

Supporting Statement for an Information Collection Request (ICR) Under the Paperwork Reduction Act (PRA)

EXECUTIVE SUMMARY

Identification of the Information Collection – Title and Numbers

Title: Notification of Chemical Exports - TSCA Section 12(b)

EPA ICR No.: 0795.17

OMB Control No.: 2070-0030

Docket ID No.: EPA-HQ-OPPT-2015-0435

Abstract

Section 12(b) of the Toxic Substances Control Act (TSCA) states, in part, that any person who exports or intends to export to a foreign country a chemical substance or mixture for which submission of information is required under TSCA section 4 or 5(b), or for which a rule, action or order has been proposed or promulgated under TSCA section 5, 6, or 7, shall notify the EPA Administrator of such export or intent to export. The Administrator in turn will notify the government of the importing country of the notice and of EPA's regulatory action with respect to the substance.

In several regulations implementing section 12(b), EPA described the notification requirements applicable to persons exporting chemicals, including frequency of notification, covered chemicals, and content of the notification. (45 FR 82844, December 16, 1980; 58 FR 40242, July 27, 1993; 71 FR 66234, Nov. 14, 2006). These rules are codified at 40 CFR Part 707, Subpart D.

This information request is therefore considered mandatory when TSCA section 12(b) export notification requirements are prompted. The export notice must include five easily ascertainable items: the name and address of the exporter, the name of the chemical, the country of import, the date of export or intended export, and the section of TSCA under which EPA has taken action (section 4, 5, 6 or 7). There are currently over 1,000 substances or categories of substances that have been regulated or proposed to be regulated under the applicable sections of TSCA.

In an effort to reduce the information collection burden for TSCA section 12(b) export notification, EPA's Office of Pollution Prevention and Toxics (OPPT) makes available to the public on its website a list of chemical substances subject to TSCA section 12(b) export notification requirements (see "Chemicals Subject to TSCA Section 12(b) Export Notification Requirements" at: <http://www.epa.gov/tsca-import-export-requirements>). In addition, OPPT also makes available a comprehensive listing of the "sunset" dates for chemicals subject to TSCA section 4 actions (i.e., the dates on which the TSCA section

4 testing, reimbursement, and reporting requirements and/or TSCA section 4-triggered TSCA section 12(b) export notification requirements have terminated (“sunset”) or have been calculated to sunset) (see “Sunset Dates of Chemicals Subject to Final TSCA Section 4 and Related 12(b) Actions” at: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/sunset-dates-chemicals-subject-final-tsca-section-4-test>). Also, to improve chemical safety and provide more streamlined access to information on chemicals, EPA continues to expand its internet accessible database, [ChemView](#), which greatly improves access to health and safety data on chemicals regulated under TSCA. Among other things, ChemView includes the list of chemicals subject to TSCA section 12(b) export notification requirements. The 12(b) list in ChemView is routinely updated as new actions require additions to the list and as chemicals are removed from the list when the regulatory action that triggered the section 12(b) requirement expires (sunsets).

EPA believes that the 12(b) list and sunset table serve as useful tools to assist industry in complying with TSCA and have resulted in an overall reduction of the information collection burden.

Summary Total Burden and Costs

| Information Collection | Number of Respondents | Annual Number of Responses | Responses per Respondent | Annual Time Burden (Hours) | Annual Cost Burden (Dollars) |
|------------------------|-----------------------|----------------------------|--------------------------|----------------------------|------------------------------|
| Export Notification | 226 | 4034 | 18 | 2694 | \$184,690 |
| Total Respondent | 226 | 4034 | 18 | 2694 | \$184,690 |
| Total Agency | | | | 937 | \$106,760 |

SUPPORTING STATEMENT

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

This information collection is necessary to implement statutory requirements of export notification pursuant to section 12(b) of TSCA and is consistent with the requirements of 5 CFR 1320.6.

TSCA section 12(b) requires exporters to submit a notice to EPA for each country to which a chemical subject to TSCA section 12(b) requirements is exported. Specifically, TSCA section 12(b) states, in part, that any person who exports or intends to export to a foreign country a chemical substance or mixture for which submission of information is required under TSCA section 4 or 5(b), or for which a rule, action or order has been proposed or promulgated under TSCA section 5, 6, or 7, shall notify the EPA Administrator of such export or intent to export. The Administrator in turn will notify the

government of the importing country of the notice and of EPA's regulatory action with respect to the substance. See **Attachment 1** for a link to 15 U.S.C. 2611(b).

