

Trouble in Toyland



The 24th Annual Survey
of Toy Safety

MoPIRG
Education Fund

November 2009

Trouble in Toyland

The 24th Annual Survey of Toy Safety

MoPIRG Education Fund

November 2009

Acknowledgements

Written by Elizabeth Hitchcock, Public Health Advocate.



MoPIRG Education Fund issues this report under a Creative Commons “some rights reserved” license. You are free to copy, distribute or display the work for non-commercial purposes, with attribution. For more information about this Creative Commons license, visit <http://creativecommons.org/licenses/by-nc-nd/2.5/>.

Cover photos: Shutterstock

The author would like to thank Brian Imus and Kate Lehman of Illinois PIRG, Fielding Huseh of Maryland PIRG, Charity Carbine of Vermont PIRG, Blair Anundson of Washington PIRG, Bruce Speight of Wisconsin PIRG, and Ed Mierzwinski and Brian Walker of U.S. PIRG for their help with the research and production of this report. Special thanks to the Colston Warne program of Consumers Union for supporting our work on consumer protection issues. Additional thanks to the Beldon Fund and individual contributors for their generous support of our work on environmental health and toxics issues.

MoPIRG Education Fund: With public debate around important issues often dominated by special interests pursuing their own narrow agendas, MoPIRG Education Fund offers an independent voice that works on behalf of the public interest.

MoPIRG Education Fund, a 501(c)(3) organization, takes on powerful interests on behalf of citizens, working to win concrete results for our health and our well-being. With a strong network of researchers, advocates, and organizers, we stand up to powerful special interests on issues such as stopping identity theft, fighting political corruption, providing safe and affordable prescription drugs, and strengthening voting rights.

For a free copy of this report, visit our website. Or, for a hard copy of the report, send a check for \$30 made payable to MoPIRG Education Fund at the following address:

MoPIRG Education Fund
4660 Maryland Ave., Suite 260B
St. Louis, MO 63108
www.mopirg.org

Table of Contents

Acknowledgements	2
Table of Contents	3
Executive Summary	4
Introduction	7
Choking Hazards.....	8
Findings: Choking Hazards.....	11
Magnetic Toys	12
Recommendations: Magnets	14
Excessively Loud Toys.....	14
Toy Survey Findings: Loud Toys	15
Recommendations: Loud Toys	16
Lead in Toys and Children's Products.....	16
Findings: Lead	17
Recommendations: Lead.....	17
Toxic Phthalates in Children's Products.....	18
Findings: Phthalates	20
Recommendations: Phthalates -	20
Strangulation Hazards.....	20
Drawstring Clothing	20
Methodology.....	21
Attachment A. 2009 Summary of Toy Hazards and Examples of Potentially Dangerous Toys	22
Attachment B. Toy-Related Deaths, 1990-2008.....	29
End Notes	30

Executive Summary

In 2008, Congress responded to an unprecedented wave of recalls of toys and other children's products by passing the first major overhaul of the Consumer Product Safety Commission since it was established during the Nixon Administration. By passing the landmark Consumer Product Safety Improvement Act (CPSIA) in August 2008,¹ Congress not only expanded the agency's budget, it also gave the CPSC more tools to hold corporate wrongdoers accountable and speed recalls, moved toward banning toxic lead and phthalates except in trace amounts, and greatly improved import surveillance.

The recall of 45 million toys and other children's products in 2007 and continued recalls in 2008 reminded Americans that no government agency tests toys before they are put on the shelves.

Specifically, the wave of recalls focused attention on the fact that the agency charged with protecting Americans from unsafe products—the Consumer Product Safety Commission—is a little agency with a very big job to do.

The CPSIA strengthened the CPSC and established tough new protections against toxic chemicals like lead and phthalates. New and expanded leadership at the CPSC has begun to put these protections into effect.

But there is no magic wand to rehabilitate the tattered product safety net. Considering the 15,000 products under its regulation, the CPSC remains a very small agency with a very big job to do. Tough new bans on lead and

phthalates are a good step in the right direction, but there are tens of thousands of toxic chemicals in our children's lives. We continue to learn more about the relationship of toxic chemicals to chronic diseases. More must be done to protect our families from toxic chemicals.

The 2009 *Trouble in Toyland* report is the 24th 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.

In researching the report, we visited numerous national chain toy stores and other retailers in September and October 2009 to identify potentially dangerous toys. We analyzed CPSC notices of recalls and other regulatory actions to identify trends in toy safety. This year, we focused on three categories of toy hazards: toys that may pose choking hazards, toys that are excessively loud, and toys that contain the toxic chemicals lead and phthalates.

In the next section, we identify our key findings.

- CHOKING HAZARDS -

Choking on small parts, small balls and balloons remains a leading cause of toy-related deaths and injuries. Between 1990 and 2007, at least 196 children died after choking or asphyxiating on a toy or toy part; three children died in 2008 alone.

The law bans small parts in toys for children under three and requires an explicit, prominent warning label on toys with small parts for children between the ages of three and six. In addition, balls with a diameter smaller than 1.75 inches are banned for children under three years old.²

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.
- Our analysis of recalls and other actions taken by the CPSC³ from January 1-November 10, 2009 revealed that choking hazards were the leading cause of such actions. In 2009, 5.3 million toys and other children's products have been pulled from store shelves due to choking hazards.
- Some toys may pose a choking or suffocation hazard even if they meet the letter of the law. We found toys with small parts that just barely met the CPSC standard. 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 toy nails, which pose special suffocation risks because of their shape.

- LOUD TOYS -

Almost 15 percent of children ages 6 to 17 show signs of hearing loss. In March 2007, the American Society for Testing and Materials adopted a voluntary acoustics standard for toys, setting the loudness threshold for most toys at 85 decibels, and for toys intended for use "close to the ear" at

65 dB. The Consumer Product Safety Improvement Act made most ASTM F963-07 standards mandatory.

We found that toys currently on store shelves may not meet the standards for appropriately loud toys; in fact, some toys we tested exceeded 85 decibels when measured at close range.

