



December 05, 2005

Office of Environmental Information Docket
Environmental Protection Agency
Mail Code: 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attn: Docket ID No. TRI-2005-0073

RE: Toxics Release Inventory Burden Reduction Proposed Rule [EPA Docket TRI-2005-0073; 70 Fed.Reg. 57822 (Oct. 4, 2005)]

IPC - Association Connecting Electronics Industries - is pleased to submit the following comments in response to the Toxics Release Inventory Burden Reduction Proposed Rule. IPC is the national trade association for the electronic interconnection industry, and represents over 2,200 member companies. Although IPC members include electronic giants, such as Intel, Hewlett Packard, and IBM, sixty percent of IPC members meet the Small Business Administration's definition of "small business." Nearly one hundred percent of IPC members that manufacture printed circuit boards and electronics assemblies are required to report under the Toxic Release Inventory (TRI).

Printed circuit boards and electronic assemblies are used in a variety of electronic devices including computers, cell phones, pacemakers, and sophisticated missile defense systems. The industry is vital to the U.S. economy. As the manufacturing sector is struggling to compete under constant pressure and competition in our global economy, it is important to understand that domestic regulations have a significant impact on the competitiveness of U.S. manufacturing.

We believe that the value of the TRI program is best preserved through the collection of necessary information at a minimal burden to reporting industries. While IPC recognizes the importance of the TRI program in generating information for the public, we believe EPA can and should seek to continually improve the efficiency of the TRI program.

IPC appreciates EPA's efforts to provide much needed burden relief to facilities reporting under TRI. We support the current proposal to expand Form A eligibility, as it would provide relief to facilities with virtually insignificant releases of TRI chemicals and a subset of facilities with no releases of PBT substances. IPC looks forward to the agency's second phase of burden reduction where alternative year. Alternate year reporting will not only provide relief to TRI reporters across the board, it will also free up limited EPA resources enabling them to provide data users with a high quality public data release in a more timely fashion.

Thank you for this opportunity to provide comment on EPA's proposed rule.



PBT Form A Eligibility Expansion

IPC supports EPA's efforts to provide burden reduction to facilities that are currently required to file TRI Form R despite having zero releases of Persistent Bioaccumulative and Toxic (PBT) substances to the environment. EPA's proposal to expand Form A eligibility to facilities that process or use a PBT substance but do not release it to the environment will provide those facilities much needed burden relief. Clearly, facilities reporting zero releases are managing TRI chemicals such that there is no release, and therefore risk, to the environment or the public. These facilities are good environmental stewards that have been able to eliminate releases of PBT substances through recycling and other pollution prevention activities. By providing relief to facilities with no releases, this proposal is an effective burden reduction measure that will not only enhance the utility of the TRI program but reward facilities with high level environmental performance.

IPC supports EPA's efforts to provide burden relief through the use of Form A to PBT reporters. In the electronics and electrical equipment manufacturing sector (SIC 36), 1,171 Form Rs were filed for lead and lead compounds in reporting year 2003. Of those reports, 31% reported no release to the environment. Expanding Form A eligibility for zero PBT releases will help provide much needed burden relief to this group of facilities.

The very existence of a significant number of TRI reports for zero releases is indicative of the extent the TRI program fails to achieve its goals in an efficient and effective manor. TRI reporting is a significant burden. It is difficult to understand the reasons for continuing to impose the burden of filing Form R reports on facilities with no releases. IPC believes that facilities with zero releases should not be required to report under TRI since they have no releases to report. Understanding that may not be a currently viable option, IPC supports EPA's efforts to provide these facilities burden relief through use of Form A.

Allowing these zero release facilities to report using the less burdensome Form A does not present a significant loss of information. IPC is perplexed that certain stakeholders have stated that allowing facilities to report PBTs on Form A reduces the public's information about this class of chemicals. Under the current proposal, a facility only qualifies for Form A if it has no releases to the environment. Even then, the facility must submit the Form A including information on the facility location, the TRI chemical manufactured or used, the fact that it has zero releases, and a quantity range for the amount that is being recycled.

Further, IPC disagrees with the comment that allowing facilities to use Form A somehow reduces the incentives to minimize waste generation. Form A eligibility for zero releasers would serve to encourage facility pollution prevention by rewarding facilities that eliminate the release of PBT substances.



PBT Reportable Amount

EPA's proposed definition for the PBT Reportable Amount (PRA) represents a commendable effort to balance the interests of zero release reporters who need burden relief with those who

seek to retain information on waste management activities. However, IPC believes the current definition does not go far enough to provide burden relief to facilities that release nothing to the environment. Analysis of SIC 36 reports for lead and lead compounds for RY2003 indicate that under the proposed PRA, only 50% of facilities reporting zero releases would be eligible to use Form A. Further analysis shows that if the PRA were increased to 3,000 lbs, 89% would qualify for Form A burden relief. A 5000 lb PRA would provide relief to 92% of facilities with zero releases. IPC urges EPA to increase the PRA so that more zero release facilities would be eligible for Form A burden relief. Raising the PRA also serves to promote pollution prevention by rewarding facilities that minimize their waste through increased recycling.