Regulations implementing the statutory mandate in TSCA section 12(b) appear in 40 CFR Part 707, Subpart D, and include the following additional provisions:

- (a) No notice of export will be required for articles, except polychlorinated biphenyl (PCB) articles, unless the Agency so requires in the context of individual TSCA section 5, 6, or 7 actions.
- (b) Any person who exports or intends to export PCBs or PCB articles, for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b). PCBs and PCB articles are defined at 40 CFR 761.3.
- (c) Any person who would be prohibited by a TSCA section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under TSCA section 12(b) of such intent to export or exportation.
- (d) An exporter will be subject to possible enforcement action (including penalties) for not complying with the applicable provisions of TSCA section 12(b).

A link to the full text of 40 CFR part 707 is provided in listing for **Attachment 2**.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the Agency has made of the information received from the current collection.

As required by TSCA section 12(b), the Administrator will use the information collected under this ICR to furnish the required notice to the government of the importing country. The importing country typically uses the information provided to ensure that chemicals imported into their country comply with their applicable laws and regulations.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

TSCA section 12(b) export notifications are received by EPA's Program Management Operations Division (PMOD) within Office of Pollution Prevention and Toxics (OPPT). PMOD notifies appropriate foreign governments of the export of the specific TSCA-regulated chemicals to their country in accordance with the requirement in TSCA section 12(b) and the regulations at 40 CFR part 707, Subpart D.

12(b) export notification must be submitted to the Agency's in electronic information reporting system designed to be a user-friendly interface for parties engaged in reporting under TSCA section 12(b). The modernization of the TSCA section 12(b) export notification process enables electronic reporting for TSCA section 12(b), which greatly reduces the burden on industry to submit the paper section 12(b) notifications

and on OPPT in the processing of paper submissions per the recently finalized Confidential Business Information Claims under the Toxic Substances Control Act (TSCA) (88 FR 37155, June 7, 2023 (FRL-8223-02-OCSP)).

To file electronically, submitters must use the EPA provided application. To access the application, users must register with EPA's Central Data Exchange (CDX). CDX is the Agency's portal for submitting information to EPA in a secure manner. When registering, a user will need to ensure they are registering for the Chemical Safety and Pesticide Programs (CSPP) data flow which will provide them access to the Chemical Information Submission System (CISS) where the TSCA section 12(b) can be accessed. (Note: Users who have previously registered with CDX are able to add "Submission for Chemical Safety and Pesticide Program (CSPP)" to their current registration.) This reporting tool is compatible with Windows, Mac, Linux, and UNIX based computers, and uses "Extensible Markup Language" (XML) specifications for efficient data transmission across the Internet.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The exporter submits one notice to EPA. There is no duplication of this mandate or collection activity, and there are no viable alternate sources for the Agency to obtain the information necessary to satisfy the statutory mandate.

The Agency carefully considered alternatives to imposing a notification requirement on the chemical exporters, but no viable alternate sources were identified that would accomplish what the statute requires or provide the required information as specified in the statute. Prior to promulgating the TSCA section 12(b) rule, EPA considered the possibility of using export data gathered by the U.S. Census Bureau in lieu of imposing notification requirements in a TSCA section 12(b) rule. However, several problems with the Census export data continue to make such an approach impractical. These problems include, among others, the fact that Census data are often not chemical-specific; Census exempts certain shipments and exporters that are not exempt from TSCA section 12(b) notifications; and Census data would not be available for up to eight weeks following export, a delay that would prevent EPA from providing an importing government the timely notice required by TSCA section 12(b).

In addition, the Agency's activities are not duplicative of any other agency's actions. Importing countries do not receive such notifications from any other sources.

5. If the collection of information impacts small businesses or other small entities, describe the methods used to minimize burden.

TSCA section 12(b) does not exempt small businesses. However, most reporting has been by large companies which do most of the exporting. All reporting is assumed to be

electronic. The burden on any exporter is relatively minimal, estimated at 12 hours with an associated cost of approximately \$817 per firm.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

In general, there are basically two collection schedules related to the TSCA section 12(b) export notification requirements, i.e., a one-time collection and an annual collection. On an annual basis, excluding TSCA section 4 chemicals, and certain TSCA section 5 chemicals, an exporter must submit only one TSCA section 12(b) notice for each country to which a chemical subject to TSCA section 12(b) is exported. For TSCA section 4 chemicals, and certain TSCA section 5 chemicals, an exporter must only submit one TSCA section 12(b) notice for the first export or intended export of a subject chemical to a particular country.

