



ASSOCIATION CONNECTING  
ELECTRONICS INDUSTRIES®

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September 2, 2003

EPA Docket Center  
EPA West, Room B102  
Environmental Protection Agency  
1301 Constitution Avenue NW  
Washington, DC 20460

**RE: Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on Renewal Information Collection (Docket OEI-2003-0026)**

IPC - Association Connecting Electronics Industries - is pleased to submit the following comments in response to the Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on Renewal Information Collection. IPC is the national trade association for the electronic interconnection industry, and represents more than 2,400 member companies.

IPC believes that the Environmental Protection Agency (EPA) has failed to accurately assess the costs and benefits of the proposed information collection on businesses, particularly on small businesses, by significantly underestimating the burdens associated with completing the Toxic Release Inventory (TRI) Form. Additionally, EPA has failed to fulfill its commitments under the Paperwork Reduction Act (PRA) to reduce reporting burdens, especially as they pertain to small businesses.

IPC appreciates the opportunity to file these comments.

**I. Background**

Printed circuit boards and electronic assemblies are used in a variety of electronic devices that include computers, cell phones, pacemakers, and sophisticated missile defense systems. The industry is vital to the U.S. economy. Without printed circuit boards and electronics assemblies, you would not be able to start your car, watch television, answer a telephone,

turn on a light switch, or brew a cup of coffee. There would be no Internet, no e-mail, no VCRs or Nintendo. The industry employs more than 400,000 people and exceeds \$44 billion in sales. Industry members operate in every U.S. state and territory.

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." The typical IPC member has 100 employees and has a profit margin of less than four percent.

As previously commented by IPC<sup>1</sup>, the lowered reporting threshold for lead significantly increased the reporting burden on industry, but has resulted in little additional data. In 2001, the most recent year for which reporting data is available and the first reporting year under the lowered reporting threshold for lead, 8,561 Form Rs were filed for lead and lead compounds. Over 85% of these forms were filed by the manufacturing sector, yet this same sector was responsible for only 6% of reported releases. In fact, the median lead release of lead to the environment for all reporters is one pound.

In the electronics and electrical equipment manufacturing sector (SIC 36), 1,252 Form Rs were filed for lead and lead compounds at a cost estimated by EPA to exceed \$7,400 per facility.<sup>2</sup> Over 1,000 of these Form Rs were filed by facilities that were 'new,' that is they had not filed for lead or lead compounds prior to the lowering of the reporting threshold in 2001. Releases of lead to the environment by the electronics sector, and by industry in general, are virtually insignificant. The median lead release by reporters in SIC 36 is zero; while the median lead release for all reporters is one pound. In the electronics sector, over 70% of all Form Rs for lead and lead compounds reported less than one pound of lead released to the environment. The total releases reported by SIC code 36 amounts to less than 0.1% of all lead releases.

## II. Accuracy of Burden Estimate

IPC is concerned with the accuracy of EPA's burden analysis. In this ICR, EPA states that the burden for completing and submitting the Form A has a fixed relationship to the burden of completing Form R. EPA then claims a reduction in the burden for completing Form A, based upon the unjustified claims of Form R Burden Reduction. IPC's concerns regarding EPA's claimed reduction in Form R burdens are discussed in our September 1, 2003 comments submitted to Docket OEI-2003-0026, which are incorporated by reference and summarized below.

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<sup>1</sup>Comments of the IPC on Notice of Toxic Chemical Release Reporting; Request for Comment on Renewal Information Collection (EPA ICR No. 1363.12; OMB No. 2070-0093), January 8, 2003.

<sup>2</sup>*Lead and Lead Compounds: Community Right-to-Know Toxic Chem Release Reporting*, 66 FR 4500, January 17, 2001, pp. 4534.

EPA's drastic reduction in Form R burden estimates are based upon data collected from 182 facilities that reported in 1994-1999.<sup>3</sup> There are several problems with the use of this data to support current reduction in the estimated burden for completing Form Rs:

- The data is not representative of the current reporting universe
- The conclusions of the burden surveys have not been statistically analyzed or validated
- Changes in reporting requirements, subsequent to the facility burden surveys, have increased the burden of completing Form R
- Many of EPA's explanations for lowered burden estimates are based on invalid, unsubstantiated assumptions
- The burden resulting from EPA's proposed changes to Form R are not accounted for in the estimated reporting burden

EPA has also overestimated the value of TRI-ME software. EPA asserts a 25% reduction in burden due to the use of TRI-ME.<sup>4</sup> This extraordinary savings is based on data collected from a, "small sample of facilities that used TRI-ME for the 2000 reporting year as part of a pilot process." It is unclear what statistically valid methodology EPA used to extrapolate this small sample to the entire TRI Universe. In EPA's recent stakeholder dialog on TRI, less than 1/3 of those commenting on TRI-ME found it to be helpful or easy to use. Of those that supported TRI-ME, 75% felt improvements were needed.

### **III. Lack of Genuine Burden Reduction**

The ICR notice for Form R states, "EPA ICR No. 1363.12 was approved by OMB on March 10, 2003 with a shorter than usual clearance in order to provide EPA an opportunity to examine in more detail **the TRI burden estimates and opportunities for reducing burden** and enhancing the practical utility of the data" (emphasis added).<sup>5</sup> Despite OMB's encouragement in the last ICR clearance, EPA has failed to take any actions that would significantly reduce reporting burdens and has instead relied on limited data and flawed assumptions in order to derive imaginary reduced burden estimates.

