

July 26, 2010

Statement of the Precision Machined Products Association in regards to Toxics Release Inventory ("TRI") Articles Exemption Clarification Proposed Rule: (40 CFR Part 372, [EPA –HQ-TRI-2009_0602;FRL-8948-3])

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The Precision Machined Products Association represents the interests of the North American Precision Machined Products Industry, NAICS 332721. According to the U.S. 2007 Economic Census, 3296 companies, 3364 establishments, and 99362 employees make up this industry. PMPA has approximately 450 dues paying member companies in the United States, and about 50 in Canada.

The Precision Machined Products Industry consists of a geographically diversified manufacturing base. Our Industry produces highly engineered components to customer specifications using a variety of materials such as: steel, stainless steel, brass, aluminum, and aerospace alloys. We use the latest technology, including CNC turning and milling centers, rotary transfer machines, CNC and automatic screw machines, to produce complex parts and complete assemblies. Our products are the functional components for technologies in finished goods such as: automobiles, aircraft, heavy truck, medical devices, appliances, solar energy, construction equipment, military and munitions, and much more. Anti- lock brakes, automotive airbag, fuel injectors and sensors, fluid power and hydraulics, electrical and electronics are a small sampling of applications that use our parts.

PMPA is representing the industry regarding the Toxics Release Inventory ("TRI") Articles Exemption Clarification Proposed Rule (Docket Id No. EPA-HQ-TRI-2009-602) to illuminate the real consequences of the EPA's proposed "clarification" which we believe will result in the loss of the article exemption. We believe that the loss of the article exemption will be a likely consequence of any "clarification" since the EPA will not have the degree of freedom to apply the "article standard" differently to various industries. Our industry believes that potentially, should the EPA clarification come into effect, nearly all shops in our industry, and nearly all manufacturing establishments except those manufacturing food and foodstuffs, will need to evaluate anew their facility's need to file TRI 313 reports. This will require a significant investment of managerial, technical and clerical attention in order to ascertain all these manufacturing firms' new status under TRI. The proposed "clarification" is broad, unfairly treats manufacturers over other industries, does not demonstrate its positive impact on public health and safety, and relies on faulty assumptions as to the industry burdens it creates.

Accordingly, we believe the annual public burden estimates published by the EPA in the Federal Register Vol 74, No. 162/ Monday, August 24, 2009 Proposed Rules in no way reflect the reality of the regulated community burden, in terms of effort, time, and expense in trying to understand and comply with their obligations.

Using the public burden estimates of 51.3 hours per response for PBT chemicals from the OMB Control No. 2070-0093, Page 8 from the 2009 Toxic Chemical Release Inventory Reporting Forms and Instructions Revised 2009 version, and using (what we believe to be) a low estimate of average Employee Salary from the 2007 Economic Census, we can show that the burden for our industry alone will be in the area of \$3,534,104 given the loss of the article exemption. This estimate is based on the Association's experience assisting its member companies fill out TRI 313 reports, as well as from queries to the USEPA Envirofacts database, which on July 6, 2010 showed only 249 reports on file for NAICS 332721 for TRI 313 reporting. This represents about 7% of the Industry as reported by US Census.

Similarly, we have calculated the burden for Fabricated Metal Manufacturing NAICS codes 332, and for Fabricated Metals and Machinery Manufacturing, encompassing 332111-339999, of which our industry is a part. The number of likely affected establishments, according to the 2007 Economic Census, is 64,028 for Fabricated Metals, and 174,174 for the expanded manufacturing sector. Using the same average Employee Salary for these codes as an estimator of cost of labor for compliance, we have estimated that the reporting burden for the companies in Fabricated Metals alone is \$66,235,899; for Fabricated Metals and Machinery Manufacturing \$209,665,196. Many of these establishments will be first time filers. We regret that the Census data does not align to the 10 employees or less taxonomy of the TRI rule, which is the determinant for TRI filing. Had that been available it would help all of us better understand the consequences of this "clarification."

We ask you to note that these figures stand in stark contrast to EPA's Table 1- Estimated First and Subsequent Year Burden Associated With The Proposed Rule of 252 affected establishments and \$13,877 dollars. We know single companies that spend more than the \$13,877 dollars per annum on environmental consultant services just to make sense of the myriad environmental regulations that they face on a local, regional, state, and national level.

The EPA estimate of Burden at 252 hours is a significant underestimation, and the \$13,877 dollar figure is closer to a per company, not industry-wide cost.

The Table Three- Summary of Impacts on Small Entities does not reflect data representative of industry, claiming only 158 entities affected. It is our best estimate, that 100 percent of our industry establishments will have to at least re-determine their status *vis a vis* the "clarification of article status" resulting in the need to fully review the establishment's TRI compliance schema. The OMB estimate of 51.3 hours is at least of the same order of magnitude as our experience, though we believe that the typical shop facing this for the first time unaided devotes *at least 2.5 man weeks* to the process.

