

SJR

38

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/8/96

FURTHER:

Date of 5-Day Notice: 3-7-96
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-12-96

The Resources Committee considered SJR 38

Opposing the proposed expansion of the United States Environmental Protection Agency's toxics release inventory program.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO/PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>W. H. Hubbard</i>	✓				
<i>Robin L. Taylor</i>	✓				
<i>Jim Pearce</i>	✓				
<i>John Huff</i>					
<i>Chair: Loren D. Swen</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Res. Committee	3/11/96	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

UPDATE ON EXPANSION OF TRI PROGRAM

As of March 25, 1996

According to Mark Rubin with the American Petroleum Institute, the decision whether to include oil and gas exploration in the TRI reporting program was to have been made in January 1996;

The schedule as of today is for a decision to be made in April by EPA, with an internal review to follow; and then the regulatory proposal to be issued in September 1996.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 5
To	Annette Kreitzer	
From	Ardie Gray	
Co.	Co.	
Dept.	Phone #	
Fax #	465-3810	Fax # 279-8114

MEMO

To: Annette Kreitzer, Senate Resources
From: L. A. (Ardie) Gray
Subject: TRI
Date: March 13, 1996

Annette:

As we discussed by phone, enclosed are:

- API's point paper on TRI expansion to the E&P industry; and
- a letter from API, Mid-Continent Oil and Gas Association, IPAA, and NOIA, transmitting to EPA their evaluation of EPA's database developed to support TRI expansion to the E&P industry. As the letter notes, the associations' review of EPA's data indicates the agency significantly overestimated TRI chemical releases from E&P facilities.

EPA plans to meet with representatives of the Interstate Oil and Gas Compact Commission on March 15 to discuss TRI expansion and, by the end of March, is expected to make a final decision about whether to include the E&P industry in its proposed rulemaking.

FYI, EPA is expected to transmit in late spring or early summer a draft regulatory proposal on TRI expansion to the Office of Management and Budget for the standard Administration review process. The actual notice of proposed rulemaking is expected to appear in the Federal Register in September.

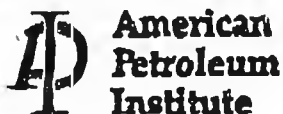
Enclosures (2)

**TRI EXPANSION TO THE OIL AND GAS
EXPLORATION AND PRODUCTION INDUSTRY
(SIC CODE 13)**

EPA is planning to expand the number of industries that report to the Toxics Release Inventory (TRI) program. Reporting is currently limited to manufacturing industries. SIC code 13, which covers oil and gas exploration and production (E&P), is one of several non-manufacturing sectors being targeted by EPA for the expansion. TRI reporting is inappropriate for the E&P industry for the following reasons:

- **TRI reporting would provide virtually no environmental or community right-to-know benefit.** The vast majority of E&P facilities are located in remote, rural areas, or offshore, far from communities. In addition, most E&P "releases" consist of water and naturally occurring constituents that are injected back into the oil and gas formation from which they came for onshore operations and discharged in accordance with NPDES permits offshore. There is practically no potential for public exposure from these and most other E&P operations.
- **TRI reporting by the E&P industry will not promote pollution prevention.** Many TRI chemicals exist as naturally occurring constituents in oil and gas production and waste streams and cannot be reduced without shutting in oil and gas production. State pollution prevention and waste minimization programs, as well as controls being implemented under the Clean Air Act, are all contributing to achieving emissions reductions within the E&P industry.
- **TRI reporting would be extremely costly.** The American Petroleum Institute estimates that TRI reporting would cost the E&P industry \$228 million in the first year alone and \$110 million in each subsequent year. An independent study by the Department of Energy estimates that the cost to the E&P industry could be in the billions of dollars.
- **TRI expansion to the E&P industry is inconsistent with the Administration's efforts to reduce paperwork burdens.** At a time when EPA Administrator Browner and the President have committed to reduce paperwork by 25% (the 1995 Paperwork Reduction Act also sets tough annual goals for reducing paperwork), expansion to E&P would create a massive increase in paperwork of over 2.8 million burden hours in the first year.
- **TRI data from the E&P industry would mislead the public.** An October 1994 *Bakersfield Californian* headline billed a Department of Energy E&P facility, Elk Hills, as Kern County's top polluter. This conclusion was based on TRI reporting required by Executive Order and was misleading because the reported releases were mainly regulated injection of produced water and other associated wastes back into the original hydrocarbon reservoir.

The E&P industry supports pollution prevention and providing information that has value to local communities. Any additional information needed by the public, beyond that which is currently reported under existing state and federal regulations, should be addressed at the state level. EPA has funded the Interstate Oil and Gas Compact Commission (IOGCC) State Review Program with the goal of improving state oil and gas regulatory programs. The Administration has praised this program as a successful model as part of its effort to reinvent regulation. We believe that EPA should work with the states through the IOGCC to achieve Right-to-Know goals for the E&P industry.



