

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|--|--------|---|
| 1 | Inappropriate release of enforcement information via revision code | API | <p>Comment: The reason for revision may be related to pending enforcement actions. For instance, one of the codes involves EPA/state inspections and one indicates voluntary disclosure through EPA's audit policy. Revisions may be submitted by a company while a pending enforcement action is still being resolved. During this process, companies are rightfully sensitive about the status of the ongoing enforcement case. By adding this data element, EPA is using the Form R and Form A to collect and publicly distribute potential facility enforcement information <i>without</i> any means of providing the explanatory information necessary to understand the situation. A revised TRI report is not an appropriate method to collect such information about enforcement actions, which may still <i>be in progress</i> when the revision is filed.</p> <p>Response: EPA agrees with commenters that revisions may be submitted while a pending enforcement action is still being resolved. In response to commenters concerns EPA has removed all revision codes specific to enforcement. In addition EPA has modified the proposed revision codes as follows:</p> <ul style="list-style-type: none"> • New monitoring data (RR1) • New emission factor(s) (RR2) • New chemical concentration data (RR3) • Recalculation(s) (RR4) • Other reason(s) (RR5) <p>EPA has also decided to include an “other reason(s)” code for revising a TRI form.</p> |
| | | IPC | <p>Comment: IPC is concerned that reasons such as “to revise as a result of an EPA/State inspection,” could be used to collect enforcement and compliance information on facilities, which is not the purpose of the TRI Program. According to EPCRA §313, the data submitted in the forms are intended to inform the public about releases of toxic chemicals in the environment, not to inform the public on a facility’s compliance record. IPC is also concerned that publicizing such information may discourage TRI form revisions and diminish the quality and accuracy of the TRI data. IPC suggests that unless facilities are provided adequate privacy protection, EPA should not collect information on the reasons for revisions.</p> <p>Response: EPA agrees with commenters that revisions may be submitted while a pending</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|---|--------|---|
| | | | <p>enforcement action is still being resolved. In response to commenters concerns EPA has removed all revision codes specific to enforcement. In addition EPA has modified the proposed revision codes as follows:</p> <ul style="list-style-type: none"> • New monitoring data (RR1) • New emission factor(s) (RR2) • New chemical concentration data (RR3) • Recalculation(s) (RR4) • Other reason(s) (RR5) <p>EPA has also decided to include an “other reason(s)” code for revising a TRI form.</p> |
| 2 | <p>Revision codes are complex and increase reporting burden.</p> | API | <p>Comment: This revision adds unnecessary complexity to the TRI Program's reporting requirements; the code selection decision will add reporting burden, with no added benefit to environmental protection.</p> <p>Response: EPA believes revisions and withdrawals play an important role in improving TRI data quality especially due to ever improving estimation and/or monitoring methodologies. The revision codes offer reporters an opportunity to identify reasons for revising their TRI submissions, and to enable EPA to provide better guidance to facilities for improving overall data quality. However, in response to commenters’ concerns that proposed revision codes add unnecessary complexity to the TRI Program’s reporting requirements, EPA has modified the proposed revision codes as follows:</p> <ul style="list-style-type: none"> • New monitoring data (RR1) • New emission factor(s) (RR2) • New chemical concentration data (RR3) • Recalculation(s) (RR4) • Other reason(s) (RR5) <p>Further, EPA has also decided to include an “other reason(s)” code for revising a TRI form. The revision codes developed by EPA are based on information previously provided to the Agency by TRI reporters identifying reasons for form revision. EPA believes that reporters will be able to quickly and easily determine the appropriate revision code to use, given that the set of</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|--|--------------|--|
| | | | likely responses is well-defined. EPA maintains that the burden associated with the slight procedural changes—that only apply to the subset of forms that are revised—is negligible and assumed to be zero. |
| | | SOCMA | <p>Comment: Adding boxes for mandatory revision codes adds unnecessary complexity to the TRI Program's reporting requirements.</p> <p>Response: EPA believes revisions and withdrawals play an important role in improving TRI data quality especially due to ever improving estimation and/or monitoring methodologies. The revision codes offer reporters an opportunity to identify reasons for revising their TRI submissions, and to enable EPA to provide better guidance to facilities for improving overall data quality. However, in response to commenters' concerns that proposed revision codes add unnecessary complexity to the TRI Program's reporting requirements, EPA has modified the proposed revision codes as follows:</p> <ul style="list-style-type: none"> • New monitoring data (RR1) • New emission factor(s) (RR2) • New chemical concentration data (RR3) • Recalculation(s) (RR4) • Other reason(s) (RR5) <p>Further, EPA has also decided to include an “other reason(s)” code for revising a TRI form.</p> <p>The revision codes developed by EPA are based on information previously provided to the Agency by TRI reporters identifying reasons for form revision. EPA believes that reporters will be able to quickly and easily determine the appropriate revision code to use, given that the set of likely responses is well-defined. EPA maintains that the burden associated with the slight procedural changes—that only apply to the subset of forms that are revised—is negligible and assumed to be zero.</p> |
| 3 | Revision codes should have an “Other” category. | API | <p>Comment: EPA fails to provide an "Other" category. The list is incomplete and, if this change is approved, there will be situations where the reason behind a facility's revision is not in the proposed menu of revision codes.</p> <p>Response: In response to comments that proposed revision codes list is incomplete without an</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|--|--------|--|
| 4 | Clarification needed on “facility classification” in Revision code (RF3). | API | <p>“Other” category, EPA has decided to include an “other reason(s)” code for revising a TRI form.</p> <p>Comment: Regarding the code "To update facility classification (RF3)," it's unclear to us what the Agency means by "facility classification." It appears EPA may intend "facility classification" to mean changes to Section 4.2 of Part I of the Form R or Form A, but since that data element is not referred to as "facility classification," it is not clear.</p> <p>Response: The commenter requests clarification of proposed revision code, “To update facility classification (RF3).” Specifically, the commenter is concerned whether this would apply to changes to Section 4.2 of Part I of Form R or Form A. EPA has removed “To update facility classification (RF3)” code and modified the proposed revision codes as follows:</p> <ul style="list-style-type: none"> • New monitoring data (RR1) • New emission factor(s) (RR2) • New chemical concentration data (RR3) • Recalculation(s) (RR4) • Other reason(s) (RR5) |
| 5 | Are revision codes optional? | API | <p>Comment: In the Federal Register notice, EPA writes this proposed addition: "will provide boxes on the Form R and Form A where up to two codes...can be entered..." It's unclear whether a facility can choose to leave the Form blank and choose not to enter one of the revision codes in the box when re-submitting the Form.</p> <p>Response: The commenter requests clarification whether a facility can choose not to enter any revision code when re-submitting the Form. For those reporters submitting a revision, the facility reporter must enter a revision code. EPA has decided, however, to modify proposed revisions codes and include an “other reason(s)” code for revising a TRI form.</p> |
