

# Children's Safe Products Advisory Group

## Meeting Summary

### July 29, 2008

---

The second meeting of the Children's Safe Products Act Advisory Group was held on July 29, 2008 in SeaTac, Washington at the Red Lion Hotel. The meeting agenda and meeting materials are available on the [website](#).<sup>1</sup>

#### The following Committee members attended the meeting:

- **Dr. Thomas Burbacher**, Center of Human Development and Disability
- **Representative Mary Lou Dickerson**, House of Representatives
- **Representative Larry Haler**, House of Representatives
- **Elizabeth Davis**, League of Women Voters
- **Laurie Davies**, Department of Ecology (alternate for Carol Kraege)
- **Denise LaFlamme**, Department of Health
- **Dr. Barry Lawson**, Washington Chapter American Academy of Pediatrics
- **John Ryan**, Toysmith
- **Ivy Sager-Rosenthal**, Washington Toxics Coalition (alternate for Laurie Valeriano until her arrival)
- **Dr. Sheela Sathya**, UW Department of Pediatrics
- **Jennifer Spall**, Wal-Mart
- **Laurie Valeriano**, Washington Toxics Coalition (arrived late)
- **Valla Wagner**, Teaching Toys and Books
- **Jim Walter**, Toy Industry Association/Mattel (alternate for Arthur Kazianis)

#### Other attendees:

- **Bill Alkire**, Toy Industry Association
- **Melissa Bailey**, Office of Representative Dickerson
- **Kathrin Belliveau**, Hasbro
- **Mary Borges**, Department of Health
- **Aimee Boulanger**, Institute for Children's Environmental Health
- **Karen Bowman**, Washington State Nurses Association
- **Charlie Brown**, Lab/Cor Materials
- **Andrea Christenson**, Kathie-Kruse Puppen
- **Kathy Davis**, Department of Ecology
- **Jim Dawson**, Toxic Free Legacy Coalition
- **Nancy Dickeman**, Washington Physicians for Social Responsibility
- **Nick Federici**, Washington Toxics Coalition
- **Robert Fisher**, Lab/Cor Materials
- **Joy Fortney**, Wizards of the Coast
- **Steven Gilbert**, INND
- **Gail Gensler**, King County Local Hazardous Waste Management Program
- **Syed Hasan**, NVL Labs

---

<sup>1</sup> <http://www.ecy.wa.gov/programs/swfa/ruleChildrenAdvise.html>

- **Tiffany Hatch**, Goodwill Industries
- **Kathryn Hedrick**, Bogard & Johnson, LLC
- **Mark Johnson**, Washington Retail Association
- **Rhonda Kaetzel**, Exponent/TIA Consultant
- **Carter Keithley**, Toy Industry Association
- **Munaf Khan**, NVL Labs
- **Diana Kirchheim**, Washington State Republican Caucus
- **Bob Knight**, Find It Games
- **Kathy Kruger**, Safety Restraint Coalition
- **Joan Lawrence**, Toy Industry Association
- **Tom Lindley**, Perkins Coie/Counsel to TIA
- **Rick Locker**, TIA General Counsel
- **David Parker**, Toy Representative
- **Lolly Randall**, Toy Representative
- **Allen Rickert**, Top Ten Toys
- **Bill Robertson**, Washington Poison Center
- **Carl Schroeder**, House Democratic Caucus
- **Kathleen Shaver**, Mattel
- **Margaret Shield**, King County Local Hazardous Waste Management Program
- **Melissa Tennille**, Teaching Toys and Books
- **Joyce Tsuji**, Exponent/TIA Consultant
- **Jim White**, Department of Health
- **Gary Wilburn**, Washington Senate Democratic Caucus
- **Ken Zarker**, Department of Ecology
- **Allyson Zipp**, AGO

Dan Silver facilitated the meeting, and Matt Schoellhamer took notes.

