



Connecticut Bureau of Air Management, Anne Gobin, Acting
Maine Bureau of Air Quality Control, James Brooks
Massachusetts Bureau of Waste Prevention, Barbara Kwetz
New Hampshire Air Resources Division, Robert Scott
New Jersey Division of Air Quality, William O'Sullivan
New York Division of Air Resources, David Shaw, Acting
Rhode Island Office of Air Resources, Stephen Majkut
Vermont Air Pollution Control Division, Richard Valentinetti

To: Online Dialogue on Toxic Chemical Release Reporting
TRI-2003-0001
From: NESCAUM Air Quality and Public Health Committee
Date: February 4, 2004

Thank you for the opportunity to provide comments on the burden reduction options to the Toxics Release Inventory (TRI). The primary goal of this effort by EPA is to reduce the burden associated with TRI reporting while at the same time continuing to provide valuable information to the public. After carefully reviewing the options presented by EPA, we have found that EPA has not adequately considered the negative impact that these burden reduction options will have on various regulatory and public health programs implemented by federal and state agencies.

We are particularly concerned that EPA has not considered the use of TRI data in developing HAP emission inventories for stationary and area point sources. It should be noted that the TRI database is one of several sources of HAP emissions data for developing inventories. It is used primarily when more robust data from state and local inventories and databases related to EPA's Maximum Achievable Control Technology (MACT) are lacking. When this occurs, TRI data provide emissions estimates and, in some cases, activity data associated with the facility (e.g. operating schedule, throughput, temporal data, geographic coordinates, stack parameters etc) that would otherwise not be available. The TRI database is also used for quality control purposes to ensure, for example, that all the major facilities listed in the TRI database have been included in the National Emissions Inventory (NEI) for HAPs and facility information in the two inventories are consistent .

We believe that when EPA takes these uses into account it will become apparent that any changes to the TRI database, which result in less-frequent reporting, reporting of fewer chemicals or reducing the number or types of industries subject to the reporting requirements, would reduce the value of the database and degrade the quality of the NEI. The NEI is used extensively in the regulatory and public health arenas to establish a baseline for measuring progress in reducing emissions, conduct exposure and risk assessments of HAPs on national, regional and local scales, validate deposition and dispersion modeling results, and respond to public inquiries for information about emissions and their impacts on public health and the environment. There are also several federal requirements under the Clean Air Act that require a robust HAP inventory since many of the provisions are triggered by quantities emitted by sources. These include the MACT program, Title V permitting program, the 112k area source program, which requires a 75% reduction in cancer

Kenneth A. Colburn, Executive Director
101 Merrimac Street, 10th Floor
Boston, Massachusetts 02114
Phone (617) 367-8540
Fax (617) 742-9162
www.nescaum.org

incidence attributable to exposure to HAPs, and Government Performance and Results Act goals, to name a few. Robust and consistent inventories are also necessary for meeting the goals of EPA's environmental justice program, which require the identification of disproportionate exposures and associated public health risks in certain areas and emission reduction efforts tailored in these areas. Finally, the strikingly high cancer and non-cancer risks predicted in EPA's National Scale Assessment, which is based on the best available national HAP inventory, has resulted in the need to further refine and improve HAP emissions inventories to reduce the uncertainties in these estimates.

It is also important to note that the current resource and budget constraints will likely prevent state agencies from being able to make up for the loss of emissions data if these options are implemented.

EPA also needs to recognize that one of the primary reasons that TRI data are so important when other emissions data are lacking is that there is currently no systematic national approach for collecting uniform HAP emissions inventory data. This is in contrast to criteria pollutant regulatory programs that have prescriptive emission inventory requirements. EPA's decision in 2002¹ not to include HAPs in the Consolidated Emissions Reporting Rule (CERR) has elevated the importance of TRI data. In addition to the absence of specific federal HAP reporting requirements, there have been several initiatives over the past decade to reduce the reporting burden on industry that have reduced the quantity and quality of emissions data. For example, a promising source of information on HAP emissions from stationary sources through the Title V permit program was significantly reduced when EPA issued the "White Paper for Streamlined Development of Part 70 Permit Applications" in 1995. The 1995 guidelines and subsequent guidelines that were intended to provide regulatory relief by reducing reporting requirements on facilities also reduced the state air quality agencies capacity to collect relevant emissions data through their permit programs. This translated into a significant loss of process data, including emissions and stack parameter data for HAPs, and the loss of the ability to relate historical emissions data from points to units. Considering these reporting reduction actions, the TRI database is one of few databases² that provide readily available data on specific point sources in the community to the public and state and local public health and environmental agencies.