| 6 | EPA has changed the mechanisms for revising a TRI submission but has not discussed the change in the FR notice. | API | <p>Comment: Upon reviewing the ICRs, API discovered a proposed change to the RFI not discussed in the Federal Register notice. In the 2006 RFI, EPA provides three mechanisms for facilities to revise a TRI submission: TRI-ME via CDX; TRI-ME via diskette; and hard copy form. In the Form R ICR, these three mechanisms are still available for facilities to revise a TRI submission, however the proposed requirements for the hard copy option increase the difficulty for facilities to revise submissions on paper.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|---|
| | | | <p>In the 2006 RFI, for hard copy revisions, facilities can make corrections by one of three hard copy methods: (1) Facility Data Profile (FDP); (2) Photocopy of Original; and (3) Blank Copy Form. In the Form R ICR, EPA only lists the Photocopy of Original <i>option for</i> hard copy Form changes. Nowhere in the ICR does EPA discuss why the Agency intends on removing the Facility Data Profile and Blank Copy Form options. More importantly, EPA fails to highlight this proposed change in the Federal Register notice, thereby not alerting the public and the regulated community of the "proposed" removal of the hard copy revision options. API questions why EPA removed the Facility Data Profile (FDP) and Blank Copy Form options.</p> <p>EPA also changes the process for facilities to submit revisions via the Photocopy of Original Submission option. Currently, as described in the 2006 RFI, facilities simply submit a photocopy of the original submission with the corrections made in blue ink, and the certification statement on page I, re-signed and re-dated. The Photocopy of Original Submission option as described in the ICR <i>requires</i> facilities to provide a photocopy of the original submission and attach as a cover page to the photocopy of the original submission, page 1 of the most current year's reporting form, which they would re-sign and re-date. Requiring inclusion of page 1 from the current reporting year is unnecessary and increases reporting complexity/ burden. More specifically, it is also unclear how EPA would intend for this to work in cases where the most recent report was submitted electronically, and the hard copy printed from TRI-ME states "File Copy Do Not Submit to EPA" on it. Further, what if a facility is revising a Form for a particular chemical where the facility no longer meets the TRI reporting requirements for that chemical? In this instance, there is no page one of the current year's reporting form. Also, according to this ICR, EPA would require (on the newly added cover page 1) that facilities re-sign and re-date the certification statement and enter an "X" in the box next to "Revision" along with the appropriate revision code in the space provided. The proposed Form R that accompanies the ICR, however, does not include a box to enter the "X." EPA needs to rethink the proposed process changes associated with the Photocopy of Original Submission option.</p> <p>Response: The commenter claims that proposed revision requirements for the hard copy option increases the difficulty for facilities to revise submissions on paper. The commenter also claims that EPA fails to highlight the removal of two methods – facility data profile (FDP) and blank copy form – for hard copy revisions. The commenter is also concerned about the requirement to</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|---|--------|---|
| | | | <p>append page 1 of the 2007 reporting year form to a form being revised via paper. In particular, the commenter is concerned about those instances where a facility is revising via the paper option a form that was originally submitted electronically and whose print-out reads “File Copy Do Not Submit to EPA.”.</p> <p>EPA encourages facilities to use the Internet option to submit TRI forms and to revise or withdraw previous TRI submissions. EPA finds it unlikely that a facility would be unwilling to use electronic means to revise a form that was originally submitted electronically. However, for those reporters who desire to revise a submission through the hard copy option regardless of how the original submission was made, the reporters need to append page 1 of the 2007 (or most recent form post 2007) to a hard copy of the original submission so that the reporters can use the revision code box on the cover page 1 to supply the appropriate code for revising the submission. The purpose of attaching the hard copy of the original submission is to ensure proper identification of the form being revised. EPA understands that in case of a print-out of a form originally submitted electronically, the hard copy will bear “File Copy Do Not Submit to EPA.” Such a notation will not adversely affect the revision process provided in the Reporting Forms and Instructions.</p> <p>The commenter also points out the instructions to enter ‘X’ in the box next to the boxes for the revision codes, but the proposed form does not have a box to enter ‘X’. In response to this comment, EPA has revised the instructions by removing the text, “enter an ‘X’” in the box next to “Revision (enter code)” and instead provided two code boxes for entering appropriate revision code(s).</p> |
| 7 | Need for suggested withdrawal codes is questioned. | API | <p>Comment: API is supportive of the addition of a withdrawal field, but questions the need for the suggested withdrawal codes, for reasons similar to those noted above for the proposed revision codes.</p> <p>Response: The commenters are supportive of the addition of a withdrawal field, but question the need for the suggested withdrawal codes. In response to comments, EPA has revised proposed withdrawal codes: Facilities may request a withdrawal for one or two of the following reasons:</p> <ul style="list-style-type: none"> • Did not meet the reporting threshold for manufacturing, processing, or otherwise use (WT1) |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|--|--------|---|
| | | | <ul style="list-style-type: none"> • Did not meet the reporting threshold for number of employees (WT2) • Not in a covered NAICS Code (WT3) • Other reason(s) (WO1) <p>EPA understands revisions and withdrawals play an important role in improving TRI data quality especially due to ever-improving estimation and/or monitoring methodologies. This offers an opportunity to identify reasons for revision and withdrawal, and to provide better guidance to facilities in that industry sector for improving overall data quality.</p> |
| | | SOCMA | <p>Comment: SOCMA is supportive of the addition of a withdrawal field, but questions the need for the suggested withdrawal codes, for reasons similar to those noted above for the proposed revision codes.</p> <p>Response: The commenters are supportive of the addition of a withdrawal field, but question the need for the suggested withdrawal codes. In response to comments, EPA has revised proposed withdrawal codes: Facilities may request a withdrawal for one or two of the following reasons:</p> <ul style="list-style-type: none"> • Did not meet the reporting threshold for manufacturing, processing, or otherwise use (WT1) • Did not meet the reporting threshold for number of employees (WT2) • Not in a covered NAICS Code (WT3) • Other reason(s) (WO1) <p>EPA understands revisions and withdrawals play an important role in improving TRI data quality especially due to ever-improving estimation and/or monitoring methodologies. This offers an opportunity to identify reasons for revision and withdrawal, and to provide better guidance to facilities in that industry sector for improving overall data quality.</p> |
| 8 | Withdrawal codes should have an “Other” category. | API | <p>Comment: If EPA decides to require withdrawal codes, API suggests that EPA create an "Other" category for withdrawal reasons beyond the proposed withdrawal codes.</p> <p>Response: The commenter has suggested EPA to create “Other” category to withdrawal codes. In response to comments, EPA has modified proposed withdrawal codes and added an “other reason(s)” category. Facilities may request a withdrawal for one or two of the following reasons:</p> <ul style="list-style-type: none"> • Did not meet the reporting threshold for manufacturing, processing, or otherwise use (WT1) • Did not meet the reporting threshold for number of employees (WT2) • Not in a covered NAICS Code (WT3) |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|--|--------|---|
