



**EDISON ELECTRIC  
INSTITUTE**

January 13, 2006

Submitted Electronically

U.S. Environmental Protection Agency  
Office of Environmental Information Docket  
Mail Code 28221T  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

RE: Comments on "Toxics Release Inventory Burden Reduction Proposed Rule"  
**Docket No. TRI-2005-0073**

Dear Sir/ Madam:

The Edison Electric Institute (EEI) is pleased to provide comments on EPA's October 4, 2005 Federal Register notice, "Toxics Release Inventory Burden Reduction Proposed Rule." EEI is the premier trade association for U.S. shareholder-owned electric companies, and serves international affiliates and industry associates worldwide. Our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry, and 71 percent of all electric utility ultimate customers in the nation. They generate almost 60 percent of the electricity produced by U.S. electric generators. EEI members are among the many companies that report releases of chemicals under EPA's Toxics Release Inventory (TRI) reporting program, and thus have an interest in the proposed changes to the reporting requirements.

EEI commends EPA for exploring ways to improve reduce reporting burden associated with the TRI reporting requirements while continuing to provide valuable information to the public.

Thank you for the opportunity to comment. If you have any questions, please contact me at 202/508-5516 or [mrossler@eei.org](mailto:mrossler@eei.org).

Sincerely,

A handwritten signature in black ink that reads "Michael T. Rossler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael T. Rossler  
Manager, Environmental Programs

Attachment

**UNITED STATES OF AMERICA  
ENVIRONMENTAL PROTECTION AGENCY**

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<b>Toxics Release Inventory Burden Reduction -- Proposed Rule</b>	)	<b>Docket No. TRI-2005-0073</b>
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**Comments of the Edison Electric Institute  
on EPA’s Toxics Release Inventory Burden Reduction Proposed Rule**

On October 4, 2005, EPA issued a proposed rule that would modify certain aspects of its Toxics Release Inventory (TRI) reporting rules. *See* 70 Fed. Reg. 57,822 (2005). Specifically, EPA proposed to expand the availability of Form A by allowing facilities that must report on persistent bioaccumulative and toxic (“PBT”) chemicals to make use of Form A under certain factual circumstances and by modifying the Form A eligibility criteria for non-PBT chemicals. The following comments are submitted by the Edison Electric Institute (EEI), the trade association representing America’s investor-owned electric utility companies.<sup>1</sup> EEI members are among the many companies that report releases of chemicals under EPA’s TRI reporting program, and thus have an interest in the reporting, collecting, processing, and releasing of TRI data.

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<sup>1</sup> EEI’s members provide power to 99 percent of all customers served by the shareholder-owned segment of the electric utility industry. EEI’s members provide more than three-quarters of the electricity generated by electric utilities in the country. One of EEI’s purposes is to monitor implementation of EPCRA and to provide technical and regulatory guidance to EEI member companies on EPCRA compliance issues. EEI also actively participates on behalf of its members in EPA’s rulemakings under EPCRA and participated in previous national dialogues on ways to improve TRI report.

EEI supports EPA's proposal to make Form A reporting available to facilities filing annual TRI reports for both PBT and non-PBT chemicals. As discussed below, EEI supports the Form A eligibility criteria proposed by EPA and believes that EPA should raise the eligibility criteria for the use of Form A for PBT reporting. EEI also believes that EPA has underestimated the time required to complete a Form R report and thus has understated the benefits of its proposed rule.

#### Form A Eligibility for PBT Chemicals

EEI supports EPA's proposal to allow Form A reporting for PBT chemicals under a limited set of circumstances. EPA has proposed to make Form A reporting available to facilities if the facility has zero releases of a given PBT chemical, it does not exceed the 1,000,000 pound "alternative threshold" and it has 500 pounds or less of total other waste management quantities.

EEI believes that making Form A reporting available for PBTs would not result in any meaningful loss of TRI data as compared to current reporting requirements. The major focus of most persons using TRI data is on the reported releases. The use of a Form A for a given PBT still indicates that the chemical was present at the facility above the reporting threshold and that the total releases were less than a given amount -- 0.1 pounds in the case of PBTs.

