

# Emergency Planning and Community Right-to-Know Act

## EPA Guidance on Reporting Options for Sections 311 and 312 and Some Interpretations and CT DEP and State Emergency Response Commission Reply

Information taken directly from the Office of Emergency Management Factsheet Guidance on Reporting Options for EPCRA Sections 311 and 312 and Interpretations June 2010 The guidance is taken directly from EPA fact sheet. The Areas highlighted in yellow is CT's reply to the EPA document.

### Introduction

EPA provided draft guidance in the preamble to the June 8, 1998 proposed rule (63 FR 31268) to streamline the reporting requirements for facilities under sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The Agency did not propose any regulatory changes, but sought comments on the following reporting options.

1. Underground Storage Tank (UST) Forms to fulfill the requirements for Tier I information under EPCRA section 312;
2. Partnership Programs for joint access to information and streamlined submission of EPCRA sections 311 and 312 reporting. If a single point submission is allowed for facilities, then one agency would receive the information and provide access to the other agencies;
3. Electronic submittal and certification for EPCRA section 312 reporting;
4. Incorporation of previous submissions into EPCRA section 312 reporting;
5. Electronic access to facility Material Safety Data Sheet (MSDS) database; and
6. EPCRA section 312 reporting to fulfill reporting requirements under section 311.

**Who is Affected by this Guidance and Interpretation?** Entities that will be affected include those organizations and facilities subject to sections 302, 304, 311 and 312 of EPCRA and the implementing regulations found in 40 CFR parts 355 and 370.

### EPA's Decision on These Proposed Options

**UST Forms.** Since all states now require facilities to submit a Tier II inventory form or the state equivalent form, this reporting option is no longer useful.

### **Partnership Programs for Joint Access to Information and Submission of EPCRA 311 and 312 Reporting**

CT is not adopting this Partnership Programs for Joint Access reporting option. Information is and will continue to be available in electronic or paper format upon written request from the LEPC or Fire Department.

States may implement the Partnership Programs for Joint Access reporting option; however, they must ensure that statutory and regulatory requirements are met. If states choose to implement this option, a formal agreement is necessary between the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC), and fire department. States should then notify the facilities about this agreement and the new submission process.

States must also meet the March 1 reporting deadline, as specified in the statute.

### **Electronic Submittal and Certification for EPCRA Section 312 Reporting**

CT encourages electronic reporting format; however, paper copy submission is acceptable. If electronic reporting is used, the facility must submit an original CT Certification Form by U.S. mail.

States may require facilities to submit information using Tier2 Submit, the federal electronic reporting format, or the state equivalent electronic reporting format. If facilities do not have the capability to file information electronically, states should allow these facilities to submit paper copies of the Tier II report.

The original signature requirement in 40 CFR 370.41 and 370.42 could be met by providing the certification statement on paper or by any electronic certification established by the state and local agencies.

### ***Incorporation of Previous Submissions into EPCRA Section 312 Reporting***

CT facilities are required by state statute to submit Tier II forms annually to the SERC, LEPC and the fire department, even if the information from the previous year has not changed.

Facilities are required to submit a Tier I form or, if requested, a Tier II form annually to the SERC, LEPC, and the fire department, even if the information from the previous year has not changed. Most states have established electronic reporting or are using Tier2 Submit software developed by EPA. Therefore, the burden for facilities to re-create information on paper does not exist for most facilities.

States may adopt this reporting option for those facilities that submit section 312 information on paper.

### ***Electronic Access to Facility MSDS Database***

CT facilities are required by state statute to submit MSDSs for hazardous chemicals that meet or exceed the reporting thresholds to the SERC, LEPC, and the fire department. The submission may be either electronic or paper.

Section 311 of EPCRA requires facilities to submit MSDSs for hazardous chemicals that meet or exceed the reporting thresholds to the SERC, LEPC, and the fire department. The Agency suggested electronic submission of MSDSs or providing access to facilities' MSDS database to reduce the burden on the regulated community and reduce the information management burden on implementing agencies.

Due to security concerns and several entities lacking access to computers or on-line systems, EPA has rejected this reporting option.

### ***EPCRA Section 312 Reporting to Fulfill Reporting Requirements under Section 311***

CT facilities are required by state statute to submit MSDS. CT is not implementing this reporting approach.

This reporting option is only beneficial to those facilities that acquire a new chemical between October 1 and December 31 of any given calendar year.

States may implement this reporting approach ensuring that facilities comply with section 312 three months after acquiring a new chemical.

### ***What are the Interpretations of Emergency Release Notification and Hazardous Chemical Exemption for solids?***

The Agency is also providing new interpretations and revising existing interpretations to help facilities comply with certain requirements under EPCRA.

#### ***Emergency Release Notification***

CT statute (22a-608(c)) requires the submission of the written follow-up report as soon as practical.

Under EPCRA section 304, facilities may have up to 30 days to submit a written follow-up report to state and local agencies. States may implement more rigorous requirements.

#### ***Hazardous Chemical Exemption for Solids under EPCRA Section 311 (e)(2)***

CT is recommending the federal exemption explained below.

Facilities would only have to count the amount of fume or dust given off a piece of metal, brick, or any other manufactured solid item that undergoes a modification process. States may implement more rigorous requirements.

### ***Where Do I Go For More Information?***

For more federal information on this guidance, please visit the Office of Emergency Management Web site: <http://www.epa.gov/emergencies/>. For more state information on this guidance, please visit The State Emergency Response Commission web site <http://www.ct.gov/serc>.