

**TRI Form R and Form A ICR Renewal 2011 Response to Comments, including
Summary of American Petroleum Institute (API) and Portland Cement Association (PCA) Comments**

#	Topic	Author	Comment/Response
1	Changes to Form R and A should be through rulemaking not ICR.	API	<p>Comment: API continues to be concerned about EPA's practice of making changes to Form R outside the process of notice and comment rulemaking. ... Changes to the form and/or instructions are changes to reporting requirements, and warrant full notice and comment through the process established under the Administrative Procedures Act (APA).</p> <p>Response: EPA believes that the ICR process is appropriate for making certain form changes and not all changes to forms must go through the APA notice-and-comment process. 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. EPA appreciates comments received through the ICR process and fully considers them to determine the appropriate balance of burden and information collection. In response to comments and in order to reduce the potential impact of the proposed form changes on facilities, EPA is making changes based on comments as follows in this table.</p>
2	Proposed revision to remove the Parent Company "NA" option impedes accurate reporting for reporters with no parent company under legal definition.	API	<p>Comment: In some instances, there is not a parent company under the relevant legal definition. For these cases, NA is appropriate. Naming an entity that is not technically the parent company would be problematic and create legal issues. Also note that EPA's document <i>Standardized Parent Company Names for TRI Reporting</i> states "Your facility may or may not have a Parent Company."</p> <p>Response: "Parent company" is not defined in either EPCRA or in the associated regulations in 40 CFR Part 372. EPA has consistently required that the parent company to be reported is the highest level company in the United States. Replacing the "NA" option for parent company with a check box that reads "No U.S. Parent Company (for TRI Reporting purposes)" will more explicitly promote consistency in reporting the highest level U.S. company. This change is not intended to indicate that the reported parent company is the same parent company as would be used in other legal contexts and where, for example, there is a foreign parent company. Therefore, EPA will add the phrase "for TRI reporting purposes" to the instructional language on Form R and the instructions in the RFI document.</p> <p>Additionally, the commenter refers to the EPA document titled, "Standardized Parent Company Names for TRI Reporting," which was released in April 2010 (http://www.epa.gov/tri/report/parent_company/RX2009_Corporate_Parent%20Companies.pdf). EPA will update that document to be consistent with this form change.</p>

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3	Reporting burden for Section 8.10 revision is significant and underestimated.	API	<p>Comment: The proposed form would ask if the facility engaged in any source reduction activities (including both newly implemented and/or ongoing) for the chemical during the reporting year. This would be a significant change that would require additional analysis by facilities. ... This proposed change to section 8.10 also raises an issue of burden. EPA has estimated a zero burden increase from the proposed changes, but in reality the change would impose additional burden. ... This additional records review and associated reporting for section 8.10 is estimated to require at least several hours per facility.</p> <p>Response: After further consideration of the proposed data element requiring reporting on newly implemented <i>and ongoing</i> source reduction activities, including the burden concerns raised by the commenter, EPA has decided to only collect information on the most recent year of source reduction activities at this time. The currently approved forms do not indicate that 8.10 applies to newly implemented activities, while the instructions advise to limit the activities reported to those newly implemented. Therefore, to make the two consistent, EPA is proposing to change the form text to match the instructions. The burden associated with this form revision is negligible.</p>
4	Additional Question 9.1 “Miscellaneous Information”	PCA	<p>Comment: Of particular note is the proposal to add a new question to capture “miscellaneous and optional information” regarding certain data submission. PCA views favorably the rationale offered by the agency to allow facilities to provide additional Form R information that may help EPA use or interpret that data as stated in Step 4, page 7844 of the FR notice.</p> <p>Response: EPA acknowledges PCA’s approval of the proposal to add Question 9.1 on “Miscellaneous Information.”</p>
		API	<p>Comment: It is not clear how EPA will manage this "miscellaneous information" in its databases. Will this information be provided to TRI data users and, if so, in what format? Will the information be categorized or searchable in any way?</p> <p>Response: EPA is committed to ensuring that data submitted on the TRI Reporting Forms are made available to the public. Question 9.1 (in Section 9 “Miscellaneous Information”) will generate text data. This new text data field will provide data that will become a part of the TRI database and will be accessible in the same way as existing TRI data.</p>
5	Add the word “mixture” to the instructions on Form R, Part II, Section 1.	API	<p>Comment: In the following sentence (which appears in Part 2, Section 1 of Form R) “DO NOT complete this section if you are reporting a mixture in Section 2 below,” the word “component” should be added after “mixture”.</p>

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			Response: EPA agrees to make this change to correct the sentence. Form R reports are for individual chemicals and do not apply to mixtures but instead their component chemicals so it is incorrect to imply that a facility would be reporting a mixture.
6	Form corrections are needed.	API	<p>Comment: See API's table titled <i>Proposed Changes to Form R, (all rows except 3, 5, 18, 19, and 21, which contain substantive comments) for a list of clerical inconsistencies in Form R noted by API.</i></p> <p>Response: EPA agrees with the commenter's observations and will make these clerical corrections to Form R.</p>
7	Clarify effective date.	API	<p>Comments: API's understanding from discussions with EPA is that the new form is intended to take effect for reporting year 2011, i.e., forms due in July 2012. However, this is not stated in the <i>FR</i> notice. With this and other actions, EPA needs to be clear on when the new form would be implemented.</p> <p>Response: The commenter correctly notes that the revisions outlined in this ICR Renewal are expected to be effective as of RY 2011. EPA does not mention an effective date because they become effective when OMB approves this ICR. The current forms are valid while the renewal request is pending and will be superseded by the new forms when the ICR Renewal is approved.</p>