



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 18 1998

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Ms. Holly Evans  
Director of Environmental and Safety Programs  
Institute for Interconnecting and Packaging Electronic Circuits  
2215 Sanders Road  
Northbrook, Illinois 60062-6135

Dear Ms. Evans,

This letter responds to your August 24, 1998 letter in which you ask for guidance regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, in your letter you ask about printed wiring board (PWB) manufacturers that ship manufacturing by-products, which contain one or more EPCRA section 313 toxic chemicals, to recycling facilities on a U.S. Department of Transportation (DOT) bill of lading instead of a Resource Conservation and Recovery Act (RCRA) manifest. You further explain that some manufacturing by-products are not subject to RCRA subtitle C when recycled because the materials are considered either excluded scrap metal, commercial by-products or are directly reused in another process. Based upon this description, and in light of Q&A 435 of the 1997 version of the EPCRA Section 313 Questions and Answers document (EPA 745-B-97-008), you inquire as to whether any EPCRA section 313 reporting is required for the toxic chemicals in these by-products.

While based on the information you provided in your letter, it appears that you have exceeded an EPCRA section 313 reporting threshold, you should also note that EPCRA section 313 toxic chemicals that are prepared for distribution in commerce are considered "processed" under EPCRA section 313. The type of transportation paperwork required (e.g., RCRA manifest or DOT bill of lading) is irrelevant in making this determination. Facilities subject to EPCRA section 313 that process toxic chemicals above the 25,000 pound threshold must file a Form R (or the alternate threshold certification, Form A) for these chemicals. Based on the information provided in your letter, the PWB manufacturers that transfer toxic chemicals in manufactured by-products off-site for recycling or direct reuse are considered "processed" for EPCRA section 313 purposes and should therefore be counted towards the facilities' "processing" thresholds.

If a covered facility determines that it exceeds an activity threshold for an EPCRA section 313 chemical, the facility must report on the releases and other waste management of the chemical on the Form R or Form A. As part of the information required on the Form R pursuant to the Pollution Prevention Act of 1990, facilities must report the quantities of the toxic chemical

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released, treated for destruction, combusted for energy recovery and recycled. As you may know, EPA has not yet promulgated regulations pursuant to the Pollution Prevention Act defining "recycling." However, if toxic chemicals are directly reused, without any intervening reclamation or recovery steps, the toxic chemicals are not considered recycled for the purposes of Form R reporting. From the information presented in your letter, it is unclear whether the toxic chemicals are recovered or reclaimed before they are reused. A reclamation or recovery step would include removing contaminants from the toxic chemical after the chemical has been used and can no longer be used for its intended purpose. Reclamation and recovery would not include simple phase changing of the toxic chemical before further reuse (e.g., simple remelting of scrap metal). To determine whether the PWB manufacturers must report the amount of toxic chemical in their manufactured by-products as recycled on the Form R depends upon whether the facility is recycling the toxic chemicals or is instead simply reusing them.

The language in Q&A #435 in the EPCRA Section 313 Questions and Answers document and the language on page 34 of the Revised 1997 Toxic Chemical Release Inventory Reporting Forms and Instructions (EPA 745-K-98-001) may or may not apply to the PWB manufacturers' activities. As explained above, if these facilities are directly reusing the toxic chemicals, (i.e., no recovery is involved) these toxic chemicals need not be reported as sent off-site for recycling in sections 6 or 8 of the Form R. However, if a facility exceeds an activity thresholds for the toxic chemical, the facility must submit a Form R or Form A regardless of the waste management activities associated with the toxic chemical. If these toxic chemicals are indeed sent off-site for recycling, these quantities are reportable in both sections 6 and 8 as well as any other applicable sections of the Form.

These PWB manufacturers may, however, be eligible for Form A reporting with regard to the toxic chemicals that are directly reused or recycled. Form A reporting is available to those facilities manufacturing, processing or otherwise using one million pounds or less per year of a listed chemical resulting in "an annual reportable amount of that toxic chemical not exceeding 500 pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, and/or disposal." (40 CFR section 372.27(a))

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 Sara Hisel McCoy at 202.260.7937 or me at 202.260.9592.

Sincerely,



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