**American
Petroleum
Institute**

1220 L Street, Northwest
Washington, DC 20005-4070
202-682-4000

March 7, 1996

The Honorable Fred Hansen
Deputy Administrator
Environmental Protection Agency
401 M. Street, SW
Washington, DC 20460

Dear Mr. Hansen:

The American Petroleum Institute (API), Independent Petroleum Association of America, Mid-Continent Oil and Gas Association, and National Ocean Industries Association appreciate the willingness of EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) to continue the dialogue on expansion of the Toxic Release Inventory (TRI) program to the oil and gas exploration and production (E&P) industry. As we have discussed with OPPTS staff, we are very concerned about the lack of value for, and the economic impact of, TRI expansion to the E&P industry.

On February 1, as follow-up to a meeting between our associations and EPA, we were provided data being used by the Agency to evaluate the inclusion of SIC 1311, Crude Petroleum and Natural Gas, in the TRI program. These data were developed by EPA contractors as part of the study titled "Consolidating Industrial Release Estimates from PCS, BRS and AFS in Support of TRI Expansion Workgroup Activities." Our review of these data is attached. EPA has indicated the TRI expansion will be focused on industries that have significant releases of TRI chemicals. It is apparent that expansion of the TRI program to the E&P industry cannot be justified by the data presented. Our review indicates that most of the release estimates are erroneous or not representative of actual releases from E&P facilities.

We have been able to review approximately 80%, by volume, of the information being used for the SIC Code 1311 profile. For the Biennial Reporting System (BRS) data, we estimate that the TRI reportable chemicals actually sent offsite as RCRA hazardous waste were 7600 pounds, not the 7.3 million pounds shown in the database. Of this 7600 pounds, over 50 percent was solvents sent to recyclers and not released to the environment.

Our analysis of the Aerometric Information Retrieval System/Aerometric Facility System (AIRS/AFS) data shows that estimates of toxics released are extremely overstated due to the use of old, inaccurate emission factors to extrapolate values from priority pollutant data to individual hazardous air pollutants or TRI reportable chemicals and the use of emissions data from non SIC 1311 activities. We estimate that the emissions from SIC 1311 activities were 481,000 pounds instead the 4,891,241 pounds shown in the database.

The third database provided by EPA, the Permit Compliance System (PCS), indicates a total of 1,904 pounds of TRI chemicals released by SIC 1311 activities. API evaluated the methodology

The Honorable Fred Hansen

March 7, 1996

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for the PCS data, which appears to be correct; however, API did not further evaluate the validity of the data due to the insignificant volumes of TRI chemicals reported in this database.

EPA's total estimate of TRI chemical releases for the three databases is 12,192,000 pounds for a sampling of SIC 1311 facilities. Our review of the data indicates the actual releases should be estimated at only 491,000 pounds for the sample, a small fraction of EPA's estimate.

API estimates that the TRI program will cost the E&P industry \$228 million in the first year and over \$110 million each year thereafter. API's estimate is conservative relative to the impact analysis performed by the U.S. Department of Energy¹, which found that the cost could be as high as \$8.5 billion over the first 5 years. In light of these impacts, this rulemaking clearly constitutes a "significant regulatory action" as defined by Executive Order 12866 and the Unfunded Mandates Reform Act of 1995. In addition, the vast majority of E&P facilities are located in remote areas, far from communities. We believe that TRI reporting for facilities where there is no surrounding community is without any benefit and does not serve the purpose of the law. Consistent with Sections 1(a) and (b), and Section 6(a)(3)(C) of Executive Order 12866, we believe that an objective assessment of the costs and benefits of this expansion of the TRI program to the E&P industry will demonstrate that:

- there is no compelling public need for this new regulation;
- the degree and nature of the risks posed by TRI chemicals at E&P facilities is minimal;
- reporting burdens would be substantial;
- any potential benefits to society are not justified by the potential costs; and
- the least burdensome alternative to address any new regulatory needs for the E&P industry would use existing state oil and gas environmental regulatory programs.

Additionally, at a time when the Administration has committed to reducing paperwork burdens by 25%, expansion of the TRI program would significantly increase reporting burdens for the E&P industry. The reauthorized Paperwork Reduction Act emphasizes the need to minimize and control burdens for any new information collection activities. Thus, any expansion should be carefully evaluated in accordance with the new Paperwork Reduction Act regulations. In particular, 5 CFR 1320.5(d)(1) requires EPA to demonstrate that "it has taken every reasonable step" to minimize burden and show the information has practical utility. We ask the agency to review the API and DOE analyses to understand the potential burdens to the E&P industry of an expansive reporting program. We stand ready to work with EPA to develop credible estimates of the burden and utility of any new TRI reporting requirements.