| | | | <ul style="list-style-type: none"> • Other reason(s) (WO1) |
| 9 | Identifying Form Preparer may be inappropriate. | API | <p>Comment: TRI reporting is a complex yearly process involving a multitude of facility (e.g., refinery) personnel. Due to the need for the involvement of several individuals across a facility, it is API's position that EPA should have one single facility contact, which is the Technical Contact. In some cases, the form preparer (when not the technical contact) is a third-party consultant hired by the facility to help complete the Form. In such instances, it would be particularly inappropriate for EPA to contact the form preparer directly, and the facility would likely have a contractual relationship with the consultant that would prohibit them from dealing with EPA on behalf of the company. Thus, the form preparer would refer the Agency back to the Technical Contact. This situation would be counter-productive and burdensome for both the facility and EPA.</p> <p>Response: EPA acknowledges API's concern regarding the direct contact of a contractor by EPA and, will not add the form preparer elements to the TRI forms.</p> |
| | | IPC | <p>Comment: IPC believes that it is inappropriate for EPA to contact a third-party form preparer without notifying the facility. Since EPA should obtain authorization from the facility before contacting a third-party form preparer, collecting form preparer contact information on the TRI forms would be counter-productive and should be removed from the ICR.</p> <p>Response: EPA acknowledges the IPC's concern regarding the direct contact of a contractor by EPA and, will not add the form preparer elements to the TRI forms.</p> |
| | | SOCMA | <p>Comment: Addition of a field for "Form Preparer" for use by a facility if the form preparer is a different individual than the "Technical Contact" is problematic and requires reconsideration.</p> <p>Response: The comment by SOCMA does not clarify why specifically including a field for the form preparer is problematic. But in response to similar comments from others, EPA has decided to add the form preparer elements to the TRI forms.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|---|--------|--|
| 10 | Make Form Preparer optional | API | <p>Comment: If EPA decides to provide a field on the Form R and Form A for "Form Preparer," API urges EPA to clearly state in the RFI that facilities may leave the field blank (thereby making completion of this data element optional). In the Form R ICR, EPA does write "If you choose to designate the same person as both the Technical Contact and the Form Preparer, you may enter "Same as Section 4.3" in this space." However, the technical contact and form preparer may not necessarily be the same person. If the form preparer is not the same person as the technical contact (e.g., the form preparer is an external consultant), then the facility should not be obligated to list them, but it would be incorrect to state that they are the same person as the technical contact.</p> <p>Response: EPA will not add the form preparer elements to the TRI forms.</p> |
| 11 | Addition of public contact is a good idea | API | <p>Comment: API has no objection to the addition of an e-mail address field for the "Public Contact" to Form R and the addition of a field for the "Public Contact Name" to Form A, along with associated telephone number and e-mail address fields. These changes can potentially make facility contact more efficient.</p> <p>Response: EPA thanks API for the positive comment and will implement the change to the TRI forms.</p> |
| 12 | Additional Point of contact information is unnecessary | IPC | <p>Comment: IPC believes that a small number of instances in the past, where EPA has had to make a few phone calls to identify an appropriate facility contact, do not serve as a justifiable reason for adding entire new fields to the reporting forms which burden the universe of TRI filers. If these instances are significant, EPA must provide numerical estimates for the frequency of occurrences where EPA has had to identify the appropriate contact to address questions regarding a facility's data submission. EPA must also calculate the staff burden against the TRI reporter burden to properly demonstrate the justification for additional points of contact. Unless the staff burden exceeds the projected industry burden, the new data elements should be removed from the ICR.</p> <p>Response: EPA acknowledges the IPC's concern regarding burden, and upon calculating the burden on industry relative to the burden reduction realized by EPA through this action, will not add the form preparer elements to the TRI forms.</p> |
| 13 | Classification of business size is | API | <p>Comment: We are also concerned about potential liability and enforcement risk associated with</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | <i>Topic</i> | <i>Author</i> | <i>Comment/Response</i> |
|---|--|-------------------|--|
| | <p>difficult, clearer guidance on business size should be provided, small business field should be optional</p> | | <p>wrongly certifying the small business status of the parent company. Finally, the Emergency Planning and Community Right-to-Know Act (EPCRA) is not the appropriate mechanism to collect small business data. The data are not required by the statute and at a minimum should not be mandatory on Forms R and A.</p> <p>As the SBA definition does not provide a concise, definitive definition of what constitutes a small business and in light of the potential liability for companies associated with the inclusion of this data element, API suggests that the small business field be optional. At a minimum, EPA should clearly define what constitutes a small business in the TRI Reporting Forms and Instructions (RFI).</p> <p>Response: After further consideration of the proposed small business data element, including the concerns raised by commenters, EPA has decided not to pursue, at this time, the collection of information related to the small business status of companies reporting to TRI.</p> |
| | | <p>IPC</p> | <p>Comment: In the July ICR, EPA proposed to include a check box in both TRI forms to indicate whether a reporting facility’s parent company is a small business. The ICR states that this information will help EPA determine the impact of regulatory changes on small businesses quickly and accurately. While IPC agrees that this information could be useful, merely posing the question without adequate instructions on how to determine whether a facility is a small business will likely result in erroneous and inaccurate data. Since TRI reporters may not be fully aware of the Small Business Administration’s criteria for qualifying as a small business, EPA must provide clear guidance explaining how to appropriately ascertain the data requested. IPC suggests that EPA explain in the TRI guidance documents and training materials that the SBA defines a small business based on either millions of dollars or number of employees, depending on North American Industry Classification System (NAICS) codes. EPA should also provide the SBA “Table of Small Business Size Standards Matched to North American Industry Classification System Codes,” in the TRI guidance documents, accompanied by a hyperlink directly to the SBA document: http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf</p> <p>Response: After further consideration of the proposed small business data element including the concerns raised by commenters, EPA has decided not to pursue, at this time the collection of</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|---|
| | | | information related to the small business status of companies reporting to TRI. |
| | | SOCMA | <p>Comment: The small business field should be optional. At a minimum, EPA should clearly define what constitutes a small business in the TRI Reporting Forms and Instructions (RFI), and clarify why it needs this information.</p> <p>Response: After further consideration of the proposed small business data element including the concerns raised by commenters, EPA has decided not to pursue, for the present time, the collection of information related to the small business status of companies reporting to TRI.</p> |
