



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

JUL 31 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

Mr. Karl R. Boldt
Principal Environmental Engineer
United States Tobacco Manufacturing Company Inc.
11601 Copenhagen Court
Franklin Park, IL 60131

Dear Mr. Boldt:

This letter responds to your letter dated June 25, 1998 to the Emergency Planning and Community Right to Know Act (EPCRA) Reporting Center regarding your Form R submission for nicotine and salts (EPCRA section 313 toxic chemical category N503) for calendar year 1997. As you know, section 313 of EPCRA requires certain covered facilities that manufacture, process or otherwise use EPCRA section 313 toxic chemicals above the applicable thresholds, to annually report their releases and other waste management of these toxic chemicals on the Form R (or Form A).

In the cover letter to your 1997 Form R submission, you assert that the United States Tobacco Manufacturing Company Inc. (USTMC) does not process nicotine and salts pursuant to 40 CFR section 372.3 because nicotine and salts are natural components of tobacco. However, there are no provisions under EPCRA section 313 that exempt naturally occurring toxic chemicals that are known to be a part of a facility's raw material. All listed toxic chemicals, *irrespective of origin*, that are prepared for distribution in commerce are considered to be "processed" under EPCRA section 313. In fact, EPA has specifically addressed the processing of nicotine and salts in question and answer number 135 in the Revised 1997 EPCRA Section 313 Questions and Answers document (EPA 745-B-97-008) included below.

135. A cigarette manufacturer receives tobacco which naturally contains nicotine, an EPCRA Section 313 toxic chemical. The manufacturer does not add or alter the concentration of nicotine in the cigarettes when processing the tobacco. Is the nicotine considered to be "processed" even though it is naturally present in tobacco and not added to the finished product?

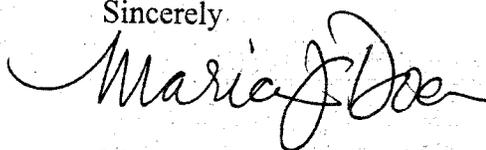
Yes. There are no provisions under EPCRA Section 313 that exempt naturally occurring chemicals that are known to be a part of a facility's raw material. Although the facility does not manipulate the concentration of the toxic chemical in the raw material, the facility is "processing" the toxic chemical as defined in 40 CFR Section 372.3. Thus, the facility would need to file a Form R or Form A for nicotine if it is "processed" at the

facility in amounts greater than or equal to the 25,000 pound activity threshold, assuming that the facility meets the other applicability criteria found in 40 CFR Section 372.22.

On your Form R, you reported that your SIC code is 2131, an SIC code covered by the reporting requirements of EPCRA section 313. Therefore, presuming that the facility meets the full-time employee threshold found in 40 CFR section 372.22, this USTMC facility is required to file a Form R for nicotine and salts if the facility "processed" 25,000 pounds or more of chemicals covered by this EPCRA section 313 toxic chemical category.

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 questions or desire further information, please call either Sara Hisel McCoy at 202.260.7937 or me at 202.260.9592.

Sincerely

A handwritten signature in cursive script that reads "Maria J. Doa".

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

cc: IG system
Joe F. Goodner, IL EPA