- LEAD IN TOYS -

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.

Lead has no business in children's products, whether in paint or coatings or in metal toys, jewelry or other children's products (vinyl bibs, lunchboxes, etc). The Consumer Product Safety Improvement Act bans lead except at trace amounts in paint or coatings (90 ppm limit as of August 2009), and in any toys, jewelry or other products for use by children under 12 years old (300 ppm limit as of August 2009, and 100ppm by August 2011).

- So far in 2009, CPSC has recalled nearly 1.3 million toys or other children's products for violations of the lead paint standard. The CPSC has recalled an additional 102,700 toys and other children's products for violation of the 300 ppm lead standard.

- Some children's toys and jewelry may contain high levels of lead. In one case, we found a piece of jewelry that contained 71% lead by weight. We also found toys that exceed the CPSIA's lead paint standards.

-PHTHALATES IN CHILDREN'S PRODUCTS-

Numerous scientists have documented the potential health effects of exposure to phthalates in the womb or at crucial stages of development. U.S. EPA studies show that 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.

Section 108 of the CPSIA bans toys containing three classes of phthalates for all children, and bans toys containing three more phthalates if they can be put in younger children's mouths. This provision went into effect in February 2009.

- This year, we found two toys that laboratory testing showed to contain levels of phthalates that exceed limits allowed by the CPSIA.

- 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.
- There is no comprehensive list of potentially hazardous toys. Examine toys carefully for potential dangers before you make a purchase. Shop with U.S. PIRG's Toy Safety tips available at www.toysafety.mobi
- Report unsafe toys or toy-related injuries to the CPSC at www.cpsc.gov.

FOR POLICY MAKERS-

- Congress must ensure that the CPSC's increased budget authorizations for the next five fiscal years are fully funded in appropriations, and conduct vigorous oversight of implementation of the new law.
- Manufacturers should be required to provide all hazard and health-impact information to the state and federal government so agencies can begin to assess the thousands of chemicals currently on the market for which little or inadequate data are available.
- The federal government must act based on the overwhelming weight of evidence showing that some chemicals might harm human health, and phase out dangerous chemicals.
- Manufacturers should be required to label products with the names of these chemicals in order to allow parents to choose less toxic products.

FOR THE CPSC

- CPSC should vigorously enforce the CPSIA ban on phthalates in all toys and products for children twelve years old and under, and in toys for younger children that can be put in a child's mouth.
- CPSC must continue to implement all rules required under the new law and must ensure that new third-party testing programs meet the new law's standards. CPSC must also move quickly to implement the new law's publicly-accessible hazards database requirement.

Introduction

Toys should entertain and educate children, but poorly designed and constructed toys can cause injury and even death. According to data from the Consumer Product Safety Commission (CPSC), at least 19 children, none older than 15 years old, died in 2008 from toy-related injuries. Three of the children died from choking or asphyxiating on a toy or toy part.⁴

In August 2008, **The Consumer Product Safety Improvement Act of 2008** was signed by the President. The CPSIA was the first major overhaul of the Consumer Product Safety Commission since the early 1970's. In addition to giving the agency much needed increases in its budget and authority, the new law established tough new testing standards for toys and other children's products, and banned toxic lead and phthalates in children's products.

In 2007, children's product recalls reached an all time high with 231 recalls of 30 million toys and 15 million other children's products.⁵ Twelve of the recalls involved more than one million units, causing the media to dub 2007 the "Year of the Recall."

The dramatic wave of toy, food and other consumer product recalls drew 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 budget for the 2007 fiscal year—before Congress took action to upgrade it – was just under \$63 million, or

less than half of what its 1974 startup budget (\$34 million) would be today had it been merely corrected for inflation (\$145 million). In 2007, it had only one toy tester at its decrepit Maryland laboratory; worse, only 15 of 380 total staff (down from a 1980 peak of 978) were on duty full-time as port inspectors.⁶

Popular toy manufacturers, such as Mattel, were forced to recall millions of units due to problems associated with their products' lead paint violations or dangerous small magnets.

Recalls are a solution of last resort. Once products are in consumers' homes, few will hear about the recall or will be able to take the products out of their homes. The better solution is to ensure that products are safe before they reach our stores and our shores. Fortunately, the Year of the Recall prompted Congress into finally taking a closer look at the neglected Consumer Product Safety Commission. In August 2008, Congress completed critical, overdue action on landmark legislation, resuscitating the agency's ability to protect the public from hazards.

U.S. PIRG and other organizations had long sought to strengthen the CPSC through rulemaking petitions, lawsuits and Congressional efforts. Yet, except for the 1994 passage of the Child Safety Protection Act, our efforts had largely been in vain. The CPSC had long suffered from Congressional neglect and administration efforts to weaken it (by both the 1980's Reagan administration and this decade's Bush administration.) Those efforts to keep the CPSC small and weak were backed by the Toy Industry

Association, the National Association of Manufacturers, manufacturers of all terrain vehicles (ATVs), and the American Chemistry Council, among others.

Over the past year, provisions of the Consumer Product Safety Improvement Act have begun to take effect. The law's restrictions on the toxic chemical lead and phthalates began to take effect in February 2009. Similarly, the new third party testing and certification regime established by the

CPSIA took effect in September 2009 for products manufactured after that date.

This report is a progress report on the implementation of the new law and an examination of the marketplace for common hazards. Our researchers went to national chain discount stores and larger stores to identify potential hazards. Our research focused on three categories of hazard: noise, toxics and choking. We readily found examples on store shelves.

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. In 1994, the Child Safety Protection Act established a more protective standard for small balls in children's toys.

