



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

JUN 10 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 17, 1998 facsimile in which you asked three questions concerning the reporting obligations under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, your questions concern EPCRA section 313 toxic chemicals in waste transferred off-site for storage.

In your letter, you explain that Company A owns and operates an EPCRA section 313 covered facility. Company B, a joint venture of Company A, is located within the same site boundary but determines EPCRA section 313 thresholds separately and calculates releases and other waste management separately. Company B, the joint venture, operates as a separate company, has its own Dun and Bradstreet number and Resource Conservation and Recovery Act (RCRA) EPA Identification number. Company A operates a RCRA permitted storage facility through which Company B forwards drums for A to store and prepare for off-site shipment along with drums from Company A. Company A ships wastes off-site and also prepares separate hazardous waste manifests for Company B (using Company B's EPA ID number).

It is unclear from your correspondence that Companies A and B are two separate facilities and not establishments of the same facility. Specifically, if Company B is owned or operated by Company A, they are establishments of the same facility. As two establishments of one multi-establishment facility, they would consider their combined activities for threshold determinations and release and other waste management reporting. For the purposes of responding to your questions, I am **assuming** that Company A and Company B are owned and operated separately and are indeed **separate** facilities, not establishments of the same facility.

Your first question concerns how Company B should report. Specifically, you ask if Company B should report the EPCRA section 313 toxic chemicals transferred to Company A's storage pads as an off-site transfer to Company A even though Company B's wastes are manifested separately and Company B knows the ultimate off-site destination and handling method. In this situation, where Company B knows the ultimate disposition of the toxic chemical, Company B should report the off-site location as Company A in Part II sections 6.2 but

should report the type of waste management activity that will ultimately be performed in Part II sections 6.2 and 8 on the Form R. If the facility learns in a future year that the toxic chemical was not managed as Company B originally reported, Company B should revise the previously submitted Form R to reflect this new information. If Company B does not know the final destination of the toxic chemicals it sends to Company A, Company B should report the transfer to Company A as an off-site transfer of waste for storage, using waste management code M10, "storage only" in section 6.2 and as released (disposed) in section 8.1 of the Form R.

You also ask how Company A should consider these activities on Form R. As stated in Q&A # 52 in the 1997 EPCRA Section 313 Questions and Answers document, "[t]he activity of storage in itself would not meet an activity threshold under EPCRA section 313..." Therefore, Company A would not consider the amount of toxic chemicals received from off-site that are simply in storage prior to an off-site transfer towards an EPCRA section 313 activity threshold. If Company A exceeds an activity threshold for any of these stored toxic chemicals elsewhere at the facility, Company A should report its own amounts of toxic chemicals and the amounts of toxic chemicals received from Company B, in its reporting of transfers off-site, using the most appropriate waste management code. The fact that Company A manifests these wastes separately under the RCRA regulations, does not affect the facility's reporting requirements under EPCRA section 313. Also remember, that if Company A not only stores, but also disposes, stabilizes, or treats for destruction toxic chemicals in waste received from off-site, Company A should apply these EPCRA section 313 toxic chemicals to their otherwise use threshold.

Lastly, you ask how Companies A and B should consider EPCRA section 313 toxic chemicals in waste moved from Company B to Company A's storage pad during one calendar year and shipped off-site for treatment/disposal/recycle in the following calendar year. In this situation, if Company B knows where the toxic chemicals in waste will be ultimately managed, Company B should report the off-site location as Company A in Part II sections 6.2 but should report the type of waste management activity that will ultimately be performed in Part II sections 6.2 and 8 on the Form R. If the facility learns in a future year that the toxic chemical was not managed as Company B originally reported, Company B should revise the previously submitted Form R to reflect this new information. If Company B does not know the ultimate disposition of the waste, it should report the toxic chemicals in waste as an off-site transfer for "storage only," using waste management code M10 in section 6.2 and report the toxic chemical as released (disposed) in section 8.1 of the Form R. As stated above, Company A need not consider the amount of toxic chemicals in wastes towards an EPCRA section 313 activity threshold if they are simply storing the toxic chemical prior to an off-site transfer. However, if Company A exceeds thresholds for these toxic chemicals elsewhere at the facility, Company A should consider any releases associated with the storage of these toxic chemicals in each calendar year in which they are stored. If, in the year in which Company A transfers these toxic chemicals off-site, Company A exceeds activity thresholds for these toxic chemicals elsewhere at the facility, Company A should report their transfer off-site in Part II section 6.2 and in section 8 of the Form R.

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

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

cc: IG system