¹Expansion of the Toxic Chemical Release Inventory Reporting Requirement to Energy Industries: Potential Impacts, Draft Report, November 10, 1994, Prepared for the U.S. Department of Energy by Analytical Services, Inc.

The Honorable Fred Hansen

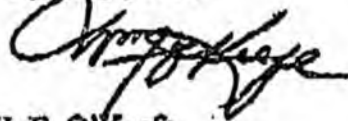
March 7, 1996

Page 3

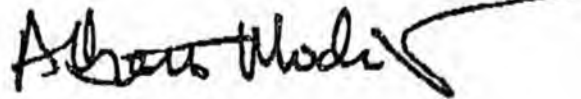
We support pollution prevention and providing information that has value to local communities. Any additional information needed by the public, beyond that which is currently reported under existing state and federal regulations, should be addressed at the state level. EPA has funded the Interstate Oil and Gas Compact Commission (IOGCC) State Review Program with the goal of improving state oil and gas regulatory programs. The Administration has praised this program as a successful model as part of its effort to reinvent regulation. We believe that EPA should work with the states through the IOGCC to achieve Right-to-Know goals for the E&P industry.

In closing, we would like to re-extend our invitation to provide OPPTS management and staff with a tour of E&P facilities. A tour had been arranged for Dr. Lynn Goldman in December, however, she was forced to cancel due to budget constraints. We believe that it is essential for the people involved in developing these regulations to visit our facilities to gain a greater understanding of our industry and the impact of TRI expansion before imposing significant new regulatory burdens.

Very truly yours,



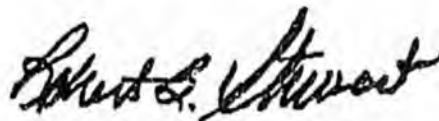
W. F. O'Keefe
Executive Vice President
American Petroleum Institute



Albert Modiano
Vice President
Mid-Continent Oil and Gas Association



Barry Fussell
Senior Vice President and General Counsel
Independent Petroleum Association of America



Robert B. Stewart
President
National Ocean Industries Association

c: Lynn Goldman, M.D., EPA

U.S. Department of Energy Congressional Priorities for 1996

Dirk Forrister
Assistant Secretary for Congressional
and Intergovernmental Affairs
U.S. Department of Energy

Clearly one of the primary energy issues facing Congress this year is the debate over electric restructuring, although the outlook for completion of such legislation is far from certain. The U.S. Department of Energy will also be addressing its budget before the Congress in the coming weeks, impacting Department activities ranging from the fossil energy program to the national labs. Finally, the intersection of electric restructuring, Clean Air Act amendments and the debate over global climate change is sure to draw attention.

Toxic Release Inventory - One Size Does Not Fit All

Mark Rubin
Exploration and Production Environmental Coordinator
American Petroleum Institute

Upcoming U.S. Environmental Protection Agency (EPA) regulations could impose a major new reporting burden on the oil and gas exploration and production (E&P) industry. If covered by the expansion of the Toxic Release Inventory Program (TRI), thousands of E&P facilities encompassing over 40 percent of the oil and gas wells in the U.S. will have to report their discharges to air, water, land, and even underground oil and gas reservoirs. The result: significant costs to the E&P industry, misleading press reports, duplicative reporting, inefficient use of company resources -- and no environmental benefits.



Mark Rubin
Exploration and
Production Coordinator

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TRI – One Size Does Not Fit All

Why Expanding the Toxic Release Inventory to the Oil and Gas Exploration and Production Industry Doesn't Make Sense

Upcoming U.S. Environmental Protection Agency (EPA) regulations could impose a major new reporting burden on the oil and gas exploration and production (E&P) industry. If covered by the expansion of the Toxic Release Inventory Program (TRI), thousands of E&P facilities encompassing over 40% of the oil and gas wells in the U.S. will have to report their discharges to air, water, land, and even underground oil and gas reservoirs. The result: significant costs to the E&P industry, misleading press reports, duplicative reporting, inefficient use of company resources -- and no environmental benefits.

What is TRI?

The Toxic Release Inventory is EPA's program for providing information to the public on releases of toxic chemicals into the environment. Each year, industries covered by the program must report releases of over 600 toxic chemicals. Most of these reported "releases" are safe, legal, permitted disposal, recycling, and air emissions.

Currently, only manufacturing facilities must report under TRI. However, during the next year, EPA may expand the program to cover a host of additional industries -- including E&P facilities.

Why E&P?

Last year, EPA prepared "profiles" of 25 industries not currently reporting under TRI to determine whether their releases warrant inclusion in the program. Based on these profiles, EPA has targeted 14 industries, including E&P, for the program expansion.

