



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

JUL 30 1997

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Linda A. Swift, CHMM, CET  
Capaccio Environmental Engineering, Inc.  
75 Union Ave.  
Sudbury, MA 01776-2255

Dear Ms. Swift,

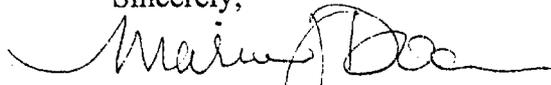
This letter is in response to your June 12, 1997 request for clarification of a client's reporting obligations under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 and the Pollution Prevention Act (PPA) section 6607. Specifically, within that letter, you requested guidance as to whether or not a particular facility would have to file a Form R for reporting year 1996 (RY 1996), if no product qualified for sale in commerce in 1996. You also requested guidance as to whether or not the calculation of thresholds for RY 1997 should include the amount used prior to the date the product was qualified for sale in commerce (i.e., February 1997).

The letter indicated that the facility meets the EPCRA section 313 reporting criteria. The facility has 10 or more full-time employees, is within the Standard Industrial Classification (SIC) codes 20-39, and may have exceeded the otherwise use threshold of 10,000 pounds for two chemicals during the 1996 reporting year. EPA believes that this facility would be required to report under EPCRA section 313 for the 1996 reporting year because the facility meets the reporting criteria and an activity threshold, i.e., the otherwise use threshold, has been exceeded. 'Otherwise use' is currently defined as "any use of a chemical which is not covered by the terms 'manufacture' or 'process.'" (Please note that EPA has revised and expanded the definition of 'otherwise use' for the 1998 reporting year. See 62 FR 23846.) EPA believes that an already constructed manufacturing facility which has not qualified "its product for sale in commerce" but has otherwise used several listed toxic chemicals for manufacturing, or other EPCRA section 313 activities, would have to report under EPCRA section 313. This is consistent with past EPA guidance. I have attached a copy of a Question and Answer no. 11 that I believe is analogous. This Question and Answer is from Toxic Chemical Release Inventory Questions and Answers: Revised 1990 Version (EPA 560/4-91-003) (see attached). Once a facility is constructed, any toxic chemicals 'manufactured,' 'processed,' or 'otherwise used' must be included in the threshold determinations for that calendar year. Furthermore, concerning the reporting year 1997 threshold determinations, a facility that operated during any part of a reporting year must report

if it meets reporting criteria. Therefore, all EPCRA section 313 chemicals 'manufactured,' 'processed,' or 'otherwise used' prior to the date the product was qualified for sale should be included in threshold and release and other waste management calculations for the 1997 reporting year.

I hope this information is helpful to you in determining whether the facility must report under EPCRA section 313. If you have any further questions, please call me at (202) 260-9592, or Carol Christensen of my staff at (202) 260-2301.

Sincerely,

A handwritten signature in black ink, appearing to read "Maria J. Doa". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

cc: Dwight Peavey, U.S. EPA Region 1  
IG system/TIB

Attachment