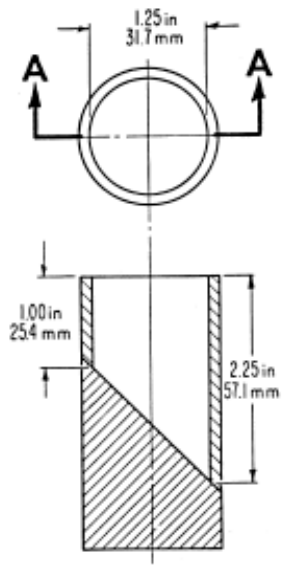
CPSC uses three factors to determine whether a toy is intended for children under three years old, including the manufacturer's stated intent, such as the age labeling; the advertising and marketing of the product; and whether the toy is “commonly recognized” as being intended for a child

under three years old.⁷ Some items commonly recognized for children under three include (but are not limited to) squeeze toys; teethingers; 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.⁸

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 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.⁹

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.¹⁰

Figure A. Choke Test Cylinder



LABELS FOR TOYS WITH SMALL PARTS FOR CHILDREN OVER AGE 3

CPSC's 1979 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.

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

- 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:¹¹



WARNING:

CHOKING HAZARD--Small parts
Not for children under 3 yrs.

- 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.¹² 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.”¹³ 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:¹⁴



WARNING:

CHOKING HAZARD--This toy is a small ball.
Not for children under 3 yrs.

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



WARNING:

CHOKING HAZARD--Toy contains a small ball.
Not for children under 3 yrs.

- 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:¹⁵



WARNING:

CHOKING HAZARD--Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children.
Discard broken balloons at once.

- MARBLES -

Any marble intended for children three years of age or older must bear the following cautionary statement on its packaging:¹⁶



WARNING:

CHOKING HAZARD--This toy is a marble.
Not for children under 3 yrs.

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



WARNING:

CHOKING HAZARD--Toy contains a marble.
Not for children under 3 yrs.

- 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.¹⁷

Findings: Choking Hazards

PIRG researchers surveying toy stores in the fall of 2009 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 CPSC 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.¹⁸

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 August 2009, the CPSC announced the recall of a variety of Little Tikes Children's Workshop toys totaling over 1.6 million units following an incident in which a little boy was hospitalized after choking on an over-sized plastic nail but made a full recovery.¹⁹

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.²⁰ 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 teethingers (Figure B). A similar standard for toys intended for children over 18 months does not exist.

- 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.

- 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.”²¹

- 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.

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.

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 in 2007. 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.”²² 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.²³

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.”²⁴ 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.²⁵

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.²⁶

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.

In April 2009, the CPSC announced an agreement by MegaBrands America to pay a \$1.1 million civil penalty to settle “*allegations that Mega Brands America and Rose Art failed to provide the government with timely information about dangers to children with Magnetix magnetic building sets, as required under federal law.*”²⁷

STANDARDS FOR MAGNETS IN TOYS

A working group of ASTM International (formerly known as the American Society for Testing and Materials) issued a voluntary

standard for labeling toys containing powerful magnets in 2007²⁸. 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.

The Consumer Product Safety Improvement Act made the ASTM F963-07 voluntary standard mandatory, and required the CPSC to review the standard after one year.

Recommendations: Magnets

- All children's products containing powerful magnets should be labeled with a warning alerting parents to the presence of hazardous magnets and the risk they pose if liberated. Currently, only craft and science kits that have small powerful magnets must be labeled. This would require labeling of children's jewelry with the warning, toys that meet ASTM F963, and clothing.
- CPSC should consider extending the magnet provisions of ASTM F963 to all children's products as defined in the Consumer Product Safety Improvement Act of 2008. If a magnet in a toy is hazardous, that same magnet in clothing or jewelry for the same age child is also hazardous.

Excessively Loud Toys

Between one-quarter and one-third of Americans with hearing loss can attribute it, at least in part, to noise.²⁹ Children are especially vulnerable to noise-induced hearing loss, which often happens gradually and without pain, from over-exposure to loud noises.³⁰ Almost 15 percent of children ages 6 to 17 show signs of hearing loss.³¹ 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.³²

The Occupational Safety and Health Administration reports that prolonged exposure to sounds at 85 decibels (dB) or higher can result in hearing damage.³³ 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.³⁴

Decibel Exposure Time Before Hearing Damage Can Occur³⁵

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.”³⁶

STANDARDS FOR LOUD TOYS

In April 2007, 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.”³⁷ The CPSIA made the ASTM voluntary standards mandatory, saying:

SEC. 106. MANDATORY TOY SAFETY STANDARDS. (a) IN GENERAL.—Beginning 180 days after the date of enactment of this Act, the provisions of ASTM International

Standard F963–07 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on the date of enactment of this Act (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) shall be considered to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

These standards include the following:³⁸

4.5.1.1 The A-weighted equivalent sound pressure level, *LAeq*, of continuous sounds produced by close to the ear toys shall not exceed 65 dB.

4.5.1.2 The A-weighted equivalent sound pressure level, *LAeq* (maximum A-weighted sound pressure level, *LAmax*, for pass-by tests), of continuous sounds produced by all other toys except close-to-the-ear toys shall not exceed 85 dB.

4.5.1.3 The C-weighted peak sound pressure level, *LCpeak*, of impulsive sounds produced by close to the ear toys shall not exceed 95 dB.

4.5.1.4 The C-weighted peak sound pressure level, *LCpeak*, of impulsive sounds produced by any type of toy excluding toys using explosive action (for example, percussion caps) shall not exceed 115 dB.

4.5.1.5 The C-weighted peak sound pressure level, *LCpeak*, of impulsive sounds produced by a toy using percussion caps or other explosive action shall not exceed 125 dB.

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 90 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.

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 reiterated in recent years by the massive recalls of popular toys including Curious George, 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 and 2008.

