood below

the "official" level of concern as defined by the Centers for Disease Control.[44]

FEDERAL STANDARDS FOR LEAD

Two federal statutes address the lead content of toys. Under the Consumer Product Safety Act, regulations ban paint containing lead in a concentration of greater than 600 parts per million (0.06% by weight).[45] Under the Federal Hazardous Substances Act, CPSC may deem other products, such as articles of metal jewelry, as "hazardous substances" if they contain toxic quantities of lead sufficient to cause substantial illness as a result of reasonably foreseeable handling or use, including ingestion.[46] If such jewelry is intended for use by children and the toxic lead content is accessible by a child, then it constitutes a banned hazardous substance under the law.[47]

The proposed rule for lead in metal children's jewelry components is an improvement on a February 2005, CPSC interim enforcement policy for children's metal jewelry containing lead, but a more comprehensive approach is needed. That policy was intended to give "manufacturers, importers, and retailers clear guidance on steps they should take to minimize the risk for children."[48] That policy was criticized by the Center for Environmental Health, a non-profit organization that has tested hundreds of jewelry items for lead since 2003. CEH argued that the interim CPSC policy fell short of what is necessary to protect children.

The interim policy was based on "accessible" lead, which is more subjective than the total lead contained in a product. A child who swallows a metal pendant could be exposed to all of the lead in the item. The rule under consideration would set a "bright-line" ban of 600 ppm lead. However, like the interim policy, it would only apply to certain metal jewelry and, then, only to components.

Testing *each* jewelry component but not taking into account potential exposure from multiple components is an inadequate response. Under the current CPSC policy, for example, each charm on a bracelet with multiple charms could contain up to 175 micrograms of accessible lead without triggering any agency action.

Further, the policy and the proposed rule refer only to children's "metal jewelry" even though PVC plastic and other materials used in children's jewelry can contain lead.

The policy is an "interim" guidance, not an agency rule, and therefore does not establish any new regulations or requirements for manufacturers or importers to test children's jewelry. The rule is too narrow; it would only apply to certain metal jewelry.

Instead of these limited approaches, comprehensive regulations should simply ban lead except at trace amounts (90-100 ppm), whether in paint, coatings or any toys, jewelry or other products for use by children under 12 years old.

CPSC ISSUES VOLUNTARY RECALLS

In cooperation with manufacturers, importers and retailers, CPSC has issued voluntary recalls of lead-containing jewelry, many stemming from incidents of lead-poisoning from the lead-tainted products. In 2004, the agency announced recalls of more than 150 million pieces of children's jewelry sold in vending machines and retail stores.[49]

CPSC's interim enforcement policy has not prevented jewelry with dangerous levels of lead from falling through the cracks. In March 2006, CPSC recalled 300,000 Reebok heart-shaped charm bracelets. A four year-old child from Minneapolis died in February of acute lead poisoning after he swallowed a piece from one of these bracelets.[50] During autopsy, doctors removed the Reebok charm from the boy's stomach and learned that it contained 99% lead by weight.[51]

Since the February 2005 enforcement policy went into effect, CPSC has issued numerous additional recalls affecting millions of pieces of jewelry. In May 2006, for example, CPSC recalled 730,000 metal charms included as a free giveaway in certain Shirley Temple movie DVDs.[52]

In 2007, CPSC has issued virtually innumerable recalls for excessive lead paint, including, for example, 1.5 million Thomas the Tank Engine toys and parts,[53] "967,000 Sesame Street, Dora the Explorer, and other children's toys",[54] and 250,000 SpongeBob SquarePants toys,[55] among others.

- LABORATORY TEST RESULTS: LEAD IN CHILDREN'S TOYS AND JEWELRY -

To demonstrate the lead problem in children's products we set out to find and test several toys and also pieces of jewelry that could appeal to children. We did not attempt to perform an exhaustive search for children's products and jewelry containing lead; instead, looking in just a few stores, including major retailers and dollar stores, we found four lead-tainted products. Specifically, we found lead at levels far exceeding CPSC's 600 parts per million (ppm) action level: One decorative zipper pull was 65% lead by weight.

See Appendix A for photos of these lead-laden children's products, Appendix C for the complete test results, and the methodology for a description of the testing protocol.

LITIGATION AND REGULATION AT STATE AND MUNICIPAL LEVELS

Major Retailers Agree to Stop Selling Lead-Laden Jewelry

The Center for Environmental Health (CEH) announced in January 2006 that 71 major retailers of children's jewelry, including Target, Kmart, Macy's, Nordstrom's, Claire's, Mervyn's, Sears, and Toys R Us, agreed to stop selling lead-laden jewelry, creating the first legally binding standards for lead in jewelry in the nation.[56] As of October 31, 2006, almost 100 retailers, manufacturers and others had joined the settlement.

CEH initiated legal action against the jewelry companies in late 2003 and, with the California Attorney General, sued the companies in June 2004.

The settlement states that metal components in and coatings on children's jewelry must contain less than 600 ppm of lead, while plastic (PVC) components can contain no more than 200 ppm. The agreement requires that companies stop shipping lead-tainted children's jewelry to retail stores by February 1, 2007; retailers must stop selling it by September 1, 2007.[57] The settlement is legally binding only in California, but since California is such a large market, most if not all the companies likely will implement the

settlement nationally. In 2007, CEH announced additional litigation over lead-tainted bibs.[58]

In addition, on September 14, 2006, the Sierra Club sued the EPA to force it to use its authority under the Toxic Substances Control Act to address the problem of lead in toy jewelry.[59] On April 17, 2006, the Sierra Club had petitioned both EPA and CPSC on the same matter (which resulted in the proposed CPSC rule discussed above).[60]

Local and State Regulation of Lead-Tainted Jewelry

A new California law (AB 1681), signed by the governor on September 22, 2006, codified the standard set by settlement agreements between the California Attorney General's Office, the Center for Environmental Health and stakeholders in the jewelry industry.[61] California's action has spurred other states and localities to consider standards aimed at regulating lead in children's jewelry and other products. For example:

• The Baltimore Health Commissioner has issued regulations for the sale of lead-containing jewelry in the city of Baltimore. The rule declares children's jewelry with excess levels of lead to be a nuisance, defining "excess levels" as any piece of children's jewelry initially in which any component part contains lead levels over 1200 ppm, but by rule this level was reduced to 600 ppm, as of September 1, 2007, when the California law took effect.[62]

• In June 2006, the state of Illinois banned the sale of toys, furniture, clothing, accessories, jewelry, decorative objects, edible items, candy, food, dietary supplements, or other articles used by or intended to be chewable by children if the lead content is more than 0.06% lead by weight.[63] Importantly, Illinis dos not require an accessibility test and Attorney General Lisa Madigan has vigorously enforced the law.[64]

Findings: Lead

• Some children's toys and jewelry may contain high levels of lead In one case, we found a piece of jewelry that contained 65% lead by weight. We also found toys that exceeded lead paint standards by 50-500%.

Recommendations: Lead

Lead-tainted children's products should never end up on store shelves or in the home. Comprehensive federal regulations should simply ban lead except at trace amounts (90-100 ppm), whether in paint, or coatings or as a metal in any toys, jewelry or other products for use by children under 12 years old.