EPA's goal in expanding TRI to additional industries is to "provide the public with a more comprehensive picture of toxic releases." In the case of E&P, however, expansion will only give

the public an inaccurate impression of an industry that is already regulated according to the low risk posed by its operations.

One of the most misleading and inappropriate requirements for E&P facilities would be reporting underground injection as a "release" to the environment. Because produced water and associated wastestreams are injected thousands of feet below drinking water zones -- and usually into oil and gas reservoirs -- there is practically no potential for public exposure from these operations. In addition, because the vast majority of E&P facilities are in remote, rural areas -- or are far offshore -- they are miles from the nearest community. Reporting E&P releases, therefore, provides little, if any, environmental benefit.

EPA's profiles assume that "typical" releases for a given industry remain constant. This assumption is wrong for E&P operations, where the concentrations of chemicals in wastestreams change constantly. Because of this variability in the streams, the *only* way for E&P facilities to ensure accurate reports is for operators to perform regular, expensive wastestream tests. The accounting burden for collecting this virtually valueless data is huge.

EPA wants to expand the TRI program to give the public better information about toxic chemicals in their communities. The truth is, however, that E&P facilities have fundamentally different operations than the manufacturing facilities already covered by TRI. E&P facilities would be forced to spend a substantial amount of time and manpower trying to figure out how to make their operations "fit" into the TRI program. In short, TRI reporting just doesn't make sense for the E&P industry.

What Would Expansion to E&P Facilities Mean?

Expansion of the TRI program to E&P facilities would impose an expensive, unnecessary paperwork requirement on an already economically distressed industry.

Specifically, TRI expansion would result in a **costly reporting burden** for E&P facilities. According to a recent study by the American Petroleum Institute, the potential costs of such an expansion would be over \$200 million in the first

year alone. This money would be spent testing wastestreams, filling out forms, and figuring out how to report under an inappropriate program. Over 4,700 facilities, encompassing over 40% of the oil and gas wells in the U.S., would be subject to this unnecessary requirement. In addition, an independent study by the U.S. Department of Energy estimates that the costs could be even higher -- with impacts into the billions of dollars.

Tragically, companies would be spending this money to provide virtually *no* environmental benefit, since the remoteness of E&P facilities means that their "releases" pose minuscule risks to the public. In addition, because TRI reporting requirements would require a great deal of interpretation for the E&P industry, expansion could expose facilities to substantial liability for administrative errors in reporting. Penalties for such unintended violations could reach up to \$25,000 a day!

The potential to mislead the public is another negative result of E&P reporting under TRI. A recent *Bakersfield Californian* headline, "Elk Hills Tops Kern's List of Toxic Polluters," illustrates the kind of confusion and misinformation that results when the media take release data out of context. In this case, the U.S. Department of Energy's Naval Petroleum Reserve voluntarily reported release information from its Elk Hills production facility in Kern County, California.

At Elk Hills, 99% of the reported releases were strictly regulated underground injection. When the public and the press received the data about these releases, no one told them that the "pollution" from the facility was being injected into oil and gas reservoirs with no possibility of public exposure.

TRI expansion to the E&P industry also would divert company resources away from pollution prevention efforts toward expensive testing and release calculation activities. For example, in its second year of reporting, Elk Hills devoted additional resources to characterizing its variable product streams in order to do more accurate calculations that would show how low its releases really are. Had such recalculation not been necessary, this money could have been spent

on more productive environmental protection activities.

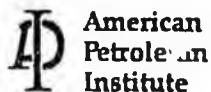
Proponents of expanded TRI reporting argue that public attention to the volumes and types of chemicals released into the environment provides an incentive for companies to prevent pollution. For E&P facilities, "release" reduction can only be achieved through reductions in the amount of oil and gas produced. The TRI program will create perverse incentives for E&P operators to eliminate so-called "releases" by **shutting in oil and gas production wells.**

Conclusion

At a time when Congress and the public favor relief for industry and the states from costly and bureaucratic reporting and recordkeeping requirements and when the Administration is encouraging "common sense" regulation, EPA is threatening to impose a needless, unreasonable burden on the domestic oil and gas production industry. Communities have the right to know about potential threats to their health and the environment. But there is *no* reason to mislead the public with confusing information on releases that pose virtually no threat.

Right-to-know laws should not be used as a right to mislead. The public has a right to expect that taxpayer money is going to protect human health and the environment against *real* threats. Held up to the lens of cost-effectiveness, environmental benefits, and appropriateness, EPA's proposed expansion of the TRI program to the E&P industry is not sound public policy.

If you would like further information on how TRI expansion could affect the E&P industry, please call Mark Rubin of the American Petroleum Institute at (202) 682-8057.