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.³⁹

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.⁴⁰ 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.⁴¹

An interim CPSC enforcement policy did not prevent 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 2007 of acute lead poisoning after he swallowed a piece from one of these

bracelets.⁴² During autopsy, doctors removed the Reebok charm from the boy's stomach and learned that it contained 99% lead by weight.⁴³

In 2007, CPSC issued virtually innumerable recalls for excessive lead paint, including, for example, 1.5 million Thomas the Tank Engine toys and parts,⁴⁴ 967,000 Sesame Street, Dora the Explorer, and other children's toys,⁴⁵ and 250,000 SpongeBob SquarePants toys,⁴⁶ among others. Recalls for lead and lead paint continued in 2008. In 2008, the CPSC announced at least 64 excessive lead recalls totaling over 6.3 million units. Forty-seven recalls (47) were lead paint violations; 17 recalls were children's jewelry or trinkets. Typical recalls included 67,000 Claire's necklaces, 57,000 Benjamin pendants, and 18,500 RR Donnelley miscellaneous learning toys.⁴⁷

Federal Standards For Lead

Under the Consumer Product Safety Act, regulations banned paint containing lead in a concentration of greater than 600 parts per million (0.06% by weight).⁴⁸ Under the Federal Hazardous Substances Act, CPSC could 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.⁴⁹ If such jewelry is intended for use by children and the toxic lead content is accessible by a child, it then constitutes a banned hazardous substance under the law.⁵⁰

The Consumer Product Safety Improvement Act of 2008 bans lead in toys and children's products on a phase-out schedule outlined below. After the effective dates, these products cannot be manufactured, imported for sale or sold.

- **February 2009:** Toys and children's products containing lead in excess of **600 parts per million (ppm)** became banned hazardous substances.
- **August 2009:** The maximum allowable amount of lead in paint and surface coatings decreased from **600 ppm to 90 ppm**.
- **August 2009:** Toys and children's products containing lead in excess of **300 ppm** became banned hazardous substances.
- **August 2011:** Toys and children's products containing lead in excess of **100 parts per million (ppm)** will become banned hazardous substances.

This final limit may be altered by the CPSC if it is determined to be technologically infeasible.

Findings: Lead

- U.S. PIRG's analysis of 2009 recalls and other regulatory actions showed that nearly 1.3 million toys and other children's products have been subject to such action due to potential violation of the CPSIA lead paint standard, with another 102,700 units recalled because of violation of the lead standard.

- Some children's toys and jewelry may contain high levels of lead. In one case, we found a children's book that contained 1900 ppm lead paint. A piece of jewelry was 71% lead by weight.

Recommendations: Lead

Lead-tainted children's products should never end up on store shelves or in the home. The CPSC should continue to vigorously enforce the CPSIA's bans on lead

and lead paint. in any toys, jewelry or other

products for children under 12 years old

Toxic Phthalates in Children's Products

Effective February 10, 2009, Section 108 of the Consumer Product Safety Improvement Act banned six phthalates in children's products.

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.⁵¹

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.⁵² A larger CDC study in 2003 again found high levels of phthalates in almost every person tested.⁵³

- 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.⁵⁴ 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.⁵⁵

- **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.⁵⁶

- **Early Onset Puberty.** One study of Puerto Rican girls suggests that phthalates may be playing a role in trends toward earlier sexual

maturity.⁵⁷ 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.⁵⁸ 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,”⁵⁹ in December 1998 CPSC asked the toy and baby products industry to remove DINP from soft rattles and teethingers. About 90 percent of manufacturers indicated at that time that they had or would remove DINP from soft rattles and teethingers 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.⁶⁰

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.”⁶¹

Unfortunately, in February 2003, CPSC denied the state PIRGs’ petition to ban PVC plastic in toys for young children.⁶²

- EUROPEAN UNION AND THE STATES LEAD THE WAY -

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.⁶³ 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.⁶⁴

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.⁶⁵ In 2008, bills were introduced in eight state legislatures that included bans on phthalates in children’s products; Washington State and Vermont both passed legislation in 2008.

- CONGRESS TAKES ACTION ON PHTHALATES -

In March 2008, Senator Dianne Feinstein (CA) successfully offered an amendment to

the Senate's Consumer Product Safety Improvement Act that banned phthalates in children's products.

After a lengthy House/Senate conference, the CPSIA was signed into law with a ban on childcare products and children's toys containing the phthalates DEHP, DBP, and BBP in concentrations higher than 0.1% per phthalate (1,000 ppm), and on childcare products and children's toys that can be put in a child's mouth containing the phthalates DINP, DnOP, and DIDP in concentrations higher than 0.1% per phthalate (1,000 ppm).

The ban on DINP, DnOP and DIDP is in effect pending a Chronic Hazard Advisory Panel's report on the health effects of the chemicals. The CHAP has eighteen months to report its findings and make a recommendation on whether to make the ban permanent. Both bans were effective February 2009. The interim ban will be rescinded only if the CHAP recommends doing so.

Findings: Phthalates

This year, we found two toys with phthalate levels that exceed the CPSIA limits. One lunchbox contained 72000 ppm of DIDP (7.2%) and a child's purse with bis (2-ethylhexyl) phthalate at an estimated concentration of 54000 parts per million (5.4%).

Recommendations: Phthalates -

CPSC should vigorously enforce the CPSIA's ban on the use of phthalates in all toys and children's products. The CPSC should convene a *de novo* Chronic Hazard Advisory Panel free of conflict of interest in accordance with the CPSIA.

Strangulation Hazards

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.⁶⁶ From January 1985 through June 1997, CPSC received reports of 21 deaths and 43 incidents involving drawstrings on children's upper outerwear.⁶⁷ In February 1996, CPSC issued guidelines to help prevent these injuries, which ASTM adopted as a voluntary standard in June 1997.⁶⁸ 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.⁶⁹

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.⁷⁰ 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.

U.S. PIRG's analysis of 2009 recall and other enforcement actions shows that more than 400,000 articles of children's clothing have been recalled because of this hazard. One of these occurred after the death of a three year

old child in Fresno, Calif., who was strangled when the drawstring on the hooded sweatshirt that he was wearing became stuck on a play ground set.⁷¹

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;^a 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.

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.⁷² 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 an X-RayFluorescence (XRF) analyzer to screen 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.⁷³

^a 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. 2009 Summary of Toy Hazards and Examples of Potentially Dangerous Toys

-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 balls in toys intended for children under 3.

