



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

JUN 19 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

James A. Pfeiffer
Municipal Light and Power
1200 East First Avenue
Anchorage, Alaska 99501-1685

Dear Mr. Pfeiffer:

Your letter dated June 10, 1998 requests EPA's interpretation of the applicability of the Emergency Planning and Community Right to Know Act (EPCRA) section 313 reporting requirements to your electricity generating facility. As you know, section 313 of EPCRA requires certain covered facilities to annually report their releases and other waste management of listed toxic chemicals. On May 1, 1997, EPA published a rule (62 FR 23834) expanding the facilities covered by EPCRA section 313 to include seven additional industry groups, including electricity generating facilities in Standard Industrial Classification (SIC) code 4911 limited to facilities that combust coal and / or oil for the purpose of generating electricity for distribution in commerce.

You state that your electricity generating facility uses natural gas as a primary fuel, but in cases of emergency you are prepared to use fuel oil as a substitute. You describe the instances where your facility has had to rely on fuel oil as being extremely infrequent, but that in order to be prepared for such emergencies you must routinely test the conversion of your generators to fuel oil. Your letter requests if the routine conversion of your generators for the purpose of testing their ability to burn fuel oil would require your facility to report under EPCRA section 313 as an electricity generating facility that combusts coal and / or oil for the purpose of generating electricity for distribution in commerce.

In question and answer No. 15 of the Emergency Planning and Community Right-To-Know Act Section 313 Addendum to the Guidance Documents for the Newly Added Industries (EPA 745-B-98-001, February 1998), EPA states that the:

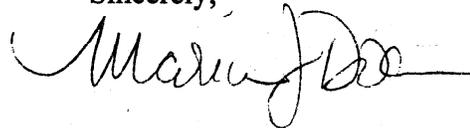
use of oil or coal for purposes of testing safety equipment, for example at nuclear facilities, would not constitute a use of oil or coal for the purposes of generating power for distribution in commerce. Thus the facility would not be considered covered....However, if a facility intentionally generates excess power during the testing operations for the purpose of distributing it in commerce, the facility would be

[considered] "covered."

Based on the description of your use of fuel oil, under EPCRA section 313, your facility would not be considered "covered" by SIC code 4911 (limited to facilities that combust coal and / or oil for the purpose of generating electricity for distribution in commerce) in those years when the use of fuel oil was limited to testing without the intentional generation of power for distribution in commerce. Your interpretation is correct in stating that the facility would be considered covered by this SIC code under EPCRA section 313 in those years when fuel oil is used for generating power for distribution, regardless of the amount of fuel oil used.

I hope this information is helpful to you in making your threshold determinations and release and other waste management calculations under EPCRA section 313. If you have any further questions, please call me at 202.260.9592 or Timothy Crawford, of my staff at 202.260.1715.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maria J. Doa".

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

cc: IG system