



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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OFFICE OF
ENVIRONMENTAL INFORMATION

James L. Hanna
Western Area Environmental
Compliance Coordinator
U.S. Postal Service
1745 Stout Street, Suite 700
Denver, CO 80299-1000

Dear Mr. Hanna:

This letter is in response to your January 5, 2000 letters requesting guidance regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you are asking for guidance concerning whether postage meter seals and wheel balancing weights qualify for the articles exemption provided for at 40 CFR section 372.38(b).

According to your letters, the U.S. Postal Service (hereinafter "USPS") voluntarily complies with the EPCRA section 313 reporting requirements. To that end, you are asking for guidance regarding the applicability of the articles exemption to items used by the USPS.

According to one of your January 5, 2000 letters, postage meter seals, which are composed of lead and stainless steel wire, are manufactured for the USPS to a specific size and shape for the function of securely sealing postage meters to prevent tampering. You further provide that the steel wire is an integral part of the seal, inseparable from the lead portion of the seal. According to your letter, and as appears from the sample seals you sent to the Agency, the lead end of the seal is dimensionally changed by the crimping tool when the seal is applied. The rest of the seal (the stainless steel wire), however, remains dimensionally unchanged after the crimping tool is applied to the seal. Further, you assert that the process of crimping the seal end does not remove any material from the seal.

Your other letter dated January 5, 2000 states that wheel balancing weights, which are also made up of lead and steel (a steel clip used for attaching the weight to motor vehicle wheels), are manufactured (and, presumably, are not manufactured by the USPS) to a specific size and shape for the purpose of balancing motor vehicle wheels so as to improve tire wear and ride. And like the meter seal, the steel portion of the wheel balancing weight (the steel clip) is an integral part of the weight, inseparable from the lead portion. Finally, your letter states that the wheel weight is dimensionally unchanged by its use and its use does not result in any material being removed from the wheel weight.

As you are aware, listed toxic chemicals contained in articles that are processed or otherwise used at a covered facility are exempt from threshold determinations and release and other waste management calculations. (40 CFR section 372.38(b); *see also*, Directive #1 - Article Exemption, Appendix A, 1998 EPCRA Section 313 Questions and Answers document, December 1998, EPA 745-B-98-004). As stated in the directive, the articles exemption applies when the facility receives the article from another facility. The exemption only applies to the quantity of the toxic chemical present in the article. If the toxic chemical is manufactured, processed, or otherwise used at the covered facility other than as part of the article, in excess of an applicable threshold quantity, the facility is required to report for those non-exempt quantities. However, for a toxic chemical in an item to be exempt as part of an article, the item must meet all of the following three criteria in the Section 313 article definition; that is, the item must be one:

- i) that is formed to a specific shape or design during manufacture;
- ii) that has end use functions dependent in whole or in part upon its shape or design; and
- iii) that does not release a toxic chemical under normal circumstances of processing or otherwise use of the item at the facility.

If, as a result of processing or otherwise use, an item retains its initial thickness or diameter, in whole or in part, it meets the first criterion of the article definition. If the item's basic dimensional characteristics are totally altered during processing or otherwise use, the item does not meet the first criterion of the article definition. Further, in considering the applicability of the articles exemption, you should note that any processing or otherwise use of an article that results in a release negates the exemption. Cutting, grinding, melting, or other processing of a manufactured item could result in a release of a toxic chemical during normal conditions of processing or otherwise use and, therefore, negate the exemption as an article. However, if the processing or otherwise use of all like manufactured items at a facility results in a total release of 0.5 pound or less of a toxic chemical in a reporting year, EPA will allow this release quantity to be rounded to zero and the manufactured items will remain exempt as articles. Further, if all of the releases of like articles over a reporting year are completely captured and sent for recycling/reuse on-site or off-site, the items may remain exempt as articles.

Based on the information provided in your January 5, 2000 letters, both the postage meter seal and the wheel balancing weight qualify for the articles exemption and therefore, toxic chemicals in such articles do not have to be considered toward threshold determinations and release and other waste management calculations. According to your letters, both the meter seals and the wheel balancing weights are manufactured to a specific shape or design, which, in turn affects the functioning of these items. The use of these items, as described in your letters, does not result in a total altering of the initial thickness or diameter of the items. Finally, your letters state that the use of these items does not result in any releases. Therefore, both the postage meter seal and the wheel balancing weight appear to qualify for the articles exemption.

However, with regard to "use" of the items, for the entire reporting year you should consider not only whether there are releases after the item is "installed" (e.g., after the wheel weight is attached to the wheel and functions by spinning with the wheel), but additionally, you should also consider if there are any releases from the wheel weight during the application of the wheel weight to the wheel. If so, and the release of a toxic chemical from the use of all like items (i.e., all wheel balancing weights) exceeds 0.5 pound and all releases (or at least any amount of releases above 0.5 pound) of the toxic chemical from the use of all like items are not collected and recycled/reused on or off site, then the item does not meet the requirements of the articles exemption and toxic chemicals in such items should be considered toward threshold determinations and release and other waste management calculations.

Finally, the toxic chemicals in the wheel balancing weights are being otherwise used for operation and maintenance of motor vehicles. The motor vehicle exemption, which is provided for at 40 CFR section 372.38(c)(4), reads:

Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.

Guidance for this exemption can be found at Q&As 285 - 291 and Directive #3 of the 1998 Q&A document (*supra*). You should note that the motor vehicle exemption only applies to motor vehicles owned, operated and stationed at the facility considering the exemption status. You should review the requirements for this exemption to determine if the toxic chemicals in the wheel balancing weights qualify for the motor vehicle exemption.

I hope this information is helpful to you in complying with the reporting requirements of section 313 of EPCRA. If you have any other questions, or desire further information, please call either Larry Reisman at 202.260.2301 or me at 202.260.9592.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria J. Doa". The signature is fluid and cursive, with a large initial "M" and "D".

Maria J. Doa, Ph.D., Director
Toxics Release Inventory Program Division