

Responses to Comments Received on Proposed Renewal of the Information Collection Request (ICR) for Chemical Data Reporting under the Toxic Substances Control Act (TSCA section 8(a))

Background

On September 21, 2021 (86 FR 52457), the U.S. Environmental Protection Agency (EPA) published a notice in the Federal Register and sent consultation emails to nine recipients announcing that it was planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for renewal of the collection of information under Chemical Data Reporting (CDR) requirements established under the Toxic Substances Control Act (TSCA section 8(a)). The public comment period closed on November 22, 2021. The Agency received comments from the American Chemistry Council (ACC), Giant Cement Holdings (GCHI), and Arakawa Chemical in response to this notice and the consultation request.

Public Comments and EPA Responses

Comment 1: Need for collection

- ACC commented that it supports both EPA's need to collect relevant information on chemicals in commerce and the practical use of the data collected to assist in the agency's implementation of the Toxic Substances Control Act (TSCA).
- Arakawa stated that the required information is not otherwise available.
- GCHI stated that they were not aware of other collections of these data.

Response: EPA agrees that the information collected through CDR are needed to implement TSCA and that the data are not available elsewhere.

Comment 2: Website, General Guidance

- Arakawa Chemical noted that the website was clear, had easy-to-understand language, and linked to important pages and resources which made navigation easy.
- GCHI noted that the information needs for CDR submission are clear and understandable. GCHI stated that it would be helpful to have improved guidance regarding making estimations when information is not known and provided an example regarding estimating the number of employees potentially exposed at their customer sites needed for reporting processing and use information.
- ACC provided comments to improve EPA's guidance materials, specifically noting differences between the CDR use codes and those used for the reporting in OECD programs. ACC suggested that EPA revise and clarify the use code descriptions to align with the OECD terminology and use codes prior to the next CDR submission period.

Response: EPA appreciates the suggestions for improvements to the guidance materials and will update the Instructions and other guidance materials prior to the 2024 CDR submission period.

Comment 3: Electronic Reporting

- Arakawa Chemical stated that the reporting application was easy to use, noting that the substantiation process was slightly more difficult but that the related guidance materials were sufficient. They did not have any problems with submitting data through CDX.

- GCHI stated that the reporting application was relatively easy to navigate. They also noted that the use of CDX as one clearing house for most EPA reporting programs is efficient and provides relative ease of use. The company noted the ability to designate one Responsible Office to register for multiple programs is highly efficient.
- ACC stated that many companies had problems with the electronic reporting, some related to eCDRweb (the CDR electronic reporting tool) and others to EPA's Central Data Exchange (CDX). ACC attached a list of lessons learned, issues, and recommendations sent to EPA separately from the ICR renewal process. ACC suggested that EPA completely rewrite eCDRweb and CDX prior to the 2024 CDR submission period.
- ACC also suggested changes to the eCDRweb reporting tool, the CDX data portal, and the use of Excel and eCDRweb XML templates. In particular, ACC suggests that EPA include CBI substantiation questions on the templates, allow PDF uploads of substantiations (similar to that used in the Section 14 program), enable automatic copying of CBI substantiations from one field to the next, and combine certain data elements to enable one set of substantiation questions to apply to the combination.

Response: EPA is pleased to hear that some companies had a positive experience with the reporting tool, which had been modernized for the 2020 CDR submission period. However, EPA recognizes that there were technical difficulties associated with CDX and the eCDRweb reporting tool. The Agency fixed many of the issues during the submission period and has continued to update the software for the 2024 submission period. ACC's detailed listing of items (provided as an attachment to their comments) and originally provided to EPA earlier in 2021 has been very helpful in providing summarized feedback useful for identifying needed upgrades, many of which have already been addressed.

EPA disagrees that eCDRweb needs to be completely rewritten. For the 2020 submission period, EPA had completely rewritten the previous reporting tool to better enable integration with the Agency's newer platforms, provide an improved user interface, and to incorporate reporting requirement changes. The issues experienced during the submission period were not identified during the internal or industry testing conducted prior to the reporting tool's launch. Once all updates to the reporting tool are completed, the Agency plans to test it prior to the 2024 submission period using test submissions based on some of the 2020 submissions.

Regarding the CBI substantiations, EPA is exploring methods to make the submission of CBI substantiations more efficient for the reporter while ensuring that any CBI claims meet TSCA requirements, including that substantiation be provided for each claim.

Comment 4: ACC requested that any changes to the CDR reporting requirements be finalized six months prior to the start of the reporting period, noting that this would allow for beta testing of updates to the CDR reporting tool and provide time for companies to update their internal configurations. ACC also suggested that EPA conduct a longer beta-testing window [than provided prior to the 2020 CDR] to ensure the previous problems are fixed and any new changes are functioning properly.

Response: EPA agrees that it is important for the reporting requirements to be established in time to allow companies adequate time to prepare and submit CDR information. For the 2020 CDR, EPA extended the submission period to give companies the needed time to update their systems but did not adjust the beginning of the submission period to allow those companies that were ready to submit their information. EPA will evaluate timing needs as the 2024 CDR submission period approaches.

Comment 5: Burden Estimates

- ACC commented that EPA's burden estimates are only accurate if the agency overhaul's the electronic reporting system to fix the technical issues experienced during the 2020 CDR submission period. They noted that ACC member companies reported spending approximately 70-100 hours each, or three times the amount of time as in previous years, over the course of the 2020 reporting period managing the technical issues associated with the eCDRweb reporting tool. The issues included problems with the validation process, preview generation process, confidential business information (CBI) substantiations, co-manufacturing submissions, and other general reporting processes. ACC provided alternate burden estimates with assumptions that, during the next CDR submission period, (1) submitters experience similar system problems and (2) EPA eliminates the systemic problems. ACC also stated that EPA's burden estimates fail to account for the need for a company to update its CDX registration (due, for example, to changing staff) or the need for a company to configure their internal systems to meet new EPA reporting requirements.
- GCHI believed burden costs to be conservative based on their own experience.
- Arakawa Chemical stated that Burden Cost Analysis also noted that the BLS Labor Statistics labor rates are accurate, and that adoption of the CDR database reduces the reporting burden by minimizing both the cost and the time required to review, edit, and transmit data to the Agency.

Response: EPA believes it is not necessary to adjust the burden estimates given that the electronic submission issues experienced in 2020 have been addressed and are not expected to repeat for 2024.

Regarding the need to update CDX registration when staff changes, EPA expects that each year a certain number of submitters are new, which includes both companies who have never filed a CDR submission and companies who have had staff turnover and the new staff need to register for CDR. In addition, in the ICR addendum associated with the CDR Revisions Rule, all submitters were assumed to be new for the first reporting cycle, in order to account for any new EPA reporting requirements, including the need to update internal systems.