ECOLOGY CENTER

117 N. Division St.
Ann Arbor, Michigan 48104
Phone: 734.761.3186
Fax: 734.663.2414

May 28, 2009

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Citizen Petition under TSCA to Prohibit the Production and Use of *Lead Wheel Weights* in the United States

Dear Administrator Jackson:

The time has come for the U.S. Environmental Protection Agency ("EPA") to recognize that lead is an element that does not go away. It simply accumulates in our environment, year after year. EPA must use pollution prevention to regulate major sources of lead releases into our environment, our communities, our neighborhoods, and our homes.

Therefore, pursuant to Section 21 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2620, the Ecology Center, Sierra Club and the other signatories below ("Petitioners") petition EPA to establish regulations prohibiting the manufacture, processing, and distribution in commerce of lead wheel balancing weights ("wheel weights"). These actions are necessary to address the significant threat that lead from wheel weights poses to human health.

This petition incorporates by reference the previous petition submitted by Ecology Center on May 13, 2005 (OPPT–2005–0032; FRL–7720–5) on the same matter. In that petition, Ecology Center asked EPA to prohibit the manufacturing, processing, distribution in commerce, use and improper disposal of lead wheel balancing weights. EPA denied that petition on August 8, 2005. Almost four years have passed since EPA denied children the opportunity to dramatically reduce their exposure to a major source of new lead on their streets and in their neighborhoods.

Ecology Center has previously highlighted that automobiles are a significant contributor of ongoing lead releases to the environment.[1] It previously identified lead wheel weight failure (weights falling off rims into roadways) as one of the largest ongoing releases of lead to the environment.[2] Lead is consistently found to be in high concentrations on roadways and in end-of-life, vehicle waste

[1] Gearhart, Jeff et al; Getting the Lead Out; Impacts of and Alternatives for Automotive Lead Uses. July, 2003. www.cleancarcampaign.org

[2] Gearhart, Jeff et al; Citizen Petition under TSCA to Prohibit the Production and Use of *Lead Wheel Weights* in the United States, Ecology Center, May 13, 2009.

(commonly called Auto Shredder Residue – "ASR"). Wheel weights are the second largest ongoing use of lead in vehicles and play a significant role in the release of lead to the environment.[2] High concentrations of environmental lead are directly correlated with traffic volume. In 2009, the New Jersey Department of Environmental Protection ("NJDEP") completed work on an EPA Region 2 Pollution Prevention Grant entitled *"Investigation of release, fate and transport of lead from automotive wheel weights, and development and evaluation of best management approaches."* The NJDEP research found wheel weight failure rates similar to previous studies.

To compensate for its failure to regulate lead wheel weights, EPA announced its voluntary National Lead-Free Wheel Weight Initiative (NLFWWI). The Initiative – launched on August 29, 2008 – had 40 charter members and four subsequent members including every new car manufacturer, four domestic wheel weight producers (3M, Hennessy, Perfect, and Plombco), two leading tire manufacturers (Bridgestone Firestone and Goodyear) and major retailers (Bridgestone Firestone, Goodyear, Costco, Wal-Mart, and Sam's Club). These organizations committed in writing to:

- Identify the volume of lead to be eliminated;
- Reduce the use of lead for wheel weights by December 31, 2011;
- Take responsibility for providing information, education, and outreach to the public, regarding the benefits of using lead-free wheel weights;
- Properly collect and recycle used lead wheel weights in their current inventory or acquired through normal business operation; and
- Publicly endorse the NLFWWI and encourage the use of lead-free wheel weights by others.

While the Petitioners appreciate the leadership demonstrated by these companies, the NLFWWI falls short of what is needed to protect children, the public and the environment. Eliminating lead wheel weights from new cars is a step forward, but new tires last only so long. While commitment of major retailers has an impact, the tire repair and replacement market is diversified with hundreds of thousands of service stations across the country. Petitioners estimate that no more than one-third of the lead wheel weight market would potentially be changed to lead-free due to the NLFWWI.

