

Comments of
IPC – the Association Connecting Electronics Industries
on the
TSCA Inventory Update Reporting Modifications Proposed Rule
EPA-HQ-OPPT-2009-0187

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I. Introduction and Summary of Comments

IPC – Association Connecting Electronics Industries appreciates the opportunity to comment on the Environmental Protection Agency's (EPA's) proposed rule for the Toxic Substances Control Act (TSCA) Inventory Update Reporting (IUR) Modifications (hereafter referred to as the proposed rule). IPC believes that the proposed rule will have a detrimental effect on the entire U.S. manufacturing sector, including electronics, without providing commensurate benefit to human health or the environment. IPC is seriously concerned that EPA's decision to treat byproducts sent for recycling as new commercial chemicals subject to the IUR rule because byproducts are not new chemicals intentionally manufactured for a commercial purpose. IPC is also concerned that the proposed changes to the reporting requirements are extremely burdensome and would not serve to enhance human health and environmental protection. Furthermore, the guidance documents on byproducts reporting are insufficient and will only further confuse the regulated community. IPC and its members strongly urge EPA to reconsider its interpretation that byproducts sent for recycling are subject to the IUR rule, altering the proposed burdensome reporting requirements, and improving the guidance documents to more clearly articulate the reporting requirements.

IPC, a global trade association, represents all facets of the electronic interconnection industry, including design, printed board manufacturing and electronics assembly. Printed boards and electronic assemblies are used in a variety of electronic devices that include computers, cell phones, pacemakers, and sophisticated missile defense systems. IPC has more than 2,700 member companies, 1,700 of which are located in the U.S. As a member-driven organization and leading source for industry standards, training, market research and public policy advocacy, IPC supports programs to meet the needs of an estimated \$1.7 trillion global electronics industry.

IPC members are strong supporters of cost effective environmental protection. IPC and its members are heavily involved in a number of voluntary environmental initiatives that promote cost effective environmental protection, including several of EPA's Design for the Environment partnership projects, the development of the Electronic Product Environmental Assessment Tool (EPEAT) standard¹, and the development of a green chemistry standard through the National Standards Foundation and Green Chemistry Institute. IPC members are dedicated to enhancing environmental protection.

Byproducts should be exempt from the IUR rule. While byproducts are a direct result of non-chemicals manufacturing, they are produced unintentionally, without a separate commercial intent. IPC and its members strongly believe that Congress' original intent was to exempt most manufacturing byproducts from TSCA regulations, including the IUR rule. While byproducts sent for recycling should be exempt from reporting by the generator, any component chemical substances extracted from the byproduct and manufactured for commerce by the recycler should be reported as new chemicals under the IUR rule by the recycler. Many byproducts from industrial manufacturing operations contain valuable materials that make them attractive for recycling and reuse. For example, byproducts from printed circuit board (PCB) manufacturing contain a

¹ <http://www.epeat.net/>

considerable amount of copper compounds that can be extracted from the byproduct for reuse and recycling. According to EPA's flawed logic, if a generator sends a copper containing byproduct for recycling, these copper compounds become component chemical substances produced for a commercial purpose and therefore subject to IUR reporting requirements by the generator. EPA has wrongly interpreted the act of finding a useful purpose for what would otherwise be a waste product, otherwise known as recycling, as somehow changing and transforming the byproduct into an intentionally manufactured chemical. The regulatory burden imposed by this flawed interpretation creates a strong disincentive to recycle. Given EPA's overall goal of promoting recycling, EPA should strongly consider the implications of incorporating recycled byproducts under TSCA IUR. Additionally, the treatment of byproducts sent for recycling as new chemicals under the IUR rule, may have unintended effects on other EPA rules. Some manufacturers may stop reporting these byproducts under other programs such as the Resource Conservation and Recovery Act (RCRA) and the Toxics Release Inventory (TRI) because they are now considered by EPA to be new chemicals. IPC strongly urges EPA to exclude the reporting of all byproducts by the generator from the IUR rule, regardless of whether they are disposed or sent for recycling.

EPA has proposed a number of changes to the reporting requirements which are extremely burdensome and provide no clear benefit to the public or the environment. Many of the proposed changes will inundate EPA with data that may not be useful or accurate. Both, the proposed elimination of the threshold for reporting processing and use data and the proposed changes in the methodology for determining whether a facility must report, will drastically increase the amount of data received. IPC believes that EPA has not clearly assessed whether all of this data is needed, nor has the Agency articulated how it will be able to efficiently and effectively utilize all of the data. If EPA collects copious amounts of data without a clear plan for how that data will be used, industry and Agency resources will be wasted. EPA should review appropriate changes, such as a reduced reporting threshold, which will provide the needed data without imposing unnecessary burdens.

