Presumption of Safety: Limits of National Policies on Toxic Substances in Consumer Products and the Need for Global Action

Joel A. Tickner, ScD
University of Massachusetts Lowell
joel_tickner@uml.edu
Overview

- Growing international concern about toxic substances, including heavy metals, in consumer products, including toys
- Complex supply chains for many product types leading to:
  - Limited information on chemical or material content or hazards
  - Disjointed and uncoordinated national policies, even more limited global policies
  - A reactive focus to problems
- A need for global, coordinated approaches.
In 3rd Recall, Mattel Says More Toys Include Lead

By LOUISE STORY
Published: September 5, 2007

Mattel announced a global recall of 848,000 toys last night, the company's third recent recall because of hazardous levels of lead paint on toys.

The recall includes three toys sold by Fisher-Price and eight Barbie accessories, though no Barbie dolls. Most of the units recalled are Barbie accessories, and 530,000 of the toys were sold in the United States, according to Mattel. The recall echoes Mattel's announcements from last month. During the rush of holiday toy-making, three Chinese vendors outsourced the painting of drum sets, trains and playhouses to four subcontractors. The subcontractors, trying to cut costs, used lead-tainted paint instead of paint approved by Mattel.
FOR IMMEDIATE RELEASE  
NOVEMBER 14, 2007  
9:53 AM

CONTACT: United Steelworkers  
Connie Mabin, USW, 412-562-2616 or cmabin@usw.org,  
Judy Braunam of Empire State Consumer Association,  
565-303-1317; or  
Dr. Kathleen Burns of Sciencecorps,  
kmh@sciencecorps.org

Kids' Bracelet Contains Extremely Toxic Cadmium  
CPSC not interested in "new public health threat"

PITTSBURGH - November 14 - The United Steelworkers (USW) today said the latest toxic toy discovery – extremely high levels of poisonous cadmium in an imported kids' charm bracelet – is more proof that the nation's failed trade policies and a broken regulatory system are putting children at risk and must immediately be fixed.

The troubling discovery is the latest in a toxic import crisis in which dangerous products such as poisoned pet food, lead-laced baby bibs and toys, red-leaded steel and counterfeit electrical circuit breakers have flooded North America. More than 30 million toys alone have been recalled this year because of high levels of lead.

"It is appalling that another imported product could be poisoning our children. Lead, cadmium - no toxins have any place in our children's products. This toy needs to be immediately recalled, but until our failed trade policies are remedied, our families are going to remain endangered," said USW President Leo W. Gerard. His union has been screening toys for lead in the United States and Canada as part of the "Protect Our Kids - Stop Toxic Imports" campaign.
EDITORIAL

Concerns About BPA Plastic

Published: May 29, 2008

Correction Appended

Anybody worried about the potential danger from plastic bottles and cups, especially for the very young, should take note. The Canadian government has announced plans to restrict the use of bisphenol-a, or BPA, a chemical used to make hardened plastics. The government would prohibit the sale of baby bottles made with BPA. [Those are the ones with the numeral 7 in the triangle stamp on the bottom].

Last month, the United States National Toxicology Program, which assesses the health effects of chemicals, also raised concerns about the potential “neural and behavioral” effects of BPA on all humans, but especially on...
IT'S A BETTER DAY.
FOR YOU AND YOUR FAMILY.

THE BPA-FREE CAMELBAK® BETTER BOTTLE.
ONE LESS THING TO WORRY ABOUT.

The BPA-free CamelBak Better Bottle
is the first clear, reusable water
bottle that’s free of the chemical
called Bisphenol-A (BPA) traditionally
used in hard plastic bottles.
Presumption of Safety Report

- Lowell Center for Sustainable Production Report to examine federal policy regarding toxic substances in consumer articles, particularly toys
- Follows on array of consumer product recalls but public expectation that government (and industry) is ensuring testing and safety of products
- Based on literature review and consultation with key stakeholders
- Concern that problem was not “Chinese imports” but rather inadequate policy structures at home.
Disjointed structure of consumer product safety in the U.S.

- Environmental Protection Agency – implements Toxic Substances Control Act which regulates chemical testing, reporting, and management of chemicals in manufacturing. Requires EPA to refer actions to other agencies and their laws if risks can be reduced through them.


- Food and Drug Administration – Regulates food contact substances and cosmetics through the Food Drug and Cosmetics Act

- In absence of federal action many states undertaking own legislation/policy with different requirements.
An unsavory addition to kids’ lunchboxes: lead

By Shan Roan
September 12, 2005 in print edition F-3

Along with peanut butter and jelly sandwiches and juice boxes, some schoolchildren may be carrying something unexpected — and potentially hazardous — in their lunchboxes this fall.

A study by an Oakland-based environmental group found harmful levels of lead in some lunchboxes made of soft vinyl. The Center for Environmental Health filed lawsuits late last month against several lunchbox manufacturers and various retailers who sell the products.

