

PRE-PUBLICATION NOTICE

On Tuesday, March 26, 2024, Michael S. Regan, the EPA Administrator, signed the following document:

Action: Advance Notice of Proposed Rulemaking

Title: Lead Wheel Weights; Regulatory Investigation Under the Toxic Substances Control Act (TSCA)

FRL #: 5398-05-OCSPP

Docket ID #: EPA-HQ-OPPT-2024-0085

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA-HQ-OPPT-2024-0085; FRL-5398-05-OCSPP]

RIN 2070-AJ64

Lead Wheel Weights; Regulatory Investigation Under the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is requesting comments and information to assist in the potential development of regulations for the manufacture (including importing), processing (including recycling), and distribution in commerce of lead for wheel-balancing weights (“lead wheel weights”) under the Toxic Substances Control Act (TSCA). To inform this consideration, EPA is requesting comment and information from all stakeholders on the use and exposure to lead from the manufacture (including importing), processing (including recycling), distribution in commerce, use, and disposal of lead wheel weights, as well as information on their substitutes, to help determine if there is unreasonable risk to human health and the environment associated with this use. This action is relevant to a petition for a writ of mandamus filed in August 2023, by the Ecology Center, Center for Environmental Health, United Parents Against Lead & Other Environmental Hazards, and Sierra Club in the United States Court of Appeals for the Ninth Circuit requesting the court to direct EPA to conduct a rulemaking regulating lead wheel weights under TSCA.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-

HQ-OPPT-2024-0085, through <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *Technical information contact:* Sofie Sonner, Existing Chemicals Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, D.C. 20460-0001; telephone number: (202) 565-2414; email address: sonner.sofie@epa.gov.

General information contact: The TSCA Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import), process (including recycling), distribute in commerce, dispose of, or use lead wheel weights, or their substitutes. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Lead Ore and Zinc Ore Mining (NAICS code 212231);
- Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331419);
- Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331492);

- Lead die-castings, unfinished, manufacturing (NAICS code 331523);
- Automobile Manufacturing (NAICS code 336111);
- Light Truck and Utility Vehicle Manufacturing (NAICS code 336112);
- Heavy Duty Truck Manufacturing (NAICS code 336120);
- All Other Motor Vehicles Parts Manufacturing (NAICS code 336399);
- Motorcycle, Bicycle, and Parts Manufacturing (NAICS code 336991);
- Automobile and Other Motor Vehicle Merchant Wholesalers (NAICS code 423110);
- Motor Vehicle Supplies and New Parts Merchant Wholesalers (NAICS code 423120);
- Tire and Tube Merchant Wholesalers (NAICS code 423130);
- Motor Vehicle Parts (Used) Merchant Wholesalers (NAICS code 423140);
- New Car Dealers (NAICS code 441110);
- Used Car Dealers (NAICS code 441120);
- Recreational Vehicle Dealers (NAICS code 441210);
- Motorcycle, Boat, and Other Motor Vehicle Dealers (NAICS code 441220);
- Automotive Parts and Accessories Stores (NAICS code 441310);
- Tire Dealers (NAICS code 441320);
- General Automotive Repair (NAICS code 811111);
- Other Automotive Mechanical and Electrical Repair and Maintenance (NAICS code 811118);
- Automotive Oil Change and Lubrication Shops (NAICS code 811191); and
- All Other Automotive Repair and Maintenance (NAICS code 811198).

If you have any questions regarding the applicability of this action, please consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

This action is being taken under the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

TSCA section 21 allows citizens to petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA sections 4, 6, or 8 or an order under TSCA sections 4 or 5(e) through (f). If EPA grants such a petition, the Agency must promptly commence an appropriate proceeding.

Under TSCA section 6(a), if EPA determines that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance presents an unreasonable risk to human health or the environment, it must “apply one or more of the [TSCA section 6(a)] requirements . . . to the extent necessary so that the chemical substance . . . no longer presents such risk,” which may range from prohibiting or otherwise restricting the manufacturing, processing, or distribution in commerce of the chemical substance (or a particular use), to commercial use requirements or disposal restrictions, to labeling and recordkeeping.