The *Economic Analysis for the Proposed Inventory Update Reporting (IUR) Modifications Rule*² conducted by EPA inadequately estimates the burdens and costs of the proposed rule on industry. EPA has inaccurately assumed that the proposed rule will only impact chemical manufacturers and the number of reports submitted in 2011 will remain unchanged from the number of reports submitted in 2006. If EPA insists that byproducts sent for recycling are new chemicals reportable under the IUR rule, EPA must address the fact that the proposed rule will impact countless industry sectors and that the number of reports submitted will inevitably increase. EPA must revise their economic analysis to include many additional industry sectors that will be impacted by the proposed rule.

The *Instructions for the 2011 Inventory Update Reporting as Proposed in the IUR Modifications Rule*³ guidance document does not provide the regulated community, specifically generators of byproducts, with clarity on reporting obligations. Since TSCA IUR was originally intended to regulate chemicals. If EPA insists that byproducts sent for recycling must be reported by their generators as new chemicals under the IUR rule, the guidance document should clearly detail

² <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b221b2>

³ <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b221af>

reporting requirements for generators of byproducts. EPA must be extremely clear that byproducts sent for recycling are subject to reporting under the IUR rule by both the generator and the recycler.

II. Byproducts Should Not Be Regulated Under the IUR Rule

A. Byproducts Sent for Recycling Should Not Be Subject to the IUR Rule

Byproducts should not be regulated under the IUR rule. Congress originally intended to exempt byproducts under TSCA by providing broad exemptions. Most manufacturing byproducts sent for recycling meet the byproduct exclusions in 40 CFR Section 720.3(g) of the IUR regulation:

“Any byproduct if its only commercial purpose is for use by public or private organizations that (1) burn it as fuel, (2) dispose of it as a waste, including in a landfill or for enriching soil, or (3) extract component chemical substances from it for commercial purposes. (This exclusion only applies to the byproduct; it does not apply to the component chemical substances extracted from the byproduct).” (Emphasis added.)

The act of sending a byproduct for recycling does not change the fact that Congress intended to exempt byproducts. EPA’s interpretation that byproducts sent for recycling are reportable under the IUR rule subverts Congress’ intent and TSCA’s mandate. The IUR rule is intended to regulate new chemicals that are produced for a commercial intent/purpose. Byproducts are produced coincidentally and do not have a commercial intent. PCB manufacturers do not generate these byproduct mixtures for commercial purposes. Rather, the byproducts are unintended consequences of the manufacturing of articles. IPC does not believe TSCA’s intent and mandate is to regulate byproducts as new chemicals. These arguments were made to EPA in 2007 and 2008 and can be found in the attachments. We urge EPA to exempt all byproducts, including those that are recycled, from TSCA IUR.

B. Recycling of Byproducts Into New Chemicals Should Be Reported By the Recycler

Although IPC does not believe byproducts sent for recycling are new chemicals reportable under the IUR rule, if EPA insists that data is needed on the recycling of byproducts, the reporting should be provided by the recycler, not the byproduct generator. In a letter from EPA to IPC on November 30, 2007⁴, EPA stated, “When a **manufacturer recycles a byproduct**, the manufacturer needs to consider whether any obligations arise under TSCA...” (Emphasis added.) Manufacturers do not recycle the byproducts they generate, recyclers do. The regulation clearly states that excluding byproducts when component chemical substances are extracted from it applies to the byproduct, **not** the component chemical substances. The component chemical substances are extracted, processed, and resold on the market by the recycler and therefore, the reporting requirements should be the responsibility of the recycler. Furthermore, recyclers will have data on the processing and use of the component chemical substances that are extracted, since they would be selling the final chemical product. Recyclers should be required to report on the byproducts they recycle under the IUR rule, not the generator of the byproduct.

⁴ See Attachment C.

C. The Proposed Rule Contradicts Other EPA Regulations and Programs

The proposed rule appears to contradict other EPA regulations and programs. According to the proposed rule, if a manufacturer decides to send a byproduct for recycling they are subject to IUR reporting. The significant burden of meeting both existing and proposed additional reporting requirements creates a disincentive to recycle, which directly contradicts EPA's overall goals of promoting recycling and enhancing human health and environmental protection. Exemption of all byproducts that are recycled for the IUR rule would unify EPA's policies and send a clear message of EPA's support for recycling.