EEI encourages EPA to consider raising the release eligibility criteria for PBTs from "zero" releases to a slightly higher *de minimis* amount. In the rulemaking proposal, EPA defines a "zero release" as being those Form R reports where a facility has reported either "0" or "NA" for items (a), (b), (c), and (d) in Section 8.1.<sup>2</sup> EPA has historically instructed facilities to report "NA" if there is no possibility that a release of a chemical could have occurred and to report "0" if, in the case of PBTs, there is a release of less than 0.1 pounds. For fossil-fuel-fired power

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<sup>2</sup> See 70 Fed. Reg. 57,838.

plants, questions can arise about whether certain PBT compounds in the fuel, such as PACs, are completely destroyed during the combustion process. If one assumes less than 100% destruction, then given the large amount of fuel that is burned by a power plant, more than 0.1 pounds could be calculated to be theoretically released. To avoid future debate about whether a facility should have used Form A or Form R under these circumstances, EEI suggests that EPA set a release threshold for Form A reporting somewhat above zero, at a level such as one pound.

The *de minimis* nature of a one-pound release threshold can be seen by examining the 2003 nationwide reported releases for polycyclic aromatic compounds (PACs) and benzoperylene -- two compounds that are often present in trace amounts in coal. The total reported releases of PACs in 2003 was 2,187,097 pounds of which 589,426 pounds were released to the air; for benzoperylene, total releases were 151,767 pounds of which 27,679 pounds were to the air. These 2003 releases demonstrate that a one-pound release threshold would not have any meaningful impact on reported releases.

#### Expanded Form A Eligibility for Non-PBT Chemicals

EEI also supports EPA's proposal to increase the availability of Form A reporting for non-PBT chemicals by increasing the "annual reportable amount" ("ARA") from 500 pounds to 5000 pounds. By proposing to raise the threshold to 5000 pounds, EPA has done a good job of balancing the benefits of reducing reporting burdens against a minimal loss of more detailed information. As EPA notes in its proposal, increasing the threshold to 5000 pounds will have little effect on the information reported -- only about 0.1% of the total production related waste.

EPA has also requested comment on whether any non-PBT chemical poses such a degree of concern that it should be excluded from Form A reporting. EEI does not believe that any

chemical (whether PBT or non-PBT) should be automatically excluded from Form A reporting eligibility.

### Burden Reduction Estimates

EEI has reviewed the Abt Associates report, which estimates the time needed to complete a Form R report, and believes that the Abt report presents only a best case estimate of the time needed to complete a Form R. For many power plants, the actual time needed to complete a Form R can be much longer than those estimated by Abt Associates. First, the Abt estimates assume a “typical” facility where there are no significant changes in a facility’s operations or waste management practices from one year to the next. Many coal-fired power plants do not fit this definition. Coal by its very nature is not homogeneous. Trace element concentrations in coal can vary significantly within a given seam and from seam-to-seam. Many power plants use coal from different suppliers and the amount of coal that is burned from a given coal seam can change markedly every year. As a result, new calculations are needed each year to produce an estimate of the amount of trace elements, such as the trace metals, that enter a plant. The time needed to collect the appropriate information and to make the calculations is far greater than the time estimated by Abt. In addition, waste management practices can change from one year to the next at coal-fired power plants. These changes require time to analyze and estimate releases to the various media. Thus, Abt’s assumptions for a “typical” plant are not representative of many coal-fired power plants.

The time estimates in the Abt report also rely heavily on a plant using the same methodologies and calculations as the previous year and on having persons with detailed knowledge and experience with EPA’s TRI requirements available to prepare the reports. These assumptions are optimistic and, as a result, produce time estimates that are too short. At coal-

fired power plants, plant operations can change from one year to the next. For example, boiler cleaning may not occur annually. Construction and maintenance activities can be very different each year. These changes can affect many entries on Form R and hence the time needed to complete Form R can be far longer than the times estimated. Finally, the personnel assigned the task of completing the TRI reports often change at power plants. New personnel need to become familiar with the Form R guidance and how Form Rs for a given chemical were previously completed at the facility as well as addressing any new situations or changes in regulations that may arise. These activities require more time than has been estimated by Abt Associates.

For all these reasons, EEI believes that implementation of the proposed revisions to Form A reporting would have an even greater economic benefit than EPA has estimated.