| 14 | Proposed alternate approach to collecting size of business. | IPC | <p>Comment: An alternative approach would be for EPA to collect information on the number of employees by providing check boxes for several employee ranges (i.e. less than 100 employees, more than 100 employees). EPA can use this information to determine whether the facility is a small business.</p> <p>Response: After further consideration of the proposed small business data element including the concerns raised by commenters, EPA has decided not to pursue, at this time, the collection of information related to the small business status of companies reporting to TRI.</p> |
| 15 | EPA underestimates burden associated with determining small business qualification. | IPC | <p>Comment: IPC also believes that the ICR has underestimated the burden associated with determining small business qualification. The ICR states that the burden expected with this new data element would be 15.4 minutes the first year and 0.8 minutes in subsequent years. Without EPA providing further guidance, TRI filers would need to search the SBA website for the SBA Small Business Standards to determine if indeed the facility meets SBA qualifications for small business designation. TRI filers would also need to consult with the appropriate internal staff and obtain the necessary company information. The total time spent to ascertain the necessary data would undeniably exceed the 15.4 minutes proposed by the ICR. Additionally, EPA cannot assume that once a company checks that it is a small business in the first reporting year, the burden would be reduced to 0.8 minutes in subsequent years. Facilities will have to verify their small business qualifications every year since employee and revenue numbers may fluctuate between TRI reporting cycles. Therefore, while the burden for subsequent year filers should be less than first year filers, it is significantly more than the mere 0.8 minutes (48 seconds) allotted by the ICR.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|---|
| | | | <p>Response: This comment no longer applies due to the decision made on comments #13 and #14. EPA has decided not to pursue, at this time the collection of information related to the small business status of companies reporting to TRI.</p> |
| 16 | <p>Additional basis of estimate codes add unnecessary complexity, reporting burden, and enforcement risk.</p> | API | <p>Comment: API has reviewed the proposed "basis of estimate" codes provided in the ICR for Form R. We believe these additions add unnecessary and unjustified complexity to the "basis of estimate" data element. As with most changes to TRI's reporting requirements, EPA underestimates the burden of increasing the menu of code options. Along with an increase in burden, the proposed additional codes would increase enforcement risk for the reporting entity in the event that the entity selects the wrong code.</p> <p>Response: EPA originally proposed the following ten "basis of estimate" codes:</p> <p>M1- Estimate is based on chemical-specific continuous emission monitoring data or measurements for the EPCRA section 313 chemical.</p> <p>M2- Estimate is based on chemical-specific periodic and/or random monitoring, including source testing data or measurements for the EPCRA section 313 chemical.</p> <p>C- Estimate is based on mass balance calculations, such as calculation of the amount of the EPCRA section 313 chemical in wastes entering and leaving process equipment.</p> <p>E1- Estimate is based on chemical-specific published emission factors, such as those relating release quantity to through-put (e.g., air emission factors) for the EPCRA section 313 chemical.</p> <p>E2- Estimate is based on chemical-specific site-specific emission factors, such as those relating release quantity to through-put (e.g., air emission factors) for the EPCRA section 313 chemical.</p> <p>O1- Estimate is based on non-chemical specific published emission factors, such as that relating</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|--|
| | | | <p>release quantity of fluids per equipment type (e.g., synthetic organic chemical industry emission factors).</p> <p>O2- Estimate is based on non-chemical specific site-specific emission factors, such as that relating release quantity of fluids per equipment type.</p> <p>O3- Estimate is based on parametric emissions monitoring of surrogate parameters. Parameters that are followed up for operation control purposes (like temperature, conductivity, pressure and pH) can also have good correlation to the actual emission levels. A combination of surrogates may result in a strong relationship to the parameter to be monitored.</p> <p>O4- Estimate is based on published emission models that are generally based on physico-chemical principles and empirical relationships. The most familiar model is USEPA's TANKS 4.09D developed for estimating organic emissions from storage tanks.</p> <p>O5- Estimate is based on other approaches such as engineering calculations (e.g., estimating volatilization using published mathematical formulas) or best engineering judgment. This would include applying estimated removal efficiency to a treatment, even if the composition of the waste before treatment was fully identified through monitoring data.</p> <p>In response to commenters' concerns, EPA has decided to modify the proposed approach by consolidating the O1 through O5 basis of estimate codes to a single O basis of estimate code. The following codes are the revised basis of estimate codes:</p> <p>M1- Continuous emission monitoring</p> <p>M2- Periodic or random emission monitoring</p> <p>C- Mass balance calculations</p> <p>E1- Published emission factor</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|---|
| | | | <p>E2- Site-specific emission factor</p> <p>O- Other methods of estimation</p> <p>EPA believes that by having facilities report the detailed basis of estimates the Agency will be in a better position to help TRI reporters improve estimation methodologies and hence the overall quality of the data they submit to the TRI program. Having this more detailed information, EPA will be better able to more effectively direct TRI compliance assistance and data quality assessments to those sectors with the greatest need.</p> <p>For example, the TRI Program noted certain facilities in a industry sector had reported approximately an order of magnitude lower releases for a specific chemical compared to similar size facilities, although all these facilities identified emission factors (E) as the basis of estimate. On further follow-up, the TRI Program learned that facilities that reported lower releases had used industry-developed, facility-specific emission factors, whereas the facilities that reported higher release had used approximately 20 year old EPA-developed emission factors. The TRI Program contacted the Office of Air Quality Planning and Standards (OAQPS) Emissions Factors Group about this new emission factor. OAQPS is currently working with industrial facilities to update the emission factors inventory.</p> <p>EPA acknowledges that increasing the menu of basis of estimate code options may slightly increase Form R reporting burden (basis of estimate codes do not apply to Form A). On the basis that two of the current codes are still valid (C and O) and the remaining two current codes (M and E) are divided in to four new codes (E1, E2, M1, and M2), EPA has re-estimated the incremental burden associated basis of estimate codes. In the OMB-approved methodology described in comment #22, estimates of reporting burden for data elements on Form R Sections 5 and 6 are disaggregated to include burden associated with selecting and recording basis of estimate codes in addition to calculating and reporting total releases or transfers.</p> <p>Based on this methodology, first-year incremental burden associated with reporting basis of estimate codes for a non-PBT form is now estimated to require an additional 1.88 minutes. Subsequent-year burden associated with reporting basis of estimate codes for a non-PBT form is</p> |

TRI Form R and Form A ICR Renewal 2007
Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| <i>#</i> | <i>Topic</i> | <i>Author</i> | <i>Comment/Response</i> |
|----------|--------------|---------------|--|
| | | | now estimated to require an additional 1.41 minutes. As a reminder, these estimates of incremental burden are meant to represent a typical facility and thus reflect average reporting burden. |