Toxic Phthalates in Products Intended for Small Children

Phthalates are a family of chemicals, including diethyl phthalate (DEP), diethylhexyl phthalate (DEHP), dibutyl phthalate (DBP), butyl benzyl phthalate (BBP), diisodecyl phthalate (DIDP), diisononyl phthalate (DINP), di-n-octyl phthalate (DNOP), and many other distinct types. The polyvinyl chloride (PVC) plastic industry uses large amounts of phthalates as additives to improve the flexibility of its

products, including home siding, flooring, furniture, food packaging, toys, clothing, car interiors, and medical equipment, including IV bags. In addition, other manufacturers use phthalates in personal care products such as soap, shampoo, deodorant, hand lotion, nail polish, cosmetics, and perfume, as well as industrial products like solvents, lubricants, glue, paint, sealants, insecticides, detergent, and ink.[65]

Phthalates are pervasive in the environment and in human bodies. In 2000, the Centers for Disease Control (CDC) found high levels of phthalates and their transformation products (known as metabolites) in every one of 289 adult Americans tested, including women of childbearing age.[66] A larger CDC study in 2003 again found high levels of phthalates in almost every person tested.[67]

- PHTHALATE EXPOSURE LINKED TO HEALTH EFFECTS -

U.S. EPA studies show the cumulative impact of different phthalates leads to an exponential increase in associated harm. According to data from the U.S. Centers for Disease Control and Prevention (CDC), levels of phthalates found in humans are higher than levels shown to cause adverse health effects. The data also show phthalate levels are highest in children.

Numerous scientists have documented the potential health effects of exposure to phthalates in the womb or at crucial stages of development, including (but not limited to):

• Reproductive Defects. Scientists have demonstrated links between exposure to phthalates in the womb with abnormal genital development in baby boys and disruption in sexual development.[68] In October 2005, an independent panel of scientists convened by the National Institute of Environmental Health Sciences and the National Toxicology Program released its review of one type of phthalate, diethylhexyl phthalate (DEHP). The panel confirmed that DEHP poses a risk to reproductive and developmental health.[69]

• Premature Delivery. A study published in November 2003 suggests a link between exposure to phthalates and pre-term birth. The scientists found phthalates and their breakdown products in the blood of newborn infants, with higher levels leading to a higher incidence of premature delivery.[70]

• Early Onset Puberty. One study of Puerto Rican girls suggests that phthalates may be playing a role in trends toward earlier sexual maturity.[71] Scientists found that levels of DEHP were seven times higher in girls with premature breast development than levels in normal girls.

• Lower Sperm Counts. In 2003, Drs. Susan Duty and Russ Hauser of the Harvard School of Public Health published one of the first studies linking phthalate exposure with harm to human reproductive health.[72] Men who had monobutyl or monobenzyl phthalate in their urine tended to have lower sperm counts, with the highest concentrations leading to the lowest sperm counts.

- U.S. FAILS TO TAKE ACTION ON PHTHALATES -

In 1998, the state PIRGs and several other environmental and consumer groups petitioned the CPSC, asking the agency to ban polyvinyl chloride (PVC) plastic in all toys intended for children under the age of

five because of the potential health hazards posed by diisononyl phthalates (DINP). While noting its position that "few if any children are at risk from the chemical,"[73] in December 1998 CPSC asked the toy and baby products industry to remove DINP from soft rattles and teethers. About 90 percent of manufacturers indicated at that time that they had or would remove DINP from soft rattles and teethers by early 1999. CPSC staff also asked the industry to find a substitute for phthalates in other products intended for children under three years old that are likely to be mouthed or chewed.[74]

CPSC also convened a Chronic Hazard Advisory Panel to examine the existing scientific data concerning the potential risks of phthalates to humans. In June 2001, the panel concluded that while the majority of children would not be adversely affected by diisononyl phthalate, "there may be a DINP risk for any young children who routinely mouth DINP-plasticized toys for seventy-five minutes per day or more."[75]

Unfortunately, in February 2003, CPSC denied the state PIRGs' petition to ban PVC plastic in toys for young children.[76]

Other countries have taken action, however, to protect children's health. In September 2004, the European Union (EU) agreed to impose wide restrictions on the use of six phthalates in toys and childcare products.[77] The EU banned three phthalates classified as reproductive toxicants – diethylhexyl phthalate (DEHP), butyl benzyl phthalate (BBP), and dibutyl phthalate (DBP) – in all toys and childcare articles. The EU banned three other phthalates – DINP, diisodecyl phthalate (DIDP) and di-n-octyl phthalate (DNOP) – in toys and childcare articles intended for children under three years of age and that can be put in the mouth.[78]

- SAN FRANCISCO TAKES ACTION, CHEMICAL INDUSTRY RESPONDS, CALIFORNIA ACTS -

In June 2006, the San Francisco Board of Supervisors unanimously adopted an ordinance prohibiting the sale, distribution or manufacture of toys and child care products intended for use by children under the age of three if they contain phthalates or bisphenol A. In October, the American Chemistry Council, California Retailers Association, California Grocers Association, Juvenile Products Manufacturers Association and others filed a lawsuit challenging San Francisco's ban, arguing that state law preempts the San Francisco ordinance.[79]

In 2007, following a campaign by Environment California, the new home of CALPIRG's environmental work, California enacted legislation banning phthalates in children's products.[80]

Findings: Phthalates

This year, we found two toys with phthalate levels that, while less than 1% by weight, contain levels of phthalates that exceed limits allowed by a new California law[81] scheduled to take effect in 2009. Laboratory tests found an unidentified phthalate ester at an estimated concentration of 8,000 parts per million (0.8%) in one toy and bis (2-ethylhexyl) phthalate at an estimated concentration of 1,400 parts per million (0.14%).

Recommendations: Phthalates -

CPSC should ban the use of phthalates in all toys and products for children five years old and under.

Toxic Chemicals in Children's Cosmetics

Play cosmetics—cosmetics intended for children under 14—must conform to the requirements of the Federal Food, Drug and Cosmetic Act.[82] In addition, the CPSC has issued guidance to manufacturers, retailers, and distributors about children's products containing liquid chemicals. This guidance states that in order to "reduce the risk of exposure to hazardous chemicals, such as mercury, ethylene glycol, diethylene glycol, methanol, methylene chloride, petroleum distillates, toluene, xylene, and related chemicals, the Commission requests manufacturers to eliminate the use of such chemicals in children's products."[83]

We found several examples of play cosmetic sets marketed for children with nail polish containing toxic chemicals, such as toluene, xylene, and dibutyl phthalate. Since children are prone to putting their hands in their mouths, nail polish offers a direct route of exposure. Children could face additional exposure by inhaling vapors from the nail polish when applying the product. See Attachment A for a list of products found containing these chemicals.

- TOLUENE -

We found a children's temporary tattoo set on store shelves containing toluene, a recognized developmental toxicant.[84] Human studies have reported developmental effects, such as central nervous system damage, attention deficits, and birth defects, in the children of pregnant women exposed to toluene by inhalation. Other studies have linked women's exposure to toluene with an increased incidence of spontaneous abortions.[85] Exposure to low levels of toluene can cause confusion, weakness, memory loss, nausea, and hearing and color vision loss. Inhaling high levels of toluene in a short time can cause similar symptoms, unconsciousness and even death.[86]

- XYLENE -

We found examples of play cosmetics containing xylene. Short-term exposure to high levels of xylene can cause irritation of the skin, eyes, nose, and throat; difficulty in breathing; impaired function of the lungs; delayed response to visual stimulus; impaired memory; and possible changes in the liver and kidneys. Both short- and long-term exposure to high concentrations of xylene also can affect the nervous system, causing headaches, lack of muscle coordination, dizziness, and confusion.[87]

Long-term exposure to low concentrations of xylene may harm the kidneys (with oral exposure) or the nervous system (with inhalation exposure). Children may be more sensitive to acute inhalation exposure than adults because their narrower airways are more sensitive to swelling effects.[88]