The collection methodology is event-based, i.e., the exporter's decision to export a chemical subject to TSCA section 12(b). With the exception of TSCA section 4 chemicals, and certain TSCA section 5 chemicals, an exporter must submit, on an annual basis, one TSCA section 12(b) notice for each country to which a chemical subject to TSCA section 12(b) is exported. For TSCA section 4 chemicals, and certain TSCA section 5 chemicals, an exporter must only submit a TSCA section 12(b) notice for the first export or intended export to a particular country. The TSCA section 12(b) notice may be submitted to EPA within seven days after the exporter accepts a definite contractual obligation or no later than the date of export.

If the collection of information was conducted less frequently, the statutory requirements would not be met.

7. Explain any special circumstances that require the collection to be conducted in a manner:

- a) **requiring respondents to report information to the agency more often than quarterly;**
- b) **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- c) **requiring respondents to submit more than an original and two copies of any document;**
- d) **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- e) **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

- f) **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- g) **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- h) **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside EPA to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Pursuant to 5 CFR 1320.8(d), EPA published a notice in the **Federal Register** on September 22, 2023, (88 FR 65390; FRL-10678-01-OCSP) announcing the planned renewal of this information collection activity, soliciting public comment on specific aspects of the ICR and providing a 60-day public comment period.

The EPA also consulted 7 stakeholders, specifically asking them for their assessment of the regulatory burden estimates expressed by the Agency in this ICR (**Attachment 3**). Four stakeholders provided responses. The stakeholders consulted were:

- American Chemistry Council Inc.
- Society of Chemical Manufacturers and Affiliates (SOCMA)
- American Petroleum Institute
- Plastics Industry Association
- Environmental Defense Fund

- Environmental Working Group
- Natural Resources Defense Council

EPA received one response to its solicitation for consultations from the American Petroleum Institute (API), consisting of a copy of the comments provided in response to the public solicitation for comment mentioned previously. Comments from API requested that the Agency reconsider the TSCA Section 12(b) export notification requirement, because it is outdated and has no practical utility. The information regarding exports to and from countries is available on the Internet or through EPA databases, such as ChemView.

API also noted that the regulations are burdensome on businesses because the exporter must develop and maintain compliance systems to track exports, continually track TSCA section 4, 5, 6 and 7 actions that trigger 12(b) requirements, determine whether chemical exports are subject to those actions and 12(b) requirements, determine if annual or one-time¹ notification is required, and submit notifications to EPA within seven days of forming the intent to export or on the date of export. The commenter suggested that if export notifications continue there should be an annual submission deadline or allow for 30 days after the export, and that the Agency should instead rely on export information from the Chemical Data Reporting rule instead of requiring export notifications.

In response to API's comment regarding the maintaining compliance systems, EPA has made efforts to assist the regulated community. EPA maintains a list of chemical substances and mixtures subject to applicable TSCA triggering actions and updates it regularly to aid exporters in making relevant compliance determinations. Furthermore, as indicated by the commenter, EPA has reduced the frequency of submitting notices for each exporter since the TSCA section 12(b) regulations were first promulgated in 1980. For example, the current regulations require a notice only for the first export or intended export by an exporter to a particular country for some underlying actions and for the first export or intended export by an exporter to a particular country in a calendar year for other triggering actions. Under this ICR renewal, EPA is also requesting OMB approval to make available the option of submitting export notices electronically in lieu of paper-based submissions, further reducing exporters' and EPA's burden hours associated with TSCA section 12(b) requirements, as indicated in the ICR supporting statement.

A copy of EPA's consultation to the above potential respondents and the response received are in **Attachment 3** and are available in the docket. EPA responses are in **Attachment 4**.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

The exporter may claim all or part of a TSCA section 12(b) export notice confidential. The Frank R. Lautenberg Chemical Safety for the 21st Century Act amended section 14 of TSCA and requires the exporter to substantiate and certify claims of confidentiality unless the information claimed confidential is exempt from the substantiation requirements under TSCA section 14(c) through CDX see **Attachment 5**.

EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA and 40 CFR part 703. Information submitted under specific reporting requirements of TSCA, or in support of TSCA, is subject to the provisions of section 14 of TSCA and to EPA's Regulations on the Confidentiality of Business Information (see 40 CFR 703). Failure to follow these procedures fully at the time of document submission to EPA is interpreted by the Agency as a waiver of confidentiality claims. Submitters may claim confidentiality for proprietary information. However, notwithstanding any claim of confidentiality, the foreign government of the importing country will be notified of the export of the substance(s) in question.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

No information of a sensitive or private nature is requested in conjunction with these information collection activities, and these information collection activities comply with the provisions of the Privacy Act of 1974 and OMB Circular A-108.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- a) **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

- b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**

Respondents to this collection are exporters of chemical substances, which are mostly chemical companies classified under the North American Industrial Classification System (NAICS) codes 325 and 324. Exporters are required to include the following information in their export notification:

- the name and address of the exporter;
- the name of the chemical;
- the country of import;
- the date of export or intended export; and
- the TSCA section 4, 5, 6 or 7 action that triggers the notice.

In providing the required TSCA section 12(b) export notification, the respondent (exporter) is likely to engage in the following activities:

- Compile and maintain a list of chemical products manufactured by the company that are also subject to a TSCA section 4, 5, 6 or 7 action (e.g., compare the list of their chemicals to be exported with EPA's list of TSCA section 12(b) chemicals subject to export notification);
- Check this list against outgoing orders to determine if a product/chemical on the list is expected to be exported to a customer outside of the U.S.;
- If it is, identify whether a TSCA section 12(b) notice is required (e.g., is it the first shipment to that country this year); and
- If product/chemical is on the list and a TSCA section 12(b) notice is required to be completed the required export notice be sent via EPA's CDX system within the required time period.

The burden to exporters of this information collection activity comprises the time required to perform the steps outlined in this section of this document. The burden to respondents of this information collection activity comprises the time required to perform the steps outlined above.

A notice is a package received by the EPA from one firm. A firm may submit more than one notice per year. Each notice may contain several chemicals and/or importing countries. A notice subsequently becomes a letter of notification that EPA issues to the government of the importing country.

Ever since a change in reporting requirements published on November 14, 2006, there has been a one-time notification requirement for exporters of chemical substances or

mixtures. In addition, the change required the Agency to notify foreign governments after it receives the first export notification from an exporter. The shift to one-time-only export notification in the amendments affected almost all notifications received under TSCA section 5 (EPA, 2006). Note that EPA also promulgated de minimis concentration levels below which notification will not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required.

For the purposes of this ICR, based on best available information, EPA assumes that the level of reporting will be consistent with that of the last ICR period. The only important change in the current ICR period compared to the last ICR period is a change in mode of reporting - all reporting during this ICR period is assumed to be electronic. Table 1 presents the level of reporting over the current ICR period. Based on the reporting over the current ICR period, EPA estimates that 226 firms will respond per year. Table 2 presents the unit burden by activity. The activities involved and calculation details are listed below. EPA estimates the total annual burden at 2,694 hours.

Compile List. Since this information collection activity has been in place for 20 years, most respondents will have already developed a list of their products subject to TSCA section 12(b) reporting. Respondents need only check for new regulations promulgated and any new products exported by the firm. EPA estimates that respondents will carry out this activity only once per year. Updating the list is estimated to take an average of one hour of technical time (which may also include some proportion of legal time). This could vary depending on the number of products from two hours per year up to two hours per month of technical time (which may also include some proportion of legal time). This variation is dependent on the number of products exported by the firm and the number of their products subject to TSCA section 12(b). EPA estimates unit burden for compiling the list estimated at an average of 9.3 hours of technical time per firm per year.

Write or Revise Letter. Firms that export chemicals subject to TSCA section 12(b) reporting must prepare an export notice to send to EPA. EPA estimates that respondents will carry out this activity once per year. EPA expects that the time needed for initial preparation of the export notice probably varies depending on whether the firm has prior experience with this program, but this step is estimated to take an average of one hour of technical time (which may also include some proportion of legal time) per year for each firm subject to TSCA section 12(b) reporting.

