



**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**  
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

March 7, 2001

The Honourable Allan Rock  
Minister of Health  
Room 441-S Centre Block  
House of Commons  
Ottawa, ON. K1A 0A6

VIA FAX 613-947-4276

Dear Mr. Rock,

**RE: LEAD IN TOYS AND JEWELLERY**

As you will know, the Director General of your Product Safety Program, Charles Ethier, was interviewed by CBC Marketplace for a program airing this week and featured on the CBC website at [www.cbc.ca/consumers/market/files/health/lead](http://www.cbc.ca/consumers/market/files/health/lead). In reaction to what is clearly and indisputably a serious threat to public health, particularly children's health, your official's response to this situation was extremely disappointing and in fact, at times dangerously misleading. As a spokesperson for Health Canada, he expressed a callous disregard for the severity of this situation with statements to the effect that consumers should avoid these products, *if* they had concerns about lead, as if such a concern were optional. His statements highlight your department's clear refusal to appropriately address this problem with necessary and long overdue regulatory action.

As your department has clearly identified and as Marketplace has verified, inexpensive jewellery, including children's jewellery, containing exceptionally dangerous levels of lead, is available for sale across Canada. As anyone in Canada can confirm with a trip to any shopping mall in the country, this jewellery is as plentiful as pennies. In recent weeks, I have made repeated visits to shopping malls and routinely found dozens and even hundreds of these lead-containing items in large and small stores at prices under ten dollars. Regardless of how they are marketed, to adults or children, these products are being bought by and for children. Your department's recent decisions to issue an "advisory" and to send nearly 8000 letters to manufacturers, distributors, and importers of this jewellery has clearly had no effect. As well, your department's suggestion to retailers that they use labelling to warn of lead content in jewellery intended for those under 16 is absurd. Nor have I seen any indication that it is being implemented.

The statement is made in the Product Safety Bureau letter of December 7, 2000, (at [www.hc-sc.gc.ca/ehp/ehd/psb/consumer/jewellery\\_industry\\_letter.htm](http://www.hc-sc.gc.ca/ehp/ehd/psb/consumer/jewellery_industry_letter.htm)), that

“Since this is your second notification from Health Canada concerning the potential for lead poisoning from mouthing jewellery products, you may wish to consult with your legal counsel regarding your civil liability and due diligence responsibilities.”

However, the vague prospect of a potential lawsuit by the victims of lead poisoning is a completely inadequate regulatory response. Most manufacturers will judge the risks from such a lawsuit to be slight, given the expense of litigation for a family and the issues of causation. Furthermore, they may believe it a reasonable business risk given their insurance policies.

Such an inappropriate approach fully enables individual Canadian children to first develop lead poisoning and then places their parents in the difficult position of mounting a legal challenge with dubious prospects of success, against any of a hundred or more companies engaged in the perfectly lawful sale of extremely dangerous products.

As you will know from a comprehensive report released last year and conducted by our organization in collaboration with the Ontario College of Family Physicians Environmental Health Committee, your department’s regulation of hazardous products in general, and of lead in particular, is woefully inadequate. The *Hazardous Products Act* provides for no power to remove hazardous consumer products from store shelves and provides for an entirely reactive and slow process of establishing product-specific regulations only after problems or poisonings have been identified.

Your department’s ridiculously slow and repeatedly delayed process of establishing a regulation governing lead in consumer products is inexcusable given the knowledge base that exists as to the hazards of lead. It is worth reminding you in this context that the knowledge base about the hazards of lead in children arose from perhaps the worst regulatory mistake of the 20<sup>th</sup> Century. As our report also documents in detail, adequate regulatory action to ban lead in gasoline was not taken until clear evidence existed confirming that the harmful effects of lead were occurring in literally millions of children. Health Canada in particular consistently refused to accept that lead in gasoline was a public health problem until the evidence was overwhelming and intense public pressure was brought to bear on the federal Ministers of Health and Environment during the months before the 1988 federal election. Despite all that is known about the harmful effects in children of this substance, repeated findings have occurred throughout the last ten years of lead-containing consumer products intended for, or creating exposure for, children. Your department made the absurd statement to us during the research for our report that it is “waiting to get the science right” in response to queries as to why the regulation is taking so long to put in place.

Why is it taking so long to regulate lead out of consumer products? Why should Canadian children have to be poisoned with lead as a means of identifying a problem for your staff to dither over for years? Is there internal resistance from federal government trade officials blocking the establishment of this regulation? If the assurance of free trade in consumer products is motivating the federal government to refuse to regulate hazardous materials out of consumer products, please explain why Canadian children should be poisoned for the sake of ensuring the commercial success of companies wishing to sell cheap jewellery? What is the position of the department of International Trade on this regulation?

As Minister of Health, your immediate attention to this matter is essential.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

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Researcher

- c.c. Charles Ethier, Director General, Product Safety Program, Health Canada  
Hon. Pierre Pettigrew, Minister for International Trade  
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