Toy Name: Creative Wood Stacking Rings

Manufacturer: Zaidy products

Item # or SKU: 734

Problem: Ball on top is smaller than 1.75" in diameter in violation of the ban on such toys for children under three. The product has two labels, one that says "18mos and up" and another contradictory statutory small parts warning, that states it is only intended for children older than 3. Has play value for a child under three.



Category: May violate ban on small parts in toys intended for children under 3.

Toy Name: Real Wood Shape Sorter Barn

Manufacturer: P&C Enterprise

Item # or SKU: #1620

Problem: “Equal” signs fit entirely in choke tube. Has play value for a child under three; has statutory label.

- 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: May violate ban on small parts in toys intended for children under 3.

Toy Name: unnamed play food tray

Manufacturer/ Distributor: World Market

Item # or SKU: 23950184

Problem: Pieces of the fruit fit entirely in the choke tube. Toy is labeled “not for ages under 3”, with no explanation. Play value for children under 3.

- 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: My First BABY Learn by BABY Born

Manufacturer: Zapf Creation y

Item # or SKU: Reg # PA-5189

Problem: Spoon is slightly longer than choke tube. Labeled “3+ years”; CSPA does not require a statutory warning because the toys do not fit in the choke test cylinder.



Category: Near Small Parts

Toy Name: Pizza Planet Gift Pak-- Disney Toy Story

Manufacturer: Mattel

Item # or SKU: P9239

Problem: "Woody" figurine barely pass small parts test. Toy is labeled "3+". No choke hazard warning; CSPA does not require a statutory warning because the toys do not fit entirely in the choke test cylinder.



Category: Near Small Parts

Toy Name: Fur Real Baby Bird

Manufacturer: Hasbro

Item # or SKU: C-022G

Problem: Baby bottle barely passes the small parts test. Toy is labeled "Ages 4+". No choke hazard warning; CSPA does not require a statutory warning because the toys do not fit entirely in the choke test cylinder.



Category: Near Small Parts, Labelling violation

Toy Name: Worky

Manufacturer: Nemmer

Item # or SKU: 13-281

Problem: Toy screws are similar in shape to Playskool plastic nails that became lodged in the throats of two children, causing their deaths.⁷⁴ Labeled "Age 1+". No choke hazard warning; CSPA does not require a warning because the toys

do not fit in the choke test cylinder.

- Excessively Loud Toys -

Standards

In April 2007, 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 85 dB when measured from 25 centimeters (cm).
- Close-to-the-ear toys: Toys in this classification should not produce continuous sound that exceeds 65 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 115 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 125 dB when measured from 25 cm.

Examples of Excessively Loud Toys



Category: Excessively loud toys

Toy Name: Secret Saturdays Cryptid Claw

Manufacturer: Mattel

Item # or SKU: P4553

Maximum Decibel Measurement: 88 dB (25 cm), 90 dB (10 cm), 90 dB (1 cm)

Problem: Should not exceed 85 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.



Category: Excessively loud toys

Toy Name: Kota and Pals Stompers Triceratops

Manufacturer: : Playskool

Item # or SKU: Reg # PA-282

Maximum Decibel Measurement: 90dB (25 cm), 90 dB (10 cm), 90 dB (1 cm)

Problem: Should not exceed 85 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.



Category: Excessively loud toys

Toy Name: Laugh & Learn Learning Phone

Manufacturer: Fisher Price

Item # or SKU: C6324

Maximum Decibel Measurement: 82 dB (25 cm), 75 dB (10 cm), 90 dB (1 cm)

Problem: Should not exceed 65 dB when measured at 25 cm. Prolonged exposure to noise above 85 dB can cause hearing loss.



Category: Excessively loud toys

Toy Name: Bright Lights Phone

Manufacturer: Vtech

Item # or SKU: 80-056050

Maximum Decibel Measurement: 86 dB (25 cm), 88 dB (10 cm), 89 dB (1 cm)

Problem: Should not exceed 65 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

The Consumer Product Safety Improvement Act of 2008 bans lead in toys and children's products on a phase-out schedule outlined below. After the effective dates, these products cannot be manufactured, imported for sale or sold.

- **February 2009:** Toys and children's products containing lead in excess of **600 parts per million (ppm)** became banned hazardous substances.
- **August 2009:** The maximum allowable amount of lead in paint decreased from **600 ppm** to **90 ppm**.
- **August 2009:** Toys and children's products containing lead in excess of **300 parts per million (ppm)** became banned hazardous substances.
- **August 2011:** Toys and children's products containing lead in excess of **100 parts per million (ppm)** become banned hazardous substances.

The CPSIA includes a ban on childcare products and children's toys containing the phthalates DEHP, DBP, and BBP in concentrations higher than 0.1% per phthalate (1,000 ppm), and on childcare products and children's toys that can be put in a child's mouth containing the phthalates DINP, DnOP, and DIDP in concentrations higher than 0.1% per phthalate (1,000 ppm).

Examples of Toys Containing Potentially Toxic Lead



Category: Contains lead

Toy Name: Touch and Feel Cloth Book

Manufacturer: Priddy Books

Item # or SKU: SKU 9780312492601

Problem: IllinoisPIRG screened a large red dot on one of the pages with an XRF gun, and sent to an EPA certified lab, finding lead in the paint at levels of 1900 ppm.



Category: Contains lead

Toy Name: "Alligator Cell Phone charm

Manufacturer: Claire's)

Item # or SKU: SKU: 2556-1 09-17 147

Problem: PIRG testing found that the metal charm contained lead at levels of 710,000 mg/kg (or 71% lead by weight).



Category: Contains Lead

Toy Name: Collector's Series Painted Duck

Manufacturer: Unknown, purchased at Dollar Tree

Item # or SKU: SKU: 639277250544

Problem: PIRG testing found that the paint on the yellow face and red body contained lead at levels of 3400 mg/kg, exceeding the 90 mg/kg limit.