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103. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Agency: Environmental Protection Agency/Office of Prevention, Pesticides, and Toxic Substances

Priority: Other Significant

Legal Authority: 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was imposed under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). The Environmental Protection Agency (EPA) is considering expanding this original list. EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. EPA is currently conducting analysis to determine which SIC codes (or portions thereof) should be considered for coverage in TRI. Facilities in a broad set of industries are under consideration, including but not limited to, electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities.

Statement of Need: TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across America. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program. Yet TRI collects data from only the manufacturing sector, and for only a subset of toxic chemicals that are introduced into the environment. Congress gave EPA the authority to expand TRI, both in terms of the chemicals reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools, and businesses. Manufacturing facilities account for only a portion of the toxic chemicals released in the United States. EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to reduce this burden. The industries under consideration for addition to TRI would conceivably add significantly to the data available to the public on toxic chemical releases. For this proposal, industries will be selected based on a number of factors including the importance of the releases to the community, the relative rank of release estimates, the relationship of activities in these industries to manufacturing, and the compatibility of these activities with current reporting requirements.

Alternatives: Although data on releases from many of the facilities under consideration can be found, there is no centralized, publicly available, comprehensive, easily understandable, or consistently collected source of information for the public on toxic chemical releases from facilities outside of manufacturing. EPA has examined all available data sources, including information reported under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act, as well as other sections of EPCRA, State data collection programs, and available data provided by industry. EPA can find no information comparable to the data which TRI provides the American public. Consequently, there are only two alternatives to the expansion of TRI reporting requirements to cover additional facilities: voluntary reporting by facilities or a determination that any additional information TRI might collect from these facilities is of little or no value in terms of community right-to-know.

Anticipated Costs and Benefits: The anticipated costs of this action are unknown at present. The addition of facilities to TRI is intended to expand upon the past success of the program in enabling all interested parties to establish credible baselines and to set realistic goals over time. The information reported in TRI increases knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

Risks: Manufacturing facilities, which are currently required to report to TRI, represent only a portion of the facilities that release toxic chemicals in the United States. Although what portion of releases these facilities represent is uncertain, the Congressional Office of Technology Assessment has estimated that the original chemical and facility coverage of TRI in 1987 resulted in data on only 5 percent of releases in the U.S. EPA believes that the public has a right to know about such releases and about what facilities are doing to manage wastes. The public can then use this data to evaluate potential risks from these facilities and to determine how to avoid these risks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information : SAN No. 3034.

Agency Contact: Susan B. Hazen Environmental Protection Agency Office of Prevention, Pesticides, and Toxic Substances (7408) Washington DC 20460 Phone: 202 260-1024

RIN: 2070-AC71



3419. CHEMICAL LIST EXPANSION; EMERGENCY PLANNING AND COMMUNITY RIGHT-TO- KNOW ACT SECTION 313

Agency: Environmental Protection Agency/Office of Prevention, Pesticides, and Toxic Substances

Priority: Other Significant

Legal Authority: 42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076/EPCRA 313

CFR Citation: 40 CFR 372

Legal Deadline: None

Abstract: The original Toxics Release Inventory (TRI) chemical list consisted of 320 chemicals and chemical categories. In an effort to provide the public with a broader picture of chemicals that will have to submit information for the Toxics Release Inventory in their communities, EPA is expanding the original TRI chemical list. On January 12, 1994 (59 FR 1788), EPA published a proposed rule to add 313 chemicals and chemical categories to the TRI chemical list. Of the 313 chemicals and chemical categories proposed, there are approximately 160 pesticide active ingredients. The chemicals and chemical categories being proposed were selected from numerous other regulatory lists and meet the criteria for human health and environmental toxicity and in addition are extremely toxic to aquatic organisms, EPCRA section 313(d)(2). In addition, the chemicals passed a production volume screen to ensure that reports would be received if the substance is added to the TRI chemical list. Part of this activity included the review of 17 chemicals, previously described in RIN 2070-AC40, 16 of which are from a list of hazardous air pollutants subject to the requirements of the Clean Air Act Amendments of 1990, and one of which was considered for addition due to its extreme aquatic toxicity. Of these 17 chemicals, nine were included in the proposed rule. Linked to this rule is a possible small-source exemption that will provide some measure of relief to the reporting community. This exemption will allow facilities releasing small amounts of listed chemicals to be exempt from full TRI reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/12/94	59 FR 1788
Final Rule	11/30/94	59 FR 61432
Final Action Deferred Chemicals	03/00/96	

Small Entities Affected: Businesses

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis

Additional Information: SAN No. 3007.