| | | SOCMA | <p>Comment: The proposed additional "basis of estimate" codes add unnecessary and unjustified complexity to the "basis of estimate" data element.</p> <p>Response: In response to commenters' concerns EPA has decided to modify the basis of estimate codes as follows:</p> <p>M1- Continuous emission monitoring</p> <p>M2- Periodic or random emission monitoring</p> <p>C- Mass balance calculations</p> <p>E1- Published emission factor</p> <p>E2- Site-specific emission factor</p> <p>O- Other methods of estimation</p> <p>EPA believes that by having facilities report the detailed basis of estimates the Agency will be in a better position to help TRI reporters improve estimation methodologies and hence the overall quality of the data they submit to the TRI program. Having this more detailed information, EPA will be better able to more effectively direct TRI compliance assistance and data quality assessments to those sectors with the greatest need.</p> <p>For example, the TRI Program noted certain facilities in a industry sector had reported approximately an order of magnitude lower releases for a specific chemical compared to similar size facilities, although all these facilities identified emission factors (E) as the basis of estimate. On further follow-up, the TRI Program learned that facilities that reported lower releases had used industry-developed, facility-specific emission factors, whereas the facilities that reported</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|------------|--|
| | | | <p>higher release had used approximately 20 year old EPA-developed emission factors. The TRI Program contacted the Office of Air Quality Planning and Standards (OAQPS) Emissions Factors Group about this new emission factor. OAQPS is currently working with industrial facilities to update the emission factors inventory.</p> <p>EPA acknowledges that increasing the menu of basis of estimate code options may slightly increase Form R reporting burden (basis of estimate codes do not apply to Form A). On the basis that two of the current codes are still valid (C and O) and the remaining two current codes (M and E) are divided in to four new codes (E1, E2, M1, and M2), EPA has re-estimated the incremental burden associated basis of estimate codes. In the OMB-approved methodology described in comment #22, estimates of reporting burden for data elements on Form R Sections 5 and 6 are disaggregated to include burden associated with selecting and recording basis of estimate codes in addition to calculating and reporting total releases or transfers.</p> <p>Based on this methodology, first-year incremental burden associated with reporting basis of estimate codes for a non-PBT form is now estimated to require an additional 1.88 minutes. Subsequent-year burden associated with reporting basis of estimate codes for a non-PBT form is now estimated to require an additional 1.41 minutes. As a reminder, these estimates of incremental burden are meant to represent a typical facility and thus reflect average reporting burden.</p> |
| 17 | EPA needs to justify need for additional BOE codes. | API | <p>Comment: More importantly, EPA provides no information on how the data will be used. It is our understanding that EPA does not use the "basis of estimate" information currently reported on Form R. Thus, we question the utility of increasing the number of "basis of estimate" codes to ten.</p> <p>Furthermore, in the Federal Register notice announcing the changes, EPA notes that the new set of codes would make the TRI "basis of estimate" codes comparable to the codes used by the Canadian government, making it easier to analyze and compare data between the United States and Canada.³ If the U.S. government wishes to achieve consistency between the data elements of each nation's inventory, a dialogue and fair assessment of increased reporting burden versus potential benefit, is necessary to determine the level required and to ensure they are justified by a true need for the data. It appears that EPA simply intends to incorporate the "basis of estimate"</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|---|
| | | | <p>codes used in Canada's National Pollutant Release Inventory (NPRI) with no analysis. The goal of "making it easier to analyze and compare data between the United States and Canada" is far from sufficient justification, in and of itself, for adding burden and complexity to the U.S. TRI Program.</p> <p>Response: In response to commenters' concerns, EPA has decided to modify the proposed approach by consolidating O1 through O5 basis of estimate codes to a single O basis of estimate code. The following are modified basis of estimate codes:</p> <p>M1- Continuous emission monitoring</p> <p>M2- Periodic or random emission monitoring</p> <p>C- Mass balance calculations</p> <p>E1- Published emission factor</p> <p>E2- Site-specific emission factor</p> <p>O- Other methods of estimation</p> <p>In addition, EPA believes that by having facilities report the detailed basis of estimates the Agency will be in a better position to help TRI reporters improve estimation methodologies and hence improve the overall quality of the TRI data. By using this information, EPA will be better able to direct TRI compliance assistance and data quality assessments to those sectors with the greatest need.</p> <p>For example, the TRI Program noted certain facilities in a industry sector had reported approximately an order of magnitude less releases for a specific chemical compared to similar size facilities, though all these facilities identified emission factors (E) as the basis of estimate. On further follow-up, the TRI Program learned that facilities that reported lower releases had used industry-developed, facility-specific emission factors, whereas the facilities that reported</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|-------------------------|--------|---|
| | | | <p>higher releases had used approximately 20 year old EPA-developed emission factors. The TRI Program contacted the Office of Air Quality Planning and Standards (OAQPS) Emissions Factors Group about this new emission factor. OAQPS is currently working with industrial facilities to the update emission factors inventory.</p> |
| 18 | Are BOE codes required? | | <p>Comment: If EPA nevertheless decides to incorporate these changes, the Agency needs to clarify whether facilities are required to use the new "basis of estimate" codes, or whether use of the new "basis of estimate" codes is optional. In the Federal Register notice, EPA writes "...for use on Form R which facilities can use to indicate the principal method used to determine the quantities reported to the TRI Program" (emphasis added).</p> <p>Response: The facility must select a basis of estimate code. In response to commenters' concerns EPA has, however, decided to modify the proposed approach by consolidating O1 through O5 basis of estimate codes to a single O basis of estimate code. The following are modified basis of estimate codes:</p> <p>M1- Continuous emission monitoring</p> <p>M2- Periodic or random emission monitoring</p> <p>C- Mass balance calculations</p> <p>E1- Published emission factor</p> <p>E2- Site-specific emission factor</p> <p>O- Other methods of estimation</p> <p>In addition, EPA believes that by having facilities report the detailed basis of estimates the Agency will be in a better position to help TRI reporters improve estimation methodologies and hence improve the overall quality of the TRI data. By using this information, EPA will be better able to direct TRI compliance assistance and data quality assessments to those sectors with the</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|---|--------|--|
| | | | <p>greatest need.</p> <p>For example, the TRI Program noted certain facilities in a industry sector had reported approximately an order of magnitude less releases for a specific chemical compared to similar size facilities, although all these facilities identified emission factors (E) as the basis of estimate. On further follow-up, the TRI Program learned that facilities that reported lower releases had used industry-developed, facility-specific emission factors, whereas the facilities that reported higher releases had used approximately 20 year old EPA-developed emission factors. The TRI Program contacted the Office of Air Quality Planning and Standards (OAQPS) Emissions Factors Group about this new emission factor. OAQPS is currently working with industrial facilities to the update emission factors inventory.</p> |
