



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

February 7, 2000

OFFICE OF
ENVIRONMENTAL INFORMATION

Gail M. Dixon
Prince Agri Products, Inc.
One Prince Plaza
P.O. Box 1009
Quincy, IL 62306

Dear Ms. Dixon:

This letter is in response to your November 1, 1999 letter requesting guidance regarding the reporting requirements of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Specifically, you are requesting guidance from EPA regarding whether electronic means can be used to satisfy the supplier notification requirements provided for at 40 CFR Section 372.45. Pursuant to Section 372.45, if a Material Safety Data Sheet (MSDS) is required to be prepared and distributed in accordance with 29 CFR 1910.1200, then the supplier notification must be attached to or otherwise incorporated into such MSDS.

In your letter you provide that OSHA has developed a position on electronic storage, transmission and dissemination of MSDSs. In particular, you refer to a December 30, 1997 letter from OSHA to Senator Charles S. Robb. With regard to using electronic technologies for transmission of and access to MSDSs, that letter provides the following guidance:

1. The manufacturer must ensure that the downstream user has agreed to this type of information access.
2. The manufacturer cannot require the downstream user to purchase new technology in order to obtain hazard information.
3. The manufacturer must ensure that some positive and verifiable form of notification (such as a letter or e-mail) is provided with all of the information necessary to access the MSDS(s).
4. The manufacturer must ensure that some positive and verifiable form of notification is provided to ensure that the downstream user is aware when MSDSs are updated due to significant changes in health hazard information or ways to protect against the chemical.

In a follow-up telephone conversation you clarified that the actual MSDS is being directly emailed to the recipient instead of the MSDS simply being posted on the manufacturer's web site. Based on your representations regarding the use of electronic means to satisfy the MSDS delivery requirements, these four specific criteria can also be used to transmit electronically the supplier notification required by 40 CFR section 372.45. However, you should review section 372.45 to ensure that all of the supplier notification requirements are met regardless of whether the notification takes the form of writing on paper or an electronic format.

I hope this information is helpful to you in complying with the reporting requirements of section 313 of EPCRA. If you have any other questions, or desire further information, please call Larry Reisman, of my staff, at 202.260.2301.

Sincerely,

A handwritten signature in cursive script that reads "Maria J. Doa". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Maria J. Doa, Ph.D., Director
Toxics Release Inventory Program Division