



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

JAN 20 1999

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Mitchell L. Press  
DuPont-Chambers Works  
Building 654, Room 10  
Route 130  
Deepwater, NJ 08023

Dear Mr. Press:

This letter is in response to your June 5, 1998 facsimile in which you asked a question concerning the reporting obligations under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, your question concerns EPCRA section 313 toxic chemicals in coal ash that are returned to the mine for land reclamation/structural fill activities.

In your fax dated June 5, 1998, and your subsequent conversation with Sara Hisel McCoy of my staff, you explain that a covered manufacturing facility combusts coal in on-site boilers and then transfers the fly ash off-site to the strip mine from which the coal was received. The strip mine directly uses the fly ash as structural fill for the mine. You ask how the facility generating the fly ash in the boiler should report the toxic chemicals in the fly ash transferred off-site. Specifically, you inquired as to whether the toxic chemicals in the ash should be considered processed or reported as released off-site under EPCRA section 313.

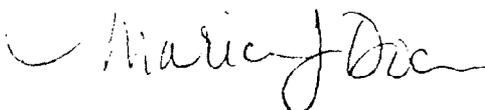
Before I address your specific question, I would like to clarify that, under EPCRA section 313, threshold activities and waste management activities are not necessarily mutually exclusive. For example, toxic chemicals that are manufactured on-site may also be released on-site. The first activity does not preclude the second activity.

As for your question, the EPCRA section 313 chemicals that are used as a fuel on-site should be considered towards the facility's otherwise use activity thresholds. Therefore, the EPCRA section 313 chemicals in the coal that are burned in your facility's boiler should be considered towards the appropriate otherwise use threshold determinations. You should also note that EPCRA section 313 chemicals may be created in the combustion process as byproducts. These chemicals should also be considered towards the appropriate manufacturing threshold determinations. Finally, with regard to processing, the facility transferring the ash off-site to the strip mine is not processing the EPCRA section 313 chemicals in the ash. The strip mine is disposing the ash, thus the ash is being managed as a waste. Accordingly, the transferring facility should not consider the EPCRA section 313 chemicals in the ash transferred off-site as

processed. Further, because the ash is being managed as a waste, the EPCRA section 313 chemicals in the ash are not eligible for the de minimis exemption.

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 Larry Reisman of my staff at 202.260.2301.

Sincerely,

A handwritten signature in cursive script that reads "Maria J. Doa". The signature is written in black ink and is positioned above the typed name.

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