CBI Substantiation. Firms are required to provide CBI substantiation for any claims of data confidentiality. When estimating this burden, EPA accounts for the burden associated with the substantiation of ChemID and non-ChemID claims. CBI substantiation for ChemID elements involves providing answers to questions concerning reasons that CBI status of chemical substance is to be maintained. CBI substantiation for ChemID claim is estimated to take 1.15 hours per report, including both technical and managerial time (EPA, 2017; EPA, 2019). A firm will claim CBI for ChemID

elements when submitting a chemical that is not included in the 12(b) list. Approximately two percent of submissions include chemicals that are not listed, and as a result, include ChemID claims. Therefore, when estimating the burden per firm associated with ChemID claims, the burden of 1.15 hours is scaled by two percent. Firms are required to provide CBI substantiation for non-ChemID data elements, which is estimated to take 0.96 hours per report, including both technical and managerial time (EPA, 2017). Based on the previous ICR period, approximately seven percent of submissions claimed CBI for non-ChemID elements. Therefore, when estimating the burden per firm associated with non-ChemID claims, the burden of 0.96 hours is scaled by seven percent. Assuming each firm submits 18 reports per year, the total burden associated with CBI substantiation is estimated to be 1.62 hours per year per firm.

Check Orders and Send Notices. The firms that export chemicals subject to TSCA section 12(b) reporting must check outgoing shipments against the list of their products described above. A form letter notifying EPA is electronically prepared detailing the importing country for the shipment of a TSCA section 12(b) chemical if it is the first shipment of the year to the importing country. This whole process is assumed to have no time burden as it is absorbed in the efficiencies of e-reporting overall. EPA estimates each firm will submit approximately 18 reports per year. Therefore, the agency expects to receive a total of 4,034 notices per year.

TABLE 1: REPORTING IN PREVIOUS ICR PERIOD BY YEAR

| Year | Number of Firms | Reports | Report per Firm | Number of Reports Claiming CBI | Percent of Reports Claiming CBI |
|----------------|-----------------|--------------|-----------------|--------------------------------|---------------------------------|
| 2020 | 219 | 4,423 | 20.20 | 368 | 8.32% |
| 2021 | 251 | 4,114 | 16.39 | 239 | 5.81% |
| 2022 | 209 | 3,565 | 17.06 | 272 | 7.63% |
| Average | 226 | 4,034 | 17.85 | 293 | 7.25% |

TABLE 2: UNIT BURDEN PER ACTIVITY

| Activity | Electronic Reporting (hours) | | |
|-----------------------------|------------------------------|------------|----------|
| | Technical | Managerial | Clerical |
| Compile list | 9.3 | 0 | 0 |
| Write letter | 1 | 0 | 0 |
| Check order and send notice | 0 | 0 | 0 |

Table 2 provides the estimated unit burden per reporting activity. Firms are required to provide CBI substantiation for any claims of data confidentiality. The burden associated with CBI substantiation is comprised of the time required to substantiate ChemID and non-ChemID claims. This estimate takes into account the expectation that each firm

will submit 18 reports per year. It also accounts for the expectation that approximately two percent of reports will include ChemID claims and approximately seven percent of reports submitted will include non-ChemID claims. Therefore, the annual burden per firm associated with CBI substantiation is estimated by:

$$CBI\ Substantiation\ Burden = 18 \times \left[(0.02 \times 1.15) + (0.07 \times 0.96) \right] = 1.62\ hours.\ (per\ firm)$$

Given a 100 percent e-reporting rate, the annual burden per firm is estimated by:

$$Annual\ burden = 9.3 + 1 + 0.62 = 11.92\ hours.$$

Therefore, the annual aggregate burden across all 226 firms is estimated by:

$$Annual\ Aggregate\ Burden = 226 \times 11.92 = 2,694\ hours.$$

The annual burden per firm is estimated to be 11.92 hours and the annual aggregate burden is estimated to be approximately 2,697 hours.

The costs to respondents are based on the time needed to complete the tasks listed in section 3 (hours estimated in section 6(a)), the hourly cost of labor at appropriate levels (labor rates), the number of firms affected, and/or the number of notices generated.

EPA estimates annual cost for e-reporting in Table 4. Based on an expected e-reporting rate of 100 percent, the annual aggregate cost is estimated to be approximately \$184,690.

