



November 26, 2003

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

RE: OEI-2003-0025; FRL-7581-3, Toxic Chemical Release Reporting, Record keeping, Supplier Notification and Petitions under Section 313 of the Emergency Planning and Community Right to Know Act (EPCRA): Renewal; EPA ICR Number 1363.13, OMB Control Number 2070-0093, 68 *FR* 62069-62070; October 31, 2003.

Dear Sir or Madam:

IPC - Association Connecting Electronics Industries - is pleased to submit the following comments in response to the above referenced notice. IPC is the national trade association for the electronic interconnection industry, and represents more than 2,400 member companies involved in the manufacture and assembly of consumer, commercial, and military electronics. A significant number of our members file annual Toxics Release Inventory (TRI) reports, and thus have a direct interest in any actions pertaining to the TRI reporting requirements.

IPC supports the Environmental Protection Agency's (EPA's) proposed changes to Section 8 of Form R which separate actual releases to the environment from other waste management activities. However, we wish to note the importance of reflecting these changes throughout the public data release, which continues to lump releases to the air and water together with materials that are recycled and burned for energy recovery.

We also remain deeply concerned by EPA's failure to undertake real efforts to reduce the burden of TRI reporting, instead relying on inaccurate and unsupported changes to prior of TRI burden estimates.

In September, IPC submitted substantial comments detailing our concerns with the EPA's failure to:

- Substantiate its claim that the TRI reporting burden has been significantly reduced.
  - EPA relied on inadequate and inappropriate survey data to support its contention that the TRI Form R burden is lower than previously estimated.
  - EPA's burden estimates fail to account for the substantial increase in TRI burden related to reporting requirements for lead and other PBT chemicals.
  - EPA's burden estimates do not reflect the difficulty of complying with an increasingly complex TRI program. EPA's frequent regulatory and interpretive changes often result in an increase in burden imposed on the reporting community. Each year repeat filers must conduct familiarization and training needed to comply with new directions, interpretations and guidance, as well as adjust their compliance determination and Form R calculations to conform to the new requirements. Many of these changes are de-facto rulemakings that are conducted without public input or an economic impact and cost-benefit analysis.
- Fulfill its commitments under the Paperwork Reduction Act (PRA) to reduce reporting burdens, especially as they pertain to small businesses

Our comments today will not attempt to repeat our previous comments, which we incorporate by reference, but will address EPA's additional analysis and documentation added to the docket in September, 2003.

### **EPA has not Substantiated a Reduction in Burden Hours**

EPA has relied upon extremely limited and non-representative burden data to drastically reduce the estimated burden of completing TRI Form R from 47 hours to 14.5 hours. The data cited by EPA should not be used to revise the estimated burden of TRI Form R completion. The source of this data is a series of data quality surveys conducted in 1994, 1995, and 1996. The surveyed facilities are not representative of the current reporting facilities, nor were they complying with the same requirements as facilities reporting today. In their September 24, 2003 memorandum,<sup>1</sup> EPA attempts to calibrate the data to represent the current universe of reporters. Review of the calibration analysis, which relied upon classifying facility per-Form R burdens based on facilities' two digit SIC code, resulted in identification of the following significant concerns:

- Sample size for each SIC code is too small, especially considering the wide variation of industries within each two digit SIC code. Examination of the data reveals a significant range of burden estimates within each 2-digit SIC code.

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<sup>1</sup>Memorandum from Cody Rice, OIAA/EAD/ASB, US EPA to Judith Kendall, OEI/OIAA/TRIPD, US EPA September 24, 2003.

- No calibration was made for other important variables with a direct effect on burden. In particular, the data was not calibrated for firm size despite known effects on TRI burden. Additionally, no calibration was made for the chemical being reported, despite these concerns having been raised as a significant source of variation.<sup>2</sup> Nor did EPA heed its own contractors observations regarding the fact that, “*state reporting requirements make a significant impact*” on the effort required for Form R completion.<sup>3</sup> Furthermore, the number of media for which it was being reported. This incomplete analysis makes it impossible to measure and identify groups with higher burdens, such as the number of small businesses now grappling with the exacting requirements of reporting de-minimis levels of lead.
- EPA’s model depends on an inappropriate linear specification model which assumes a constant per Form R burden. As noted by EPA<sup>4</sup>, per-form burden decreases as the number of forms completed by a facility increases. The R-squared statistics in a number of the model prediction are so low as to indicate that the model has no statistical significance.

In addition to the data quality surveys, EPA cites a 1999 survey of 18 facilities. Similarly to the data quality survey, the survey population was too small to be representative of the reporting population and occurred before a significant number of changes were made to the TRI program. Based on the sample size, the 90% confidence level for Form R completion lies anywhere between 15 and 35 hours – significantly higher than 14.7 hours proposed by EPA.

EPA has improperly cited American Petroleum Institute (API) data to support the reduction in Form R burden estimates. We note that this data is representative only of a single industry and that concerns have been raised by API<sup>5</sup> regarding EPA’s misinterpretation of their data.

### **EPA has Failed to Provide Genuine Burden Reduction**

Our previous comments identified a number of options for reducing TRI burden. We note that EPA has failed to provide any burden reduction in this ICR. We also note, that while EPA has recently initiated a stakeholder dialogue<sup>6</sup> for the purpose of discussing TRI burden reduction options, no commitment has been made, in either the ICR or the dialogue ‘white paper,’ to reduce the burden of reporting under the TRI program.

IPC believes this ICR should not be approved without a firm commitment from EPA to propose and finalize a genuine burden reduction rule prior to the next reporting year. Additionally, if EPA wishes to change the current burden estimate, they should take steps to improve the reliability and accuracy of its TRI burden estimates by conducting a new,

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<sup>2</sup>Memorandum from Smita Brunnermeier, Mike Gallaher and Laura Bloch, Research Triangle Institute to Joe Callahan, May 7, 1999.

<sup>3</sup>Memorandum from Smita Brunnermeier, and Mike Gallaher, Research Triangle Institute to Joe Callahan, June 15, 1999.

<sup>4</sup> TRI Data Quality Report (EPA-745-R-98-016) December, 1988, Executive Summary, pg vii.

<sup>5</sup> Comments of the American Petroleum Institute, November 24, 2003.

<sup>6</sup>Federal Register, November 5, 2003, 68 FR 62579.

statistically valid burden survey. Finally, we note that EPA continues to claim that TRI is a low-cost, high value program,<sup>7</sup> despite the absence of any estimate of the value of the TRI data. EPA should be encouraged to conduct such an estimate.

IPC appreciates the opportunity to provide comments on the proposed renewal of information collection. Please contact me at (202) 962-0460 should you have any questions regarding our comments.

Sincerely,

Fern Abrams  
Director of Environmental Policy

CC: Paul Noe, OIRA, OMB  
Jim Laity, OIRA, OMB  
Kevin Bromberg, Office of Advocacy, SBA

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<sup>7</sup>Toxic Chemical Release Inventory, Toxic Chemical Release Reporting, Information Collection Request Supporting Statement, OMB Control Number 2070-0093 EPA ICR#1363.13 October 2003, pg. 6.