



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

JUN 3 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

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

Dear Mr. Press,

This letter is in response to your March 3, 1998 facsimile in which you pose three questions concerning the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you ask about the reporting of EPCRA section 313 toxic chemicals in wastewater and stormwater outfalls.

As I understand your situation, two separately owned and operated companies are located within a single site boundary. These companies are two separate facilities under EPCRA section 313 and as such, each facility calculates their thresholds separately and files separate Form Rs. Facility A discharges wastewater through a pipeline to Facility B's outfall. (Facility B owns the land upon which the piping passes and holds the CWA discharge permit.) Facility A's wastewater has a low part per million concentration of two organic EPCRA section 313 toxic chemicals. These toxic chemicals pass through the outfall untreated (within permitted limits) to a nearby waterway. Facility A exceeds an activity threshold for these toxic chemicals in their manufacturing process. Facility B does not use either chemical in any manufacturing operations on-site. However, more than 10,000 pounds of each of Facility A's organic toxic chemicals are contained in the wastewater annually flowing through Facility B's piping. You ask if Facility A must report the discharge into the piping as an off-site transfer in Part II section 6.2 of the Form R (and if so, what code), or in section 5.3 as a discharge to a stream as well as a release in section 8.1. You also ask if Facility B must consider these toxic chemicals towards the otherwise use threshold even though the toxic chemicals are not treated for destruction, stabilized or disposed on-site.

In this situation, Facility A would report the EPCRA section 313 toxic chemicals sent via pipeline to Facility B, as an off-site transfer in Part II section 6.2 using treatment code M90, other off-site management and in section 8.1 as released. (See Q&A # 418 in the 1997 EPCRA Section 313 Questions and Answers document.) Facility B would not consider these toxic chemicals towards their otherwise use threshold because Facility B does not receive toxic

chemicals in waste from off-site (Facility A) for disposal¹, stabilization, or treatment for destruction on-site. If, however, Facility B meets an activity threshold for either of these chemicals elsewhere at the facility, it would report the release of the chemicals in the wastewater received from Facility A in section 5.3 and 8.1 of the Form R.

Your third question concerns the following specific scenario presented in your fax:

“Facility C runs the discharge permit for an outfall through which only stormwater passes. The storm water may contain TRI constituents from both Facility D and Facility B, whose stormwater flows must pass onto Facility C property and mix with Facility B stormwater on the way to the CWA regulated outfall. Facility C is not treating any TRI constituents in the stormwater received from Facility D, it merely flows through the outfall. It would not appear that Facility C is treating for destruction any TRI constituent received from off-site Facility D.”

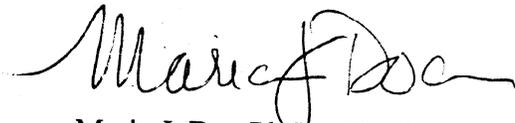
As long as Facility C is not treating for destruction, stabilizing or disposing the EPCRA section 313 toxic chemicals it receives from facilities B and D, Facility C would not count these toxic chemicals towards its otherwise use threshold. If, however, Facility C meets an activity threshold for these chemicals elsewhere at the facility, it would report the release of these chemicals in the wastewater received from Facility B and D in sections 5.3 and 8.1 of the Form R. Facilities B and D would report the EPCRA section 313 chemicals as off-site transfers in Part II section 6.2 using treatment code M90, other off-site management and in section 8.1 as released.

In the last situation you describe, a site boundary encompasses two companies, Facility Z, and a 50/50 joint venture of Facility Z (Facility JV). You explain that the primary SIC code of both facilities is 8731, commercial physical and biological research. You also provide additional information regarding EPCRA section 313 toxic chemicals in waste sent from Facility JV to an incinerator located on Facility Z. Your question concerns the applicability of the otherwise use threshold to this activity. However, facilities in SIC code 8731 are not currently covered by EPCRA section 313. Assuming the primary SIC code determination for these facilities is correct, and neither of these research facilities is an auxiliary facility of a covered facility, the reporting requirements of EPCRA section 313, including the chemical threshold determinations, do not apply to these facilities.

¹Under EPCRA section 313, disposal includes “any underground injection, placement in landfills/surface impoundments, land treatment, or other intentional land disposal.” (40 CFR § 372.3)

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 Sara Hisel McCoy of my staff at 202.260.7937.

Sincerely,

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

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

cc: IG system