- DIBUTYL PHTHALATE -

We also found examples of play cosmetics containing dibutyl phthalate, one of the phthalates recently banned by the European

Union in all toys. OPI, Orly International, and Sally Hansen have pledged to remove dibutyl phthalate from their nail polishes. OPI and Orly already have started selling nail polish without dibutyl phthalate; Sally Hansen will start selling its reformulated products (free of dibutyl phthalate, toluene, and formaldehyde) in 2007.[89]

Researchers have observed birth defects in animals exposed to high levels of dibutyl phthalate during development. Death, low body weights, skeletal deformities, cleft palate, and damage to the testes have been observed in the offspring of animals ingesting large amounts of dibutyl phthalate.[90]

A 2004 study examined nail polishes and perfumes and concluded that the amount of exposure to dibutyl phthalate from these cosmetics is relatively small. The study cautioned, however, that total exposure to the chemical from multiple sources may be greater and requires further investigation.[91]

- BENZENE -

Benzene is a known human carcinogen. Breathing in high levels of benzene can cause drowsiness, dizziness, rapid heart rate, headaches, tremors, confusion, and unconsciousness. Similarly, eating foods tainted with high levels of benzene can cause vomiting, dizziness, sleepiness, convulsions, rapid heart rate, and even death.[92]

Long-term exposure to benzene has a damaging effect on the blood, harming the bone marrow and causing anemia or leukemia.[93] Acute exposure to benzene in liquid or vapor form may irritate the skin, eyes, and upper respiratory tract in humans. Redness and blisters may result from dermal exposure to benzene.[94]

Findings & Recommendations: Toxic Chemicals In Children's Cosmetics -

We found numerous examples of play nail polish and children's makeup and perfumes containing toxic chemicals. Parents should read the labels of children's cosmetics carefully and purchase nail polish without these toxic chemicals. CPSC also should enforce its guidance to manufacturers, retailers, and distributors about children's products containing liquid chemicals and expand it to include other toxic chemicals that may expose children to hidden health hazards. The Food and Drug Administration, which has jurisdiction over cosmetics, should require manufacturers to remove the toxic chemicals listed in CPSC's guidance (at minimum) from products marketed for children.

Strangulation Hazards

Water Yo-Yo Balls

The yo-yo water ball (or water yo-yo) emerged in 2003 as the latest toy fad. The toy is a liquid filled ball on a stretchy bungee cord string with a finger loop at the end, allowing a child to swing the toy around, stretching the string and

bouncing back like a yo-yo. The ball also can be bounced and twirled like a lasso.

There are dozens of different types of yo-yo water balls distributed in the United States by many different companies, often without a brand name. Based on information from industry sources, CPSC believes that approximately 11-15 million yo-yo ball toys were distributed in the U.S. in 2003, selling for between $1 and $5.[95] As word has spread about the potential hazard associated with the toy, and as major retailers have stopped selling it, the toy is much harder to find than it was a few years ago.

- DANGERS OF WATER YO-YOS -

Consumer safety agencies around the world have fielded complaints from parents reporting incidents in which water yo-yos wrapped tightly around their children's necks or caused other injuries to the eyes, face and head. The cord is made of a rubbery plastic, which extends approximately four feet. The toy is often difficult to control, as the water ball at the end of the toy is heavy enough to generate significant momentum when swung. Children between ages four and eight may be most vulnerable to injury, since they have the strength to swing the yo-yo quickly but may lack the dexterity to control the toy's momentum. *Consumer Reports* tested more than a dozen of these toys, deeming the toy "Not Acceptable" because of the potential for the cord to wrap around a child's neck and restrict or cut off circulation. *Consumer Reports* also found that the elastic finger loop could stretch enough to fit over a child's head and around his or her neck.[96]

The CPSC has received 416 injury reports related to water yo-yo balls since the end of 2002.[97] Parents have found their children suffocating with yo-yo balls wrapped multiple times around their children's necks. Parents report using knives, scissors, and even their teeth to cut the elastic cords of the tightly wrapped yo-yo balls. In October 2006, a five year-old boy from Bellevue, Washington almost suffocated when a water yo-yo wrapped tightly around his neck three times.[98] Other reported incidents over the last few years include a child passing out and hitting his head so hard he fractured his skull; another child was found bleeding from his mouth and nose and needed CPR; and two other children have had to have lens implant surgery in their eyes because the toy snapped back with such force that it shattered the lens.[99] Since the end of 2003, complaints have dropped in number although not in severity, likely because many major retailers no longer sell the toys due to consumer concerns.[100]

- REGULATORY ACTION -

The U.S. government has taken little action to remove the product from the market. In September 2003, CPSC announced the results of an investigation into the yo-yo water ball, finding that "there is a low but potential risk of strangulation from the yo-yo water ball toy." At that time, the CPSC noted that it had received 186 reports of incidents in which the yo-yo ball toy's cord wrapped around a child's neck. According to the commission, there were no lasting injuries, although seven cases reported broken blood vessels affecting eyes, eyelids, cheeks, neck, scalp or the area behind the ears.[101] CPSC decided to not recall the product; instead, the agency advised parents to supervise use of the toy, cut its cord, or throw it away. The CPSC has not taken any additional action to remove the toy from the market or ban its sale in the United States.

Most major retailers have stopped selling the toy;[102] however, the toy remains on some store shelves and widely available over the Internet.

In response to the CPSC's inaction, both state and federal lawmakers have taken steps to ban the toy. At the national level, Congressman Robert Andrews (NJ) introduced a bill with Congresswoman Jan Schakowsky (IL) on September 13, 2005 to ban the sale of water yo-yos.[103] In June 2005, Illinois became the first state to ban the sale of water yo-yos. State legislatures in at least New Jersey, New York, and Wisconsin also have introduced bills in past sessions to ban the toy.[104]

Injuries associated with the water yo-yo also have prompted strong action in countries around the world. In 2003, Canada's Consumer Product Safety Bureau announced that "yo-yo type balls and similar products are prohibited from advertising, sale or importation in Canada."[105] The sale of yo-yo water balls also is banned in France, Switzerland, Australia, Luxembourg, Brazil and the United Kingdom.[106]

Consumer Reports also reported that variations of the water yo-yo pose additional hazards. Rather than a water-filled ball, some versions of this toy contain a battery and components to make it flash. During lab tests and real-life tests with supervised four-year-olds, the battery or other components fell out of the squishy material or tore through it in four of the six toys *Consumer Reports* tested. Kids could choke on the parts, and a battery could eat away at the esophagus or stomach lining. Some of these toys come in packaging with choke hazard warnings; others do not.[107]

- RECOMMENDATIONS -

The growing numbers of injuries sustained by children playing with the yo-yo water ball are strong evidence that the toy should be banned in the United States. The CPSC should not wait until a child dies to protect children from the dangers posed by playing with this toy. In 2007, the standards-setting body known as ASTM issued a voluntary rule intended to reduce risk from yo-yo balls by shortening the allowable string length.[108]

Cords and Elastics in Toys

ASTM maintains a voluntary standard for cords and elastics that may pose entanglement or strangulation hazards. It states that cords and elastics included with or attached to toys intended for children less than 18 months of age must be less than 12 inches long. If the cords or elastics can tangle or form a loop in connection with any part of the toy, such as beads at the end of the cord, then the perimeter of the loop must be less than 14 inches.[109]

ASTM published a separate voluntary standard for pull toys, stating that "cords and elastics greater than 12 inches long for pull toys intended for children under 36 months of age shall not be provided with beads or other attachments that could tangle to form a loop."[110] The cord could become tangled around a child's neck and be locked into place by the knob.