California is a perfect case study in why EPA action is needed. In 2008, three lead wheel weight producers, Henessy-Bada, Perfect Equipment and Plombco, agreed to stop retailing lead weight in the California market by the end of 2009. This agreement was a settlement of a Proposition 65 case filed against the companies in California. The withdrawal from the lead wheel weight market by these three manufacturers leaves the one remaining major manufacturer – Halko Manufacturing (a.k.a. New Products, Inc.), making products in Clayton, Delaware and Woodbury, Tennessee – still able to sell lead weights in California. In addition, without further restrictions, foreign producers will quickly fill the gap in the wheel weight marketplace as retailers stick with the familiar leaded wheel weights. This situation will be repeated across the country as cheap imports of lead weights undermine the efforts of manufacturers and retailers who are trying to phase out lead usage. Instead, Petitioners believe that the restrictions should benefit the national economy by encouraging technological innovation and preserve the jobs in the wheel weight industry, which would otherwise shift overseas if foreign producers filled the gap created by domestic producers' commitment to children's health and lead poisoning prevention.

States have attempted to take action in spite of EPA's failures. On April 28, 2009, the State of Washington instituted a ban on leaded wheel weights effective January 1, 2011. California, Iowa and Maine have similar proposals under consideration. In 2008, Vermont banned lead wheel weights on

---

[2] Gearhart, Jeff et al; Getting the Lead Out; Impacts of and Alternatives for Automotive Lead Uses. July 2003. www.cleancarcampaign.org

state-owned vehicles by January 1, 2010 and in new motor vehicles as of January 1, 2011. While state action is important, states have limited ability to regulate imports. Congress gave EPA that authority in Section 13 of TSCA. Congress also gave EPA the responsibility, under Section 6 of TSCA, to protect the public from unreasonable risks, such as those currently posed by the installation of leaded wheel weights.

In its National Lead-Free Wheel Weight Initiative, EPA acknowledged that:

- 12.5 million pounds of lead from wheel weight is uncontrolled or unmanaged in the environment;
- 1.6 million pounds of lead is lost when wheel weights fall off during normal driving conditions such as hitting a pot hole; and
- 10.9 million pounds is sold or given to hobbyists for recreational purposes (See www.epa.gov/waste/hazard/wastemin/nlfwwi.htmm, accessed May 14, 2009).

In 2005, EPA seemed unable to understand that 1.6 million pounds of lead falling off on the city streets each year would do nothing but harm. Since then, kids have picked up the lead wheel weights and played with them, and cars and trucks have ground the wheel weights into a powder that has spread into the neighborhoods along busy streets, especially those city streets where traffic is heaviest and stops, starts, and bumps are more common.

Lead wheel weights result in a pervasive exposure to children. EPA has acknowledged that there is no safe level of exposure. And because of the nature of the threat, there is no simple way to identify the source. While lead-based paint is the primary source of lead poisoning in children, it is not the only source. EPA`s has a responsibility to protect children from all threatening sources.

The NLFWWI makes clear that the change from leaded wheel weights to lead-free wheel weights is both possible and practical. It is entirely reasonable. But it is impossible to achieve by market forces alone. Just as with seat belts, rules are needed to protect the public. The information gathered in the past four years has only reinforced the need for action.

Therefore, Petitioners once again demand, pursuant to Section 21 of TSCA (15 U.S.C. § 2620), that EPA fulfill its responsibilities to protect the public health and the environment from the ongoing installation of lead wheel weights. EPA must ban the manufacturing, distribution and sale of lead wheel weights, effective January 1, 2011. Petitioners look forward to EPA's response to this petition within 90 days, as required by TSCA, 15 U.S.C. § 2620(b)(3).

Respectfully Submitted,

Jeff Gearhart
Ecology Center
Ann Arbor, Michigan

Tom Neltner, Co-Chair,
Sierra Club, National Toxics Committee
San Francisco, California

Ralph Scott
Alliance for Healthy Homes
Washington, DC

Caroline Cox
Center for Environmental Health
Oakland, California

Stu Greenberg
Environmental Health Watch
Cleveland, Ohio

Ruth Ann Norton
Coalition to End Childhood Lead Poisoning
Baltimore, Maryland

Zakia Shabazz
United Parents Against Lead
Richmond, Virginia

Beulah Labostrie
Louisiana ACORN
New Orleans, LA

Kent Ackley
Lead Technicians
East Providence, Rhode Island

Howard W. Mielke, Research Professor Rhode Island
Tulane University
New Orleans, LA

Dr. Carla Campbell
Drexel School of Public Health
Philadelphia, Pennsylvania

Lelia M. Coyne, PhD
Lincoln, Nebraska

Cc: Wendy Cleland-Hamnett, Acting Director, Office of Pollution Prevention and Toxics