The proposed rule would impact other EPA regulations. Some manufacturers may stop reporting these byproducts under other EPA programs such as RCRA and TRI because they are now considered by EPA to be new chemicals. The inherent contradiction of simultaneously regulating byproducts as new chemicals and wastes will cause significant confusion among manufacturers in many industries and impact the data quality for multiple EPA regulations. EPA should exclude all byproducts from the IUR rule, including those that are recycled, in order for Agency regulations to be harmonized.

D. EPA Should Conduct an Environmental Justice Study of the Proposed Rule

EPA should conduct a thorough environmental justice analysis of the potential adverse impacts of this proposed rule on disadvantage communities. If the proposed rule goes into effect, the disincentive to recycle will increase the volume of materials in landfills. Landfills are typically located in disadvantage communities. Sending more materials to a landfill will have adverse impacts on the environment (air and soil contamination) and human health. All EPA agencies are required to do an environmental justice analysis of every proposed rule. IPC strongly believes that EPA has not taken into consideration the disincentive to recycle fostered by the increased cost and paperwork burdens of the proposed rule; and therefore request EPA conduct a thorough environmental justice analysis of the proposed rule.

III. Proposed Changes Impose Unnecessary Burdens

The proposed changes to the IUR reporting requirements are extremely burdensome and do not ensure enhanced human health and environmental protection. Many of the proposed changes will impose a significant reporting burden without providing a clear and compelling explanation of the need for the data. EPA should identify how the extra data they are requesting will be used and limit the required reporting to only the data needed in order to not waste industry and EPA resources.

A. The Proposed Method for Determining Whether a Facility Must Report is Burdensome

EPA's proposal to require manufacturers to report under the IUR rule if the production volume of a reportable chemical is above the threshold during any year since the last principal reporting year is unrealistic and burdensome. Generators of byproducts have not collected data on the production volumes of the component chemical substances contained within their byproducts because they

never considered themselves to be subject to TSCA IUR. Identifying and tracking the volume of each component chemical substance within each byproduct on an annual basis would require costly analysis and analytical verification of the component chemical substances within the byproducts. Analyzing the byproducts may not produce accurate determinations of the amount of each component chemical substance present in the byproduct. The byproduct generator cannot determine what component chemical substances will be extracted and in what quantities. Manufacturers should only be required to report under the IUR rule if the production volume of a reportable chemical substance is above the threshold during the principal reporting year only.

B. The Proposed Definition of “Manufacture” is Inaccurate

The proposed definition of “manufacture” improperly combines the act of manufacturing with the act of extracting. The proposed definition is:

“[T]o manufacture, produce, or import for commercial purposes. Manufacture includes the extraction, for commercial purposes, of a component chemical substance or a complex combination of substances. When a chemical substance, manufactured other than by import, is: 1) Produced exclusively for another person who contracts for such production 2) That other person specifies the identity of the chemical substance and controls the total amount produced and the basic technology for the plant process, that chemical substance is jointly manufactured by the producing manufacturer and the person contracting for such production.”

Extraction is different from manufacturing and therefore should not be included in the definition of “manufacture.” According to the Webster Dictionary⁵, manufacture is defined as:

“[T]he operation of making wares, or any products by hand, by machinery, or by other agency. **Anything made from raw materials** by hand, machinery, or by art.” (Emphasis added.)

Extraction, according to the Webster Dictionary⁶, is defined as:

“To draw out or forth; to pull out; to remove forcibly from a fixed position, as by traction or suction.”

Manufacturing deals with making a new entity from **raw materials**; it does not encompass removing something from a product or chemical mixture. If EPA considers it necessary to collect data on extracted chemical substances, they should state that the person doing the extracting is required to report under the IUR rule. EPA should remove all references to “extraction” from their proposed definition of “manufacture.”

C. Proposed Changes to Increase Data Collected are Burdensome and Unnecessary

⁵ <http://www.webster-dictionary.net/definition/manufacture>

⁶ <http://www.webster-dictionary.net/definition/Extract>

The proposed changes to eliminate the 300,000 lb. threshold for requiring processing and use data and increase the reporting frequency are burdensome and unnecessary. The extra data EPA would receive will require expeditious analysis of the data by the Agency in order to have an immediate, direct benefit to the public. EPA has not stated whether additional staff will be hired in order to analyze and evaluate the copious amounts of data that will be submitted. If EPA cannot rapidly expedite the data analysis to the public then more frequent data collection will represent a burden to industry with no commensurate benefit to society. EPA should gather data that is needed for specific purposes and programs, rather than requesting a vast data set from which the Agency may pick and choose pieces for undefined future uses. EPA should not increase the reporting frequency or eliminate the 300,000 lb. threshold for reporting processing and use data.