## Car Seats

Denise LaFlamme of the Department of Health presented information to the Committee regarding whether the Children's Safe Product Act (CSPA) requirements for lead, cadmium, and phthalates would significantly reduce the availability of car seats in Washington State. The top four manufacturers that sell car seats in Washington are Evenflo Company, Dorel Juvenile Group, Graco Children's Products, and Britax. There are also two manufacturers of car seats that are located in Washington: Sunshine Kids Juvenile Products, and ProRider.

The Ecology Center, a non-profit organization in Ann Arbor, Michigan has tested car seats for a variety of heavy metals and other heavy metals. In particular, they tested for lead and cadmium in sixty-two 2007 and seventy 2008 infant, convertible, and booster seats. XRF testing cannot indicate the presence of phthalates, so the Ecology Center tested for chlorine as an indicator of the presence of PVC plastic.

The Ecology Center data indicates that most car seats will meet the CSPA standards for lead, cadmium, and phthalates. Sixteen out of the 132 tested car seats had lead concentrations above the 90 ppm standard, with four of these being within the margin for error for the test. Seventeen of the 132 contained chlorine, although this does not indicate that these car seats would fail Washington's standard for phthalates.

In addition to reviewing Ecology Center data, Denise also contacted car seat retailers and manufacturers to gather additional information regarding car seat compliance and testing. None of these parties provided testing data.

Denise concluded that the available data raise no red flags that the CSPA would significantly affect car seat availability in Washington. However, manufacturers are concerned that their products may need to be modified to meet the lead standard. Data has yet to be identified on how many car seats would have to be removed from shelves, as well as on other market impacts of the CSPA.

The ensuing discussion led the Committee to these conclusions:

- It appears that most car seats will pass if the State tests external surfaces and components.
- On balance, safety concerns suggest that internal components that provide structural safety should be exempt from the standards, when a company has exhausted other reasonable alternatives.
- External components should meet the standards, with the possible exception of metal buckles, for which there might not be an adequate and available substitute currently.
- The Department of Health should continue to pursue information from manufacturers.
- The burden of responsibility is on the manufacturer to come forward and report to regulators that removing certain components or materials would compromise safety.

## **Toy Manufacturing and Retail Supply Chain**

### *Large Manufacturing*

Jim Walter is the Chairman of the Safety Standards and Technical Committee for The Toy Industry Association (TIA) and works for Mattel. Jim briefed the Committee on the cycle of manufacturing.

The toy industry is made up of 3-5 very large companies, including Hasbro and Mattel, and a very large number of smaller companies. TIA membership in the US exceeds 500 companies.

Most toys have a relatively short lifespan; about half of all toys currently being sold have been introduced within the last three years, and any toy that lasts five years is a huge success. The industry is also a trailing edge technology user: toy manufacturers do not invent new technologies, but wait until technologies become generic and adaptable to toys. As a result, the industry relies on other industries for much of its technological development. At present, approximately 40% of toys marketed today have at least some electronic or mechanical components. The industry is also very seasonal, with much of its sales centered around the November/December holiday season.

Key terms that are useful to understand both toys and the toy testing process are:

- Surface coatings: decorations, labels, paints and other coating materials. Coating materials can be scraped off subsurface layers with a knife.
- Substrate: everything that is not a coating. It can include plastic, vinyl, cloth, and metal.
- Mechanicals: items such as screws clips, springs, and gears.
- Electrical: items such as plugs, connectors, solder, and circuit boards.

The processes by which toys are tested are elaborate and highly regulated. Testing requirements are divided into four categories: physical, mechanical, flammability, and small parts. Small parts testing is a significant concern in the toy industry.

Accessibility is also a very important consideration when developing and testing a toy. Accessibility probes that mimic a child's finger are used to determine those parts of a toy that are accessible to a child. These parts are checked both before and after the toy undergoes use and abuse testing. Any hazard posed by a material or component is considered to be eliminated if the component is inaccessible. However, regulations do not permit a potential hazard to be eliminated by changing the target age of the toy.

