



**UNITED STATES
DEPARTMENT OF ENERGY**

**Comments On
*TOXIC RELEASE INVENTORY (TRI)
BURDEN REDUCTION PROPOSED RULE***

(70 FR 57822; OCTOBER 4, 2005)

**U.S. DEPARTMENT OF ENERGY (DOE)
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(Docket ID No. TRI-2005-0073)**

I. Background and General Information

G. Burden Reduction Estimation Methodology Used in Today's Proposal

EPA is seeking comment on a proposed methodology for improving the estimation of calculation and form completion burden.

Pursuant to EPA's new burden estimation methodology, the calculation burden for Form A is estimated to be 64% of the calculation burden for Form R for both PBT and non-PBT chemicals. This appears to be an over-estimate if consideration is given to the fact that chemical manufacture, process, and otherwise use data and emissions estimates must still be calculated to determine whether a Form R or Form A is used. Currently, the criteria for using Form A is that the facility not exceed a 1 million pound reporting threshold (this is the sum of the manufacture, process or otherwise use of the toxic chemical) and report 500 pounds or less of total waste management quantities (the annual reportable amount or ARA). This ARA is the sum of Form R sections 8.1 through 8.7. However, in order to calculate the sum of sections 8.1 through 8.7, a reporter must go through the calculations for Form R sections 5, 6 and 7. Thus, reporters still have to undertake detailed calculations to determine eligibility. The only actual burden reduction realized is the time to fill out the Form R versus Form A, which is minimal.

III. What Reporting Requirement Changes are Being Proposed?

C. Form A Eligibility – PBT Chemicals

The Agency requests comment on the proposed approach for defining the PBT ARA (PRA) and specifically on whether section 8.8 management amounts should be included in the definition of the PRA.

EPA is proposing to increase eligibility for the Form A for non-PBT chemicals by raising the eligibility threshold from 500 to 5,000 pounds for the annual reportable amount or ARA. The ARA is calculated by summing quantities reported in sections 8.1 through 8.7. EPA is also proposing to allow reporters of PBT chemicals to use the Form A if they have zero section 8.1 and 8.8 releases and under 500 pounds of PBT Reportable Amount or PRA.

DOE is supportive of expanding the eligibility for using the Form A and is proposing that quantities recycled (sections 8.4 and 8.5) be excluded from both ARA and PRA calculations. EPA states in section III.C that it encourages recycling and views it as "desirable management technique". Exclusion of sections 8.4 and 8.5 from the ARA and PRA calculation provides

incentives to facilities to perform recycling activities and offers calculation burden reduction. This has the potential to greatly expand the number of DOE reporters who could utilize the Form A as most quantities reported in sections 8.2 through 8.7 are quantities of materials recycled. As the recycling activities reported in Sections 8.4 and 8.5 do not cause releases to the environment (those activities are reported in Section 8.1), and releases due to its recycling are reported by the recycler, exclusion of sections 8.4 and 8.5 from the ARA and PAR calculations could provide an incentive to recycle toxic chemicals while maintaining reporting by recyclers.

Regarding whether section 8.8 quantities should be included in the definition of PRA, DOE suggest they should not be included. In this proposed rule, the first eligibility criteria for reporting PBT chemicals using Form A requires that releases from sections 8.1 and 8.8 be zero. The second criteria is that quantities from sections 8.2 through 8.8 be under 500 pounds. Thus, the quantity from 8.8, *required to be zero*, is included in the PRA. Deleting section 8.8 would not change the quantity in the PRA and it would make the two approaches more consistent, since the ARA for non-PBT chemicals does not currently include section 8.8.

Part 372—[AMENDED]

Subpart B—[Amended]

With respect to the text of the proposed rule, in 40 CFR 372.27, both in its current version and in the proposed amended version, EPA references the Form R data elements that are summed to calculate the annual reportable amount (ARA) for non-PBT chemicals. It would be useful if EPA made similar references to the Form R data elements that correspond to the calculation of zero disposal or other releases and those that would be summed to calculate the PRA (excluding dioxins and dioxin-like compounds).