



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

**MEMORANDUM**

SUBJECT: Electronic Reporting and Signature under EPCRA Section 312

FROM: *Deborah Y. Dietrich*  
Deborah Y. Dietrich, Director  
Office of Emergency Management

TO: Superfund Program Managers  
Regions 2, 3, 5, 6, 8, and 10

Director  
Office of Environmental Stewardship, Region 1

Director  
Air, Pesticides and Toxics Management Division, Region 4

Director  
Air and Waste Management Division, Region 7

**PURPOSE**

The purpose of this memorandum is to provide guidance for State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), and local governments regarding electronic reporting and signature under Section 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA).

**BACKGROUND**

EPCRA section 312 requires the owner or operator of a facility subject to the Material Safety Data Sheet (MSDS) requirements under the Occupational Safety and Health Act of 1970 and its regulations to submit a hazardous chemical inventory form to the State Emergency Response Commission (SERC), local emergency planning committee (LEPC) and the local fire department with jurisdiction over the facility. The implementing regulations published in 40 CFR Part 370 establish the reporting thresholds and procedures to submit the hazardous chemical inventory form.

Currently, the regulations in part 370 require the owner or operator (or the officially designated representative of the owner or operator) of facilities to submit a certification statement with their hazardous chemical inventory form containing an original signature that the information submitted is true, accurate and complete. When EPA first promulgated regulations for part 370 in October 1987, the ability to report using electronic systems or electronic signature were not available options. However, in the June 8, 1998 proposed rule, EPA provided draft guidance to States and local agencies on various reporting options to implement section 312 of EPCRA, including electronic reporting under section 312. The proposed guidance stated that the States and local agencies may continue to develop their own reporting format including electronic reporting as long as the information required includes the information required by the statute and its implementing regulations and that the certification is required regardless of the format which it is submitted. The proposed guidance also stated that if States and locals allow section 312 reporting information to be submitted via the Internet, it will be necessary for the facility owner or operator or its officially designated representative to certify the information submitted. While EPA sought comments on the various reporting options provided in the preamble, the draft guidance stated that States and local agencies may implement any of the reporting options whether or not EPA finalized the guidance. Currently, several States are implementing electronic reporting, either on-line or via diskettes, under section 312 of EPCRA.

### **ISSUE**

At the time of the 1998 proposal, EPA did not consider on-line reporting and signature because the technology was not yet available. Recently, States and regulated community have requested EPA to provide guidance on how original signature stated in part 370 would apply if facilities submit the hazardous chemical inventory form on-line.

### **CONCLUSION**

EPCRA recognizes that SERCs and LEPCs are responsible for managing and reducing the chemical risks in their community including developing local emergency response plans, collecting information on chemicals in the community, and providing that information to the public. Since the beginning of the EPCRA program, the Agency has provided flexibility to States and local governments to implement all aspects of the program as appropriate in their community. In order to reduce information management burden on States and local agencies and to reduce reporting burden on facilities, EPA published the draft guidance with various reporting options in the June 1998 proposed rule.

As stated above, although the Agency did not finalize the guidance, many States have been implementing some of the reporting options provided in the preamble, including electronic reporting, either on-line or via diskettes. EPA is aware that those States that accept the hazardous chemical inventory form via diskettes are accepting the certification statement that contains an original signature on paper along with their diskettes. Several States are in the process of developing on-line systems for facilities to submit their form under Section 312.

These systems would allow for facilities to submit all of their information, including certification, on-line.

At the time the proposed guidance was published in June 1998, on-line submittal and certification were not available options for reporting under Section 312. In order to continue to provide flexibility to States in implement EPCRA and reduce information management burdens, EPA is providing guidance to those States that currently require or may want to implement on-line reporting to establish procedures as necessary for accepting electronic signature and certification. For the purposes of Section 312 reporting, original signature could include "wet" signatures or electronic certifications. Thus, States may use any system for collecting chemical inventory information under Section 312 which continues to ensure the information is true, accurate, and complete and allows States to effectively and efficiently manage chemical risks and provide information to the public.

For any questions regarding this memo, please contact Sicy Jacob at (202) 564-8019.

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