



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

June 7, 1999

Richard L. Sieg, PE  
Environmental Affairs  
RJ Reynolds Tobacco Company  
P.O. Box 2959  
Building 611-16/1st  
Winston-Salem, NC 27102

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Dear Mr. Sieg:

This letter responds to your May 3, 1999 letter to Larry Reisman of the Toxics Release Inventory Branch in which you ask for guidance concerning the applicability of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to your facility. Specifically, you want to know whether the off-site transfer of toxic chemicals in ash constitutes a processing activity or a waste management activity if the ash that is sent off-site is incorporated into potting soil.

As you are aware, page 3-49 of the EPCRA Section 313 Industry Guidance for Electricity Generating Facilities (January 1999, EPA 745-B-99-003) provides the following guidance regarding the transfer of ash off-site for a variety of applications:

A facility distributes ash (which meets industry specifications) containing EPCRA Section 313 chemicals into commerce for use in the manufacture of concrete. This activity constitutes a processing activity, and the *de minimis* exemption applies to amounts of EPCRA Section 313 chemicals in the ash distributed into commerce, and to releases and other waste management activities associated with this processing activity.

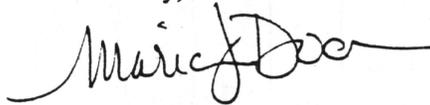
EPCRA Section 313 chemicals in ash sent off-site for use as roadfill, landfill, and in mining reclamation are being managed as a waste; therefore they are not eligible for the *de minimis* exemption.

The toxic chemicals in ash being sent off-site for use as roadfill, landfill, and in mining reclamation are being disposed of off-site. Therefore, the toxic chemicals in the ash are being managed as a waste and these toxic chemicals are not eligible for the *de minimis* exemption. However, the toxic chemicals in the ash transferred off-site for incorporation into concrete are being processed because the ash, which must meet certain specifications, is being distributed into commerce and is being mixed, blended, and incorporated into concrete. Therefore, these toxic

chemicals should be considered toward processing thresholds. The *de minimis* exemption may be considered for toxic chemicals in ash that is transferred off-site for incorporation into concrete. In addition, EPA would consider the toxic chemicals in the ash that is incorporated into potting soil as being processed and the *de minimis* exemption may be considered for these toxic chemicals.

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 other questions, or desire further information, please call either Larry Reisman at 202.260.2301 or me at 202.260.9592.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maria J. Doa", with a long horizontal flourish extending to the right.

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