

(VIA EMAIL)

December 9, 2005

Jay Manning, Director  
Department of Ecology  
PO Box 46700  
Olympia, WA 98504-7600

Dear Director Manning,

I am writing on behalf of the Washington Toxics Coalition to request that the Department of Ecology take action under RCW 70.95G to protect Washington state's children and ensure that children's lunchboxes sold in Washington state do not contain lead—a potent persistent toxic chemical that has been banned in paints, gasoline and other products. We also request that you issue a strong rule to implement the Persistent Bioaccumulative Toxics (PBT) Program that will allow Ecology to take quick action on other consumer products that contain lead in Washington state.

In September of this year, a study of children's soft vinyl lunchboxes by the National Center for Environmental Health found many of these lunchboxes contain high levels of lead. Washington state law RCW 70.95G establishes a limit of 100 ppm of lead in packaging. One of the lunchboxes tested was found to have more than 560 times this limit. Recently, the New York Attorney General successfully used a similar New York law to force one lunchbox distributor to recall all of their lunchboxes that contained lead in excess of the 100 ppm limit.

It is unacceptable that products designed to hold children's food contain lead. Lead is known to be toxic to the brain and nervous system and can have long-term health effects, including learning deficits and reduced IQ. Scientists do not believe there is a safe level of lead for children. The effect of lead on children is of particular concern because children absorb five to ten times more lead than adults. In fact, sixteen percent of all American children have elevated blood lead levels. At the same time, they are more vulnerable to the effects of lead because their brains and nervous system are still developing.

Fortunately, your agency has the power to ensure that these products are not sold in our state. Under Washington law RCW 70.95G, it is illegal to sell packaging products and other packages, including carrying cases, that contain over 100 ppm of lead. Many of the lunchboxes tested exceed this level. Your agency has the authority to require the manufacturers of the tested lunchboxes to certify that their products do not contain amounts of lead over the legal limit. If the manufacturers cannot make such certifications, Ecology can prohibit the sale of the lunchboxes.

We request that Ecology request certifications from the manufacturers of lunchboxes that tested high for lead. Lunchboxes that tested high include the following brands:

Generation Sports  
Frozn/Ingear  
Roundhouse/Targus

Crayola  
American Studio  
Igloo  
Sanford  
Fast Forward  
Arizona Jean Company  
JC Penny  
Lisa Frank  
Animations/Accessory Network  
Holiday Fair/Mischief Makers  
Extreme Gear/Romar  
SubZero/Global Advantage  
Chill  
Big Dogs  
Childress baby bottle carriers  
Innovo  
East End Accessories/Worldwide Dreams

If these manufacturers cannot provide the proper certifications, then Ecology should prohibit the sale of the lunchboxes as provided under RCW 70.95G.60.

In addition to this important action, the agency has the opportunity to take additional measures to better protect Washington's children from lead by adopting a strong persistent bioaccumulative toxic (PBT) regulation that will allow Ecology to quickly reduce and phase out lead. Unfortunately, the current draft of the rule delays state action on lead indefinitely— until after the U.S. Environmental Protection Agency (EPA) completes its Metals Assessment Framework. EPA has been working on the Framework for more than four years with no scheduled date for completion.

The fact that lead is still found in kids' lunchboxes underscores the need for states to take action on toxic chemicals in consumer products where the federal government is failing. We strongly oppose Ecology's decision to delay action on lead under the PBT Program. We urge you to remove the delay for lead so that the state can move forward in identifying and taking action on other consumer products that contain lead.

Thank you for your attention to this matter. We look forward to working with you. If you have any questions or would like to discuss this further, please feel free to contact either one of us at (206) 632-1545.

Sincerely,

Ivy Sager-Rosenthal  
Environmental Health Advocate  
Washington Toxics Coalition

Laurie Valeriano  
Policy Director  
Washington Toxics Coalition