| 19 | <p>What is meant by published emission models?</p> | API | <p>Comment: In addition, EPA should also clarify what the Agency means by "published emission models" within the context of proposed code 04. Would that also include vendor-developed software? For example, two common models related to wastewater are EPA's WATER9 and vendor developed TOXCHEMI-. Would both of these models be considered "published," or only WATER9?</p> <p>Response: In response to commenters' concerns EPA has decided to modify the proposed approach by consolidating O1 through O5 basis of estimate codes to a single O basis of estimate code. The following are modified basis of estimate codes:</p> <p>M1- Continuous emission monitoring</p> <p>M2- Periodic or random emission monitoring</p> <p>C- Mass balance calculations</p> <p>E1- Published emission factor</p> <p>E2- Site-specific emission factor</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|--|
| | | | O- Other methods of estimation |
| 20 | Suggested revisions to proposed additional BOE codes. | API | <p>Comment: API has one technical comment on the proposed instructions for selection of monitoring codes contained in the ICR. In the ICR EPA writes, "Monitoring data should be indicated as the basis of estimate only if the EPCRA § 313 chemical concentration is measured in the waste being released into the environment." API would like to emphasize that not all waste for which "basis of estimate" codes must be selected is released into the environment. Thus, we suggest that EPA revise this sentence as follows: "Monitoring data should be indicated as the basis of estimate only if the EPCRA § 313 chemical concentration is measured in the waste."</p> <p>Response: EPA agrees with the commenter and has modified the proposed text as "Monitoring data should be indicated as the basis of estimate only if the EPCRA section 313 chemical concentration is measured in the waste."</p> |
| 21 | Rule familiarization and training burden are underestimated | API | <p>Comment: In general, EPA does not adequately acknowledge the time required for rule familiarization and does not adequately consider time spent for training. Contrary to EPA's assumption, rule familiarization is not an activity that occurs only for a first-time reporter. To comply with TRI reporting requirements, rule familiarization is an ongoing activity that is necessary each year. EPA is continually issuing new interpretations and guidance, and there are over 40 guidance documents posted on EPA's TRI web site under "TRI Guidance Documents."⁹ In addition, EPA cannot assume that the same person at a facility accomplishes TRI reporting each year. Staff rotation and turnover occur in all businesses, and a person new to TRI reporting spends significant time on rule familiarization. EPA itself conducts TRI training sessions and, in addition, trade associations and individual companies conduct and sponsor training.</p> <p>Response: EPA does not feel it is appropriate to adjust rule familiarization burden, since the proposed form changes are not thought to appreciably affect this activity. Current estimates of reporting burden including rule familiarization; compliance determination; report completion; and recordkeeping and submission are based on an OMB-approved methodology. Activities such as reviewing requirements and procedures, consulting guidance documents or the TRI hotline, and participating in training are included in rule familiarization. EPA acknowledges that rule familiarization burden does not account for staff turnover at reporting facilities. However,</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|--|
| | | | EPA believes that the overestimates in reporting burden articulated in comment #22 more than offset the potential underestimate created by not accounting for staff turnover. |
| | | IPC | <p>Comment: The July ICR also grossly underestimates the burden associated with rule familiarization. According to the ICR, 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. IPC urges EPA to revise the burden estimates in the July ICR to account for the rule familiarization burden incurred by subsequent year filers.</p> <p>Response: EPA does not feel it is appropriate to adjust rule familiarization burden since the proposed form changes are not thought to appreciably affect this activity. Current estimates of reporting burden including rule familiarization; compliance determination; report completion; and recordkeeping and submission are based on an OMB-approved methodology. Activities such as reviewing requirements and procedures, consulting guidance documents or the TRI hotline, and participating in training are included in rule familiarization. EPA acknowledges that rule familiarization burden does not account for staff turnover at reporting facilities. However, EPA believes that the overestimates in reporting burden articulated in comment #22 more than offset the potential underestimate created by not accounting for staff turnover.</p> |
| 22 | Reporting burden associated with the proposed form changes is underestimated. | API | <p>Comment: In the Federal Register notice announcing the ICR effort, EPA writes "Based on calculations using RY 2005 data, the total burden hours for the 2008-2010 ICRs... would be...modestly increased by 16% due to the proposed revisions of the reporting forms and instructions." According to the Form R ICR, completion of Form R for non-PBT chemicals requires an estimated 67.6 hours per form in the first year and 24.6 hours per form in subsequent years. Thus, EPA believes that the increase in burden (for non-PBT chemicals) as a result of the</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|--|
| | | | <p>proposed changes discussed herein is 6.49 minutes per Form R in the first year and 2.36 minutes per Form R in subsequent years. Based on the extent of the proposed changes, we believe that EPA in its burden assessment significantly underestimates the reporting burden. Many of the proposed changes impose complicated coding systems that will require substantial company time and resources. For example, on any one Form R, there can easily be 5 - 10 entries that require a "basis of estimate" code, and facilities typically have multiple forms to submit, so simply reading all the "basis of estimate" code choices and deciding which code correctly represents the principal method used to determine each of the multiple data elements will take significantly more than the 6.49 minutes in year one or 2.36 minutes in subsequent years. Some of our members have estimated that it would take them 8 hours or more to determine the correct "basis of estimate" codes from the list proposed, due to complications arising from the increased specificity, such as distinguishing between chemical-specific and non-chemical specific emission factors. We urge EPA to review the Agency's burden estimates and recognize that the proposed changes will add significant burden to completion of the TRI Program's reporting requirements.</p> <p>Response: EPA relies on an OMB-approved methodology to estimate TRI reporting burden overall and for the incremental changes to Form R and Form A proposed in the ICR. This methodology, outlined in the Economic Analysis supporting the TRI Forms Modification Rule, is used to develop data-element-specific estimates of reporting burden.</p> <p>EPA developed reporting burden estimates for the proposed form changes based on the time required to complete similar tasks or data elements on the current reporting forms. EPA has reviewed calculations and revised estimates for certain form/instruction changes (see response to comments #3, #4).</p> <p>Burden estimates are meant to represent average respondent burden. As with any average, some facilities will be above the average, and others will be below it. Large, complex facilities may require more than the average time to comply. However, there are many other facilities subject to the rule that are not large or complex and may require less than the average time to comply.</p> <p>Also see response to comments #1, #3, #4, and #14.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|---|--------|---|
