

The Washington Times

www.washingtontimes.com

Regulatory reform, not rollback

By Thomas M. Sullivan
Published February 1, 2007

Since 1986, when President Reagan signed the Emergency Planning and Community Right to Know Act (EPCRA) into law, Americans and the environment have benefited. EPCRA created the Toxics Release Inventory (TRI) which requires companies to report their handling, management, recycling, disposal, and allowable emissions and discharges of chemicals. Corporate executives, plant managers, and boards of directors, when faced with annual reports of the chemicals used in their operations, took unprecedented action to reduce the toxic chemicals in their plants.

Some companies followed the initial publication of data in 1989 by pledging to reduce 80 percent to 90 percent of their chemical releases.

The American Chemistry Council member companies implemented a "Responsible Care" initiative which has reduced environmental releases by 78 percent over the last 19 years.

In 1991, when the U.S. economy was saddled with \$400 billion of regulatory costs, the U.S. Small Business Administration petitioned the U.S. Environmental Protection Agency to reduce reporting costs under TRI, which were then estimated to cost a business up to \$10,000 per year for a single form. EPA agreed, recognizing TRI's paperwork burden could be reduced without compromising the public's access to information on chemicals used in their community. In 1994, EPA Administrator Carol Browner introduced a short form for TRI reporting called "Form A."

Form A allows companies to report their releases as a range, instead of a specific number, for key chemical management information. Form A informs the public that a facility handles less than a small threshold quantity in the management, recycling, and disposal of the reported chemical. Significant chemical management activities are required to be reported on the longer, more detailed Form R.

Now, in 2007, the overall cost to comply with federal rules and regulations exceeds \$1 trillion. The smallest firms pay about 4 1/2 times the amount of their larger business counterparts per employee to comply with federal environmental requirements, including TRI paperwork. Once again, reacting to this increased regulatory burden, leaders at the U.S. Environmental Protection Agency (EPA) have found a way to reduce paperwork without affecting environmental protection.

Last month, EPA finalized the TRI paperwork burden reduction rule. The rule, responding to the concerns of small businesses and the U.S. Small Business Administration, allows more firms to report chemical use information on the shorter Form A. Some critics of EPA's action rushed to call the agency's final rule a rollback of environmental law. From the perspective of small business, they are wrong.

First, EPA's rule still requires all firms to report the same chemicals they have been

reporting annually. However, following the same principles that governed the Clinton administration's 1994 TRI paperwork reform, more firms will now be able to use the short form (Form A) to report a range of use, rather than detailed amounts on the longer Form R.

Second, EPA is using the TRI reform as a way to recognize users of the short form (Form A) as top environmental performers within industry. To qualify for using Form A, firms must minimize their use of all chemicals and sharply curtail their use of highly toxic materials (defined as Persistent, Bioaccumulative and Toxic (PBT) chemicals). Most important, to use Form A, contrary to what critics have alleged, firms may not emit or discharge any PBT chemicals into the environment.

EPA's reforms to the Toxic Release Inventory will reduce 25 pages of reports to two pages while continuing to provide communities with information on the use of chemicals by their industrial neighbors. EPA's reforms will save businesses more than \$6 million annually. More importantly, EPA's recent reforms to the TRI program set a new standard where only the top environmental-performing businesses can take advantage of the simpler reporting form.

The EPA reforms show leadership in an administration that realizes the cumulative regulatory burden of \$1 trillion, which hits small business hardest, slows our nation's economy and hinders our ability to compete in a global marketplace. EPA has provided small business with a good start.

Thomas M. Sullivan is the presidentially appointed and Senate-approved chief counsel for advocacy, Office of Advocacy, U.S. Small Business Administration. The Office of Advocacy is an independent voice for small business within the federal government.