The environmental group found that 27 lunchboxes — one-quarter of the products tested — had high levels of lead when tested with an at-home detection kit. The group then sent those 27 products to an independent laboratory for more rigorous testing; that study found that 17 of the lunchboxes contained lead in excess of federal safety standards.

One lunchbox, made by Targus Group International Inc. and featuring the children’s character Angela Anaconda, was found to contain more than 90 times the legal limit for lead in paint in children’s products. The Center for Environmental Health has advised parents to avoid vinyl lunchboxes or to purchase a home test kit to check for lead. Such kits sell for about $8 and can be found on the Internet and in hardware stores.

Michael V. Ward, vice president and general counsel for Targus, said last week that the
Key Findings – Voluntary Standards

- Consumer Product Safety Laws require the CPSC to rely on voluntary product standards developed by industry groups when compliance with them would eliminate or reduce the risk of injury. These standards tend to test for few materials of concern and do not have the force of law.
Key Findings – Burdensome Reactive Laws

- While manufacturers are required to ensure their products are not hazardous or improperly labeled, defining a substance as hazardous is difficult due to high scientific burdens. *Lack of toxicity information is treated as evidence of safety.*
- To regulate or restrict a substance the CPSC has to undergo a lengthy, costly, and time consuming process which requires balancing costs to manufacturers with benefits to health and application of the least burdensome requirements for industry.
- Safe until proven dangerous.
Key Findings – Limited Government Capacity

- A budget limited agency with less than half of its original staff and less than a dozen health scientists
- Thousands of products to review coming imported from numerous countries
- Have to make safety determinations on these products with little or no product content or supply chain information. Little coordination between countries.
JULY 31, 2008 | ALSO APPEARED IN PRINT AUG. 4, 2008, P. 8

REGULATION

Legislation Bans Phthalates

Bill focuses on children's toys, boosts power of consumer protection agency

David Hanson

Congress is poised to pass legislation reauthorizing the Consumer Product Safety Commission (CPSC), giving it more money and new authority. The most controversial provision, however, bans use of six phthalates in children's products.

The bill, H.R. 4040, was approved on July 29 by a House-Senate conference committee after weeks of struggle over the phthalate provision. Introduced by Sen. Diane Feinstein (D-Calif.), the measure mirrors a ban on phthalates in toys approved in California last year. “This will help ensure that our children are safe from dangerous chemicals,” Feinstein says.

The bill would impose a permanent ban on three phthalates in objects used by children under 12: di(2-ethylhexyl) phthalate, di-isobutyl phthalate, and benzyl butyl phthalate. Three other compounds—diisononyl phthalate, dibutyl phthalate, and di-n-octyl phthalate—would have interim bans pending an additional 18 months of safety studies. The chemical industry fought the phthalate ban, calling it unnecessary. An American Chemistry Council vice president, Sharon Kneiss, says, “ACC believes that restricting phthalates from children’s products, when they have been deemed safe for use in those products by the CPSC, will do nothing to protect children’s health.” ACC is the trade association representing the largest U.S. chemical manufacturers.

The U.S. manufactures about $1.4 billion worth of phthalates annually and less than 5% of this goes into children’s products, ACC says.

Several other provisions in the legislation would strengthen CPSC authority. In light of numerous toy recalls over the past year, the agency banned lead above extremely low levels in children's toys, and will require third-party testing of products for lead or other hazards. It also would authorize additional funding for CPSC, up to $156 million by fiscal 2015. CPSC received $80 million in 2008.

The bill would also mandate creation of an online, public database for consumer-submitted and other reports of product-related problems.
Unique challenges

- International production, use, and disposal systems of products – lifecycles can involve at least three or four continents.
- Range of products, some high value, some very low value
- Limited global flow of information, systems for knowing what materials are in what products.
- Limited systems for verifying product contents or policing boarders.
- “Materials of concern” are often cheap and work well in their applications and alternatives may not have those characteristics
Problems of disjointed and uncoordinated national and global policies

- Focus on chemical of the day rather than broadly address a cross section of materials of concern and their hazard characteristics
- Potential of risk shifting when not thinking holistically about alternatives (including lifecycle of a material – metals)
- Limited information flows through supply chains and to consumers – makes difficult to manage or avoid the materials.
- Concerns about “dumping” products/materials of concern in developing countries
- Economic/health costs of recalls, health impacts, clean up, etc.
Ways to more effectively ensure chemical safety of products

- Global information schemes for toxic chemicals/materials in products that ensure consumers (industrial and individual) have adequate information.
- Global restrictions on materials of concern, ensuring substitutes are safer.
- National requirements for firms to ensure products do not contain materials of concern. Some firms already doing this though requirements on suppliers.
- Global enforcement coordination and import/export data sharing. Labeling of materials of concern could enhance this information sharing.