Specific Comments on Stakeholder Dialogue Phase II – Burden Reduction Options:

Based on the comments presented above, the Air Quality and Public Health Committee does not support Option 1: higher reporting thresholds for small businesses, Option 2: higher reporting thresholds for a category of facilities or class of chemicals with small reportable amounts; Option 3: an optional threshold for the amount

¹ Federal Register: June 10, 2002, Volume 67, Number 111, Pages 39602-39616

² In addition to the TRI database, EPA identifies other sources of data: state commerce directories, state permit files, MACT database, Standard and Poor's, Thomas Register, and Dun and Bradstreet. However, it should be noted that many of these databases do not have emission information, and cross-matching files between databases is extremely difficult.

manufactured or processed or otherwise used of 1 million pounds for that chemical and Option 5: using ranges instead of numbers in Section 8. Option 4 may be acceptable if certain limits are in place.

Until a nationally consistent HAP inventory is required, the potential public health impacts from exposure to HAPs necessitates that existing inventories, which include the TRI database, be improved. Therefore, changes to the TRI inventory that reduces the amount of information on a source category or facility would have the unintended consequence of degrading existing inventories.

Option #1 – Higher Reporting Thresholds for Small Businesses

Option #2 – Higher Reporting Thresholds for a Category of Facilities or Class of Chemicals with Small Reportable Amounts

With regard to EPA's **Option 1 and 2** we note that the size of the business alone or the amount of emissions alone are not surrogates for determining whether the emissions from the facility are a potential public health concern. As you know, the risks associated with exposure to environmental contaminants are based upon the exposure to the chemical and the toxic potency of the chemical. For example, most states regulate HAP sources below those that report to the TRI (i.e. 25,000/10,000 pound) because exposure to pollutants in the vicinity of these sources poses potential public health risks. There is also the need to consider the growing interest in community-wide emissions in order to adequately characterize the potential health impacts of cumulative exposure, which will by necessity require the inclusion of all known HAP sources and those sources currently included in TRI. Finally, exempting sectors or chemicals by arbitrarily raising the thresholds fails to consider the toxic potential of the chemicals. EPA's decision in 1999 and subsequently in 2001 to reduce the reporting thresholds in the TRI for persistent bioaccumulative toxic chemicals illustrates this important point.

Option #3 – Expanding Eligibility for the Form A Certification Statement

Redefining "annual reportable amount" to cover release-type data only (as suggested on p. 8 of the "discussion paper"³) will certainly reduce available information on the pollution prevention (or source reduction) management hierarchy. It is valuable to know the quantities of hazardous substances that are managed through recycling or energy recovery relative to total production-related wastes. This data could be lost based upon a small release-only criterion that would exempt chemicals and facilities from the reporting requirements. NESCAUM recognizes that not all toxics are created equal; and we are particularly concerned with substances that are carcinogenic, mutagenic, teratogenic, and neurotoxic. We do not wish to embark on a path of knowing less rather than more about their origins, releases and potential human exposures. Exposure to even small quantities of these substances may result in significant human health impacts for certain portions of our population, e.g. the very young and the elderly.

Option #4 – Creating a new, “No Significant Change” Certification Statement

The Air Quality and Public Health Committee would consider supporting **Option 4**, which would allow an alternative reporting form, if there were no significant change in emissions from the previous year provided that (1) there is no change to the availability of the data (e.g. need to go back to baseline report to determine emissions) or change in the ability to incorporate the emissions data into the NEI (2) the determination of “no significant change” is based on a specific amount for every chemical in the TRI and not based on a specific percentage change in the total release, quantity managed etc., and (3) the amount of the change from the previous year must be considered de minimus – that is within the range of measurement or estimate error in the manufacturing or industrial process emission points.