The interpretations regarding the article exemption are many, convoluted, and contradictory as is, and the loss of the plain language meaning of the articles exemption, should the EPA clarification go through, will mean that all shops in our industry employing 10 or more people will likely have to re-determine their need to file TRI 313 reports. EPA would better serve its mission by defining, for example what is a release, and exempting legitimately recycled materials such as scrap metal from TRI reporting. EPA's current effort to create a *post hoc* "clarification" adds yet more complexity, while failing to make

the public, or the environment any safer. EPA's failure to issue a clear definition of recycling, along with the current effort to "clarify" the article exemption will assure that thousands of metal working shops will bear a heavy reporting burden and alarm the public who will think that recycled scrap metal is somehow a toxic release.

Our industry's mission is to make the precision engineered components that make a difference in the lives of all Americans. Cars that stop safely, safety systems that protect you if they don't, aircraft, medical devices and even military ordnance. The proposed "clarification," if it causes the loss of the Articles definition, could result in a loss to our industry of over \$3,534, 104. To just Fabricated Metal Manufacturing: \$66,235,899. To all U.S. companies in Fabricated Metal and Machinery Manufacturing, on the order of \$209,665,196. In this current economic environment, domestic U.S. manufacturers cannot afford to dedicate such time and resources that are needed to lead the global recovery, rehire and train employees, and invest in new and clean technologies.

The costs of this proposed "clarification" could divert hundreds of millions of dollars from our manufacturing industries, for a reporting requirement that would not apply if the materials involved were in another place or property. We believe that no new or actionable information will result from this clarification, yet the increased reporting will cause the public to think that releases have increased, which is not the case. If these goods were in transit or at a retail establishment, they would not meet reporting requirements. The EPA "clarification" condemns these materials to be reported based solely on location in a manufacturing facility, post process.

The EPA is should not adopt this clarification, which treats absolutely identical goods differently solely on the basis of location- on site post process at the manufacturer (must report) vs. in transit or in the marketplace (no need to report.)

How does this serve the Public?

Based on current practices, the EPA underestimates the consequences of revising of what constitutes an "article", the burden it will place on industry, and its claim that the clarification affects only one industry. In addition, this rule does not further the Agency's mission to reduce risk posed to human health and the environment and does not serve the public's interest. The proposed rule will trigger "false" reporting by inflating "release" statistics when in fact the manufacturer has not met the traditional burden for a release. This false release data improperly impacts a community's perception of its environmental wellness and does the public a disservice.

If the Agency in deed determines that this proposed rule clarification is in the public interest then does this standard also apply to non-manufacturing industries? It is in error to assume that the greater public interest is served by recording information as a release when an article is in inventory post process at a manufacturer, while the need to record the "release" in transportation, retail stock, or in normal consumer use is not reportable.

The proposed "clarification" is a mandate that will cost manufacturers in the Precision Machining Industry millions of dollars and hundreds of thousands of hours. It will cost the Fabricated Metal Industry over \$60 million and over 3 million hours of time to comply. It could cost Fabricated Metal and Machinery Manufacturers hundreds of millions of dollars and approximately 89 million man hours to comply. This is a challenge to the sustainability of our vital manufacturing industry here in the United States, and is why the Precision Machined Products Association has taken a leading role on this issue.

Industry	NAICS	Companies	Establishments	Employees	Annual Payroll(\$1000)	Avg. Empl. Salary Per Week	Manweek-PBT OMB est.	Hours to Comply	Estimated Cost per Establishment	Estimated Cost to Industry
Precision Machining	332721	3296	3364	99362	\$ 4,232,428	\$ 819	1.28	172573	\$ 1,051	\$ 3,534,104
Fabricated Metal	332	60,929	64,028	1,707,993	\$ 71,779,918	\$ 808	1.28	3284636	\$ 1,034	\$ 66,235,899
Fabricated Metal and Machinery Me	332111-339999	164088	174174	6939188	\$ 339,347,807	\$ 940	1.28	8935126	\$ 1,204	\$ 209,665,196

Note 1: This estimate does not deduct for establishments in the 1-19 employee segment that have 10 or fewer employees who are exempt from TRI Reporting.
 Note 2: This estimate uses the PBT Burden number as justified prudence in that many shops may have some level of PBT Chemicals, if even as lead acid batteries in forklifts. (Otherwise use)
 Note 3: This is a lower bound estimate for dollars, even allowing for shops employing less than 10 employees, since we believe the OMB estimate of 51.3 hours is too low; 2 man weeks is more correct for first time filers.
 Note 4: Our estimate does not include cost of consultants etc.

Note 5: Data from 2007 Economic Census Link:

http://factfinder.census.gov/servlet/IBQTable?_bm=y&-NAICS2007sector=15293431&-skip=400&-ib_type=NAICS2007&-NAICS2007subsector=15294403&-lang=en&-NAICS2007=&-ds_name=EC07311

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