C. What action is the Agency taking?

Through this ANPRM, EPA is seeking comment and information on specific issues regarding potential exposure to lead during manufacturing, processing (including recycling), distribution in commerce, use, or disposal of lead wheel weights, as well as information on substitutes for lead wheel weights. This information will help inform the Agency’s determinations regarding potential unreasonable risk to human health and the environment from exposure to lead wheel weights. If unreasonable risk is determined, EPA will initiate a proposed rulemaking under TSCA section 6(a) to address the unreasonable risk.

D. What are the incremental costs and benefits of this action?

This action does not impose or propose any requirements, and instead seeks comments and suggestions that will help the Agency identify whether and to what extent there is a potential

need for a TSCA section 6 rule and/or other administrative action. If EPA decides to propose a rule, it will conduct the appropriate assessments of the costs and benefits of those changes and provide opportunities for public comment.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets.html>.

II. Background

A. 2009 TSCA section 21 petition.

In May 2009, Sierra Club, Ecology Center, and several other non-governmental organizations submitted a TSCA section 21 petition requesting EPA “to establish regulations prohibiting the manufacture, processing, and distribution in commerce of lead wheel balancing weights (‘wheel weights’)” (Ref. 1). Petitioners raised concerns that lead wheel weights result in pervasive lead exposure to children. EPA acknowledged receipt and requested public comment on the petition on July 15, 2009 (74 FR 34342 (FRL-8424-7)). EPA granted the petition on August 26, 2009 (Ref. 2). EPA has not issued any regulatory action relating to this petition since granting the petition.

B. 2023 writ of mandamus.

In August 2023, Ecology Center, Center for Environmental Health, United Parents Against Lead & Other Environmental Hazards, and Sierra Club sought a writ of mandamus in

the United States Court of Appeals for the Ninth Circuit and asked the court to direct EPA to conduct a rulemaking regulating lead wheel weights under TSCA section 6.

C. What are lead wheel weights?

Wheel weights are small pieces of metal or other material used to correct imbalances in the weight distribution of motor vehicle tires. Lead has historically been a primary component of many wheel weights because of its malleability, high density, and relatively low cost. These wheel weights can separate from the wheel due to failure of the adhesive or clip attaching them, or due to impact of the wheel with a pothole or road debris or during a crash, or due to other chronic and acute strains. Lead wheel weights that separate from vehicle wheels, or are not properly disposed of, may be a source of lead exposure to humans and the environment under various circumstances (Ref. 3), for example by being ground into fine particles by traffic. Additionally, there may be lead exposures associated with manufacturing, processing, distribution, recycling, or disposal of lead wheel weights.

III. Request for Comment and Information

EPA is providing this opportunity for the public to comment on or provide any additional information relevant to the use of and exposure to lead from the manufacture (including importing), processing (including recycling), distribution in commerce, use, and disposal of lead wheel weights. In order for the Agency to consider such comments, EPA must receive the comments by the date indicated under **DATES**. In particular, EPA seeks information on the following:

1. Quantitative information, data and/or case examples (*e.g.*, recent scientific and technical studies, including datasets, analyses of environmental impacts, and statistical analyses) associated with lead releases to air, surface water, ground water, soil, dust, and any other environmental medium (particularly regarding releases within one mile of roadways,

communities near industrial sites, and releases to sensitive human and ecological populations) from the manufacture, processing (including recycling), distribution in commerce, use, or disposal of lead wheel weights.

2. Quantitative information, data and/or case examples (*e.g.*, recent scientific and technical studies, including datasets, analyses of environmental impacts, and statistical analyses) associated with plastic or metal releases to air, surface water, ground water, soil, dust, and any other environmental medium (particularly regarding releases within one mile of roadways, communities near industrial sites, and releases to sensitive human and ecological populations) from the manufacture, processing (including recycling), or distribution, of lead wheel weight alternatives including: steel wheel weights; zinc alloy wheel weights; plastic metal composite wheel weights; mercury wheel balancing weights; and tin wheel weights.

3. Quantitative information on the relative and absolute bioavailability of lead from new and/or weatherized lead wheel weights.

4. Information on potential human and ecological exposure routes associated with lead releases from the manufacture (including importing), processing (including recycling), disposal and distribution in commerce of lead wheel weights, including residential exposures associated with take-home of lead from occupational sites by workers who manufacture, process, or dispose of lead wheel weights.