Increase the PRA would have an insignificant effect on the amount of useful data collected. Analysis of the 2002 PBT TRI data performed by the Small Business Administration Office of Advocacy shows that raising the PRA threshold from 500 lbs to 5000 lbs would retain approximately 99.9% of the waste data currently reported. Therefore, raising the PRA is within EPA's regulatory authority under the Emergency Planning and Community Right to Know Act Section 313 (EPCRA) Section 313, which allows the agency to adjust reporting thresholds as long as they "obtain reporting on a substantial majority of total releases of the chemical at all facilities." IPC urges EPA to increase the PRA as it would provide relief to a significant number of facilities with no environmental releases while maintaining the integrity of the information being collected.

Non-PBT Form A Eligibility Expansion

IPC supports EPA's proposal to expand Form A eligibility by raising the Annual Reportable Amount (ARA) from 500 lbs to 5000 lbs for non-PBT substances. IPC believes this option has significant potential for reducing the reporting burdens for a number of facilities which must undergo the annual burden of TRI reporting despite having very low releases of TRI chemicals to the environment. This type of focused relief would meet EPA's stated goals "to reduce burden associated with TRI reporting while at the same time continuing to provide valuable information to the public consistent with the goals and statutory requirements of the TRI program." Additionally, allowing facilities reporting minimal releases to utilize Form A could improve the quality of the TRI database by focusing on releases that represent a potential risk to the public.

According to EPA analysis detailed in the proposal, increasing the Form A threshold to 5,000 lbs would result in minimal reduction of TRI release data. In fact, 99.9% of the TRI information would still be collected. TRI data users would still have information on the facility location, type



of chemical used and reporting facility's total releases and waste management quantities in that it does not exceed 5000 lbs. As demonstrated by EPA's analysis, a higher reporting threshold, as proposed, would meet the statutory requirement that EPA may revise thresholds only to the extent that the revised threshold obtains reporting on a substantial majority of total releases of the chemical at all facilities subject to the EPCRA Section 313.

While IPC supports EPA's efforts to expand Form A eligibility, we continue to urge EPA to revise its ARA criterion to reflect only reported releases to the environment and not waste management activities such as recycling and energy recovery. EPA's current proposal to increase the Form A reportable amount to 5000 lbs will help some facilities with small releases and recycling quantities below the proposed ARA but it does not address the larger issue that these materials which are recycled and not released to the environment should not be included in TRI reporting thresholds for Form A. Even with the higher proposed threshold, inclusion of these recycled materials in the Form A reportable amount results in unnecessarily barring many facilities from burden relief offered by Form A reporting. The original Congressional intent for TRI was to provide communities with information on toxic releases. The inclusion of recycling data in TRI reporting was added later under the Pollution Prevention Act (PPA). While the collection of waste management data may be informative, including it in the ARA, which was not required under the PPA, has had the negative effect of punishing facilities that recycle by not allowing them to take advantage of Form A burden reductions. Changing the definition of "annual reportable amount" to exclude materials that are reclaimed and recycled would provide incentive for pollution prevention activities.

Form A Usage and Needed Enforcement Statement

IPC continues to urge EPA to address issues related to the enforcement of facilities who, in good faith, incorrectly file a Form A instead of a Form R. As discussed by IPC and other commenters during the online stakeholder dialog, facilities believe that use of Form A leaves them open to EPA enforcement for failure to file if it is later determined that they were not eligible to report under Form A. EPA's failure to provide clear indication of the agency's enforcement policy only serves to limit the number of facilities taking advantage of burden reduction through the Form A option. EPA's current policy statement is confusing and not readily available to TRI reporting facilities. To encourage broader use of Form A, EPA should clearly state in the preamble to the final rule that facilities who in good faith incorrectly file Form A will face enforcement for incorrect filing, not failure to report.

Conclusions

IPC appreciates EPA's proposed expansion of Form A eligibility, particularly to PBT substances such as lead and lead compounds. The PBT provision will provide burden relief to facilities that process or use PBT substances but do not release anything to the environment. Furthermore, IPC is supportive of EPA's alternative year reporting option as it would provide significant relief to



ASSOCIATION CONNECTING
ELECTRONICS INDUSTRIES®

Government Relations
1901 N. Moore Street, Suite 600, Arlington, VA 22209
Tel. 703.522.0025 Fax 703.522.0548
www.ipc.org

TRI reporters and enhance the use of the collected data. We look forward to working with the agency during its stakeholder process.

IPC urges EPA to address the Form A enforcement issue and increase the PBT reportable amount so that many more TRI reporters with little or no releases to environment could receive Form A burden relief.

Once again, IPC appreciates the opportunity to comment on the agency's TRI Burden Reduction Proposed Rule and looks forward to working with the EPA to implement these improvements to the TRI Program.

Sincerely,

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

Fern Abrams
Dir. of Environmental Policy