



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

June 7, 1999

Ms. Monica Lopes
Connectiv
630 Martin Luther King Blvd.
Wilmington, DE 19899
Attn: Safety & Environmental Services

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Dear Ms. Lopes,

This letter is in response to your e-mail to Sara Hisel McCoy, of my staff, dated April 15, 1999, concerning the applicability of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Your e-mail contained three questions regarding the application of the *de minimis* exemption to various toxic chemicals and the application of EPCRA section 313 reporting requirements to toxic chemicals contained in ash.

Your first question addresses the application of the *de minimis* exemption to the burning of landfill gas generated on-site. You explain that the gas has a heating value of 585 Btu/scf and is composed of 58% methane, 41% carbon dioxide, and the remaining 1% contains several organic compounds. You also inquire as to whether AP-42 emission factors for natural gas may be used to estimate releases from landfill gas combustion. As I understand your question, the landfill gas is burned in an on-site combustion unit.

Toxic chemicals contained in landfill gas that are burned on-site as fuel should be considered toward the facility's otherwise use threshold, in addition to being considered as a waste management activity and therefore, reported as either treated for destruction or, if the toxic chemical has a significant heating value (*e.g.*, 5,000 Btu/lb) and is combusted in a boiler or industrial furnace, as combusted for energy recovery. In any event, the toxic chemicals in the landfill gas are not eligible for the *de minimis* exemption because the *de minimis* exemption does not apply to wastes. The landfill gas is spent or contaminated, and therefore, the burning of these chemicals constitutes a waste management activity. If you believe that AP-42 will provide your best estimate of releases, you may refer to section 2.4 ("Landfills") of AP-42 for guidance about toxic chemicals in landfill gas.

Your second question regards the burning of storage tank vent gases generated off-site and hard piped to an on-site combustion unit. You explained in a follow-up conversation with members of my staff that the off-site storage tank holds raw materials and the vent gas is hard piped to your facility as a means of controlling air emissions. You also explained that your facility burns the vent gas in compensation for the other facility treating your wastewater. Based on this scenario, you are asking whether the *de minimis* exemption may be applied to toxic chemicals contained in the vent gas burned on-site.

Toxic chemicals in gases from the storage tanks holding raw materials are eligible for the *de minimis* exemption if they are burned as a fuel in a combustion unit. These toxic chemicals are not being managed as waste because they are contained in a mixture that has never been used and are not themselves spent or contaminated. However, any toxic chemicals in the raw material that are above their respective *de minimis* concentrations must be considered toward the facility's otherwise use threshold.

Your third question asks about the application of EPCRA section 313 reporting requirements to toxic chemicals contained in ash that is generated as a byproduct at electricity generating facilities. Specifically, you ask why toxic chemicals in ash transferred off-site for certain applications (e.g., roadfill) constitutes a waste management activity while toxic chemicals in ash sent off-site to be incorporated into concrete are considered "processed."

Page 3-49 of the EPCRA Section 313 Industry Guidance for Electricity Generating Facilities (January 1999; EPA 745-B-99-003) states:

A facility distributes ash (which meets industry specifications) containing EPCRA Section 313 chemicals into commerce for use in the manufacture of concrete. This activity constitutes a processing activity, and the *de minimis* exemption applies to amounts of EPCRA Section 313 chemicals in the ash distributed into commerce, and to releases and other waste management activities associated with this processing activity.

EPCRA Section 313 chemicals in ash sent off-site for use as roadfill, landfill, and in mining reclamation are being managed as a waste; therefore they are not eligible for the *de minimis* exemption.

The toxic chemicals in ash being sent off-site for use as roadfill, landfill, and in mining reclamation are being disposed of off-site. Therefore, the toxic chemicals in the ash are being managed as a waste and these toxic chemicals are not eligible for the *de minimis* exemption. However, the toxic chemicals in the ash transferred off-site for incorporation into concrete are being processed because the ash, which must meet certain specifications, is being distributed into commerce and is being mixed, blended, and incorporated into concrete. Therefore, these toxic chemicals should be considered toward processing thresholds. The *de minimis* exemption may be considered for toxic chemicals in ash that is transferred off-site for incorporation into concrete. In addition, EPA would consider ash that is transferred off-site for incorporation into roofing shingles to be similar to ash that is transferred off-site for incorporation into concrete. Therefore, the toxic chemicals in the ash that is incorporated into roofing shingles are being processed and the *de minimis* exemption may be considered for these toxic chemicals.

I hope this information is helpful to you in making threshold determinations and release and other waste management calculations for 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 cursive script that reads "Maria J. Doa". The signature is fluid and extends to the right with a long tail.

Maria J. Doa, Ph.D., Chief
Toxics Release Inventory Branch