The alternate threshold certification, otherwise known as Form A, is a significant burden reduction option of the TRI program. Unfortunately, EPA has in recent years, significantly decreased the proportion of facilities eligible for this lower burden form of reporting by making the alternate threshold certification (Form A) unavailable for reporting lead and other Persistent, Bioaccumulative and Toxic (PBT) substances. Review of the data presented in

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<sup>3</sup>Estimates of Burden Hours for Economic Analyses of The Toxics Release Inventory Program, Cody Rice, Analytical Support Branch, Environmental Analysis Division, Office of Environmental Information, US EPA, June 10, 2002.

<sup>4</sup>Toxic Chemical Release Inventory, Toxic Chemical Release Reporting, Information Collection Request Supporting Statement, OMB Control Number 2070-0093 EPA ICR#1363.13 June 2003, pg. 84.

<sup>5</sup>68 FR 39074 July 1, 2003

EPA's response to OMB's January 18, 2001 Terms of Clearance<sup>6</sup> and in the supporting statement for this ICR<sup>7</sup> indicates that the introduction of the PBT restriction on Form A usage has reversed the trend of increasing Form A usage.

EPA's decision to forbid the use of Form A by reporters of PBT substances has significantly reduced the number of reports that are eligible for Form A. This is particularly troublesome given the large number of small entities reporting little or no releases, as discussed in previous sections. In order to offer real reductions in TRI reporting, EPA should allow Form A to be used for reporters of PBT releases. If necessary, EPA could modify either the thresholds for Form A or Form A itself in order to address increased concerns about PBT releases.

#### **IV. Restore Form A Reporting for Lead**

EPA's withdrawal of the use of Form A for TRI reporting of lead and other PBTs represents a significant burden, as discussed previously. Restoration would offer a significant burden reduction. As evidenced by the large number of facilities reporting lead releases of one pound or less, restoration of these provisions would not result in any significant information loss.

In the response to comments for the previous ICR<sup>8</sup>, EPA claimed that it would be unable to meet the requirement of the Emergency Planning and Community Right-to-Know Act (EPCRA) were it to increase the applicability threshold for Form A. EPA cited Section 313(f) (2) which states 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 TRI. To substantiate this claim, EPA referred to their response to OMB's January 18, 2001 Terms of Clearance notice for the ICR renewal of Form A.<sup>9</sup>

Review of the analyses presented in the Response to Clearance indicates that EPA has misinterpreted the requirements under the Pollution Prevention Act (PPA).<sup>10</sup> As discussed by EPA in the response to comments for the previous ICR<sup>11</sup>, Section 6607 of the PPA requires reporting of "the amount of the chemical from the facility which is recycled and the process of recycling used." EPA thus concludes that quantities of toxic chemicals recycled

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<sup>6</sup> EPA's Response to OMB's January 18, 2001 Terms of Clearance notice for the ICR renewal of Form A, which is included as Attachment F for the Supporting Statement for the Form A ICR. EPA 1704.06, OMB 2070-01143.

<sup>7</sup> Toxic Chemical Release Inventory, Alternate Threshold for Low Annual Reportable Amounts; Toxic Chemical Release Reporting, Information Collection Request Supporting Statement, OMB Control Number 2070-0143 EPA ICR#1704.07 April, 2003.

<sup>8</sup> Response to Comments Received on the Request for Comment on Renewal Information Collection for Toxic Chemical Release Reporting for the Form R (EPA ICR No. 1363.12, OMB No. 2070-0093, 67 FR 44213) and the Form A Certification Statement (EPA ICR No. 1704.06, OMB No. 2070-0143, 67 FR 44197)

<sup>9</sup> EPA 1704.06, OMB 2070-01143.

<sup>10</sup> 42 USC 11071 to 11079.

<sup>11</sup> Response to Comments Received on the Request for Comment on Renewal Information Collection for Toxic Chemical Release Reporting for the Form R (EPA ICR No. 1363.12, OMB No. 2070-0093, 67 FR 44213) and the Form A Certification Statement (EPA ICR No. 1704.06, OMB No. 2070-0143, 67 FR 44197)

by a facility must be included in TRI reporting. EPA does not, however, explain why materials reported under the PPA must be included in TRI threshold determinations. There is nothing in either EPCRA or the PPA that requires materials sent off-site for recycling to be included in TRI threshold determinations. Rather, EPA has misused quantities of **recycled** materials included on TRI reports, as per the PPA, to bolster its claims that raising the Form A thresholds would make EPA unable to meet its statutory requirements under EPCRA to capture the substantial majority of **releases**. EPA's supporting analysis, presented in Tables 5 and 6, furthers this error by lumping recycled materials in the general category of "releases." EPA's circular logic does not provide an adequate justification for maintaining the current the Form A thresholds, nor should it be considered justification for not excluding recycled materials from TRI threshold determinations.

In the response to comments for the previous ICR, EPA claims that, "Expanding Form A Certification Statement eligibility by raising established thresholds seems premature given that the Form A Certification Statement is underutilized by reporting facilities at current threshold levels." While Form A has been available for seven years, usage has not risen since 1998. Burden relief for the currently ineligible facilities, particularly those reporting virtually no releases of lead, should not be dependent on the usage rate by the currently eligible facilities. The appropriateness of the Form A substitution should rest solely on an analysis of the relative value and the paperwork burdens of the two competing forms, and should not be affected by the degree of usage of the Form A by the currently eligible facilities.

## V. Conclusion

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's well being. Unfortunately, the TRI reporting forms and instructions have, over the years, strayed further and further from its original goals, continually increasing the burden of reporting while failing to provide corresponding benefit. In limiting the use of Form A, EPA has failed to distinguish between significant amounts of data and significant amounts of insignificant data. IPC urges EPA to give serious consideration to increasing the use of Form A to provide genuine burden reduction.

Sincerely,



Fern Abrams  
Director of Environmental Policy

cc: Office of Information and Regulatory Affairs  
Office of Management and Budget

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