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Report Summary

Risk-Based Analysis of Form A and Form NS Toxics Release Inventory Reform Proposal Alternatives

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Full report available at http://www.sba.gov/advo/laws/comments/tri10_04.pdf

The Toxic Chemical (or “Toxics”) Release Inventory (TRI) is a federal government program that collects and disseminates information about toxic chemicals introduced into the environment or otherwise managed (treated or stored) in the United States. TRI reporting is required in Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA or Title III of the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499). It was initially required of facilities in the manufacturing sector—Standard Industrial Classification (SIC) codes 20-39—that have 10 or more full-time employee equivalents and manufacture (including import), process, or otherwise use any TRI chemical in calendar year quantities greater than the established thresholds.

TRI reports have been estimated to cost businesses hundreds of millions of dollars annually, and additional costs are incurred from state and federal “piggyback” requirements. Data analysis by the Environmental Protection Agency (EPA) costs millions more dollars. Industry has expressed great concern about the cost in time and resources of preparing these reports, particularly reports involving no or minimal releases to the environment.

The TRI reporting reforms, such as the Form A, recommended by the U.S. Small Business Administration (SBA) Office of Advocacy and adopted by EPA have resulted in millions of dollars in annual estimated savings. The EPA is currently evaluating additional alternatives.

The purpose of this study is to evaluate how various TRI reform proposals might affect TRI data quality with respect to the ability to characterize health risks to local communities. E.H. Pechan & Associates, Inc. (Pechan) evaluated 10 TRI program reform alternatives: seven related to increased Form A reporting eligibility and three based on the creation of a new Form NS that would allow facilities to certify to “no significant change” measured against a designated baseline year.

The two sets of proposals related to expanding the Form A reporting eligibility encompassed seven alternatives:

- The first set (Proposal 1) would increase the “annual reportable amount” (ARA) eligibility threshold from the current 500 pounds to: (a) 1,000 pounds, (b) 2,000 pounds, and (c) 5,000 pounds.

- The second set (Proposal 2) would revise the current Form A reporting eligibility to reflect an ARA that excludes recycling and energy recovery and the following chemical quantity thresholds: (a) 500 pounds, (b) 1,000 pounds, (c) 2,000 pounds, and (d) 5,000 pounds.

A different option would be to replace Form R reporting with a Form NS or “no significant change” filing in some years, provided certain conditions are met. The two form NS eligibility criteria evaluated in this report are:

- Chemical use changes of less than a given percentage (e.g., 10 percent), and
- Chemical releases of less than a given amount (e.g., less than 10 pounds) in the baseline and Form NS reporting years.

Finally, in addition to evaluating the Form A and Form NS reform proposals independently, Pechan analyzed the impact of combining both proposals.

When EPA made the original Form A available in 1994, it set the ARA at 500 pounds, using solely a pounds-based analysis. However, because the TRI database aims to provide information about risks to the public, that risk, and not the quantity in pounds, is of central concern in any evaluation of reform proposals.

This study improves upon the 1994 analysis in two ways that are more closely related to risk to the community by identifying: (1) the toxicity of the particular chemical and (2) the exposure of the surrounding population to the chemical. The EPA’s own Risk Screening Environmental Indicators (RSEI) Chronic Human Health Model was specifically developed to characterize the risks from TRI facilities. In this study, the environmental significance of each individual TRI report was estimated using the RSEI to assign a risk score to each individual facility, based on the TRI data submission and information about the community surrounding the facility.

The results? Nine of the 10 alternatives analyzed are associated with national percentage changes in risk that are less than those associated with EPA’s adoption of the Form A in 1994. In other words, the risk impacts of all but one of the alternatives analyzed are estimated to be less than those associated with full reporting under the current Form A certification statement eligibility requirements.

With respect to the Form A, this study finds that two alternatives warrant further consideration: Proposal 1 (original ARA) – the 2,000-pound threshold and Proposal 2 (revised ARA) – the 1,000-pound threshold. Both of these involve less than a 10 percent change in nationwide risk information, and provide relief for between 6,593 and 10,299 additional Form Rs (12 to 19 percent of year 2000 Form Rs).

According to this study, adoption of the Form NS reform proposal alternatives would be more advantageous than adoption of the Form A reforms analyzed. The Form NS would provide relief to about 24 percent of the Form Rs and would offer virtually equivalent information by using the baseline Form R (the previous year’s form) to represent the information reported by the Form NS facility.

The Form A proposals do provide significant relief for thousands of facilities that would not be eligible for the Form NS; thus, Form A relief should be considered in concert with Form NS relief. Using both forms can provide additional relief for about 35 to 45 percent of the Form Rs. The Form A reform proposals can be further refined to maintain much of the benefit of the Form R with consequently smaller impacts on TRI data quality. These refinements would be to “enhance” the Form A by incorporating required range reporting for the environmental release data, and possibly some additional waste data, currently found only in Sections 8.1 through 8.7 of the Form R.

For completeness, included here are the April 2004 recommendations of the Jack Faucett Associates (JFA) report not fully addressed in this study:

1. EPA should rework its enforcement policy to treat erroneous Forms A and R equally.
2. The Form A alternate threshold should be raised from 1 million to 10 million pounds.
3. The enhanced Form A should be adopted.
4. The enhanced Form A and the *de minimus* concentration provision should also be applicable to PBT chemicals.
5. Range reporting should be allowed in Form R Section 8 as well as Sections 5 and 6.
6. A separate reporting threshold should be allowed for small chemical and petroleum wholesalers to lower the burden for very small releases.

The opinions and recommendations of the authors of this study do not necessarily reflect official policies of the SBA, the Office of Advocacy, or other agencies of the U.S. government. For more information, contact Kevin Bromberg at 202-205-6964 or at kevin.bromberg@sba.gov.