



ASSOCIATION CONNECTING
ELECTRONICS INDUSTRIES®

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VIA EDOCKET

October 5, 2007

Superfund Docket
U.S. Environmental Protection Agency
Mail Code: 2822T
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Attn.: **Docket ID No. EPA-HQ-SFUND-2004-0006**

Re: Agency Information Collection Activities; Proposed Collection; Comment Request; Community Right-To-Know Reporting Requirements Under Sections 311 and 312 of the Emergency Planning and Community Right-To-Know Act (EPCRA), EPA ICR Number 1352.11, OMB Control Number 2050-0072; 72 FR 43636-43638, August 6, 2007

Dear Document Control Officer:

IPC-Association Connecting Electronics Industries is pleased to submit the following comments in response to the above referenced Information Collection Request (ICR). IPC urges EPA to fully address its obligations under the Paperwork Reduction Act, which include evaluating the accuracy of the Agency's burden estimates and minimizing the burden of the collection of information on those who are to respond. In particular, we urge EPA to address the following key issues. IPC believes that the August 2007 ICR has inaccurately estimated the burden estimate for requirements under sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA). IPC is also concerned that the current program is unnecessarily burdensome due to the variances between state and federal requirements.

IPC is the national trade association for the electronics interconnection industry, and represents more than 2500 member companies. IPC members manufacture printed circuit boards (PCBs) and electronic assemblies, which are used in a variety of electronic devices including computers, cell phones, pacemakers, and sophisticated missile defense systems. Although IPC members include electronic giants, sixty percent of IPC members

meet the Small Business Administration's definition of "small business." The typical IPC member has 100 employees and has a profit margin of less than four percent.

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As of the writing of these comments, the ICR supporting statements were not publicly available through the EPA docket on www.regulations.gov. Thus, we rely on the supporting statement for the previous ICR, since it appears that EPA plans to use an identical burden estimate. According to the supporting statement, "EPA contacted few industries during the renewal process of this ICR to get an estimate on how much time it takes the facility to comply with section 312." The ICR then lists the names of six facilities: two food facilities, two nitrogen facilities, a pharmaceutical facility, and a small refinery. This choice of facilities is puzzling, because food and food additives are excluded from reporting. The facilities reported burden in a range of 30 minutes to 50 hours, so EPA took a "weighted average" to estimate a burden of 3.1 hours per facility. It is unclear how EPA calculated this "weighted average."

EPA's estimates of 1.6 hours for a 311 report and 3.1 hours for a Tier I or Tier II 312 report are inaccurate and not adequately supported. Our members report that their facilities spend weeks, not hours, on these reports. IPC believes that this estimate is at least an order of magnitude low, and defies a common sense evaluation of the form and what is required to complete it. To complete the form, the facility must take an inventory of all chemicals at the facility that meet the "hazardous chemical" definition and determine which are above the threshold amount. These easily number in the hundreds for large facilities, and even for some medium and small facilities. Then, for each chemical, the form requires CAS name, chemical name, physical form, indication of physical and health hazard, maximum daily amount, average daily amount, and number of days on site. For many submitters, the result is thousands of data elements to complete. Completing the forms requires gathering the information, filling in the necessary data elements, and verifying the information. IPC members report assigning an employee each year for one to three weeks to complete the forms.

The most significant issue that results in unnecessary burden for EPCRA section 312 reporting is the current situation of inconsistent implementation among States. State formats and/or reporting requirements (e.g. electronic reporting or use of State forms) are in many instances not consistent with the requirements in 40 CFR 370.40 and 41. This is the case even though the federal regulations state that the forms in 40 CFR 370.40 and 41 shall be used, or a State or local form that contains *identical content*.¹ Thus, facilities find themselves in a position of having to comply with both EPA and State requirements, which are not always consistent.

Some examples of inconsistencies in the current implementation of the program are as follows:

¹ 40 CFR 370.40(a) and 370.41(a).

- Many States now either allow or effectively require electronic reporting. Of those States that require or request electronic reporting, some require use of the Tier2 Submit software, but others require use of their own tools.
- The Tier II instructions in the federal regulations require a signature (either original or copy) and the date on each page of the report, but some State forms (or computer generated formats) only require a signature and/or date on a cover page or at the end.²
- States often specify how they want content reported in ways that are not identical to the EPA form and instructions provided in the regulations.

The variation in State Tier II requirements is evident in EPA's online list of State Tier II reporting requirements at:

<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/statetier2.htm>. Some States require their own form (e.g., South Dakota); some require electronic reporting using a State tool (e.g., Washington, Missouri, Pennsylvania, Oregon, others); others require electronic reporting using Tier2 Submit (e.g., Arkansas, Colorado, Connecticut, New Hampshire, others); and others simply require the federal form (e.g., West Virginia).

These inconsistencies impose significant burdens on facilities, which must take various steps to remain in compliance with both Federal and State requirements. Sometimes this burden takes the form of submission of multiple forms to meet both requirements. Moreover, these inconsistencies have resulted in substantial information technology (IT) costs for some companies. Some companies have designed integrated computer information systems to directly transfer information into the Tier II form (based on the format in the federal regulations). When a State varies from that format, additional customized computer programming is required. Furthermore, when a State attempts to require electronic reporting, additional costs are incurred to create a working interface between the company system and the system specified by the State (either Tier 2 Submit or a State-specific system).

EPA appears to recognize that States are acting independently and varying from the federal form for Tier II reporting. For example, in the June 8, 1998 notice, EPA proposed to change regulatory language for Tier II reporting to the following:

You should contact the SERC to determine State requirements for format and procedures regarding inventory reporting. If your State has a policy for electronic submittal of inventory information, you should obtain instructions from the SERC. You may also contact the SERC to obtain inventory forms specific to that State.³

EPA and States should work together to devise one form that would be submitted to all States (and would be consistent with the federal regulations) and one system for

² 40 CFR 370.41(b).

³ 63 FR 31314.

electronic reporting, which should be voluntary. When the regulations were initially published and manual submission was the norm, it was not particularly onerous if States varied their forms, as long as the essential information was the same. Inconsistencies are more burdensome in the current situation of electronic data systems and increasing electronic submission, because any variation creates a potential need for companies to reconfigure their computer systems. If a common form is not possible, then at a minimum EPA should clarify that compliance with a State requirement satisfies the federal requirement, even if the State's form varies from the federal one. In the meantime, EPA needs to increase its burden estimates to reflect the effort that is currently required to comply given these inconsistencies in how the EPCRA section 312 reporting program is implemented.

IPC appreciates the opportunity to provide comments on the proposed renewal of information collection. Although IPC is generally supportive of community right-to-know initiatives and specifically the reporting programs described under EPCRA sections 311 and 312, the Office of Management and Budget (OMB) should not approve the information collection until EPA takes meaningful steps to address burden reduction.

We look forward to working with EPA to improve data collection under the EPCRA Program. Please contact me at 703-522-0225 or saharosman-sypher@ipc.org should you have any questions.

Sincerely,

Sahar Osman-Sypher
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