Agency Contact: Susan B. Hazen, Environmental Protection Agency, Office of Prevention, Pesticides, and Toxic Substances, 401 M ST SW (7408), Washington, DC 20460 Phone: 202 260-1024

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SJR 38

Revision Date: initial Dept. Affected: _____
 Title: Opposing expansion of TRI program BRU: _____
 Component: _____
 Sponsor: Senate Resources Committee
 Requester: Senate Resources Committee COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of any current year (FY96) cost: \$ -0-

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Senate Resources Committee Phone: 465-4907
 Division: _____ Date: 5/1/96
 Approved by: Senator Loren Leman, Chairman Date: 5/1/96
 Agency: _____

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9-LS1761A/
Lauterbach
3/6/96

**SENATE JOINT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE RESOURCES COMMITTEE

**Introduced:
Referred:**

A RESOLUTION

1 **Opposing the proposed expansion of the United States Environmental Protection**
2 **Agency's toxics release inventory program.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS** the United States Environmental Protection Agency has proposed new
5 rules to expand the Toxics Release Inventory (TRI) Program; and

6 **WHEREAS** this expansion could add electric utilities, waste management facilities,
7 mining, oil and gas exploration and production, materials recovery and recycling, and some
8 warehousing activities to the list of facilities required to report toxic chemical releases under
9 the TRI program; and

10 **WHEREAS** only manufacturing facilities must currently report under the TRI program
11 and there are significant fundamental differences between manufacturing facilities and the
12 facilities threatened with addition to the list; and

13 **WHEREAS** nearly all of the produced water, natural gas, and other miscellaneous
14 materials from oil and gas exploration and production facilities are discharged to deep disposal
15 wells far below the groundwater aquifer; and

16 **WHEREAS** the Environmental Protection Agency's profiles of various industries not

1 currently required to report under the TRI program assume that typical releases remain
2 constant; this is not the case for at least some operations where the concentrations of
3 chemicals in wastestreams change constantly; and

4 **WHEREAS** the only way to monitor these varying discharges would be for operators
5 to perform regular, expensive wastestream tests; and

6 **WHEREAS** the information gained from these tests would not benefit communities
7 significantly because much of the information regarding onsite hazardous substances is already
8 required to be reported to local emergency planning committees, the Alaska State Emergency
9 Planning Commission, the State Fire Marshall's office, and local fire departments; and

10 **WHEREAS** the Alaska State Legislature considers this proposed rule-making would
11 result in an unnecessary, duplicative reporting burden; and

12 **WHEREAS** this expanded reporting requirement will force companies operating in
13 Alaska to redirect financial resources to a reporting effort with far less benefit than current
14 reporting requirements; and

15 **WHEREAS** the State of Alaska has been implementing changes to minimize the cost
16 burden on marginal oil and gas projects and those nearing their economic end;

17 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests that the
18 United States Environmental Protection Agency cease from imposing additional, duplicative
19 reporting mandates on industry; and be it

20 **FURTHER RESOLVED** that, if the Environmental Protection Agency continues with
21 the implementation of the proposed rule, the Alaska State Legislature requests that oil and gas
22 exploration and production be exempted from the TRI program reporting requirements.

23 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
24 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
25 of the U.S. Senate; the Honorable Robert Dole, Majority Leader of the U.S. Senate; the
26 Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Ted
27 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,
28 U.S. Representative, members of the Alaska delegation in Congress; and to Carol Browner,
29 Administrator, U.S. Environmental Protection Agency.

WORK ORDER REQUEST FORM

W.O. [19] LS-1761

KEYWORDS: ENVIRONMENTAL CONCERNS **ASSIGNED:** Lauterbach

OIL/GAS

REQUEST FOR: Resolution **TAKEN BY:** Lamonica

SUBJECT: Toxics Release Inventory

REQUESTED FOR: SC SRES **BY:** Annette **PHONE:** 465-2095

DELIVER TO: Sen. Leman, Cap. 115

INSTRUCTIONS: Draft Senate Joint Resolution relating to Legislature's position on Environmental Protection Agency's proposed rule to require oil and gas exploration and production companies to report under the Toxics Release Inventory. See attached.

<p>OBTAIN</p>	<p>SPECIAL DRAFTING INSTRUCTIONS ATTACHED []</p> <p>AUTHORIZED TO CONFER WITH _____</p> <p>_____</p> <p>RETURN _____</p> <p>_____ TO REQUESTOR</p> <p>APPROVED: <u> X </u> DIRECTOR, LEGAL SERVICES</p>
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REVIEWED _____

IN 03/05/96 **DUE** _____

TYPED: Draft _____ **Date** _____

Final _____ **Date** _____

PROOFED _____ **DELIVERED** _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT



Alaska State Legislature

Official Business

MEMO

State Capitol
Juneau AK 99801

TO: Legal Services
via fax: two pages only X2029

FROM: Annette Kreitzer, Aide to Senate Resources Committee *(Signature)*

DATE: March 4, 1996 *(Signature)*

RE: Senate Joint Resolution re: Toxics Release Inventory

Please draft a Senate Joint Resolution noting the Alaska Legislature's position regarding a proposed rulemaking by the Environmental Protection Agency that would include oil and gas exploration and production companies with those now required to report under the Toxics Release Inventory.

