

United States Senate

WASHINGTON, DC 20510

November 10, 2005

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania, Avenue, NW
Washington, DC 20460

Dear Administrator Johnson:

We write to express our serious concerns about the U.S. Environmental Protection Agency's recently announced proposal to weaken the Emergency Planning and Community Right to Know Act's Toxic Release Inventory (TRI) program.

The TRI program is one of the nation's most successful environmental statutes by making information about toxic releases publicly available on a neighborhood by neighborhood basis. TRI information proved critical recently during the response to Hurricanes Katrina and Rita as first responders relied upon TRI data to pinpoint the facilities of highest concern for toxic releases. TRI data is widely used for a variety of purposes by government agencies, public health officials, academics, industry, investors and local citizens. As a result, EPA acknowledges that TRI is "a powerful tool for many environmental analyses and understanding the many factors that contribute to human health and environmental conditions."

The volume of toxic material released annually in the United States has fallen by an estimated 59 percent since the annual disclosure requirement went into effect in 1988. Nevertheless, based on the most recent TRI data available, over 4 billion pounds of toxic chemicals are released into the nation's environment each year, including 72 million pounds of recognized carcinogens, from nearly 24,000 industrial facilities.

In light of the success of the program, we are troubled by EPA's notification to Congress that the Agency intends to initiate a rulemaking to modify the frequency of TRI reporting from annual to biennial. We are concerned that alternate year reporting would deny citizens up-to-date information about local toxic releases, reduce incentives to minimize waste generation, withhold important information from public health agencies, and undermine the ability of States and EPA to guide their compliance assistance and enforcement priorities. With the widespread use of EPA's free TRI-Made Easy software, it is unclear how alternate year reporting would generate significant cost savings.

We are also concerned about EPA's proposal to allow thousands of facilities to withhold details about pollution volumes, waste management and treatment if they release less than 5,000 pounds of toxic chemicals annually. Although such volumes may constitute only a small percentage of total national releases, neighbors and communities surrounding a facility that releases thousands of pounds of toxic chemicals consider the data invaluable. In addition, since facilities under this proposal will still need to calculate the volume of their toxic releases, we are unclear how allowing use of the shortened reporting form will result in any meaningful cost savings.

Likewise, EPA's proposal to reduce information collected on persistent, bio-accumulative toxins (PBTs) released by a facility up to 500 pounds annually is disturbing. PBTs are some of the most hazardous industrial byproducts because they persist in the environment and build up in the human body. The rest of the world is making steady progress towards better control of their PBT releases. We are unaware of any compelling reason that the United States should reduce the public's information about the most dangerous class of industrial chemicals.

To better understand the potential implications of these proposals on the public's right to know about toxic releases in their communities, please provide the following information based on the 2003 TRI data (which we understand is the most recent available):

- (1) A state by state list of the facilities that reported releases of at least one chemical between 500 and 4,999 pounds in production related waste in 2003, and their TRI releases, by chemical, to each environmental medium.
- (2) Of the facilities listed in response to question 1, a state by state list of any facilities that reported releases of chemicals that are classified as known or probable (likely) carcinogens in EPA's Integrated Risk Information System database or the US Department of Health and Human Services National Toxicology Program's Eleventh Report on Carcinogens.
- (3) A state by state list of the facilities that reported at least one chemical of up to 500 pounds of persistent, bio-accumulative production related waste in 2003, and their TRI releases, by chemical, to each environmental medium.
- (4) A state by state list of facilities that reported at least one TRI tracked chemical between 500 and 4,999 pounds in production related waste in 2003 at greater quantities than the company reported in the 2000 TRI. Please indicate the percentage increase.

- (5) A detailed breakout of EPA's burden reduction estimates and associated savings gained through expanded use of Form A in light of facility's continued need to track annual volumes of production related waste to determine eligibility for Form A.

We appreciate your prompt attention to this matter.

Sincerely,

Jim Jeffords

Barbara Byler

Don Wyden

Hillary Rodham Clinton

Ernie Be

John McCain