CPSC has the authority to enforce the ASTM voluntary standards. Parents should remove beads or other attachments from elastics/cords on their children's toys if the cords measure more than 12 inches.

Crib Mobiles

Crib mobiles present a special hazard for infants. Around the age of five months, children become more mobile and begin to push themselves up on their hands and knees. At that point, mobiles left within reach of a child become hazardous; a child may be able to entangle herself in them but lack the physical strength or motor skills to free herself. According to the voluntary standard published by ASTM, crib mobiles require labels with the following warning: "Caution: possible entanglement injury: keep toy out of baby's reach. Remove mobiles from crib or playpen when baby begins to push up on hands and knees."[111]

Drawstring Clothing

Drawstrings on children's clothing can lead to deaths and injuries when they catch on such items as playground equipment, bus doors, or cribs.[112] From January 1985 through June 1997, CPSC received reports of 21 deaths and 43 incidents involving drawstrings on children's upper outerwear.[113] In February 1996, CPSC issued guidelines to help prevent these injuries, which ASTM adopted as a voluntary standard in June 1997.[114] In the period since, CPSC has seen a marked decrease in fatalities and incidents.

CPSC recommends that parents remove drawstrings from all children's upper outerwear sized 2T to 12 and buy clothing that has alternative closures, such as snaps, buttons, and Velcro.[115]

In May 2006, CPSC sent a letter to manufacturers and retailers of children's upper outerwear, urging them to make sure that all clothing sold in the U.S. complies with the voluntary safety standard.[116] The letter also stated that CPSC "considers children's upper outerwear with drawstrings at the hood or neck area to be defective" and subject to recall. Since January 2006, CPSC has announced at least 13 recalls of children's clothing items with drawstrings.[117]

Other Toy Hazards

Projectiles

ASTM established standards governing projectile toys, defined as toys "intended to launch projectiles into free flight by means of a discharge mechanism in which the kinetic energy of the projectile is determined by the toy and not by the user."[118] The standards state that projectiles intended to be fired from a toy "shall not have any sharp edges, sharp points, or small parts" that would fit inside the choke tube.[119] In addition, the standard states that rigid projectiles fired from a toy should not have a tip radius less than .08 inches (2 millimeters).[120] Any protective tip should not become detached from the projectile when subject to standard "use and abuse" tests described in the ASTM guidelines.[121]

CPSC has the authority to enforce the ASTM voluntary standards and exercises that authority when necessary.

Scooters

Popular lightweight scooters, which first entered the U.S. market in 1999, continue to pose a serious threat of injury to children. Injuries from riding toys, including scooters, skyrocketed between 2000 and 2001, from 65,000 to 121,700 injuries. This number has fallen since 2001, with 58,400 injuries in 2005, but scooters and other riding toys still cause more injuries than any other category of toy (29 percent).[122] This decline is likely due in part to increased parental awareness of the dangers posed by scooters.

To prevent injuries while using both motorized and non-powered scooters, we join the CPSC in its recommendations to consumers:

• Wear proper safety gear, including a helmet that meets CPSC's standard, knee and elbow pads, and wrist guards.

• Ride the scooters on smooth, paved surfaces without any traffic.

• Do not ride the scooter at night.

• Children under age 8 should not use non-powered scooters without close adult supervision.

Holes in the Toy Safety Net

As many have noted, 2007 has been described as the "year of the recall." Millions of toys, including famous playthings like Thomas the Tank Engine and Barbie, have been recalled in 2007. Many of these toys have been from leading manufacturers like Mattel, and most were imported from China, Most of the recalls have been for hazards previously identified in this report—excessive levels of toxic lead, dangerous small magnets, and choking dangers. Despite improvements in toy regulations and labeling requirements, these recalls show that parents should remain vigilant. Consumers looking for toys still face an industry full of safety loopholes; once toys fall through, it is difficult to remove them from the market.

Some of the problems described below have existed for years.

Loopholes in Toy Safety Regulation

- NEAR SMALL PARTS -

Even when companies comply, current regulations do not address all choking hazards posed by toys. While the choke test cylinder eliminates most objects small enough to enter a child's lower throat and air passages, it does not eliminate all objects that can block the airway by obstructing the mouth and upper throat.

Children continue to choke on toys that do not technically violate the CPSC regulations. In September 2006, CPSC and Playskool voluntarily recalled about 255,000 Team Talkin' Tool Bench toys following the deaths of two young children. A 19-month-old West Virginia boy and a 2-year-old Texas boy suffocated when three-inch plastic toy nails sold with the tool bench toys became

forcefully lodged in their throats.[123] Many toys with parts similar in size and shape to these toy nails remain on store shelves without choke hazard warning labels.

We call on CPSC to:

• Enlarge the small parts test tube to be more protective of children under three; and
• Consider extending the ASTM specification for toys with spherical ends to apply to toys intended for children under six years old instead of under 18 months.
• At minimum, CPSC should consider special labeling for toys shaped like the toy nails that caused the two children to suffocate.

- ONLINE SHOPPING –

A new factor complicating toy safety is the growing popularity of online toy retailers. The convenience of online toy stores draws increasing numbers of consumers each year, yet these stores pose special difficulties for consumers. The CPSC has yet to require online retailers to include choke hazard warnings for toys with small parts on their websites. In 2005, we surveyed 37 online toy retailers and found that two-thirds do not include any choke hazard labeling on their websites, even when the toy requires such labeling on the packaging.[124]

In consideration of proposals to strengthen the CPSC, policymakers have proposed that Internet toy retailers be required to prominently display choke hazard warning labels next to toys that require such labeling on their real-world or "brick-and-mortar" packaging.

Ineffective Toy Recalls

Even though CPSC announces recalls publicly through the Internet, national television, toy stores and pediatricians' offices, many consumers still do not find out about recalled toys. Worse, not all recalls result in removal of dangerous products, some, such as the recall of one million cribs this year, result only in "repair kits" being mailed to consumers who request them;[125] others merely required that the company agree to stop making a dangerous product, but not remove existing stock from shelves.

For obvious reasons, companies do not like publicizing that they sold a defective product. CPSC has recorded extremely low return rates on its recalls of toys and consumer products. The agency does not know if consumers who do not return the toys just throw them away or never heard of the recall in the first place.[126]

CPSC's hands often are tied as well. CPSC can say little about ongoing safety investigations; after a recall is announced, CPSC cannot disclose anything that the recalling company does not want released to the public. Firms can even sue the CPSC to block disclosure.[127] An excerpt from a recent New York Times story explains the recall problem:

> "A recall is not necessarily a recall, that is what it comes down to," said Stuart L. Goldenberg, a Minneapolis lawyer who represents a family whose child was injured using an Easy-Bake toy oven. The maker, Hasbro, alerted consumers about injuries to children's fingers from the ovens, first [February 2007] simply offering a repair kit, but then expanding to a

> full-fledged recall [August 2007] after dozens of additional injuries were reported. [**Note:** the "additional injuries" included a "partial amputation"]. *[Material in brackets added, with material in brackets in quotations from CPSC announcement.]*[128]

The Easy-Bake oven recall[129] is one of numerous examples of recalls that are later expanded after additional, often worse (in this case an amputation on top of additional reported burns and incidents) injuries are reported, suggesting the need to maintain and even improve strong injury reporting standards for manufacturers and retailers under the Consumer Product Safety Act's Section 15(b). See also, the Magnetix ("Magnetix Magnetic Building Set Recall Expanded; Serious Injuries Continue to be Reported to CPSC"[130]) and Polly Pockets ("Additional Reports of Magnets Detaching from Polly Pocket Play Sets Prompts Expanded Recall by Mattel")[131] magnets "expanded" recalls, both of which occurred after additional injury reports. Also, as discussed earlier, the original Magnetix recall was only a replacement program. Old toy boxes remained on the shelves.