| | | SOCMA | <p>Comment: Based on the extent of the proposed changes, SOCMA believes that EPA in its burden assessment significantly underestimates the reporting burden. Many of the proposed changes impose complicated coding systems that will require substantial company time and resources.</p> <p>Response: EPA relies on an OMB-approved methodology to estimate TRI reporting burden overall and for the incremental changes to Form R and Form A proposed in the ICR. This methodology, outlined in the Economic Analysis supporting the TRI Forms Modification Rule, is used to develop data-element-specific estimates of reporting burden.</p> <p>EPA developed reporting burden estimates for the proposed form changes based on the time required to complete similar tasks or data elements on the current reporting forms. EPA has reviewed calculations and revised estimates for certain form/instruction changes (see response to comments #3, #4).</p> <p>Burden estimates are meant to represent average respondent burden. As with any average, some facilities will be above the average, and others will be below it. Large, complex facilities may require more than the average time to comply. However, there are many other facilities subject to the rule that are not large or complex and may require less than the average time to comply.</p> <p>Also see response to comments #1, #3, #4, and #14.</p> |
| 23 | Reporting burden survey is needed. | API | <p>Comment: As stated in previous API comments, we believe a new, statistically robust burden survey is warranted to produce a reliable and accurate estimate of TRI reporting burden under the current regulations and using current reporting tools (i.e., TRI-ME). A new burden survey is increasingly important as the TRI program continues to change, with the addition of new chemicals and modifications to TRI's reporting requirements, in addition to the multitude of additions discussed herein. EPA needs to better characterize and quantify the burden associated with the TRI program.</p> <p>Response: EPA relies on the OMB-approved methodology for estimating the TRI reporting</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|--|
| | | | burden and does not believe that it would be practical to conduct a broad based survey on the TRI reporting burden at this time, since such a survey itself would impose an additional, separate burden on the reporting community. |
| 24 | Changes to Form R and A should be through rulemaking not ICR. | API | <p>Comment: API strongly urges EPA to make any changes to Forms R and A through notice and comment rulemaking. Changes to TRI's reporting Forms affect many thousands of facilities (and also many users of TRI data). The changes proposed in the ICRs discussed herein would add data fields, and impose a somewhat complicated coding system for three of the fields. Such changes warrant full notice and comment through the process established under the Administrative Procedures Act (APA). The ICR process is not the appropriate process for taking comments on changes to the data collected under the TRI program. It is not reasonable to expect that the regulated community and other members of the public have been adequately alerted to proposed TRI changes when they are effectively buried in an ICR notice, and not highlighted in a specific notice of proposed changes. In fact, specifics on many of the proposed changes are not even directly discussed in the ICRs; all of the proposed codes are listed in an appendix to the respective ICR. Further, the title of the Federal Register notice does not mention proposed changes to Forms R and A, and the summary for the notice makes only passing reference to "incorporating proposed minor changes." API is alert to EPA making such changes through ICRs, only because the Agency has done so in the past and thus we review all ICRs carefully. We do not think many other members of the public are aware that the Agency uses ICRs in this way, and we point to the relatively small number of comments EPA's receives on ICRs as evidence of this.</p> <p>Response: EPA believes that the ICR notice-and-comment process is appropriate for making certain form changes. ICRs are intended to solicit public comments not only on burden estimates, but also on the necessity, quality, and utility of the data collection (5 CFR 1320.8(d)). EPA believes that the ICR process adequately alerts the public to proposed changes in the information collection, including form changes, and provides an adequate opportunity for the public to submit comments. At the same time, the Agency acknowledges that some of the proposed ICR changes described in the first Federal Register notice could have been proposed through the notice-and-comment rulemaking process under the Administrative Procedures Act (APA); therefore, in response to comments and in order to reduce the potential impact of the</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|-------------------|--|
| | | | <p>proposed form changes on facilities, EPA is making the following changes to its ICR renewal requests for Form R and/or Form A:</p> <ul style="list-style-type: none"> ▪ The proposed codes for revisions will be simplified and include an option for “other reasons;” ▪ The proposed codes for withdrawals will be simplified and include an option for “other reasons;” ▪ The proposed new field for a facility’s “form preparer” will <i>not</i> be included. ▪ The proposed new field concerning the small business status of a facility or its parent company will <i>not</i> be included; and ▪ The proposed codes for “basis of estimate” will be simplified and include a code for other methods. <p>In addition, EPA will revise the title of the second Federal Register notices to clarify that the TRI Program’s proposed ICR renewals include some proposed changes to the TRI forms.</p> |
| | | <p>IPC</p> | <p>Comment: IPC has the following comments in response to the proposed new data elements identified in the July ICR. In general, IPC believes that the ICR process is inappropriate for announcing proposed changes to the TRI forms. We are extremely concerned that significant changes in the TRI forms have been concealed in an ICR notice, rather than being properly addressed through a notice and comment rulemaking. In fact, the title of the Federal Register Notice announcing the ICR reflects no indication that EPA is proposing to make changes to the TRI forms. As a result, the changes will go unnoticed by the vast majority of TRI filers who are most likely unaware that EPA is using the ICR process as a means to add new data fields to the TRI forms. In the interest of maintaining transparency, IPC urges EPA to initiate a full notice and comment period for the proposed new data elements as required under the Administrative Procedures Act (APA).</p> <p>Response: EPA believes that the ICR notice-and-comment process is appropriate for making certain form changes. ICRs are intended to solicit public comments not only on burden estimates, but also on the necessity, quality, and utility of the data collection (5 CFR 1320.8(d)). EPA believes that the ICR process adequately alerts the public to proposed changes in the information collection, including form changes, and provides an adequate opportunity for the public to submit comments. At the same time, the Agency acknowledges that some of the</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|--------|---|
| | | | <p>proposed ICR changes described in the first Federal Register notice could have been proposed through the notice-and-comment rulemaking process under the Administrative Procedures Act (APA); therefore, in response to comments and in order to reduce the potential impact of the proposed form changes on facilities, EPA is making the following changes to its ICR renewal requests for Form R and/or Form A:</p> <ul style="list-style-type: none"> ▪ The proposed codes for revisions will be simplified and include an option for “other reasons;” ▪ The proposed codes for withdrawals will be simplified and include an option for “other reasons;” ▪ The proposed new field for a facility’s “form preparer” will <i>not</i> be included. ▪ The proposed new field concerning the small business status of a facility or its parent company will <i>not</i> be included; and ▪ The proposed codes for “basis of estimate” will be simplified and include a code for other methods. <p>In addition, EPA will revise the title of the second Federal Register notices to clarify that the TRI Program’s proposed ICR renewals include some proposed changes to the TRI forms.</p> |
| 25 | ICR has not justified the continued collection of data on metals based on flawed PBT methodology. | IPC | <p>Comment: EPA no longer has any justification for requiring facilities to incur the significant burden of reporting TRI information on metals 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:</p> <p><i>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 metals in human and ecological risk assessment (e.g. classification as a persistent bioaccumulative toxic [PBT] chemical).</i></p> <p>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.”</p> <p>Given the findings of the Framework, the July ICR has not justified the continued collection of TRI information on metals based on the scientifically flawed PBT methodology.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|--|
