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TO: John Morrall, OIRA

FROM: Andrew Bopp, SGCD, 301-951-3933

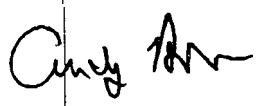
RE: TRI Rule Comments

~~Dear~~ Mr. Morrall,

I am sending a copy of comments that I sent via FedEx last night after line problems prevented me from faxing the comments to meet your 5/28/02 deadline for comments. I attach a transmission receipt that indicates the line problems. I hope that you can still accept my comments at this time.

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comments.
you can still

Please call me if you have any questions.



TRANSMISSION VERIFICATION REPORT

TIME : 05/28/2002 05:57

DATE, TIME	05/28 05:55
FAX NO./NAME	12823956974
DURATION	00:01:35
PAGE(S)	02
RESULT	NG
MODE	STANDARD ECM

NG : POOR LINE CONDITION



May 28, 2002

Mr. John Morrall
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10235
725 17th St. NW
Washington, DC 20503

Dear Mr. Morrall,

Thank you for the opportunity to review the implications of EPA's new Toxic Release Inventory (TRI) reporting requirements for lead. Under the **new TRI** lead rule, **EPA** lowered the lead usage reporting threshold from 10,000 lb./year to 100 lbs./year, and this drastic change was finalized on April 17, 2001 with retroactive **reports** on lead usage for 2001 due by June 30, 2002. The rule change creates **many** serious problems for **glass** and ceramic decorators, with the **greatest** impact falling on **small** businesses which are least equipped to handle such a major environmental reporting rule. For the reasons listed below, the Society of Glass and Ceramic Decorators (SGCD) has joined other organizations in asking EPA to delay enforcement of the TRI rule for one year and to require companies to first report lead usage data for 2002 that has been tracked from the beginning of this year when tracking requirements were in place.

SGCD is an association of 600 companies that produce glass and ceramic tableware, collectibles, promotional wares and other items. The industry is facing increasingly fierce competition from overseas production facilities including rapidly expanding Chinese manufacturing operations. Most SGCD members are small businesses with anywhere from 15-50 employees; however, the TRI rule exempts **only** the smallest operations with under 10 employees.

Lead-bearing colors may be used by decorators to produce glass and ceramic plates, bowls and mugs that are both durable and dishwasher-safe. In the shop, the lead-bearing colors are applied to ware and fired with excess **color** stored for **reuse**. There is no appreciable waste generated in this process, **and** companies reporting at the 100 **pound** threshold are likely to record zero emissions after spending many hundreds of hours to **confirm** that fact.

The **greatest** problem caused by EPA's issuance of the TRI lead rule is the retroactive application of the rule to January 1, 2001. The rule was **not finalized** by EPA until April 17, 2001; however, glass and ceramic decorators are required to reconstruct **usage** data from a period of time when no precise lead-usage record-keeping was required.

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SGCD/TRI Rule

For the average glass and ceramic decorator, the **number** of different colors used varies dramatically **every** day. **As** every lead-bearing color contains a **different** amount of lead it is **almost** impossible, therefore, to retroactively reconstruct **usage data** that meets the accuracy standards of the **TRU** rule. **Apart** from the **hundreds** of hours required to **reconstruct** such data, a company cannot be **assured** of the accuracy of **reconstructed** lead **usage** figures.

Retroactive data reconstruction is an even **greater** burden for small decorators which often use a **far greater** variety of colors than **large** decorating plants which may utilize only a limited number of colors to produce very large quantities of **identical** plates, bowls or mugs. It should also be noted that only the largest glass and **ceramic** decorators have ever been required to file **any** **TRI** report, so the tracking and **filing** process is completely new to most **SGCD** members.

As a direct result of EPA's retroactive application of the rule, the cost estimates for compliance made by EPA are extremely low. The agency obviously did not account for the reconstruction of **data** from an industry where monthly lead usage cannot be simply estimated based on **usage** from other months. **Many** **SGCD** members have indicated that they **have** already spent hundreds of staff and management hours in the process of data reconstruction, and they have not even included the **daily** and **weekly** hours required to record lead usage after the rule had been **issued**.

EPA's estimates of the time necessary to compile and complete the **TRI forms** (111 hours/year for a rule that is supported by more than 500 pages of **instructions** and guidance) do not remotely correspond **with** reality for glass and ceramic **decorators**. It **may** take at least 111 hours simply to **reconstruct** data retroactively, and then one must account for the **hundreds** of hours spent in actually recording data from after April 17, 2001 when the rule was issued, studying the **TRI** documents and then completing the **forms**. This does not even include the cost of independent consultants which almost every **glass** and **ceramic** decorator **will work** with to complete the **TRI forms** once the lead usage information is compiled,

To add insult to injury, even though **EPA** applied the rule retroactively, the agency did not issue even a draft form of its promised compliance assistance document until late **summer** 2001, and the final compliance assistance document was **not** available to **glass** and ceramic decorators until January 2002. Even discounting the unreasonable retroactive reporting requirement, the guidance documents should have been available on the day that the rule was issued. For **EPA** to offer no assistance during the recording year is a gross dereliction of the agency's promise to assist small business **with** compliance issues.

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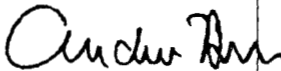
The agency has attempted to assist TRI filers with a "TRI-ME" software compliance assistance program. Several SGCD members have attempted to utilize this program, and they report that it only provides the most rudimentary assistance with completing a TRI form. It provides no real assistance with tracking lead usage, and members report that every question related to release data requires massive amounts of research to answer.

A postponement of the rule is the only way to address the serious problems created by EPA's retroactive application of the rule and failure to provide adequate small business support and guidance as promised. SGCD members have been aware since mid-2001 that tracking lead usage on a daily basis is critical to TRI compliance; therefore, these companies will have much more reliable lead usage figures for the 2002 reporting cycle which covers lead usage from January 1 to December 31, 2002.

Since companies are legally accountable to both EPA and to any third party for the accuracy of their TRI reports, it is imperative the EPA postpone its plans to force decorators to submit retroactive lead usage data that could expose them to expensive legal challenges that would threaten their continued survival.

Please feel free to contact me if you have any questions about the TRI lead rule and its impacts on glass and ceramic decorators.

Sincerely,



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