Also, in some recalls, not all stores remove recalled products from their shelves. Most major retailers using computerized scanners can catch recalled products at the register, but stores relying on older registers, such as dollar stores, may allow consumers to purchase recalled items.

Finally, many consumers may not know if they even own the product being recalled. The failure of toy manufacturers to label their products – not just the packaging – with contact information or even the name of the manufacturer makes identifying recalled products difficult if not impossible. Manufacturers, on the other hand, rarely have any way of contacting consumers who have purchased their products. Few consumers fill out "warranty" cards provided with some products, because the questions asked are so clearly intended for marketing purposes, giving consumers legitimate privacy concerns.

We support the Consumer Federation of America in its call for Consumer Registration Cards. In 2001, CFA petitioned CPSC, asking the agency to require all manufacturers (or distributors, retailers or importers) of children's products to provide a Consumer Registration Card that allows the purchaser to register information through the mail or electronically. The cards would allow manufacturers to contact consumers about recall or safety actions taken by the CPSC or the product's manufacturer.. The petition specified that the cards would collect only enough information to contact the purchaser (name and address or email address) and nothing for marketing purposes.[132]

Policy Changes Needed

The CPSC needs greater authority to issue recalls and it needs more tools to make recalls effective. Manufacturers and retailers have too much power over both what safety information can be disclosed to the public and when, but over the sort of corrective action they agree to take in a "voluntary" recall. In addition to expanding the agency's budget, policymakers are planning to give the CPSC more tools to hold corporate wrongdoers accountable and speed recalls, to ban toxic lead except in trace amounts and to greatly improve import surveillance.

Policymakers are considering numerous proposals to expand the recall authority of the CPSC, to limit corporate control over safety disclosures to the public, to improve recall effectiveness by requiring warranty cards on certain durable products, to extend choke hazard warnings to the Internet and improve traceability of recalled products.

Methodology

Choking hazards: We categorized toys as a potential choking hazard if a) a toy labeled for children under three contains small parts or breaks easily into small parts;[b] b) a toy contains small parts or small balls but is intended for children under three, regardless of age labeling if any; c) a toy contains small parts or small balls, is intended for children over three, but lacks the statutory choke hazard warning; or d) the toy is intended for children under six, lacks the statutory choke hazard warning and appears to fail the "use and abuse" test, breaking easily into small parts that fit in the choke tube.

Noise hazards: Using a digital sound level meter, we measured the loudness of each toy (in decibels) from 25 cm, 10 cm, and 1 cm. The toy (still in its packaging) was placed on a flat table with the sound meter placed on a tripod pointed at the toy. We tested each toy for 30 seconds and recorded the highest continuous maximum measurement, the loudest sound level recorded during a one second sampling period.

Toxic chemicals in children's cosmetics: We did not test the children's cosmetics identified in Attachment A of this report to determine their chemical content. We relied solely upon the list of ingredients provided on the product packaging.

Testing of products for phthalates: STAT Analysis Corporation in Chicago, a laboratory accredited by the Illinois Environmental Protection Agency in accordance with the National Environmental Laboratory Accreditation Program, performed the phthalates testing. STAT Analysis followed standard procedures, using EPA Method 8270C and EPA Method 3580A.[133] The reporting/quantitation limits varied based on the product tested.

Testing of lead-tainted toys and jewelry: We purchased several toys and children's jewelry from major retailers and dollar stores and used home lead testers (purchased from www.leadcheck.com) to identify items potentially containing lead. We sent these items to STAT Analysis (see above) for additional testing. STAT Analysis used EPA Method 6020 (Inductively Coupled Plasma-Mass Spectrometry) and EPA Method 3050B (Acid Digestion of Sediments, Sludges, and Soils) to determine the quantity of lead in each item.[134]

[b] If a toy broke into small parts with little effort or force, we assumed that the toy may not comply with CPSC use and abuse testing procedures.

Attachment A. 2007 Summary of Toy Hazards and Examples of Potentially Dangerous Toys

-1. Potential Choking Hazards -

Standards

Under the Child Safety Protection Act (CSPA) and Consumer Product Safety Commission rules:

- Toys intended for children under 3 are banned if they contain small parts or easily break into pieces that are small parts.
- Toys intended for children between the ages of three and six years old that contain small parts must include an explicit choke hazard warning with precise statutory language.
- Any small ball or toy that contains a small ball must meet a stricter safety test and include an explicit choke hazard warning.
- Marbles or toy with marbles must include an explicit choke hazard warning.
- All balloons must include a warning about the dangers of uninflated or broken balloons to children younger than 8 years of age.

Examples of Toys that Pose Potential Choking Hazards

- Toys for Children Under 3 Containing Small Parts -

Toys intended for children under three are banned if they contain small parts or easily break into pieces that are small parts.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Baby Chou Chou
Manufacturer: Zapf Creations/MGA Entertainment
Item Number: 901775
Problem: Pacifier fits in choke tube and is attached by a few threads; could fail "use and abuse" test. Child could put pacifier in mouth. Labeled for ages 1 and up.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Special Welcome Soft Bean Bag Doll
Manufacturer: Cititoy
Item Number: 65295
Problem: Pacifier fits in choke tube and is attached by a few threads; could fail "use and abuse" test. Child could put pacifier in mouth. Labeled for ages 1 and up.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Bob the Builder Dancing Bob
Manufacturer: Learning Curve/RC2
Item Number: LC65403
Problem: Hammer top twists off and fits in choke tube. May fail "use and abuse" test. Toy labeled for ages 2 and up.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: 4 Pack Water Toys
Manufacturer/Distributor: Greenbrier International
Item Number: 864665
Problem: Purple tabs on orange and purple boat break off with "use and abuse." Toy has a choke hazard warning, but bath toys are "commonly recognized" for children under 3.[135]

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Cuddly Cousins Plush Animal Head
Manufacturer: Greenbrier International
Item Number: 4001
Problem: Eyes can detach from animal head; may fail "use and abuse" test. Toy is labeled for ages 8 and up and has a choke hazard warning, but it may have play value for a child under 3.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Cuddly Cousins Plush Bugs
Manufacturer: Greenbrier International
Item Number: 903995
Problem: Eyes are small beads attached by string. May fail "use and abuse" testing. No age labeling or choke hazard warning. Stuffed animals are "commonly recognized" for children under 3.[136]

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Cuddly Cousins Plush Spider
Manufacturer: Greenbrier International
Item Number: 920346
Problem: Eyes can detach from spider; may fail "use and abuse" testing. Toy has a choke hazard warning, but stuffed animals are "commonly recognized" for children under 3.[137]

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Fire Trucks
Manufacturer: Schylling
Item Number: 20644
Problem: Silver hose tips and white hose tip detach easily from toy, forming small parts. Has statutory choke hazard warning, but may have play value for child under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, plastic trucks with some realism, moveable parts and bright colors have play value for children as young as 19 months.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Pop Pop Jet Fighter
Manufacturer: Toysmith
Item Number: 9338
Problem: Yellow rockets detach from plane and form small parts. Has choke hazard warning, but may have value for children under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, plastic transportation toys with some realism, moveable parts and bright colors have play value for children as young as 19 months.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Baby's Choice Baby Rattle (Telephone)
Manufacturer: Encore Sales
Item Number: GG92151
Problem: Blue disk on telephone falls off with "use and abuse" and fits in choke tube. Rattles are "commonly recognized" for children under 3.[138]

