



Enforcement Alert

Special Edition

Office of Regulatory Enforcement

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Companies Face Penalties for Late Toxics Inventory Reports

The U.S. Environmental Protection Agency (EPA) has initiated enforcement actions against hundreds of facilities that reported late to the Toxics Release Inventory (TRI). Late reporters and others who violate the Emergency Planning and Commu-

nity Right-to-Know Act (EPCRA) could face penalties up to \$27,500 per violation, per day. Under EPCRA section 313 covered facilities that manufacture, process, or otherwise use specified toxic chemicals must submit annual reports to EPA and a state-designated agency each year by July 1st, for the previous year's activity. Failing to meet the July 1st deadline is a violation of law and often deprives communities of their right to know timely information about local toxic chemical releases.

industry about the presence and quantities of toxic chemicals in their communities. EPCRA section 313 requires certain industrial facilities to annually report data to EPA and the states on its releases and other waste management activities for certain toxic chemicals and for EPA to make the data available to the public in a database—the Toxics Release Inventory.

The TRI covers over 650 toxic chemicals and chemical categories from most industrial and chemical-using business sectors. TRI reports document chemical releases into the local environment, including how much of each chemical was released into the air, water and land, other waste management activities, and whether chemicals were transported from the reporting facility for disposal, treatment, recycling or energy recovery. This annual accounting of the nation's management of industrial toxic chemicals is a valuable source of information for concerned individuals and communities.

About Enforcement Alert

Enforcement Alert is published periodically by the EPA's Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance to inform and educate the public and regulated community of important environmental enforcement issues, recent trends and significant enforcement actions.

This information should help the regulated community anticipate and prevent violations of federal environmental law that could otherwise lead to enforcement action. Reproduction and wide dissemination of this publication are encouraged. To receive this newsletter electronically, see <http://www.epa.gov/compliance/resources/newsletters/civil/enfalert/index.html>.

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What is the TRI?

EPCRA was enacted following a deadly release of methyl isocyanate in December, 1984, in Bhopal, India, and a serious release of the same chemical shortly thereafter by a sister chemical plant in West Virginia. These incidents demonstrated the necessity for emergency planning for catastrophic chemical releases and public scrutiny of local releases of toxic chemicals. Against this background, the community Right-to-Know provision of EPCRA section 313 was enacted in 1986 to inform the public, governments, and





What Does EPA Do with TRI Data?

After the July 1 reporting deadline, EPA compiles the data into an annual report called the Public Data Release (PDR) and makes this information available to the public. In order to provide this information to the public, EPA takes a snapshot of the data each year. The Agency has determined that every year millions of pounds of toxic chemical releases are not included in the PDR Report and State Fact Sheets and released late on the Internet due to the growing number of late submissions. Failing to meet the deadline therefore, may defeat the very purpose of the Act.

How Do Others Use TRI Data?

Governments, communities, and industry use TRI data as one tool to make decisions about the human health and environmental impacts of local toxic chemical releases. For example, the TRI empowers communities to begin dialogues with local facilities in order to encourage emission reductions, pollution prevention plans, and improved safety measures. Public interest groups, governments, academicians, and others use TRI data to educate the public about toxic chemical releases and potential risks. Federal, state and local

governments use TRI data to set priorities and allocate environmental protection resources to the most pressing problems. Finally, industry uses TRI data to identify pollution prevention opportunities, set goals for toxic chemical release reductions, and reduce or eliminate emissions.

Tri Reports must Be Submitted on or Before July 1 Each Year

TRI Reports must be submitted by July 1st each year. Because late reporting deprives citizens of complete and accurate information about toxic chemical releases and waste management activities in their communities, EPA takes seriously the failure of facilities to report in a timely manner. EPA data indicate that over 600 facilities, collectively, accounted for the late reporting of more than a billion pounds of toxic chemicals in reporting years 2000 and 2001. Due to this untimely

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reporting, EPA could not include these releases in the Public Data Releases for those years. Therefore, facilities that fail to report in a timely manner risk enforcement actions and penalties of up to \$27,500 per day.

