



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APRIL 22, 2003

OFFICE OF
ENVIRONMENTAL INFORMATION

Peter D. Holmes
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit, Michigan 48226-3435

Dear Mr. Holmes:

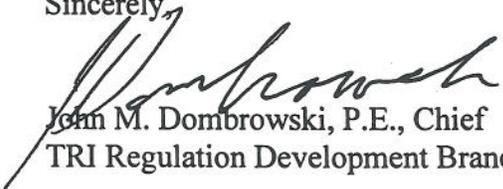
This letter responds to your March 17, 2003, letter to Elaine G. Stanley, Director of the Office of Information Analysis and Access, regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you want to know if the articles exemption provided for at 40 CFR Section 372.38(b) can be applied to imported toxic chemicals.

In your letter you state that three facilities each import items such as brass valves containing lead and copper in excess of threshold quantities. These items are sold "as is" to customers "without conducting any further manufacturing, processing or other work on the articles or causing any releases of toxic chemicals."

As you are aware, the importation of a toxic chemical constitutes manufacturing for EPCRA section 313 reporting purposes. The articles exemption typically does not apply to the manufacture of an article. However, if a facility imports a toxic chemical as part of an article as defined at 40 CFR Section 372.3, and that article meets all of the article criteria while it is at the facility, then the toxic chemical contained in the qualifying article is eligible for the articles exemption and, therefore, would not need to be counted towards the facility's manufacturing threshold. Simply put, the importation of a toxic chemical in an article does not negate the item's status as an article.

I hope this information is helpful to you in understanding the reporting requirements of section 313 of EPCRA. If you have any other questions, or desire further information, please call Marc Edmonds, of my staff, at 202-566-0758.

Sincerely,


John M. Dombrowski, P.E., Chief
TRI Regulation Development Branch

cc: Elaine G. Stanley, Director
Office of Information Analysis and Access