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Fish Rattle
Manufacturer: Unknown (Made in China)
Item Number: 2015
Problem: Fish rattle can break in half with "use and abuse," allowing toy ball to fall out. Ball fails small ball test. Toy has a choke hazard warning, but the law identifies rattles as "commonly recognized" for children under 3.[139] Back of product packaging says the toy is for ages 3 months and up.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Piano Rattle with Dolphins
Manufacturer: Unknown (Made in China)
Item Number: 8960
Problem: On/Off button can fall off with "use and abuse," as can plastic disk covering foam balls. Toy has a choke hazard warning, but the law identifies rattles as "commonly recognized" for children under 3.[140]

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Toy Piano
Manufacturer: Unknown (Made in China)
Item Number: 111
Problem: On/Off button can fall off with "use and abuse," as can plastic disk covering foam balls. Toy has a choke hazard warning, but may have play value for children under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, simple instruments may have play value for a child under 3.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Play It Sharp Wooden Noise Maker
Manufacturer: Greenbrier International
Item Number: 925816
Problem: Wooden stick in middle of the toy breaks apart easily into small parts. Toy has a choke hazard warning, but may have play value for children under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, simple instruments may have play value for a child under 3.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Percussion Instruments (Handheld Bells)
Manufacturer: Greenbrier International
Item Number: 847292
Problem: Bells bend easily, allowing small metals balls to escape. Toy has a choke hazard warning but also is labeled for ages 2 and up. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, bells may have play value for children as young as 18 months.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Play It Sharp Musical Instrument Toy Guitar
Manufacturer: Greenbrier International
Item Number: 847291
Problem: Tuning buttons may detach with "use and abuse," forming small parts. Toy has a choke hazard warning, but may have play value for children under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, simple instruments may have play value for a child under 3.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: My First Cute Puzzle
Manufacturer: For some versions of the toy, the manufacturer is unknown (Made in China); another version lists Ocean Desert Sales
Item Number: 201 ABC or PT-549
Problem: Cylindrical puzzle piece fits in choke tube. Has choke hazard warning, but may have play value for child under 3. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, simple puzzles with 3-5 pieces are appropriate for children as young as 19 months; simple puzzles with 6-12 pieces have play value for children as young as 30 months.

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: DuraPlast Magnets (numbers, planes & trucks, etc)
Manufacturer: Dura-Kleen
Item Number: 617
Problem: Some letters and shapes fit in choke tube. No choke hazard warning. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, "simple…teaching toys for matching/sorting, shapes, colors, letters/sounds, numbers/concepts" are appropriate for children ages 25-36 months. (Note: This type of refrigerator magnet generally does not contain the powerful magnets discussed in the "Magnetic Toys" section of this report.)

Category: May violate ban on small parts in toys intended for children under 3.
Toy Name: Assorted Claire's Club Baby Hair Bands and Elastics
Manufacturer: CBI Distributing
Item Number: 90175-1, 61338-0, assorted others
Problem: The CSPA exempts children's accessories, such as barrettes, from the small parts regulation because they need to be small to perform their intended purpose.[141] These items, however, are marketed for infants ("Claire's Club Baby") and often contain non-essential and decorative small parts. Some "Claire's Club Baby" packages now are labeled with a choke hazard warning.

- TOYS THAT MAY NOT MEET CSPA LABELING REQUIREMENTS -

Toys intended for children between the ages of three and six years old that contain small parts must include an explicit choke hazard warning with precise statutory language. Any small ball or toy that contains a small ball must meet a stricter safety test and include an explicit choke hazard warning. Any marble must include an explicit choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: Hot Wheels Rev-Ups
Manufacturer: Mattel
Item Number: Asst. J7107 or K9461
Problem: The rubber tires pop off easily and fit in the choke tube. The toy has play value for children under 6. Packaging includes a non-statutory choke hazard warning ("Small parts may be generated").

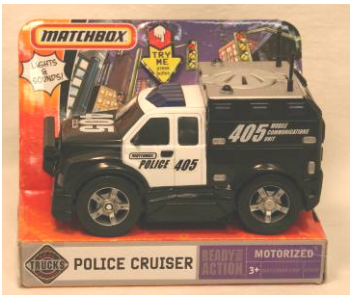
Category: Potential CSPA labeling violation
Toy Name: Hot Wheels Speed Demons Monster Jam
Manufacturer: Mattel
Item Number: K4789 Asst. G9599
Problem: The rubber tires pop off easily and fit in the choke tube. The toy has play value for children under 6. Packaging includes a non-statutory choke hazard warning ("Small parts may be generated").

Category: Potential CSPA labeling violation
Toy Name: Hot Wheels Aerial Attack 5 Car Pack
Manufacturer: Mattel
Item Number: J3300 Asst. 1806
Problem: Cars can break into small parts through "use and abuse." Labeled for ages 3 and up. No choke hazard warning. Package has non-statutory label that says "small parts may be generated."

Category: Potential CSPA labeling violation
Toy Name: Hot Wheels Truckin' Transporters (Truck with Helicopter)
Manufacturer: Mattel
Item Number: J3546
Problem: Helicopter blades pop off easily and fit in choke tube. Labeled for ages 3 and up. No choke hazard warning. Package has non-statutory label that says "small parts may be generated."

Category: Potential CSPA labeling violation
Toy Name: John Deere Road Grader
Manufacturer: RC2/ERTL
Item Number: 37013
Problem: Tires pop off of tractor wheels and fit in choke tube. Has play value for child under 6. No choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: John Deere Tractor w/ Spreader
Manufacturer: ERTL/Learning Curve Brands
Item Number: 37163
Problem: Steering wheel breaks into small parts with "use and abuse." Labeled for ages 3 and up. No choke hazard warning.



Category: Potential CSPA labeling violation
Toy Name: Matchbox Police Cruiser
Manufacturer: Mattel
Item Number: Asst. 88435 K9608
Problem: Antennae can break into small parts through "use and abuse." Labeled for ages 3 and up. No choke hazard warning. Package has non-statutory label that says "small parts may be generated."

Category: Potential CSPA labeling violation
Toy Name: Barbie Fashion Accessory Set
Manufacturer: Creative Designs Intl
Item Number: 88620
Problem: Rhinestone "B" on purse detaches with "use and abuse" testing. Labeled for ages 3 and up. No choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: Dream Dazzlers Fancy Ballerina Dress
Manufacturer: Geoffrey
Item Number: 67594
Problem: Jewels on dress and shoes may detach with "use and abuse." Labeled for ages 3 and up. No choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: Hannah Montana Handbag
Manufacturer: FAB Starpoint
Item Number: 38612
Problem: Bag decorated with buttons and small parts that fit in choke tube. Has play value for child under 6. No choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: Hello Kitty Handbag
Manufacturer: FAB Starpoint
Item Number: 39049
Problem: Bag decorated with plastic jewel that fits in choke tube. Has play value for child under 6. No choke hazard warning.

Category: Potential CSPA labeling violation
Toy Name: Molly 'N Me Toy Rings
Manufacturer: Ms. Dee Inc
Item Number: 94040
Problem: Rings fit in choke tube and have play value for children under 6. No choke hazard warning.

- TOYS THAT CONTAIN NEAR SMALL PARTS -

These products contain toy parts that almost fit in the choke test tube or spherical objects that fail the small ball test. Although these toys do not violate the letter of the law, these parts could block a child's airway given their shape and size. Children have died on similarly-sized toys that pass the choke tube test.

Category: Near Small Parts
Toy Name: Home Depot Tool Set with Pouch
Manufacturer: Geoffrey
Item Number: 50205
Problem: Toy screws are similar in shape to Playskool plastic nails that became lodged in the throats of two children, causing their deaths.[142] Labeled for ages 3 and up. No choke hazard warning; CSPA does not require a warning because the toys do not fit in the choke test cylinder.

