



January 7, 2008

Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)
Attention: Desk Officer for EPA
725 17th Street, NW
Washington, DC 20503

EPA Docket Center
U.S. Environmental Protection Agency
Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Docket ID No. EPA-HQ-TRI-2007-0355, 72 FR 71403-71405 and 72 FR 71407-71409, December 11, 2007, Agency Information Collection Activities, Proposed Collections; Toxic Chemical Release Reporting; Request for Comments on Proposed Changes and the Renewal of Form R (EPA ICR No. 1363.15, OMB Control No. 2070-0093) and Form A Certification Statement (EPA ICR No. 1704.09, OMB Control No. 2070-0143)

IPC-Association Connecting Electronics Industries is pleased to submit to the Office of Management and Budget (OMB) the following comments in response to the above referenced Information Collection Requests (ICR) for Toxics Release Inventory (TRI) Forms A and R. IPC believes that the Environmental Protection Agency's (EPA) December ICRs have failed to account for the latest scientific information which questions the validity of the PBT (persistent bioaccumulative toxic) methodology currently used by EPA to evaluate metals. As such, the ICRs have neglected to fulfill statutory requirements under the Paperwork Reduction Act (PRA) to justify the necessity of TRI metals information collection and requirements of the EPA Information Quality Guidelines (IQG) to disseminate accurate TRI data. IPC believes EPA has also underestimated the burden of rule familiarization to TRI reporters.

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.

Since 2001, when EPA inappropriately lowered the TRI reporting threshold for lead from 25,000 lbs to 100 lbs based on the PBT criteria, the reporting burden on industry drastically increased. The TRI Lead Rule¹ nearly doubled the number of TRI reporters for lead in the electrical and electronic manufacturing industries. In fact, in the first year alone under the new lead threshold, TRI Form R reports were filed by 2,025 facilities in the electrical and electronics equipment manufacturing sector. According to the December 2007 ICRs, completion of Form R for PBT chemicals requires an estimated 66.8 hours per form in the first year and 46.3 hours per form in subsequent years. To date, industry has endured this significant burden for six TRI reporting cycles since promulgation of the TRI Lead Rule.

In order to quell overwhelming concern expressed over the scientific validity of application of the PBT criteria to lead, EPA promised to seek external peer review. While the logical process would have been to examine the science behind the TRI Lead Rule before implementing the rule, EPA decided to conduct the external peer review after the TRI Lead Rule was adopted. EPA committed to undertaking a cross-Agency metals assessment framework in 2001, with a final Scientific Advisory Board (SAB) review of the framework to be completed in 2003. After years of missed deadlines and a litany of broken promises, the final *Framework for Metals Assessment* was nearly four years overdue when released in March 2007. Every step of that assessment, from the Metals Action Plan, to the Issue Papers, to the final Metals Assessment Framework, has emphasized the inapplicability of the PBT criteria to metals.

EPA no longer has any justification for requiring facilities to incur the significant burden of reporting TRI information on metals releases based on the flawed PBT methodology. The Metals Framework clearly concludes that the basis under EPA's PBT approach for evaluating bioaccumulation is inappropriate for assessing metal hazard:

The latest scientific data on bioaccumulation do not currently support the use of the bioconcentration factor (BCF) and bioaccumulation factor (BAF) values when applied as generic threshold criteria for the hazard potential of inorganic

¹ Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting (66 FR 4500; January 17, 2001): Final Rule

metals in human and ecological risk assessment (e.g. classification as a persistent bioaccumulative toxic [PBT] chemical).

The Framework particularly emphasizes the unique properties of metals (versus organic compounds) that should be considered by all EPA programs and regional offices in metal risk assessments. The Framework directly contradicts the TRI Lead Rule's assumption that the basic properties of the PBT approach "are fundamentally the same for organic chemicals as they are for inorganic chemicals, including metals and metal compounds." OMB should not approve EPA's ICR renewal requests until the Agency justifies the continued collection of TRI information on metals based on the scientifically flawed PBT methodology.