Examples of Toys Containing Phthalates



Category: Contains potentially toxic chemicals

Toy Name: Pretty Princess Puppy Purse

Manufacturer: Claire's Boutiques

Item # or SKU: SKU: 36699-7

Problem: Laboratory tests found bis (2-ethylhexyl) phthalate at an estimated concentration of 54000 parts per million (5.4%).



Category: Contains potentially toxic chemicals

Toy Name: Elmo Lunch Bag

Manufacturer: Sassy

Item # or SKU: SKU: 840716079446

Problem: Laboratory tests found diisodecyl phthalate (DIDP) at a concentration of 72000 ppm (7.2%)

Attachment B. Toy-Related Deaths, 1990-2008

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Choking/Asphyxiation Deaths																				
Balloons	6	3	6	6	6	8	7	6	4	4	1	4	3	3	1	2	3	4	1	78
Balls	2	2	3	6	4	2	0	3	1	4	2	1	2	5	4	9	4	4	1	59
Marbles	0	2	1	0	0	1	0	0	0	0	1	0	0	0	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	6	2	1	54
Total	14	13	11	16	13	12	10	11	8	9	6	9	8	10	7	13	13	10	3	196
Riding Toys, Scooters	4	8	4	5	4	6	2	0	4	4	8	13	5	0	6	8	11	8	9	109
Toy Chests	4	2	2	1	0	0	0	1	0	1	1	1	0	0	0	1	0	0	1	15
Strangulation	1	1	3	2	0	1	1	0	0	0	0	1	0	0	2	2	0	0	0	14
Other	0	1	2	1	1	2	0	1	2	2	2	1	0	1	1	2	5	4	6	34
TOTAL TOY DEATHS	23	25	22	25	18	21	13	13	14	16	17	25	13	11	16	26	29	22	19	368
% BY CHOKING/ ASPHYXIATION	61%	52%	50%	64%	72%	57%	77%	85%	57%	56%	35%	36%	62%	91%	44%	50%	45%	45%	16%	53%

Source: U.S. PIRG analysis of annual CPSC Reports on "Toy-Related Deaths and Injuries" Previous years updated by new information in 2008 report dated November 17, 2008

¹ The Consumer Product Safety Improvement Act of 2008, HR 4040, became Public Law 110-314 on August 14th when it was signed by the President.

² 16 CFR 1500.18(a)(17)

³ U.S. Consumer Product Safety Commission press releases January 2009- November 10, 2009, <http://www.cpsc.gov/cpscpub/prerel/prerel.html>

⁴ U.S. CPSC Press release #10-039, “Town Hall on Toy Safety”: CPSC Talks to Parents About New Rules Aimed at Making Toys Safer”, November 17, 2009. <http://www.cpsc.gov/cpscpub/prerel/prhtml10/10039.html>

⁵ See the report “2007: The Year of the Recall,” Kids In Danger, February 2008, available at http://www.kidsindanger.org/publications/reports/2008_Year_of_the_recall.pdf (last visited 16 July 2008).

⁶ In 2007, in separate appropriations legislation, the Congress rejected the Bush administration’s proposed fiscal 2008 increase from just under \$63 million to just over \$63 million and substituted an \$80 million appropriation. The CPSC focused the increase on port inspection program upgrades. See the U.S. Consumer Product Safety Commission 2009 Performance Budget Request, available at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2009plan.pdf> (Note: Because Congress did not complete its 2008 appropriations bills, the CPSC budget is temporarily frozen at that level.

⁷ 16 CFR 1501.2(b)

⁸ 16 CFR 1501.2(a)

⁹ 16 CFR 1501.3

¹⁰ 16 CFR 1501.4(b)(2)

¹¹ 16 CFR 1500.19

¹² 16 CFR 1500.18(a)(17)

¹³ 16 CFR 1500.18(a)(17)

¹⁴ 16 CFR 1500.19(b)(3)

¹⁵ 16 CFR 1500.19(a)(2)

¹⁶ 16 CFR 1500.19(a)(4)

¹⁷ 16 CFR 1500.19(a)(8)

¹⁸ CPSC, “Playskool Voluntarily Recalls Toy Tool Benches after the Death of Two Toddlers,” press release, September 22, 2006.

¹⁹ CPSC, “Little Tikes™ Recalls Children’s Toy Workshop Sets and Trucks Due to Choking Hazard,” press release, August 13, 2009. <http://www.cpsc.gov/CPSCPUB/PREREL/prhtml09/09304.html>

²⁰ ASTM International, “Standard Consumer Safety Specification for Toy Safety,” F963.4.33.

²¹ Statement of Celestine T. Kiss, Engineering Psychologist, CPSC, at the CPSC Premium Toys Seminar, Bethesda, MD, January 9, 2001. Accessed October 30, 2006 at <http://www.cpsc.gov/businfo/celstalk.pdf>.

²² Dr. Marsha Kay, Cleveland Clinic, “Magnetic Toys: When Attraction is a Health Problem,” *Health Extra Newsletter*, accessed October 28, 2006 at <http://www.clevelandclinic.org/health/health-info/docs/4000/4024.asp?index=12952>.

²³ Dr. Marsha Kay, Cleveland Clinic, “Magnetic Toys: When Attraction is a Health Problem,” *Health Extra Newsletter*, accessed October 28, 2006 at <http://www.clevelandclinic.org/health/health-info/docs/4000/4024.asp?index=12952>; L. Suk-Koo, B. Nam-seon, K. Hyun-Hahk, “Mischievous magnets: unexpected health hazard in children,” *J Pediatr Surg* 1996;31:1694–5; M. Honzumi, C. Shigemori, H. Ito et al, “An intestinal fistula in a 3-year-old child caused by the ingestion of magnets: report of a case,” *Surg Today* 1995;25:552–3.

²⁴ Alan E. Oestreich, MD, “Multiple Magnet Ingestion Alert”, Letters to the Editor, *Radiology* 2004; 233:615. Accessed October 28, 2006 at <http://radiology.rsna.org/cgi/content/full/233/2/615>.

²⁵ CPSC, “Child’s Death Prompts Replacement Program of Magnetic Building Sets,” press release, March 31, 2006, accessed October 20, 2006 at <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06127.html>.