Category: Near Small Parts
Toy Name: Thomas & Friends Timber Yard Portable Playset
Manufacturer: RC2 Brands/Learning Curve
Item Number: LC76503
Problem: Log halves barely pass small parts test. Toy is labeled for ages 3 and up. No choke hazard warning; CSPA does not require a warning because the toys do not fit entirely in the choke test cylinder. Includes non-statutory language that says: "Not suitable for children under 36 months, may contain small parts."

Category: Near Small Parts
Toy Name: Thomas & Friends Toby's Windmill
Manufacturer: RC2 Brands/Learning Curve
Item Number: LC99389
Problem: Wooden flour barrels barely pass small parts test. Toy is labeled for ages 3 and up. No choke hazard warning; CSPA does not require a warning because the toys do not fit entirely in the choke test cylinder. Includes non-statutory language that says: "Not suitable for children under 36 months, may contain small parts."

Category: Near Small Parts
Toy Name: Thomas & Friends Sodor Dairy Cars
Manufacturer: RC2 Brands/Learning Curve
Item Number: LC99037
Problem: Milk barrel barely passes the small parts test. Toy is labeled for ages 2 and up. No choke hazard warning; CSPA does not require a warning because the toys do not fit entirely in the choke test cylinder.

- BALLOONS -

All balloons must include a warning about the dangers of uninflated or broken balloons to children younger than 8 years of age.

Category: Balloons
Toy Name: 1st Birthday Girl/Boy Balloons
Manufacturer: Amscan
Item Number: 111012 (Hugs & Stitches Girl), 111016 (Hugs & Stitches Boy), 117016 (1st Birthday Girl), 117017 (1st Birthday Boy), 119634 (One Special Girl), 119633 (One Special Boy)
Problem: Children under 8 years can choke or suffocate on uninflated or broken balloons. The product includes the statutory choke hazard warning, but these balloons are intended for use by children under 8 years old.

Category: Balloons
Toy Name: Blue's Clues Balloons
Manufacturer: American Greetings Corp.
Item Number: 85-1976
Problem: Children under 8 years can choke or suffocate on uninflated or broken balloons. Product contains statutory balloon warning but features characters (Blue's Clues, Cinderella, Bob the Builder, etc) marketed for children under 8.

Category: Balloons
Toy Name: Rocket Balloons
Manufacturer: Toy Investments, Inc.
Item Number: 204 12 0757
Problem: Children under 8 years can choke or suffocate on uninflated or broken balloons. Product contains statutory balloon warning, but it also contains the small parts choking hazard warning for children ages 3 and up and is age-labeled for ages 5 and up. Could be confusing for parents.

Category: Balloons
Toy Name: Party Favors 4 Whistle Balloons
Manufacturer: Day2Day Products
Item Number: 3177
Problem: Children under 8 years can choke or suffocate on uninflated or broken balloons. These balloons have the statutory choke hazard warning, but not the warning about the dangers of balloons for children under 8.

- OVER-LABELED TOYS -

Some manufacturers are placing choking hazard warnings on products that do not contain small parts. This dilutes the meaning of the warning for parents. These are just two examples of clearly over-labeled toys.

Category: Over-labeled toys
Toy Name: KidConnection Farm Animal Wooden Touch-and-Feel Book
Manufacturer: Wal-Mart
Item Number: 30357
Problem: Labeled with choke hazard warning, but toy does not have any small parts. Over-labeling dilutes the effectiveness of the warning. According to the *Manufacturers' Abbreviated Guide for Age Labeling Toys*, books with easy-to-turn cloth or cardboard pages with bright primary colors are appropriate for children as young as 7 months if they contain familiar objects.

- Magnetic Toys -

Standards

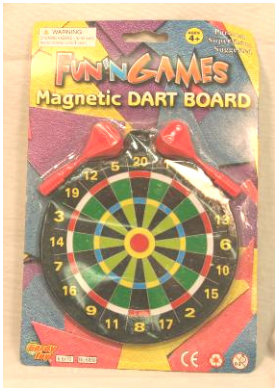
In March 2007, ASTM finalized voluntary standards for toys containing hazardous magnets, defined as a magnet of a particular shape and size with a flux index greater than 50. According to the standard:

• Toys containing loose "as-received" hazardous magnets or "as-received" hazardous magnetic components should be labeled with a safety warning. The labeling should consist of the signal word **"WARNING"** and contain, at a minimum, the following text or equivalent text: **"This product contains small magnets. Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnets are swallowed or inhaled."**

• Toys should not liberate a hazardous magnet or hazardous magnetic component through use and abuse.

Examples of Magnetic Toys

Category: Magnetic Toys
Toy Name: Super Magnets
Manufacturer: MTC Trading Co.
Item Number: PF-1900, PF-1941
Problem: Small, powerful magnets come loose from the magnet casing. If a child swallows more than one magnet, the magnets can attract to each other and cause intestinal perforation or blockage. The packaging does not contain a warning about the dangers of magnets.



Category: Magnetic Toys
Toy Name: Fun 'N Games Magnetic Dart Board
Manufacturer: Gordy International
Item Number: 6859
Problem: Small, powerful magnets come loose from the magnet casing. If a child swallows more than one magnet, the magnets can attract to each other and cause intestinal perforation or blockage. The packaging does not contain a warning about the dangers of magnets.

Category: Magnetic Toys
Toy Name: Claire's Magnetic Earrings
Manufacturer: CBI Distributing
Item Number: Assorted
Problem: If a child swallows more than one magnet, the magnets can attract to each other and cause intestinal perforation or blockage. Magnetic jewelry left in place for too long can damage surrounding tissue by obstructing blood flow. The packaging does not contain a warning about the dangers of magnets.

Category: Magnetic Toys
Toy Name: Molly 'N Me Magnetic Earrings
Manufacturer: Ms. Dee Inc.
Item Number: 940134
Problem: If a child swallows more than one magnet, the magnets can attract to each other and cause intestinal perforation or blockage. Magnetic jewelry left in place for too long can damage surrounding tissue by obstructing blood flow. The packaging does not contain a warning about the dangers of magnets.

Category: Magnetic Toys
Toy Name: Safari Science Magnetic Marbles
Manufacturer: Safari Ltd
Item Number: 6615-16
Problem: If a child swallows more than one magnet, the magnets can attract to each other and cause intestinal perforation or blockage. Magnetic marbles look like gumballs. The packaging does not contain a warning about the dangers of magnets.

- Excessively Loud Toys -

Standards

In November 2003, ASTM finalized acoustics standards for toys that include the following:

• Hand-held, table-top, floor, and crib toys: Toys in this classification should not produce continuous sound that exceeds 90 dB when measured from 25 centimeters (cm).

• Close-to-the-ear toys: Toys in this classification should not produce continuous sound that exceeds 70 dB when measured from 25 cm.

• All toys with impact-type impulsive sounds: Toys should not produce an impact-type peak sound in excess of 120 dB when measured from 25 cm. This requirement also applies to all recorded impulsive sounds, such as those produced by video games, regardless of what was recorded (explosion or impact).

• All toys with explosive-type impulsive sounds except percussion caps: Toys should not produce an explosive-type peak sound in excess of 138 dB when measured from 25 cm.

Examples of Excessively Loud Toys

Category: Excessively loud toys
Toy Name: Power Gear Max 10 Fazer
Manufacturer: SRM Entertainment
Item Number: 2526
Maximum Decibel Measurement: 94 dB (25 cm), 99 dB (10 cm), 107 dB (1 cm)
Problem: Should not exceed 90 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.