Who Must Report to the TRI?

A facility must report to the TRI if it meets three basic criteria:

1. The facility is in a manufacturing sector (SIC Codes 20 - 39) or, beginning in the 1998 reporting year, is one of the following industry categories: metal mining, coal mining, electrical utilities, chemical wholesale distributors, petroleum terminals and bulk storage facilities, Resource Conservation and Recovery Act (RCRA) subtitle C facilities regulated under the solvent recovery services. Also, federal facilities must report to TRI regardless of their industrial classification.
2. The facility must have the equivalent of ten (10) or more full time employees (20,000 employment hours per year, to include contract and part-time personnel).



3. The facility manufactures (includes imports), processes, or otherwise uses any listed toxic chemical above the applicable activity threshold quantity. Threshold quantities vary depending upon the chemical and activity. You can contact the EPCRA Call Center for more information (800-424-9346) or refer to 40 C.F.R. §§ 372.25, 372.27, and 372.28 at <www.epa.gov/tri/lawsandregs/index.htm#cfr>.

Facilities that satisfy all the above criteria must submit an annual TRI report for each regulated toxic chemical regardless of whether or not there are any releases. Federal facilities are required to comply with the provisions of EPCRA as set forth in Executive Order 13148 (65 Fed.Reg. 24595, April 26, 2000).

How Do Facilities Report to TRI?

You have a choice of submitting your forms to EPA through the Central Data Exchange (CDX), or on magnetic media or paper. However, the CDX enables revisions in the most efficient manner.

EPA encourages you to use *TRI-ME* to electronically submit your TRI submission(s) via the Internet. *TRI-ME* allows you to submit electronically to EPA without the need for mailing any paper (electronic submission is not available for trade secret forms). If you choose to submit via the

Internet, do not send duplicate paper or diskette copies of the reports to EPA. However, please be aware that submitting via the Internet to the U.S. EPA does not satisfy your state reporting requirements for your facility. You must report to your state separately and in the format specified by your state (i.e., diskette, paper, etc.).

In fiscal years 2002 through 2003, EPA Region 2 settled over 60 late reporter cases for penalties totaling more than \$500,000. Recent settlements include: The Russel Stanley Corporation of Woodbridge, NJ for \$62,786; The Rimtec Corporation of Burlington, NJ, for \$47,254; and Steuben Foods, Inc, of Elmira, NY, for \$39,558.

EPA Audit and Small Business Policies

EPA has adopted policies designed to encourage greater compliance with environmental laws and regulations. Two such policies, “Incentives for Self Policing, Discovery, Disclosure, Correction and Prevention of Violations” (Audit Policy), and “Policy on Compliance Incentives for Small Businesses” (Small Business Policy), provide incentives to conduct environmental audits by substantially reducing or eliminating penalties for entities that voluntarily discover, disclose, and expeditiously correct violations of environmental law. For more information visit EPA’s Audit and Small Business Web Pages at:

<www.epa.gov/oeca/incentives/auditing/index.html>, and

<www.epa.gov/oeca/incentives/smallbusiness/index.html>



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Official Business

Penalty for Private Use \$300

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Useful Compliance Assistance Resources

For further information on how TRI data are used, download the brochure, "Factors to Consider When Using TRI Data," at

<www.epa.gov/tri/2002_tri_brochure.pdf>

If you have any questions about the electronic submission process, call 888 890-1995 between the hours of 8:00 am - 6:00 pm eastern time. For additional information about CDX, please see: <www.epa.gov/cdx/>. If you need general reporting information, please see:

<www.epa.gov/tri>

EPCRA Call Center: 1-800-424-9346.

To ask anonymous questions about EPCRA reporting and to order guidance documents Monday through Friday between the hours of 9am and 5pm eastern time.

Office of Regulatory Enforcement: To learn more about EPCRA enforcement visit:

<www.epa.gov/oeca/civil/programs/epcra/index.html>

EPA's TRI Homepage & Reporting Forms and Instructions: To download guidance documents, reporting forms and instructions, and view TRI data visit:

<www.epa.gov/tri>