The toy industry therefore needs to balance replacing materials with less toxic options with the long standing concern over minimizing the hazards of small parts. For instance, over the years manufacturers have developed a specific style of brass bushing that is very effective at securing screws in toys and thus limiting access to components. However, this bushing exceeds the Washington limit of 90 parts-per-million (ppm) lead.

Toy manufacturers use a closed loop continual feedback product design process: design – test design – test process – produce – test production – produce and sell – assess production and sale – solicit feedback from consumers and public agencies – develop and update procedures, and apply those updates back to the initial design process. Typically this process averages 12-18 months from initial concept to production of a final product.

The toy industry is affected by an international regulatory scheme that began in the US with the adoption of Federal Safety Standard 16 CFR Part 1500 to 16CFR, and later incorporated ASTM F96307. European Union regulation began with the late 1980s with the Toy Safety Directive and currently is also governed by the EN-71 toy safety standard.

To support the implementation of expected US federal legislation and subsequent regulations from the CPSC, the TIA is in the process of developing a new toy safety certification program. This program will require toy importers and manufacturers to meet three requirements: Implement hazard assessment of toy design; conduct factory audits; and conduct product sample testing to validate that the factory is producing toys that meet the standard. These three requirements will be verified by an accredited certification body and upon successfully meeting the criteria, the toy will be allowed to bear a certification stamp. The first certified toys should be on shelves for the 2009 holiday season.

## Questions and Comments

- **Can you provide the exact lead content of the brass bushings?**
  - Yes, but not off-hand. It will be provided at a later date.
- **If all of this rigorous testing takes place, why have there been 21 million toys recalled in the last year?**
  - The recalls you refer to were the result of suppliers not meeting the appropriate standards. Mattel has had to increase oversight of its supply chain as a result.
- **Do toys in compliance with Proposition 65 or other US standards receive a certification mark?**
  - Proposition 65 does not have a certification mark, although it does require labeling of products that would cause exposure to listed substances above certain levels.
- **What methods does the Industry currently use to test for heavy metal content?**
  - Manufacturers need to perform different tests depending on the material.

- **Will the Toy Industry be certifying toys under the proposed certification plan?**
  - The Industry will help facilitate the process. ANSI will independently oversee the laboratory accreditation and factory certification processes.
- **Has a formal procedure been developed for this certification plan?**
  - The protocol for testing production facilities has been developed, along with a few other smaller elements of the program.
- **If the proposed program certifies a toy, will that guarantee that the toy will meet Washington's standards, too?**
  - This certification is designed to ensure that the toy meets the new federal standards. There is ongoing debate about whether or not the federal standards will subsume the Washington standards.
- **Can you elaborate on Mattel's efforts to cut down on recalls by increasing supply chain oversight?**
  - Once Mattel identified the supplier problem, which had to do with the use of lead paints in coatings, among other steps it instituted a program where only coatings from certified producers are accepted.
- **How do we meet the Washington standards and still remain profitable?**
  - According to one local Washington manufacturer, its current testing costs range from \$500-\$5000. There were over 3 billion toy products sold in the US last year. As a result of the CSPA, manufacturers will have to test their products for both certification and quality assurance. That amounts to a lot of extra costs, which ultimately will be passed on to the consumer.
- **How will the TIA certification program affect members? Will they be obligated to join?**
  - A manufacturer or importer who wants to certify a toy will not have to be a member of the TIA in order to seek certification for a toy. The three step process will apply in an identical manner for members and nonmembers. It is important to keep in mind that the certification program is being designed as a tool to ensure compliance with the new federal law and regulations that will be developed by the CPSC. The federal government will be the enforcement authority.
- **Which materials in toys are of primary concern when trying to comply with the new Washington State requirements?**
  - Generally the materials most likely to exceed the allowable limits are metals, including solder.
- **How many toys are distributed worldwide?**
  - A rough estimate is that there are 3 billion toys currently in use worldwide.

#### *Small Retailers*

Valla Wagner has a background in education and children's advocacy, and now owns and runs Teaching Toys and Books, an independent, specialty children's toy store located in north Tacoma.