Category: Excessively loud toys
Toy Name: Elite Operations Astro Blaster Set
Manufacturer: Geoffrey
Item Number: 38393
Maximum Decibel Measurement: 91 dB (25 cm), 98 dB (10 cm), 105 dB (1 cm)
Problem: Should not exceed 90 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.

Category: Excessively loud toys
Toy Name: Special Ops Force 45 Cal Electronic Sound Pistol
Manufacturer: Uni Toys
Item Number: 20114
Maximum Decibel Measurement: 96 dB (25 cm), 101 dB (10 cm), 107 dB (1 cm)
Problem: Should not exceed 90 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.

Category: Excessively loud toys
Toy Name: Boom Blasters Sax
Manufacturer: Summit Products
Item Number: BBS01-NI
Maximum Decibel Measurement: 91 dB (25 cm), 95 dB (10 cm), 100 dB (1 cm)
Problem: Should not exceed 90 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.

- Potentially Toxic Toys: Lead and Other Toxic Chemicals-

Standards

• Toys or materials used in toys must conform to the Federal Hazardous Substances Act.
• If metal jewelry is intended for use by children and toxic lead content is accessible by a child, then it constitutes a banned hazardous substance under the law.
• Lead is banned in paint at levels greater than 600 parts per million.
• Play cosmetics—cosmetics intended for children under 14—must conform to the requirements of the Federal Food, Drug and Cosmetics Act.
• CPSC has issued a guidance to manufacturers, retailers, and distributors about children's products containing liquid chemicals. This guidance states that manufacturers should eliminate the use of the following chemicals in children's products: mercury, ethylene glycol, diethylene glycol, methanol, methylene chloride, petroleum distillates, toluene, xylene, and related chemicals.

Examples of Toys Containing Potentially Toxic Lead

Category: Contains lead
Toy Name: Curious George Fireman; Curious George Sweet Dreams; Curious George Birthday; assorted others
Manufacturer: Marvel Toys
Item Number: 90246 (Fireman); 90247 (Sweet Dreams)

Problem: The Center for Environmental Health tested one of these Curious George dolls and found lead at levels more than 10 times the legal lead-paint limit.[143] PIRG testing confirmed the Center for Environmental Health's results, finding lead at levels of 5 times the legal lead paint limit (3,000 mg/kg). This toy was recalled by the manufacturer in October after CEH notified it and by the CPSC on November 8, 2007.[144]

Category: Contains lead
Toy Name: "Princess," "Diva," "Angel," "Cutie," and other assorted zipper pulls
Manufacturer: Unknown (Made in China)
Item Number: 84990001
Problem: PIRG testing found that the metal zipper pull contained lead at levels of 650,000 mg/kg (or 65% lead by weight).

Category: Contains Lead
Toy Name: Special Designed Farm Set- Yellow Cow
Manufacturer: Qausini
Item #: H641
Problem: PIRG testing found that the paint on the yellow cow contained lead at levels of 860 mg/kg, exceeding the 600 mg/kg limit.

Category: Contains Lead
Toy Name: Diddl necklace (Letter H) with rhinestone
Manufacturer: Depesche
Item #: 014006.008_A
Problem: PIRG testing found that the children's jewelry contained 46,000 mg/kg of lead (or 4.6% lead by weight).

Examples of Toys Containing Potentially Toxic Chemicals

Category: Contains potentially toxic chemicals
Toy Name: Baby Einstein Baby's Photo Book
Manufacturer: Kids II
Item Number: 30701
Problem: Laboratory tests found an unidentified phthalate ester at an estimated concentration of 8,000 parts per million (0.8%).

Category: Contains potentially toxic chemicals
Toy Name: Sassy Who Loves Baby Photo Book
Manufacturer: Sassy
Item Number: 8149
Problem: Laboratory tests found bis (2-ethylhexyl) phthalate at an estimated concentration of 1,400 parts per million (0.14%).

Category: Contains potentially toxic chemicals
Toy Name: Dream Girl Fashion Frenzy
Manufacturer: Dream Cosmetics LLC
Item Number: GG10073
Problem: Nail polish contains toluene.

Category: Contains potentially toxic chemicals
Toy Name: Dream Girl Princess Pouch
Manufacturer: Dream Cosmetics LLC
Item Number: GG10031
Problem: Nail polish contains xylene.

Category: Contains potentially toxic chemicals
Toy Name: Princess Expressions Beauty Backpack
Manufacturer: Dream Cosmetics LLC
Item Number: GG10021
Problem: Nail polish contains xylene.

Category: Contains potentially toxic chemicals
Toy Name: Glitzy Girl Cosmetics Glamour Kit
Manufacturer: Beauty 21 Cosmetics
Item Number: 2041218
Problem: Nail polish contains dibutyl phthalate.

Category: Contains potentially toxic chemicals
Toy Name: Claire's Cosmetics 6 Pack Lip Gloss
Manufacturer: CBI Distributing
Item Number: 69236-8
Problem: Some of the lip gloss contains butylated hydroxytoluene.

Attachment B. Toy-Related Deaths, 1990-2005

Toy-Related Deaths (Children Under 15): 1990-2005[c]

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Total
Choking/Asphyxiation Deaths																	
Balloons	6	3	6	6	6	8	7	6	4	4	1	4	3	3	1	1	69
Balls	2	2	3	6	4	2	0	3	1	4	2	1	2	5	4	6	47
Marbles	0	2	1	0	0	1	0	0	0	0	1	0	0	0	0	0	5
Toy or Toy Part	6	6	1	4	3	1	3	2	3	1	2	4	3	2	2	2	45
Total	14	13	11	16	13	12	10	11	8	9	6	9	8	10	7	9	166
Riding Toys, Scooters	4	8	4	5	4	6	2	0	4	4	8	13	5	0	6	5	78
Toy Chests	4	2	2	1	0	0	0	1	0	1	1	1	0	0	0	1	14
Strangulation	1	1	3	2	0	1	1	0	0	0	0	1	0	0	2	2	14
Other	0	1	2	1	1	2	0	1	2	2	2	1	0	1	1	3	20
TOTAL TOY DEATHS	23	25	22	25	18	21	13	13	14	16	17	25	13	11	16	20	292
% BY CHOKING/ASPHYXIA	61%	52%	50%	64%	72%	57%	77%	85%	57%	56%	35%	36%	62%	91%	44%	45%	57%

Source: CPSC. Data for 2005 and previous years available at "Consumer Product-Related Statistics," http://www.cpsc.gov/library/data.html.

[c] Data for 2006 was not available at the time of publication of this report.

Attachment C. Lead in Children's Jewelry: Test Results

Test results are in milligrams per kilogram (mg/kg), or parts per million.

Toy Name	Manufacturer	Item Number	Store Purchased	Test Results	Notes
Curious George Sweet Dreams (large stuffed monkey w/ plastic head)	Marvel	90247	Toys R Us	3,000 mg/kg	Face tested 0.3 % lead. Item has been recalled by manufacturer
Diddl necklace (Letter H) with rhinestone	Depesche	014006.008_A	Toys R Us	46,000 mg/kg	Necklace is 4.6% lead.
Special Designed Farm Set-Yellow Cow	Qausini	H641	Dollar King	860 mg/kg	Paint is 860 mg/kg. Standard is not to exceed 600 mg/kg
Zipper pull "Diva" children's jewelry	Unknown	84990001	Dollar City	650,000 mg/kg	Decorative jacket zipper pull is 65% lead by weight.
Lead paint standard is 600 mg/kg (ppm) or 0.06%; other products can be recalled if lead levels exceeds this level and are accessible.					

End Notes

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