WHEREAS the U.S. Environmental Protection Agency has proposed a rulemaking to expand the Toxics Release Inventory Program; and

WHEREAS the expansion could add electric utilities, waste management facilities, mining, oil and gas exploration and production, materials recovery and recycling, and some warehousing activities to the list of facilities required to report toxic chemical releases under the TRI program; and

WHEREAS currently only manufacturing facilities must report under TRI and there are significant fundamental differences between manufacturing facilities and those facilities threatened with addition to the list; and

WHEREAS, nearly all of the produced water, natural gas and other miscellaneous materials from oil and gas exploration and production facilities are discharged to deep disposal wells far below the groundwater aquifer; and

WHEREAS the EPA profiles of various industries not currently reported under TRI assume that "typical" releases remain constant, this is not the case for at least some operations where the concentrations of chemicals in wastestreams change constantly; and

WHEREAS the only way to monitor these varying discharges would be for operators to perform regular, expensive wastestream tests; and

WHEREAS the information gained from such tests would not benefit communities significantly, since much of the information regarding onsite hazardous substances is already required to be reported to Local Emergency Planning Committees, the State Emergency Planning Commission, the State Fire Marshall's office, and local fire departments; and

WHEREAS the Alaska Legislature deems this proposed rulemaking an unnecessary, duplicative reporting burden; and

WHEREAS this expanded reporting requirement will force companies operating in Alaska to redirect financial resources to a reporting effort with far less benefit than current reporting requirements; and

WHEREAS the State of Alaska has been implementing changes to minimize the cost burden on marginal oil and gas projects and those nearing their economic end;

BE IT RESOLVED that the Alaska Legislature respectfully requests that the Environmental Protection Agency cease from imposing additional, duplicative reporting mandates on industry; and

BE IT FURTHER RESOLVED that if the EPA continues with the implementation of the proposed rule, that oil and gas exploration and production be exempted from TRI reporting requirements; and

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to President; Vice President; Carol Browner, EPA Administrator; Speaker U.S. House of Representatives; Majority Leader of U.S. Senate; and Alaska Congressional Delegation (note to drafter: please include appropriate titles, names of those to be copied - thanks)

from: Loren Leman
Room 14-172

2 pages

to: Annette Kretzer
fax 907/465-3810

DRAFT SENT VIA FAX TO SENATOR LOREN LEMAN
ROOM 14-172
LOEW'S L'ENFANT PLAZA
(202) 646-4456

IL - comment + fax back, p2.
Be it resolved; - not sure what you want.
left a voice mail message for you. MEMO JK

TO: Legal Services
via fax: two pages only X2029

FROM: Annette Kretzer, Aide to
Senate Resources Committee

DATE: March 4, 1996

RE: Senate Joint Resolution re: Toxics Release Inventory

OKs
rejection
code to Alaska

Please draft a Senate Joint Resolution noting the Alaska Legislature's position regarding a proposed rulemaking by the Environmental Protection Agency that would include oil and gas exploration and production companies to those required to report under the Toxics Release Inventory.

WHEREAS the U.S. Environmental Protection Agency has proposed a rulemaking to expand the Toxic Release Inventory Program; and

WHEREAS ^{exploration and} this expansion could add electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities to the list of facilities required to report toxic chemical releases under the TRI program; and

WHEREAS currently only manufacturing facilities must report under TRI and there are significant fundamental differences between manufacturing facilities and those facilities threatened with addition to the list;

WHEREAS the EPA profiles of various industries not currently reported under TRI assume that "typical" releases remain constant, this is not the case for at least some operations where the concentrations of chemicals in wastestreams change constantly; and

WHEREAS the only way to monitor these varying discharges would be for operators to perform regular, expensive wastestream tests; and

WHEREAS the information gained from such tests would not significantly benefit communities since much of the information regarding onsite hazardous substances is already required to be reported to Local Emergency Planning Committees, the State Emergency Planning Commission, the State Fire Marshall's office, and local fire departments;

WHEREAS the Alaska Legislature deems this proposed rulemaking an unnecessary, duplicative reporting burden; and

WHEREAS ¹ nearly all of the produced water, natural gas and other miscellaneous materials from oil & gas exploration and production facilities are discharged to deep disposal wells far below the groundwater aquifer;

WHEREAS this expanded reporting requirement will force companies operating in Alaska to redirect financial resources to a reporting effort with far less benefit than current reporting requirements;

BE IT RESOLVED that the Alaska ^{from} Legislature respectfully requests that the Environmental Protection Agency cease imposing additional, duplicative reporting mandates on industry;

Be it FURTHER RESOLVED that if the EPA continues with implementation of the proposed rule, that oil and gas exploration and production be exempted from TRI reporting requirements.