D. The Proposed Rule Requires Duplicative Reporting

The proposed rule violates the Paperwork Reduction Act (PRA) by requiring duplicative reporting. According to the PRA, the proposed rule cannot require data to be reported that is already collected through other agencies. The proposed IUR rule requires manufacturers to report worker exposure data — information that the Occupational Safety and Health Administration (OSHA) currently collects through existing regulations and standards. At a minimum, EPA must explain how their data needs cannot be met with the OSHA data on worker exposures. Under EPA's interpretation that byproducts are new chemicals reportable under the IUR rule, many data elements would be reported by the recycler of the byproduct as well as the generator of the byproduct. EPA should only require recyclers of byproducts to report under the IUR rule in order to avoid duplicative reporting. EPA should reevaluate the data elements they are proposing to collect to ensure duplicative reporting does not occur among Federal agencies and industry.

E. The Timing of This Rulemaking is Extremely Late; 2010 Data Should Not Be Reported

EPA should change the reporting year to 2011 since the Agency has yet to finalize reporting requirements. Requiring manufacturers to go back and gather data will cause significant data quality issues because of unreliable estimates. Since manufacturers did not know at the beginning of 2010 what data they should be collecting in order to comply with the IUR rule, they will be forced to estimate data elements that were not required during the last reporting cycle. Manufacturers that never reported under the IUR rule will be forced to estimate all data elements required to be reported. For example, manufacturers that produce chemicals below 300,000 pounds per year will face a host of new processing and use data requirements under the proposed rule. Although postponing the submission period to a later four-month period in 2011 would be helpful to give manufacturers more time to gather data, it will not solve data quality issues. To avoid potential data quality issues, EPA should strongly consider postponing the reporting year to 2011 with reports due in 2012.

F. Mandatory Electronic Reporting is Unreasonable and Could Cause Legal Complications

Electronic reporting should not be mandatory. There are significant timing, reliability, and legal issues with requiring all manufacturers to submit IUR reports electronically. EPA will have limited time to develop and test the software since the reporting period will begin, at best, only a few months after a final rule is published. EPA must also train their staff on how to use the software and assist manufacturers that may have difficulties using the software. With the increased number of manufacturers likely to report under the IUR rule, EPA will need to ensure the electronic reporting system can handle the massive increase in the number of reports. Mandatory electronic reporting leaves no other legal way for manufacturers to comply with the law if the electronic reporting system does not function properly. Due to the limited amount of time EPA has to guarantee the functionality and reliability of the electronic reporting system so that all manufacturers can comply with the law, EPA should not require electronic reporting for the 2010 IUR reporting year.

IV. The Economic Analysis Is Inaccurate Due to Reliance on False Assumptions

The *Economic Analysis for the Proposed Inventory Update Reporting (IUR) Modifications Rule* relies on several false assumptions that result in a significant underestimation of the burden and costs to industry. The methodology discussion in Section 4, *Industry Burden and Cost Estimates*, identifies only chemical companies as affected entities. Based on EPA's interpretation that byproducts sent for recycling are new chemicals reportable under the IUR rule, the economic analysis of the proposed changes to the IUR rule must address the wide range of industries that manufacture byproducts in order to accurately estimate the burden of the proposed rule. EPA must identify all affected industries, facilities that will be reporting for the first time, and the additional burdens imposed by the changes in the reporting requirements. If the entire economic analysis is based on the assumptions that the revised IUR rule will only impact chemical manufacturers and that the number of reports submitted will not increase, all estimations and predictions are misleading or wrong. EPA must redo the economic analysis to incorporate all affected industries, not just chemical manufacturers, and the likelihood of an increase in the number of reports submitted.

A. EPA Underestimates the Burden for Providing Manufactured Production Volumes

EPA underestimates the burden on manufacturers to provide manufactured production volumes. The estimated burden of 1.5 hours may be accurate for chemical manufacturers, but it greatly underestimates the burden to many byproducts generators who would be reporting for the first time if EPA insists that byproducts sent for recycling are new chemicals reportable under the IUR rule. Many manufacturers reporting under the IUR rule for the first time in 2011 have not been collecting data on production volumes. Many electronics manufacturers have never considered the byproducts they generate to be new chemicals and therefore have not been collecting and tracking the production volume of each component chemical substance which may or may not be recovered from their byproducts. Determining the volume for each component chemical substance will require labor and analytical testing. For example, each container of electronics manufacturing byproducts contains different concentrations of component chemical substances. It would take considerably longer than 1.5 hours for electronics manufacturers to determine the production volume of each component chemical substance in all the byproducts recycled in a single year. EPA's estimate of the total burden for providing production volumes is not even close to being appropriate for all affected industries and must be recalculated.