Specialty toy stores differ from mass-market distributors in several key ways. The two models have very different customer and manufacturer relationships. Specialty storeowners are in the store every day, and know their customers and their children personally. Likewise, these retailers have a more direct and personal relationship with manufacturers, one that is not shaped by the ethical and legal responsibility to shareholders that many mass-market stores have.

Specialty stores also tend to sell a different type of toy than the mass-market stores. These toys tend to be selected for a much longer useful shelf life than the three-year average of the mass-market retailers. Many manufacturers specialize, making products only for the mass-market or for specialty retail, and even some of the companies that produce toys for both markets have separate product lines for the two markets. These differences result in a different approach to product safety and recalls. Many mass retailers stock a large percentage of toys from a relatively small number of vendors. Specialty stores handpick specific toys from each vendor. For example, Valla's store has stock from over 200 vendors.

New stock is identified through a wide variety of methods, including customer requests, but one of the most common is from attending trade shows such as the New York Trade Show. This is a very common approach for specialty retailers, and as a result many purchase all of their stock for the year at the beginning of the year.

## Questions and Comments

- **You have a customer base that can afford to pay extra and accepts high standards. How will this legislation impact you?**
  - This act may have the unintended consequences of requiring these measures of smaller manufacturers that cannot afford this level of testing. Smaller vendors may be forced to take good toys off of the shelf.
- **How big is ASTRA?**
  - There were about 900 stores at the last association conference.
- **What percentage of your stock overlaps with that of the mass-market stores?**
  - Valla's store has approximately 5% overlap. The average specialty toy retailer probably has 10-15% overlap.
- **By January 2009 manufacturers will have had a lot of time to become familiar with the CSPA requirements.**
- **What sort of questions do you ask European manufacturers about toxicity? Is there a third party certification you ask for?**
  - No. Generally European producers pass EN-71, which is a helpful benchmark.

### *Large Retailers*

Jennifer Spall described Wal-Mart's recent actions to improve toy safety. Last November it introduced its toy safety program, becoming the first toy retailer to introduce standards. Every vendor must meet these standards to have their products carried by Wal-Mart, including special runs, temporary and seasonal products. It can take up to two years for a manufacturer to qualify. Wal-Mart conducts about 200 product tests per day. Wal-Mart also participated in the development of the original CSPA. In the event of a recall notice from CPSA, the affected products are locked in the system so they can not be sold, and are removed from the shelves within 24 hours.

## Questions and Comments

- **How did you identify the materials for your hazardous materials list?**
  - The list is from the ASTM.
- **What reactions have your suppliers had to the new Washington requirements?**
  - Our suppliers are saying that if they can't meet Washington standards they will not sell toys in Washington State stores. Conversations with suppliers have indicated that 40% of Wal-Mart's toy stock would be removed from the shelves in this case, although this estimate includes items with internal electronic components that may ultimately be exempted.
- **Do you know specifically how many products that Wal-Mart carries would not comply with the current Washington standards?**
  - No.

## Overview of Standards and Protocols

Holly Davies from the Department of Ecology provided an overview of the current standards and protocols limiting the presence of lead, cadmium, and phthalates in children's toys.

The treatment of phthalates is by far the most uniform across the various plans. All three plans besides Washington's (EU, California, and US) divide phthalates into two categories, one for mouthable toys that prescribes limits for all six phthalates, and one for children's products that prescribes limits for three phthalates. In contrast, Washington treats all phthalates as the same for purposes of regulation. Another difference between the plans is that the other three mandate that each phthalate must meet its 1000 ppm limit, whereas in Washington the concentration of all phthalates combined can not exceed 1,000 ppm.

Also, the Restriction of Hazardous Substances (RoHS) Directive for consumer electronic products sets a limit of 1,000 ppm lead. Solder that tests below this limit is considered "lead free". Therefore, lead-free solder will not comply with the Washington standard.

