

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



SEP 21 2005

OFFICE OF  
ENVIRONMENTAL INFORMATION

The Honorable Richard B. Cheney  
President  
United States Senate  
Washington, D.C. 20510

Dear Mr. President:

Since the late 1980s, the United States (U.S.) Environmental Protection Agency (EPA) Toxics Release Inventory (TRI) program has been an important source of public information on releases of toxic chemicals and a successful tool in our efforts at promoting pollution prevention. Under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, facilities annually report data to EPA on releases and transfers of certain listed toxic chemicals, which EPA compiles and makes available to the public. The Pollution Prevention Act (PPA) of 1990 expanded the program to include information on other waste management activities such as recycling of chemicals. In addition, EPA has several times expanded the scope of the program by rulemaking by doubling the number of covered chemicals, adding seven industrial sectors, and significantly lowering reporting thresholds for chemicals identified as persistent, bioaccumulative, and toxic (PBT). EPA believes that each of these expansions has increased the usefulness of the TRI data to the public and furthered the statutory goals of the program.

Over the years, EPA has been mindful of the reporting burden this program imposes on covered facilities. In 1994, EPA introduced "Form A" to streamline reporting for small dischargers. In July of this year, we finalized a rule that would revise the TRI reporting forms to eliminate information not used, simplify reporting codes and improve the accuracy of facility identification and location data by using the data already available in EPA's information systems. In addition, EPA will soon publish a proposed rule to expand the use of Form A to allow more facilities to use the short form while retaining the full Form R reporting on over 99% of releases and other waste management activities. Both of these efforts involved extensive consultations with all program stakeholders and help address the concerns expressed about the reporting burden under TRI.

The purpose of this letter is to inform you of the third and final phase of our current efforts to reduce burden and streamline program operations. Specifically, we believe a

rulemaking to modify the reporting frequency from annual to biennial deserves further consideration. Not only would alternate year reporting result in significant burden reduction for covered facilities, citizens would benefit from the redirection of federal and state taxpayer dollars to improve the quality, clarity, usefulness, and accessibility of TRI information products and services. EPCRA Sec 313(i) authorizes EPA to make such a modification, but only after providing at least one-year's advance notification to Congress before initiating a rulemaking and only after making several specific findings, which we address below. Accordingly, we are notifying you that we plan to initiate a rulemaking to consider modifications to the reporting frequency for the TRI program within 12 to 24 months after the date of this letter. Over the next 12 months, EPA plans to continue its consultations with stakeholders in order to gather the data necessary to support the statutory determinations required under the law and to ensure the rulemaking appropriately balances the needs of data users with the concerns of data reporters and states.

We are taking this step because we believe that alternate year reporting not only offers burden reduction, but also offers other potential advantages that merit consideration. First, EPA and states would be able to use the saved resources from the non-reporting years to improve the TRI database and conduct additional analyses that would enhance the value of the data to the public. For example, EPA could enhance its TRI reporting software, TRI-Made Easy, thereby improving data quality and consistency; conduct analyses of data trends, sector or chemical specific patterns of waste management, innovations in pollution prevention, and risk implications of toxic chemical releases thereby making the TRI data more useful to citizens, communities, researchers and government agencies; and improve its web-based software to make the data more accessible and user friendly and to improve opportunities for Internet-based reporting. Internet reporting provides savings not only to reporters, but also to taxpayers as it reduces EPA and State processing costs and allows us to meet Paperwork Reduction and Electronic Government requirements. It also provides greater confidence to both reporters and data users in the integrity of the data by increasing the use of electronic data quality checks.

Alternate year reporting would provide more simplified burden reduction to TRI reporters than many options previously considered. For instance, a common complaint about Form A is that it requires a significant amount of time to track and calculate data to determine eligibility. Alternate year reporting, in contrast, would eliminate in non-reporting years all burden for eligible reporters. Although EPA believes that a carefully structured alternate year reporting provision could provide substantial benefits to both data users and data reporters, EPA also recognizes that there will be legitimate concerns about data loss during the non-reporting years and will carefully consider those concerns as we develop any proposals for public comment and consideration.

EPA will be examining the impact on data users carefully as it addresses the statutory requirements for modifying reporting frequency. Specifically, EPCRA requires one finding and three determinations before changing the reporting frequency. The required finding is that any modification is consistent with the intended uses of the TRI data as described in Sec 313(h),

while the determinations are designed to ensure that EPA give full consideration to: 1) the impact of the modifications on data users, including State and local governments, health professionals, the general public, other federal agencies and EPA itself; 2) the availability of the data from other sources; and 3) the impact of the modifications on data reporters. EPA intends to gather data related to these issues during the next 12 months, prior to initiating a rulemaking.

EPA believes that this action will enhance data quality and user friendliness by supplementing existing data with additional analysis. EPA looks forward to working with all stakeholders in the coming year to gather the necessary information to ensure that any modification of TRI reporting frequency considers the needs of TRI data users and will consider a range of options to minimize impacts.

Enclosed for your benefit is a fact sheet with more details about the TRI program. Should you have any questions or would like to provide your views, please contact me at 202-564-6665 or your staff may contact James Blizzard in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kimberly T. Nelson', written in a cursive style.

Kimberly T. Nelson  
Assistant Administrator and  
Chief Information Officer

Enclosure