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to President; Vice President; Carol Browner, EPA Administrator; Speaker U.S. House of Representatives; Majority Leader of U.S. Senate; and Alaska Congressional Delegation

WHEREAS the State of Alaska has been implementing changes to minimize the cost burden on marginal oil and gas projects and those nearing the end of their economic life; (to prolong their economic life)

Legal Services TRI Resolution

Annette -
These changes add a little more "bite" to the resolution, with particular emphasis on oil & gas E&P. Good job getting it together. These give to drafting. *Joren*
3/1/96 11:30

2 pgs

DRAFT SENT VIA FAX TO SENATOR LOREN LEMAN
ROOM 14-172
LOEW'S L'ENFANT PLAZA
(202) 646-4456

(LL) - comment + fax back, p2.
Be it resolved; - not sure what you want.
Left a voice mail message for you. MEMO
(AK)

TO: Legal Services
via fax: two pages only X2029

FROM: Annette Kreitzer, Aide to
Senate Resources Committee

DATE: March 4, 1996

RE: Senate Joint Resolution re: Toxics Release Inventory

Please draft a Senate Joint Resolution noting the Alaska Legislature's position regarding a proposed rulemaking by the Environmental Protection Agency that would include oil and gas exploration and production companies to those required to report under the Toxics Release Inventory.

WHEREAS the U.S. Environmental Protection Agency has proposed a rulemaking to expand the Toxic Release Inventory Program; and

WHEREAS this expansion could add electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities to the list of facilities required to report toxic chemical releases under the TRI program; and

WHEREAS currently only manufacturing facilities must report under TRI and there are significant fundamental differences between manufacturing facilities and those facilities threatened with addition to the list;

WHEREAS the EPA profiles of various industries not currently reported under TRI assume that "typical" releases remain constant, this is not the case for at least some operations where the concentrations of chemicals in wastestreams change constantly; and

WHEREAS the only way to monitor these varying discharges would be for operators to perform regular, expensive wastestream tests; and

WHEREAS the information gained from such tests would not significantly benefit communities, since much of the information regarding onsite hazardous substances is already required to be reported to Local Emergency Planning Committees, the State Emergency Planning Commission, the State Fire Marshall's office, and to local fire departments;

WHEREAS the Alaska Legislature deems this proposed rulemaking an unnecessary, duplicative reporting burden; and

(1)

WHEREAS this expanded reporting requirement will force companies operating in Alaska to redirect financial resources to a reporting effort with far less benefit than current reporting requirements;

BE IT RESOLVED that the Alaska Legislature respectfully requests that the Environmental Protection Agency cease imposing additional, duplicative reporting mandates on industry.

Am. to expand TRI

BE IT FURTHER RESOLVED that copies of this resolution shall be sent to President; Vice President; Carol Browner, EPA Administrator; Speaker U.S. House of Representatives; Majority Leader of U.S. Senate; and Alaska Congressional Delegation

TO FAX: 907/465-3810

You would have been proud of the Alaskan delegation today. We took on the Administration's messengers re ANWR. I have some choice quotes I'd like to give Wendy. Let her know I will call.

Annette,

At today's session, Mark Rubin from API tipped us off about a proposed rulemaking by EPA to add the Oil & Gas Exploration & Production industry to the list of industries required to report under the toxics release inventory (TRI). As I am sure you know, probably better than I, the TRI was designed for the Community Right-to-Know provisions under EPCRA. EPCRA has the option for expansion - but it is not mandated. I am told that 651 "toxic" chemicals are now on the list for this inventory. Approx. 80 ^{have to} will be reported if Oil & Gas E&P is added to list of industries req'd to report. M.

Mark Rubin asked that attendees write Carol Browner, EPA Administrator, to note that expansion of TRI to include E&P is not appropriate. I am happy to do that, but also thought that a Senate Resources Committee resolution would be appropriate. My colleagues here (Green, Rokeberg, Gail Phillips, G. Davis) agree. We are particularly concerned that additional reporting will drive Cook Inlet production to closure even faster.

Please start preparing a resolution, using the accompanying fact sheet as starters. I am sure you can get the proposed rulemaking from EPA or elsewhere. Rubin said that EPA will make a decision by the end of March, so we should move fast. I'd like to notice the hearing Thursday, pending referral, for ~~Monday, March 11~~. Rubin probably will be willing to testify. I suggest that you work w/ Alaska companies to get details on what this means to them, factor in stuff from the House resolution & backup on its NPDES resolution, as well as stuff from our SB69. If possible, I'd like to circulate a draft on Wednesday, 7/6. Hearing to report produced water & natural gas under TRI, for deep well disposal just doesn't make sense! Thanks, Loren