For now, one of the key differences in the Washington standard is the large number of specific exceptions compared to all of the other protocols. For the time being, Maine's protocol is very similar to Washington's, although it remains to be seen how the Federal bill will affect Washington.

Illinois tests compliance by measuring the total weight of lead in the toy and, in theory, includes toys with internal electronic components.

Illinois and Connecticut are the two states that conduct their own testing. Connecticut, for instance, has two inspectors that conduct 450 product tests per year.

## Questions and Comments Regarding Standards and Protocols

- **Are electronics manufacturers meeting Denmark's limit of 100 ppm for lead?**

- Both Jim Walter and John Ryan indicated that they do not meet any special standard for Denmark. They will research why that is.<sup>2</sup>
- **The language of the CSPA specifically indicates that the bill applies to “children at play”, although the Legislature plans to add an age limit of 12 to the definition as a technical fix.**
- **How are some of the other states testing?**
  - Illinois uses a chemical scratch test, and Connecticut sends the samples to an agricultural lab. Illinois does not rely at all on XRF testing.
- **Does Mattel approach sales or compliance any differently in Illinois as a result of the state’s different approach?**
  - No. [Jim Walter]
  - Illinois is not pursuing enforcement actions for inaccessible components. [Holly Davies]

## Testing Methods

Daniel Ma, from Intertek, provided an overview of some of the different testing methods that are used to quantify lead, cadmium, and phthalate concentrations in toys.

A number of toy safety standards are employed in the marketing of toys. A key difference in the U.S. and European standards is whether the requirement applies to total metal or to soluble metal.

Two terms are important for understanding the heavy metal standards:

- Total metal content: the ratio of the weight of metal digested (chemical digestion) to the weight of material tested. This is identical to total metal concentration of the tested material.
- Soluble metal content: the ratio of the weight of the metal extracted by simulated gastric solution to the weight of material tested.

Most US state requirements cover lead only. Only Washington and Alabama have requirements for cadmium.

For phthalates, the European Union (EU) applies the precautionary principle and splits them into two groups. Canada and the US also split phthalates into two groups, whereas Washington treats all phthalates as part of the same group.

### *Chemical Tests*

Compliance testing can be divided into two basic groups: tests for total metals and tests for soluble metals.

---

<sup>2</sup> The TIA researched this question and provided the following: “While there is a statutory order regulating lead in Denmark, it does not cover toys. The Toy Safety Directive is a ‘total harmonization’ directive which means that EU Member States cannot have stricter requirements. In addition, the RoHS directive supersedes national regulation when it comes to electronic toys.”

Total metal testing: requires scraping a minimum of 0.1 g of coating from a sample, chemically digesting it using either the hot plate or the microwave method, and analyzing it. Soluble metal testing involves scraping a minimum of 0.3 g of a product's coating, weighing the sample, and then extraction.

There are separate methods of phthalate testing for the US and the EU, and the two methods require different extraction chemicals. However, not much data exists detailing how the results from these two approaches compare.

### Questions and Comments Regarding Chemical Tests

- **How do you test a toy with one of the chemical methods? Do you dissolve the entire toy?**
  - No. A small sample is taken from each different color of every material on the toy. Each material and color must be tested separately to avoid the dilution of tested materials.
- **Is there an EPA 8270 Methodology, and can you touch on it?**
  - There is such a methodology, but it is not addressed in this presentation. There was not time to review the complete universe of testing protocols.

### *XRF Testing*

In addition to the chemical testing methods, the XRF test can be used. The advantages of XRF testing are that it is a relatively inexpensive test, it does not require destroying the test item, and it is extremely quick to run: it requires five minutes as opposed to 16 hours for a chemical test. The disadvantages are that it can only be used to test for elements, so it will not indicate the presence of phthalates, for instance, and Washington's standards of 90 ppm lead and 40 ppm cadmium could be at or below the detection limit of the technology, depending on the specific device used.