B. EPA Should Not Assume the Number of Reports in 2011 Will Not Change From 2006

EPA makes an extremely poor assumption (page 4-10) that the baseline number of reports submitted will not change from the 2006 submissions. If the proposed rule is enacted as it currently reads, hundreds of manufacturing facilities that never previously reported under the IUR rule will be required to report. Additionally, there are several proposed changes to the IUR rule that will cause an increase in the number of reports submitted during 2011. Eliminating the 300,000 lb. threshold for processing and use data will increase the number of full reports submitted in 2011. Proposed changes in the methodology for determining if a manufacturer is required to report will also cause an increase in the number of reports submitted. Estimates EPA made on the burden and cost to industry that were based on 2006 submissions are inaccurate and should be recalculated.

C. EPA Does Not Adequately Assess the Burden of Collecting and Reporting Processing and Use Data

EPA's assumptions on the burden for reporting detailed processing and use data is grossly underestimated. For electronics manufacturers, the task to determine if reporting is required is neither simple nor straightforward because the component chemical substances within the byproducts they produce will vary from batch to batch. In the same regard, reporting processing and use data for the component chemical substances within the byproducts would be speculative and most likely inaccurate. Processing and use of the component chemical substances is determined by the recycler and typically proprietary. In most instances, the recycler will know the processing and use information of the chemicals; therefore, the reporting requirements should be the responsibility of the recycler. EPA should recalculate the expected burden on industry to provide processing and use data to include manufacturing sectors that recycle their byproducts and were never subject to the IUR rule in the past.

V. The Instructions for 2011 Inventory Update Reporting as Proposed in the IUR Modifications Rule Guidance Document is Confusing and Inconclusive

The *Instructions for 2011 Inventory Update Reporting as Proposed in the IUR Modifications Rule* guidance document is confusing and inconclusive because it does not provide clear, uniform guidance on byproducts reporting and contradicts reporting requirements put forth in the proposed rule. EPA should ensure that the guidance documents provided are clear, straightforward, and align with the proposed changes to the IUR rule.

A. EPA's Explanation of Byproducts Reporting is Unclear

In the guidance document, EPA does not clearly state that byproducts sent for recycling are subject to the IUR rule. The definition of an IUR reportable chemical does not include byproducts sent for recycling. The definition in the guidance document states that an IUR reportable chemical is:

“[A] chemical substance that is domestically manufactured or imported into the US, is listed on the TSCA Inventory, and is not exempted by 40 CFR 711.6 in TSCA.”

Electronics manufacturers do not consider the byproducts or the component chemical substances contained within byproducts as, “a chemical substance that is domestically manufactured or imported into the U.S.” If EPA insists that byproducts sent for recycling are new chemicals reportable under the IUR rule, EPA should require the recycler to report the component chemical substances extracted from the byproduct.

IPC has repeatedly requested clarification of the Agency’s byproduct reporting guidance. IPC and its members strongly encourage EPA to issue broad guidance on byproducts reporting rather than trying to evaluate thousands of byproducts produced by hundreds of processes in dozens of industries on an individual basis. EPA would be undertaking a huge task if every manufacturing byproduct needed to be individually evaluated to determine whether it was reportable under the IUR rule. Since 2007, IPC has sent several letters and met with EPA on multiple occasions requesting a clear and logical explanation of why all byproducts should not be excluded from the IUR rule.⁷ IPC has also asked EPA to provide examples of a byproduct that would be exempt from TSCA IUR other than by disposal. In other words, **we request examples of byproducts that meet the byproducts exclusion in 40 CFR 720.3(g)(3)**. EPA should include these examples in the guidance document to assist generators of byproducts in determining whether they are obligated to report under the IUR rule. EPA must provide clear guidance on byproducts reporting that addresses the issue broadly to cover all byproducts, rather than on an individual basis.