²⁶ “Company to pay \$13.5 million to settle toy magnet complaints,” *Associated Press*, October 25, 2006; Mega Brands, “Mega Brands Settles Virtually All Product Liability Lawsuits and Claims,” press release, October 25, 2006.

²⁷ “Mega Brands America To Pay \$1.1 Million Civil Penalty For Reporting Violations With Popular Magnetic Building Sets,” CPSC press release, April 14, 2009 at <http://www.cpsc.gov/CPSCPUB/PREREL/prhtml09/09193.html>.

-
- ²⁸ See Toy Industry of America, "New ASTM standard, TIA Notes Important New Requirements in ASTM Toy Safety Standard - To Address Magnets and Yo-Yo Balls" accessed November 7, 2007 at http://www.toyassociation.org/AM/Template.cfm?Section=New_ASTM_Standard.
- ²⁹ See Dangerous Decibels, a project of Oregon Hearing Research Center at the Oregon Health & Science University, at <http://www.dangerousdecibels.org/hearingloss.cfm>, accessed November 1, 2006; National Institute on Deafness and Other Communication Disorders, National Institutes of Health, "Noise Induced Hearing Loss," accessed November 1, 2006 at <http://www.nidcd.nih.gov/health/hearing/noise.htm>.
- ³⁰ Karen A. Bilich, "Protect Your Child's Hearing," *American Baby*, August 9, 2001.
- ³¹ AS Niskar et al, "Prevalence of hearing loss among children 6 to 19 years of age: The Third National Health and Nutrition Examination Survey," *JAMA* 1998; 279: 1071-1075.
- ³² See Dangerous Decibels, a project of Oregon Hearing Research Center at the Oregon Health & Science University, at <http://www.dangerousdecibels.org/hearingloss.cfm>, accessed November 1, 2006; also see the National Institute on Deafness and Other Communication Disorders, National Institutes of Health, "Noise Induced Hearing Loss," accessed November 1, 2006 at <http://www.nidcd.nih.gov/health/hearing/noise.htm>.
- ³³ OSHA Noise Exposure Standard, 39 FR 23502 (as amended) section 19010.95
- ³⁴ See Dangerous Decibels, a project of Oregon Hearing Research Center at the Oregon Health & Science University, at <http://www.dangerousdecibels.org/hearingloss.cfm>, accessed November 1, 2006; also see the National Institute on Deafness and Other Communication Disorders, National Institutes of Health, "Noise-Induced Hearing Loss," accessed November 1, 2006 at <http://www.nidcd.nih.gov/health/hearing/noise.htm>.
- ³⁵ See Dangerous Decibels, a project of Oregon Hearing Research Center at the Oregon Health & Science University, at <http://www.dangerousdecibels.org/hearingloss.cfm>, accessed November 1, 2006.
- ³⁶ MC Lower, BW Lawton, ME Lutman ME and RA Davi, ISVR Consultancy Services, University of Southampton, *Noise from toys and its effect on hearing*, 1997, Report #5304 R02.
- ³⁷ ASTM F963, Section 4.5.
- ³⁸ ASTM F 963 – 07e1, Section 4.5 (Sound Producing Toys).
- ³⁹ ATSDR, Case Studies in Environmental Medicine: Lead Toxicity, October 2000; American Academy of Pediatrics, "Lead Exposure in Children: Prevention, Detection and Management," *Pediatrics*, 1036-1048 (October 2005).
- ⁴⁰ Centers for Disease Control and Prevention, Preventing Lead Poisoning in Young Children, August 2005.
- ⁴¹ Richard L. Canfield, Ph.D., Charles R. Henderson, Jr., M.A., Deborah A. Cory-Slechta, Ph.D., Christopher Cox, Ph.D., Todd A. Jusko, B.S., and Bruce P. Lanphear, M.D., M.P.H., "Intellectual Impairment in Children with Blood Lead Concentrations below 10 µg per Deciliter," *New England Journal of Medicine*, April 17, 2003, Volume 348:1517-1526.
- ⁴² CPSC, "Reebok Recalls Bracelet Linked to Child's Lead Poisoning Death," press release, March 23, 2006. Accessed October 30, 2006 at <http://www.cpsc.gov/cpscpub/prerel/prhtml06/06119.html>.
- ⁴³ Centers for Disease Control, "Death of a Child After Ingestion of a Metallic Charm --- Minnesota, 2006," *Morbidity and Mortality Weekly Report*, March 23, 2006.
- ⁴⁴ CPSC release of June 13, 2007, "RC2 Corp. Recalls Various Thomas & Friends™ Wooden Railway Toys Due to Lead Poisoning Hazard," accessed on November 7, 2007 at <http://www.cpsc.gov/CPSCPUB/PREREL/prhtml07/07212.html>.
- ⁴⁵ CPSC release of August 2, 2007, "Fisher-Price Recalls Licensed Character Toys Due To Lead Poisoning Hazard," (<http://www.cpsc.gov/cpscpub/prerel/prhtml07/07257.html>) last accessed on November 7, 2007).
- ⁴⁶ CPSC release, August 22, 2007, "Martin Designs Inc. Recalls SpongeBob SquarePants Character Address Books and Journals Due to Violation of Lead Paint Standard," Accessed November 7, 2007 at <http://www.cpsc.gov/cpscpub/prerel/prhtml07/07283.html>.
- ⁴⁷ U.S. PIRG analysis of CPSC recall announcements.
- ⁴⁸ 16 CFR 1303.
- ⁴⁹ 15 U.S.C. 1261(f)(1)
- ⁵⁰ 15 U.S.C. 1261(q)(1)
- ⁵¹ Phthalate Esters Panel of the American Chemistry Council, *What are Phthalates?*, downloaded from www.phthalates.org on 14 April 2004; Catherine Dorey, Greenpeace, *Chemical Legacy: Contamination of the Child*, October 2003.