In addition, there are several concerns that must be accounted for in XRF testing as they can significantly affect the results. XRF can penetrate thin layers of material, so testing such layers can cause results to vary. Also, chlorine concentrations in the sample can absorb radiation from lead, indicating that the sample contains less lead than it really does. More modern XRF devices have software that can correct for this problem.

### Questions and Comments Regarding XRF Testing

- **How much do these procedures cost?**
  - It is difficult to get relevant cost data. XRF is certainly cheaper than chemical testing. At a minimum it will cost \$300 per coating and per substrate, so testing a toy with nine coatings and nine substrates would cost over \$500.
- **Does the cost of XRF vary by quantity? Is it more expensive to test for smaller quantities?**
  - No, the cost is per test, and will provide each tested metal's concentration in ppm, and a pass/fail regardless of the requirement quantity.
- **How much variation is there in readings from different toys in the same batch?**
  - In our experience there is little variation within batches. However, uncertainty for EN-171 testing is 30%.

- **Would you recommend XRF testing given its limitations?**
  - Yes, provided one takes into account the issues mentioned in this presentation. In general, it is more effective at determining relative values than absolutes.
  - Current XRF technology is very effective on plastics down to 600 ppm quantities. The metal baseline is not as accurate.
- **Is it true that the XRF device doesn't penetrate very far into the material?**
  - Yes, although it penetrates far enough to read both the coating and the substrate. Sometimes this can dilute the final result.
- **Does XRF testing require a controlled environment in order to produce consistent results?**
  - No, although the devices themselves do need to be maintained and calibrated.
- **Would you ever recommend using XRF methodology for a compliance question?**
  - New desktop XRF models are a very good method for polymer plastics but not for ceramics, or glass.

## XRF Testing Demonstration

Seth and Arin Goldberg founded ESSCO just over a year ago, originally to provide onsite XRF testing for residential customers. Since then they have expanded their focus to include commercial customers as well. In addition to running a basic test, they have developed a software program that evaluates the results and produces reports of their findings.

### *XRF Physics*

XRF works by firing short-wavelength X-rays at an object, causing the atoms those X-rays hit to lose electrons from their outer valance levels. When electrons from a lower valance level take their place, energy is given off. The device can use this energy to identify the original atom. The software contained in these devices does account for matrix effects, and as a result they can provide a reading down to levels of 10 ppm lead, 25 ppm cadmium, and provide information on a range of other elements as well. XRF is capable of detecting the use of PVC plastic by identifying the presence of chlorine, but it cannot be used to detect phthalates.

### *How the Test Works*

Each distinct color and texture on the item is tested, although bright colors and synthetic fabrics are the most likely to yield high levels of lead and or cadmium. Each area or item is tested for 30 seconds to 5 minutes, depending on the item and the element being tested for. Cadmium, for instance, is the toughest element to get an accurate reading for, and requires the longest test. It is not necessary to enter the tested material into the device ahead of time; the analyzer uses the results to determine material composition, and this analysis becomes more accurate as multiple tests are run, as the system is database-driven.

The test itself is quite safe. While precautions should be and are taken not to point the beam in the direction of an individual, the device itself is very low power and so the hazard is quite low.

ESSCO can perform 50-60 tests per hour, up to 400-500 per day, at 2-3 tests per item. Fees for commercial customers are \$500 for four hours and \$750 for a full day.

A demonstration test was run on a toy for the committee. The test returned a result of 1917 ppm lead with a variance of 46 ppm. All five of the example toys in the demonstration tested at 750 ppm or above.

