



November 21, 2007

Office of Advocacy
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416

RE: Nomination for U.S. Small Business Administration Office of Advocacy's
Regulatory Review and Reform Initiative (r3)

IPC-Association Connecting Electronics Industries appreciates the opportunity to nominate the Environmental Protection Agency (EPA) Toxics Release Inventory (TRI) Lead Rule¹ for the U.S. Small Business Administration Office of Advocacy's Regulatory Review and Reform Initiative (r3). The lead reporting requirements of the TRI were established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). On January 17, 2001 EPA published a Final Rule changing the TRI reporting threshold for lead and lead compounds from 25,000 lbs per year to 100 lbs per year. This drastic reduction in the threshold was based on EPA's inappropriate classification of lead as a PBT (persistent bioaccumulative toxic) metal. The scientific basis and justification for the lowered TRI reporting threshold for lead is contradicted by EPA's Metals Framework which questions the validity of using the PBT methodology to evaluate metals. As a result, small businesses continue to be unduly burdened by the TRI Lead Rule despite the latest scientific information which questions the very basis for the rule. By continuing to ignore scientific information, EPA continues to collect and disseminate inaccurate information on PBTs through the TRI program, causing unnecessary public concern.

IPC is the global trade association for the electronics interconnection industry, and represents more than 2500 member companies. IPC members manufacture printed circuit boards (PCBs) and electronic assemblies, which are used in a variety of electronic devices including computers, cell phones, pacemakers, and sophisticated missile defense systems. Although IPC members include electronic giants, sixty percent of IPC members

¹ Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting, Final Rule (66 FR 4500; January 17, 2001)

meet the Small Business Administration’s definition of “small business.” The typical IPC member has 100 employees and has a profit margin of less than four percent.

When EPA inappropriately lowered the TRI reporting threshold for lead in 2001, the reporting burden on industry was drastically increased from 8,825,935 to 9,612,104 total burden hours. For reporting year 2001, a total of 8,561 forms were submitted for lead and lead compounds, which represents more than a four-fold increase when compared to reporting years 1998-2000². For example, only the largest of PCB facilities had previously reported under TRI, but suddenly most EMS and PCB facilities were liable. Since EPA unjustly certified the rule as having no significant economic impacts on a substantial number of small entities, thus bypassing Small Business Regulatory Enforcement Fairness Act (SBREFA) requirements, EPA did not adequately assess the direct and indirect costs to small businesses. The TRI Lead Rule nearly doubled the number of TRI reporters for lead in the electrical and electronic manufacturing industries to 2,025 facilities in the first year alone. The associated cost of compliance in the first year was estimated by EPA at \$7,400 per facility. According to EPA’s July 2007 TRI Information Collection Request, completion of Form R for PBT chemicals requires an estimated 66.8 hours per form in the first year and 46.3 hours per form in subsequent years. For a small business, this is a substantial burden on company resources and can serve as an impediment to its success. To date, industry has endured this significant burden for six TRI reporting cycles since promulgation of the TRI Lead Rule.

EPA no longer has any justification for requiring facilities to incur the significant burden of reporting TRI information on metals releases based on the flawed PBT methodology. After years of missed deadlines and a litany of broken promises, the final *Framework for Metals Assessment* was nearly four years overdue when released by EPA in March 2007. Every step of that assessment, from the Metals Action Plan, to the Issue Papers, to the final Metals Assessment Framework, has emphasized the inapplicability of the PBT criteria to metals. The Metals Framework clearly concludes that the basis under EPA’s PBT approach for evaluating bioaccumulation is inappropriate for assessing metal hazard:

The latest scientific data on bioaccumulation do not currently support the use of the bioconcentration factor (BCF) and bioaccumulation factor (BAF) values when applied as generic threshold criteria for the hazard potential of inorganic metals in human and ecological risk assessment (e.g. classification as a persistent bioaccumulative toxic [PBT] chemical).

The Framework particularly emphasizes the unique properties of metals (versus organic compounds) that should be considered by all EPA programs and regional offices in metal risk assessments. The Framework directly contradicts the TRI Lead Rule’s assumption that the basic properties of the PBT approach “are fundamentally the same for organic

² EPA, 2001 TRI Public Data Release, June 30, 2003.

chemicals as they are for inorganic chemicals, including metals and metal compounds.” Given the findings of the Framework, EPA has no justification for the continued collection of TRI information on metals based on the scientifically flawed PBT methodology.

Since the TRI Lead Rule is based on the unsound PBT approach to evaluate metals, the lead reporting data fails to fulfill requirements under the Paperwork Reduction Act (PRA) and EPA’s Information Quality Guidelines (IQG). Under requirements of the PRA §3508, EPA must justify whether the information collected under TRI is necessary for carrying out the functions of the Agency and whether it will have practical utility. The collection, use and dissemination of accurate scientific information are integral to EPA’s mission to protect human health and the environment. However, instead of fulfilling its mission, EPA has created unnecessary public concern by collecting and disseminating TRI information based on the flawed PBT criteria. In fact, the TRI Lead Rule provides the public with virtually meaningless metals risk information which serves no practical utility. The primary purpose of TRI is to inform the public about chemical releases into their environment. The flawed PBT classification of metals instead misinforms and misleads the public about potential metals risks. As a result, TRI lead data does not succeed in providing useful guidance to EPA program offices, State governments, environmental activists, community officials, or anyone else interested in understanding where they should direct their energies to reduce risks to human health and the environment.

Under EPA’s IQG, EPA must ensure that the “disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable and unbiased.” Collecting and disseminating information based on a flawed methodology is not presenting the information in an accurate manner. Since EPA’s PBT approach for metals is scientifically flawed according to EPA’s Metals Framework, EPA is disseminating PBT information that is inaccurate, incomplete, unreliable, and possibly biased. Therefore, the quality and utility of the TRI data is significantly compromised. SBA must urge EPA to disseminate accurate scientific information consistent with the IQG.

IPC recommends that the SBA review the TRI Lead Rule under the r3 initiative and urge EPA to promptly align the scientific findings of the Metals Framework with the TRI Lead Rule by withdrawing the PBT classification of lead. EPA must recognize the unique properties of metals and their inorganic metal compounds, and derive a workable and scientifically valid approach to evaluate metals hazard. The PBT approach is an inappropriate screening tool for metals risk and should not be used as a basis for setting metals reporting thresholds.

IPC understands and supports the need for cost effective, science-based regulations that are protective of the public welfare. IPC believes that the TRI Lead Rule is a worthy candidate for regulatory review and reform since it is outdated, ineffective and unduly

burdensome to small businesses. In order to properly collect and disseminate information on the true level of PBT releases to the environment, SBA must urge EPA to revise the TRI Lead Rule to reflect the scientific results of the Metals Framework. We look forward to working with the SBA Office of Advocacy towards improving the effectiveness of the TRI Program. Please contact me at 703-522-0225 or saharosman-sypher@ipc.org should you have any questions.

Sincerely,

Sahar Osman-Sypher
Project Manager, Environmental, Health and Safety