-
- ⁵² BC Blount et al, "Levels of Seven Urinary Phthalate Metabolites in a Human Reference Population," *Environmental Health Perspectives* 108: 979-982, 2000.
- ⁵³ Manori J Silva et al, "Urinary Levels of Seven Phthalate Metabolites in the U.S. Population from the National Health and Nutrition Examination Survey (NHANES) 1999-2000," *Environmental Health Perspectives* 112: 331-338, March 2004.
- ⁵⁴ Shanna H. Swan et al, "Decrease in anogenital distance among male infants with prenatal phthalate exposure," *Environmental Health Perspectives* 113: 1056-1061, August 2005; LE Gray et al, "Perinatal Exposure to the Phthalates DEHP, BBP, and DINP, but not DEP, DMP, or DOTP, Alters Sexual Differentiation of the Male Rat," *Toxicological Science* 58: 350-365, December 2000; Vickie Wilson et al, "Phthalate Ester-Induced Gubernacular Lesions are Associated with Reduced Ins13 Gene Expression in the Fetal Rat Testis," *Toxicology Letters* 146: 207-215, 2 February 2004; JS Fisher et al, "Human 'Testicular Dysgenesis Syndrome': A Possible Model Using *in-utero* Exposure of the Rat to Dibutyl Phthalate," *Human Reproduction* 18: 1383-1394, 2003.
- ⁵⁵ NIEHS, "Independent Panel to Evaluate a Chemical Used in Some Plastics (Di (2-ethylhexyl) phthalate) for Hazards to Human Development or Reproduction," press release, October 5, 2005.
- ⁵⁶ G Latini et al, "In-Utero Exposure to Di-(2-ethylhexyl)-phthalate and Human Pregnancy Duration," *Environmental Health Perspectives* 111:1783-1785, 2003.
- ⁵⁷ I. Colón, D Caro, CJ Bourdony and O Rosario, "Identification of Phthalate Esters in the Serum of Young Puerto Rican Girls with Premature Breast Development," *Environmental Health Perspectives* 108: 895-900, 2000.
- ⁵⁸ SM Duty et al, "Phthalate Exposure and Human Semen Parameters," *Epidemiology* 14: 269-277, 2003; SM Duty et al, "The Relationship Between Environmental Exposures to Phthalates and DNA Damage in Human Sperm Using the Neutral Comet Assay," *Environmental Health Perspectives* 111: 1164-1169, 2003.
- ⁵⁹ CPSC, "CPSC Releases Study on Phthalates in Teethers, Rattles and Other Children's Products," press release, December 2, 1998, accessed November 7, 2007 at www.cpsc.gov/CPSCPUB/PREREL/PRHTML99/99031.html.
- ⁶⁰ CPSC, "CPSC Releases Study on Phthalates in Teethers, Rattles and Other Children's Products," press release, December 2, 1998, accessed November 7, 2006 at www.cpsc.gov/CPSCPUB/PREREL/PRHTML99/99031.html.
- ⁶¹ Report to the U.S. Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Diisononyl Phthalate, June 2001. Accessed November 7, 2006 at <http://www.cpsc.gov/LIBRARY/FOIA/Foia01/os/dinp.pdf>.
- ⁶² CPSC, Letter to Jeffrey Becker Wise, National Environmental Trust, February 26, 2003, accessed November 7, 2006 at <http://www.cpsc.gov/library/foia/foia03/petition/ageunder.PDF>.
- ⁶³ "Results of Competitiveness Council, Brussels, 24th September 2004," Memo/04/225.
- ⁶⁴ Bette Hileman, "EU Bans Three Phthalates from Toys, Restricts Three More," *Chemical and Engineering News*, July 11, 2005.
- ⁶⁵ News release, October 15, 2007, "Governor Signs Bill to Protect Kids from Toxic Toys," Accessed November 7, 2007 at <http://www.environmentalcalifornia.org/newsroom/environmental-health/environmental-health-news/governor-signs-bill-to-protect-kids-from-toxic-toys>.
- ⁶⁶ CPSC, "Guidelines for Drawstrings on Children's Upper Outerwear," accessed October 31, 2006 at <http://www.cpsc.gov/CPSCPUB/PUBS/208.pdf>.
- ⁶⁷ CPSC, Letter to Manufacturers, Importers and Retailers of Children's Upper Outerwear, May 19, 2006, accessed October 31, 2006 at <http://www.cpsc.gov/BUSINFO/Drawstring.pdf>.
- ⁶⁸ ASTM F1816-97, "Standard Safety Specification for Drawstrings on Children's Upper Outerwear."
- ⁶⁹ CPSC, "Guidelines for Drawstrings on Children's Upper Outerwear," accessed October 31, 2006 at <http://www.cpsc.gov/CPSCPUB/PUBS/208.pdf>.
- ⁷⁰ CPSC, Letter to Manufacturers, Importers and Retailers of Children's Upper Outerwear, May 19, 2006, accessed October 31, 2006 at <http://www.cpsc.gov/BUSINFO/Drawstring.pdf>.
- ⁷¹ CPSC Press Release #09-129, August 13, 2009. Strangulation Death of a Child Prompts Hill Sportswear To Recall Hooded Sweatshirts with Drawstrings
- ⁷² A technical description of EPA Test Method 8270C is available at U.S. EPA, "Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry, accessed November 7, 2006 at <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/8270c.pdf>. A technical description of EPA Test Method 3580A is available at U.S. EPA, "Waste Dilution," accessed November 7, 2006 at <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/3580a.pdf>.

⁷³ A technical description of EPA Test Method 6020 is available at U.S. EPA, “Inductively Coupled Plasma-Mass Spectrometry,” accessed November 3, 2006 at <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/6020.pdf>. A technical description of EPA Test Method 3050B is available at U.S. EPA, “Acid Digestion of Sediments, Sludges, and Soils,” accessed November 3, 2006 at <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/3050b.pdf>.

⁷⁴ CPSC, “Playskool Voluntarily Recalls Toy Tool Benches after the Death of Two Toddlers,” September 22, 2006.