| | | | <p>Response: The commenter refers to the EPA document titled, “Framework for Metals Risk Assessment,” which was released on March 8, 2007 (http://www.epa.gov/osa/metalsframework). The Framework outlines key principles about metals and describes how they should be considered in conducting human health and ecological risk assessments. It is not a prescriptive manual on how any particular type of assessment should be conducted within EPA, but rather guidance on how key principles concerning metals can be considered in metals assessments. EPA 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 the comment once that evaluation has been finalized. EPA is committed to ensuring that its regulations are based on sound scientific principles and appropriate, high-quality data, and it will continue to work to ensure that this is the case. The TRI Program’s currently proposed ICR renewals, including the burden estimates, reflect the number of forms that the TRI Program currently collects based on the existing TRI regulations. If the TRI regulations are revised in the future for any reason, the TRI Program’s ICRs and the associated burden estimates will be revised as appropriate.</p> |
| | | SGCD | <p>Comment: 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:</p> <p><i>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 metals in human and ecological risk assessment (e.g. classification as a persistent bioaccumulative toxic [PBT] chemical).</i></p> <p>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.” Given the findings of the Framework, the July ICR has not justified the continued collection of TRI information on metals based on the scientifically flawed PBT methodology.</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|----|--|------------|--|
| | | | <p>Response: The commenter refers to the EPA document titled, “Framework for Metals Risk Assessment,” which was released on March 8, 2007 (http://www.epa.gov/osa/metalsframework). The Framework outlines key principles about metals and describes how they should be considered in conducting human health and ecological risk assessments. It is not a prescriptive manual on how any particular type of assessment should be conducted within EPA, but rather guidance on how key principles concerning metals can be considered in metals assessments. EPA 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 the comment once that evaluation has been finalized. EPA is committed to ensuring that its regulations are based on sound scientific principles and appropriate, high-quality data, and it will continue to work to ensure that this is the case. The TRI Program’s currently proposed ICR renewals, including the burden estimates, reflect the number of forms that the TRI Program currently collects based on the existing TRI regulations. If the TRI regulations are revised in the future for any reason, the TRI Program’s ICRs and the associated burden estimates will be revised as appropriate.</p> |
| 26 | EPA has failed to fulfill requirements of the PRA and IQG | IPC | <p>Comment: 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 EPA to adequately justify the necessity for collection of TRI information on metals releases based on the flawed PBT methodology.</p> <p>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</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------|---|
| | | | <p>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 July ICR has not complied with requirements of the PRA and IQG, IPC urges 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.</p> <p>Response: The commenter refers to the EPA document titled, “Framework for Metals Risk Assessment,” which was released on March 8, 2007 (http://www.epa.gov/osa/metalsframework). The Framework outlines key principles about metals and describes how they should be considered in conducting human health and ecological risk assessments. It is not a prescriptive manual on how any particular type of assessment should be conducted within EPA, but rather guidance on how key principles concerning metals can be considered in metals assessments. EPA 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 the comment once that evaluation has been finalized.</p> <p>EPA is committed to ensuring that its regulations are based on sound scientific principles and appropriate, high-quality data, and will continue to work to ensure that this is the case. The TRI Program’s currently proposed ICR renewals, including the burden estimates, reflect the number of forms (both PBT and non-PBT forms) that the TRI Program currently collects based on the existing TRI regulations. If the TRI regulations are revised in the future for any reason, the TRI Program’s ICRs and the associated burden estimates will be revised as appropriate.</p> <p>EPA disagrees with the comment that “EPA is disseminating PBT information that is inaccurate, incomplete, unreliable, and possibly biased.” The TRI Program has instituted a number of procedures and automated data quality checks to ensure that the TRI data received are of high quality, and the data that the TRI Program currently provides to the public are consistent with the Agency’s implementation of the TRI regulations as they currently stand. If the commenting</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | Topic | Author | Comment/Response |
|---|-------|--------------------|--|
| | | | <p>organization has a concern about the quality of a specific piece of data that the TRI Program has made available to the public, then the organization may submit an error notification through EPA’s Envirofacts Data Warehouse Web site.</p> |
| | | <p>SGCD</p> | <p>Comment: However, SGCD believes that the July 2007 ICR has inaccurately estimated the burden to Toxics Release Inventory (TRI) reporters. The ICR has 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 ICR has 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.</p> <p>Response: The commenter refers to the EPA document titled, “Framework for Metals Risk Assessment,” which was released on March 8, 2007 (http://www.epa.gov/osa/metalsframework). The Framework outlines key principles about metals and describes how they should be considered in conducting human health and ecological risk assessments. It is not a prescriptive manual on how any particular type of assessment should be conducted within EPA, but rather guidance on how key principles concerning metals can be considered in metals assessments. EPA 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 the comment once that evaluation has been finalized.</p> <p>EPA is committed to ensuring that its regulations are based on sound scientific principles and appropriate, high-quality data, and will continue to work to ensure that this is the case. The TRI Program’s currently proposed ICR renewals, including the burden estimates, reflect the number of forms (both PBT and non-PBT forms) that the TRI Program currently collects based on the existing TRI regulations. If the TRI regulations are revised in the future for any reason, the TRI Program’s ICRs and the associated burden estimates will be revised as appropriate.</p> <p>EPA disagrees with the comment that “EPA is disseminating PBT information that is inaccurate, incomplete, unreliable, and possibly biased.” The TRI Program has instituted a number of</p> |

TRI Form R and Form A ICR Renewal 2007

Summary of American Petroleum Institute (API), Association of Connecting Electronic Industries (IPC), Synthetic Organic Chemical Manufacturers Association (SOCMA), and Society of Glass and Ceramic Decorators (SGCD) Comment

| # | <i>Topic</i> | <i>Author</i> | <i>Comment/Response</i> |
|---|--------------|---------------|---|
| | | | procedures and automated data quality checks to ensure that the TRI data received are of high quality, and the data that the TRI Program currently provides to the public are consistent with the Agency's implementation of the TRI regulations as they currently stand. If the commenting organization has a concern about the quality of a specific piece of data that the TRI Program has made available to the public, then the organization may submit an error notification through EPA's Envirofacts Data Warehouse Web site. |