In the ICR supporting documents, EPA states that the Agency "is in the process of evaluating the TRI Program's methodology for assessing metals in light of the general principles and guidance provided by the Metals Framework, and the Agency will be able to respond more fully to [IPC's concerns] once that evaluation has been finalized." The Metals Framework has been finalized since March 2007. IPC believes EPA has had ample time to evaluate the TRI Program's methodology for assessing metals against the findings of the Metals Framework. EPA must expedite its evaluation as the reporting community has been waiting since 2001 for EPA to properly collect information on PBT releases. IPC urges OMB to delay approval of EPA's ICRs until the Agency has properly considered the impacts of the Metals Framework on the TRI Program.

IPC believes EPA's ICR has also failed to fulfill requirements under the Paperwork Reduction Act (PRA) and EPA's Information Quality Guidelines (IQG). Under requirements of the PRA §3508, EPA must justify whether the information collected under TRI is necessary for carrying out the functions of the Agency and whether it will have practical utility. The collection, use and dissemination of accurate scientific information are integral to EPA's mission to protect human health and the environment. However, instead of fulfilling its mission, EPA has created unnecessary public concern by inappropriately classifying metals as PBTs. In fact, collecting and disseminating TRI information based on the flawed PBT criteria provides the public with virtually meaningless metals risk information which serves no practical utility. IPC urges OMB to reject EPA's ICRs until the Agency can adequately justify the necessity for collection of TRI information on metals releases based on the flawed PBT methodology.

Under EPA's IQG, EPA must ensure that the "disseminated information is being presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable and unbiased." Collecting and disseminating information based on a flawed methodology is not presenting the information in an accurate manner. Since EPA's PBT approach for metals is scientifically flawed according to EPA's Metals Framework, EPA is disseminating PBT information that is inaccurate, incomplete, unreliable, and possibly biased. Therefore, the quality and utility of the TRI data is

significantly compromised. IPC encourages EPA to disseminate accurate scientific information consistent with the IQG. Given that the December ICRs have not complied with requirements of the PRA or IQG, OMB must urge EPA to promptly revise the TRI Lead Rule by withdrawing the PBT classification of lead. After amending the TRI Lead Rule, EPA should issue a new ICR to reflect the significant burden reduction benefits of aligning the TRI Program with the scientific findings of the Metals Framework.

The December ICRs also grossly underestimate the burden associated with rule familiarization. EPA estimates that facilities reporting under TRI for the first time will need to make a one-time expenditure of 34.5 hours for rule familiarization. According to the ICRs, the burden associated with rule familiarization occurs only in the first year that a facility becomes subject to reporting. In subsequent years, a facility's staff is assumed to be familiar with the requirements that apply to their facility. IPC believes that rule familiarization is an ongoing activity that does not end after the first year. EPA's TRI website alone has over 40 guidance documents that TRI filers need to constantly review for new interpretations or guidance. EPA also needs to consider that given employee turnover and shifts in job responsibilities, the same employee may not be completing TRI forms every year. A person new to TRI reporting must invest a significant amount of time in training in order to familiarize themselves with the TRI Program requirements. OMB must urge EPA to revise the burden estimates in the December ICRs to account for the rule familiarization burden incurred by subsequent year filers.

IPC appreciates the opportunity to provide comments on the proposed renewal of information collection. IPC understands and supports the need for cost effective, science-based regulations that are protective of the public welfare and environment. In order to properly collect and disseminate information on the true level of PBT releases to the environment, EPA must revise the TRI Program to reflect the scientific results of the Metals Framework. EPA must adequately fulfill PRA requirements to justify metals TRI data collection and IQG requirements to provide the public with accurate and reliable data on metals releases. The Agency must also adjust its burden estimates to properly account for rule familiarization. Until these concerns have been fully addressed, OMB should not grant approval of the aforementioned ICRs.

We look forward to working with OMB to improve data collection under EPA's TRI Program. Please contact me at 703-522-0225 or saharosman-sypher@ipc.org should you have any questions regarding our comments.

Sincerely,

Sahar Osman-Sypher
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