5. Information on the current availability and suitability of lead-free wheel weights as alternatives, in both original equipment and aftermarket settings, particularly any comparisons between lead-free and lead wheel weights in terms of price, ease of installation, durability, and other attributes of performance and suitability.

6. Information on the comparative lead weight by product and use rate of lead and lead-free wheel weights, both in original equipment and aftermarket settings over time, and

information on the comparative use rate of clip-on versus adhesive wheel weights.

7. Information on the chemical composition of lead and lead-free wheel weights including percentages of lead and other constituents by weight, such as zinc and mercury.

8. Quantitative information and data about the volume of lead wheel weights imported to the United States relative to lead wheel weights manufactured domestically.

9. Quantitative information and data (*e.g.*, recent scientific and technical studies, including statistical analyses) on the loss or failure rate of lead, non-lead, clip-on, and adhesive wheel weights (*i.e.*, the rate at which wheel weights fall off of vehicle wheels onto roadways).

10. Quantitative information and data (*e.g.*, recent scientific and technical studies, including statistical analyses) on the abrasion or decomposition rate of both clip-on and adhesive lead wheel weights on roadways, including the rate at which abraded lead dust may migrate to other media including road dust, soil, and air. Additionally, data on other mechanisms for removal of wheel weights from roadways including the rate of wash-out by rainfall, removal by street sweeping, ejection from the roadway by vehicle impact, *etc.*

11. Quantitative information and data (*e.g.*, recent scientific and technical studies, including statistical analyses) on the geographical distribution of dislodged lead wheel weights in terms of proximity to population centers (*e.g.*, differences between urban and non-urban environments) along with information on possible ingestion of lead wheel weights by children living in these urban centers.

12. Quantitative information and data (*e.g.*, recent scientific and technical studies, including statistical analyses) relating to occupational hazards and exposure associated with the manufacture(including importing), processing (including recycling), and distribution in commerce of lead wheel weights including workplace lead exposure from air/inhalation, dust ingestion, dermal contact, potential take-home exposures and blood lead levels of workers

exposed to lead wheel weights, such as workers at entities outlined above, as well as transportation construction, management, or maintenance workers (*e.g.*, street cleaning, road repair, and auto repair), including those in auto shops that install and remove lead wheel weights.

13. Information and data (*e.g.*, recent scientific and technical studies, including statistical analyses) related to hazards and exposures associated with the collection of and repurposing of lead wheel weights by home hobbyists, including information related to practices for at-home melting and lead recasting activities (*e.g.*, frequency, duration, quantity of lead melted and recast, temperatures used, sociodemographic characteristics of the subpopulations engaged in these practices, as well as the form in which the weights are repurposed), data on impacts to children's health, and associated contamination of air, dust, soil, and other environmental media, as well as contamination on surfaces (*e.g.*, clothes and furniture).

IV. References

The following is a list of the documents that are specifically referenced in this document. The docket includes these references and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the reference is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Ecology Center. TSCA Section 21 Petition Requesting EPA to Establish Regulations Prohibiting the Manufacture, Processing, and Distribution in Commerce of Lead Wheel Balancing Weights. May 28, 2009. <https://www.epa.gov/sites/default/files/2015-10/documents/petition4.pdf>.

2. EPA. EPA Response to TSCA Section 21 Petition. August 26, 2009. <https://www.epa.gov/sites/default/files/2015-10/documents/document.pdf>.

3. California Environmental Protection Agency Department of Toxic Substances Control. Wheel Weight Alternatives Assessment. November 2011. <https://dtsc.ca.gov/wp-content/uploads/sites/31/2017/05/AAWheelWeights.pdf>.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to a requirement for Executive Order 12866 review.

B. Other Regulatory Assessment Requirements

Because this action does not impose or propose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various other review requirements in statutes and Executive Orders that apply when an agency imposes requirements do not apply to this ANPRM. Should EPA subsequently determine to pursue a rulemaking, EPA will address the requirements in the statutes and Executive Orders as applicable to that rulemaking.

List of Subjects in 40 CFR Part 751

Environmental protection, Chemicals, Export notification, Hazardous substances, Import certification, Reporting and recordkeeping.

Michael S. Regan,

Administrator.