The guidance document is confusing because it references contradictory definitions of byproducts. EPA should always refer to the definitions in 40 CFR Section 704.3⁸ in order to provide consistent definitions to the regulated community. Section 2.1.1.2 of the guidance document, *Byproducts and Impurities*, states that byproducts:

“[A]re **produced for the purpose of obtaining a commercial advantage** because they are part of the manufacture of a chemical product for a commercial purpose.” (Emphasis added.)

However, in 40 CFR 704.3 byproducts are defined as:

“[A] chemical substance **produced without a separate commercial intent** during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).” (Emphasis added.)

The definition in the guidance document states that byproducts are intentionally produced while the definition in 40 CFR Section 704.3 states that byproducts are coincidentally produced. The definition of byproducts in the proposed IUR rule and corresponding guidance should exactly match the definitions currently under 40 CFR Section 704.3 of TSCA.

B. The Guidance Document Confuses the Definition of “Manufacture for Commercial Purpose”

⁷ The attachments contain correspondence letters between IPC and EPA’s Office of Pollution Prevention and Toxics.

⁸ Title 40 Protection of Environment Chapter 1 Environmental Protection Agency Part 704 Reporting and Recordkeeping Requirements. http://www.access.gpo.gov/nara/cfr/waisidx_05/40cfr704_05.html.

The definition of “manufacture for commercial purpose” in the guidance document is likely to confuse readers. EPA contradicts itself by first stating that “manufacturing for a commercial purpose/advantage” is intentional and then stating that “manufacturing for a commercial purpose/advantage” is coincidental. On page 2-3 of the guidance document, EPA first states that the term “manufacture for commercial purpose” means “that the chemical is **produced for the purpose** of obtaining a commercial advantage.” (Emphasis added.) As EPA does not define commercial advantage, determining whether a manufacturer is obtaining a commercial advantage from the manufacture of a chemical creates ambiguity through its subjectivity. Later on page 2-3, EPA references 40 CFR Section 704.3 noting, “chemicals that are **produced coincidentally** during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated and impurities that remain in a substance or mixture.” (Emphasis added.) The guidance document does not help manufacturers determine whether a chemical is manufactured for a commercial purpose because the two definitions referenced on page 2-3 are contradictory. EPA should only refer to the definitions in 40 CFR Section 704.3 of TSCA to avoid confusion and ambiguity.

C. The Method for Determining Whether a Facility Needs to Report Contradicts the Proposed Rule

The portion of the guidance document that discusses the method for determining whether a facility is required to report under the IUR rule contradicts the proposed rule. The guidance document states that manufacturers are required to report if the chemical is produced above the 25,000 lb. threshold in the principal reporting year. The proposed rule states that:

“the proposed method [for determining whether a facility must report] would be to determine whether, **for any calendar year since the past principal reporting year**, a chemical substance was manufactured (including imported) at a site in production volumes 25,000 lbs. or greater...If the **production volume** for a reportable chemical substance **were 25,000 lbs. or greater for any calendar year during the 4-year period [2006-2010]** then it would be **necessary to report** the chemical substance unless it were otherwise exempt” (pg. 49633). (Emphasis added.)

On page 1-3 of the guidance document in Table 1-1 *Who is Required to Report* it states that manufacturers of chemical substances over 25,000 lbs. per site per year are required to report if the production volume of a chemical substance met or exceeded the 25,000 lb. threshold during the principal reporting year. Also, the second example in Table 2-3 on page 2-13 further contradicts the proposed rule. The example states that Company B has one manufacturing site, which manufactured 26,000 lbs. of Chemical X in 2009 and 20,000 lbs. of chemical X in 2010. The reporting requirement stated in the table is that Company B is not required to report for Chemical X because it manufactured less than 25,000 lbs. of Chemical X in 2010. In order for the guidance document to be effective in assisting manufacturers in submitting IUR reports, it must be consistent with the proposed rule.

VI. Conclusion

IPC and its members strongly urge EPA to exclude all byproducts, including those that are recycled, from reporting under the IUR rule because they do not serve a commercial purpose. If EPA maintains their interpretation that byproducts sent for recycling are new chemicals reportable under the IUR rule EPA will discourage recycling and may negatively impact other EPA programs by generating confusion about the reporting status of byproducts. If EPA determines that data is needed on byproducts sent for recycling then EPA should require the recycler to report under the IUR rule, not the generator. IPC also encourages EPA to review the proposed changes to the reporting requirements to ensure minimal resources are expended by industry and EPA to obtain only the data that is needed. In reevaluating the impact of the proposed rule on generators of byproducts, we expect EPA to recalculate the burden and costs to industry and modify their guidance documents to adequately guide the regulated community.

Attachments

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