



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING




JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

SUBMITTED BY ELECTRONIC MAIL

TO: OEI.DOCKET@EPA.GOV
Attention Docket ID No. TRI-2005-0078

FROM: Steven E. Chester, Director 

DATE: January 3, 2006

SUBJECT: U.S. Environmental Protection Agency (USEPA) Proposed Rule on
Expanding Eligibility for Form A Certification Statement

The Michigan Department of Environmental Quality (MDEQ) is submitting comments on the proposed rule to increase the eligibility for the Form A Certification Statement for Toxic Chemical Release Inventory (TRI) reporting. This proposed rule was published in the Federal Register on October 4, 2005.

The MDEQ objects to both increasing the total annual reportable amount eligibility threshold from 500 to 5,000 pounds for all but persistent bioaccumulative and toxic (PBT) chemicals, and allowing Form A use for PBT chemicals with a separate eligibility threshold.

Changing the eligibility threshold for Form A was first proposed as one of a number of burden reduction options through the Stakeholder Dialogue that the USEPA conducted between November 2002 and February 2004. The agency was soliciting comments on various burden reduction options for TRI reporting under consideration. By its own account at that time, the USEPA estimated that Form A was widely underused and that about 24 percent of the full Form R Reports submitted would be eligible for Form A.

The USEPA now proposes to increase Form A use by raising the eligibility threshold and by expanding it to PBT chemicals for the first time. There is little or no indication that changing the eligibility threshold and expanding its use to PBT chemicals will result in increased reporting on Form A.

The MDEQ is especially concerned about allowing Form A use for PBT chemicals. When the USEPA implemented the PBT rule in January 2000, it set specific reporting requirements precisely because of the special nature of these chemicals. The current TRI reporting of PBT chemicals does not allow use of the Form A, *de minimis* exemption, or range codes. The TRI Form R provides the only means of quantifiable data on releases and waste streams for PBT chemicals. Allowing Form A use for PBT chemicals will greatly reduce the public's access to even a minimum of information on

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PBT chemical loading and transport through their communities. This is contrary to the Right-to-Know intent of the law.

Facilities that use the Form R, where the Form A would apply, do so for various reasons. Facilities may not fully understand the criteria for Form A. Facilities also benefit from the use of the USEPA TRI-ME reporting software, which makes the form completion process simpler, more efficient, and reduces the time required to complete either Form R or Form A. Further, some facilities see the need for transparency and full reporting as good corporate citizens.

The MDEQ urges the USEPA to reconsider its proposal to expand the eligibility threshold for Form A and allowing its use for PBT chemicals.

cc: Mr. Stanley F. Pruss, Deputy Director, MDEQ
Ms. Carol Linteau, Legislative Liaison, MDEQ
Mr. Robert McCann, Press Secretary, MDEQ
Ms. Amy A. Butler, MDEQ
Ms. Marcia Horan, MDEQ
Mr. Robert Jackson, MDEQ
Ms. Ruth Borgelt, MDEQ