### Questions and Comments Regarding XRF Testing Demonstration

- **Does the margin of error vary by material?**
  - The margin of error varies by both material and the duration of the test.
- **Is it true that this test indicates the presence of a material, but says nothing about its bioavailability?**
  - That is correct, although no test can give you good results for bioavailability, as there are thousands of factors that affect it.
- **When you provide this service to residents, what do you tell them about the health risks based on the results you find?**
  - ESSCO does not go into significant detail on this topic. The goal is to give people data on what the item(s) contain and then allow them to decide how to use it.
- **If an item's coating has a significantly higher lead content than the substrate, will an XRF test dilute the results somewhat?**
  - Yes, the overall lead content reading will be lowered somewhat by the substrate. However, this will be mitigated somewhat as the coating will return a proportionally higher value.
- **What percentage of a manufacturer's toys would need to be tested to ensure compliance?**
  - To ensure 100 percent compliance one would have to test every toy. Since that is not feasible, ESSCO recommends random third party inspections, using batch numbers to ensure traceability, and performing a full inspection on at least one item per batch.
- **It seems that the legislation will treat the surface coating and substrate as separate items, which means that this test wouldn't be applicable.**
  - It is correct that the test does not differentiate between the substrate and coating. However, there is a correction that it is incorrect to read that the law treats these items as distinct.
- **What is the smallest area that can be sampled?**
  - One square centimeter.
- **There is a system of accredited chemical testing labs that have standardized methods in place. It is a concern that there is no standard procedure in place for the use of these devices.**
  - ESSCO would be happy to help develop such a standard.
- **The TIA has come to the conclusion that XRF is a useful tool, but is not nearly accurate enough to use as the basis for pass/fail regulatory testing.**

- ESSCO agrees. XRF would be an excellent system for screening and provides good comparable information. It is less effective at providing absolute values and is not recommended as the sole basis for a pass/fail decision.

## Public Comment

Dan Silver opened to the floor to the public for questions and comments related to the proceedings.

### *Public Comments*

- **What are the criteria for determining what is a false positive or false negative for ICP testing? There would need to be baseline criteria for these, as there are no standard definitions.**
- **Is there a supplier declaration as part of the proposed toy industry association certification?**
  - The certification system is still very much a work in progress while we wait for the CPSC to develop implementation regulations. The plan is to have an oversight board made up of stakeholder groups. However, this certification will be a part of federal law, and the burden of compliance will be on the manufacturers.
- **I haven't heard any compelling arguments for how weakening the CSPA would improve the health or enjoyment of children. It seems that this law is something Washington should be proud of.**
- **If the Committee is going to look at the economic costs of standards, it also needs to look at the associated economic benefits, such as lower health care costs.**
- **The Committee was urged not to weaken the CSPA standards or timeline, in order to protect children's health and the environment.**
- **Testing products by batch would be easy for Mattel, but it would be extremely difficult for a smaller manufacturer. The speaker's company cannot afford \$800,000 in testing, and would be forced to move out of the state if that were to be required.**
- **Our manufacturing facility has never received an exact concentration number from an Intertek test. The reports usually provide a less-than quantity instead.**
  - Those less-than quantities are provided when the test finds no trace of the tested substance, because the test itself has a margin for error that should be represented in the results.
- **One member of the public (President of Toy Industry Association) expressed support for statements praising the CSPA because the legislation encouraged the federal government to adopt significantly lower lead standards, resulting in a tough nationally uniform standard that manufacturers and sellers can meet.**

## Update on the Status of Rulemaking

Bari Schreiner, Department of Ecology, presented an update of Ecology's rulemaking status and requested feedback on revised rule language.

The Department of Ecology has filed Form CR101, and has begun to draft final rule language. This needs to be completed by August 6<sup>th</sup>, 2008. Ecology is aiming to have formal adoption of the rule by December 31, 2008.

Ecology has received comments on the draft rule from the Committee and has included two revised definitions: one for consumer electronics and one for product components. Ecology also received comments asking for clarification on the requirements for products purchased before July 1, 2009. The rule language has been revised to indicate that retailers will be able to sell preexisting stock after that date.

The Department is seeking consensus on the language of this “grandfather clause”, so that it can be included in the August 6<sup>th</sup> update. Several Committee members agreed to work with the Department on grandfathering language on a conference call later in the week.

## **Agenda for Next Committee Meeting**

The next meeting of the Children’s Safe Products Act Advisory Committee will be on September 9, 2008. The agenda will cover these subjects:

- Testing follow-up
- New federal legislation
- Chemical listing