TABLE 3: INDUSTRY WAGE RATES (2022\$)

| Labor Category | Data Series ¹ | Wage | Fringe Benefit | Fringe as % Wage | Overhead % wage ² | Fringe + Overhead Factor ³ | Hourly Loaded Wages ⁴ |
|--------------------------|--|---------|----------------|------------------|------------------------------|---------------------------------------|----------------------------------|
| | | (a) | (b) | (c) = (b)/(a) | (d) | (e) = (c) + (d) + 1 | (f) = (a) × (e) |
| Managerial | BLS ECEC, Private Manufacturing industries, "Mgt, Business, and Financial" | \$53.46 | \$23.97 | 45% | 17% | 1.62 | \$86.61 |
| Professional / Technical | BLS ECEC, Private Manufacturing industries, "Professional and related" | \$42.04 | \$18.41 | 44% | 17% | 1.61 | \$67.68 |
| Clerical | BLS ECEC, | \$20.9 | \$9.13 | 44% | 17% | 1.61 | \$33.76 |

| | | | | | | | |
|--|---|---|--|--|--|--|--|
| | Private Manufacturing industries, "Office and Administrative Support" | 7 | | | | | |
|--|---|---|--|--|--|--|--|

¹ Source: *Employer Costs for Employee Compensation Supplementary Tables*. (U.S. BLS, 2022).

² An overhead rate of 17% is used based on assumptions in *Wage Rates for Economic Analysis of the Toxics Release Inventory Program* (Rice, 2002), and the *Revised Economic Analysis for the Amended Inventory Update Rule: Final Report* (U.S. EPA, 2002).

³ The inflation factor of "1" in the formula for calculating the fringe + overhead factor means wage data are not escalated to reflect inflation.

⁴ Wage data are rounded to the closest cent in this analysis.

TABLE 4: ANNUAL COST PER FIRM FOR ELECTRONIC REPORTING (2022\$)

| Activity | Number of Hours | Percentage of Submissions | Cost |
|--|--|---------------------------|-----------------|
| Compile list | 9.3 (technical) | 100% | \$629.42 |
| Write letter | 1 (technical) | 100% | \$67.68 |
| Check order and send notice (e-reporting) | 0 | 100% | \$0 |
| CBI Substantiation (ChemID) ¹ | 0.77 (technical) + 0.38 (managerial) | 2% | \$30.61 |
| CBI Substantiation (non-ChemID) ² | 0.64 (technical) + 0.32 (managerial) | 7% | \$89.50 |
| Total Annual Cost Per firm | | | \$817.21 |

Values may not sum due to rounding.

¹The estimated burden associated with CBI substantiation for ChemID claims consists of 0.77 hours of technical time and 0.38 hours of managerial time. Burden estimates are based on the expectation that each firm will submit 18 reports per year and that 2% of reports will claim CBI for a ChemID element.

²The estimated burden associated with CBI substantiation for non-ChemID claims consists of 0.64 hours of technical time and 0.32 hours of managerial time. Burden estimates are based on the expectation that each firm will submit 18 reports per year and that 7% of reports will claim CBI for non-ChemID elements.

Given a 100 percent e-reporting rate, the annual cost per firm is estimated to be \$817.21. Therefore, the annual aggregate cost across all 226 firms is estimated by:

$$\text{Annual Aggregate Cost} = 226 \times \$817.21 = \$184,690.$$

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

- a) The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services**

component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- b) If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no O&M costs associated with the collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

Agency unit costs are based on past TSCA section 12(b) analyses, including the previous ICR, and information provided by . The Agency cost can be divided into four parts: (1) receiving and processing incoming notices, (2) preparing and mailing notifications to importing countries, (3) responding to requests for information and clarification from firms and importing countries, and (4) reviewing CBI claim substantiation. The allocation of burden hours and costs among these four parts is not exact, but the analysis below is reasonably accurate in terms of the overall burden estimate and the approximate allocation of that burden among these tasks. EPA presents activity descriptions followed by a summary of Agency costs in Table 8. The total annual Agency cost estimated at \$106,760.

TABLE 6: AGENCY WAGE RATE (2023\$)

| Labor | Data Source | Wage | Fringe | Fringes | Overhead | Fringe + | Loaded |
|-------|-------------|------|--------|---------|----------|----------|--------|
|-------|-------------|------|--------|---------|----------|----------|--------|

| Category | for Wage Information | (\$/hour) | Benefit | as % wage | as % wage | Overhead Factor | Wage (\$/hr) |
|-----------|---|-----------|--------------------------|-----------------|------------------|---------------------|-----------------|
| | | (a) | (b) | (c) = (b) / (a) | (d) | (e) = (c) + (d) + 1 | (f) = (a) * (e) |
| EPA staff | Annual federal staff cost: OPM Washington-Baltimore-Northern Virginia, DC-MD-PA-VA-WV area, GS-13 Step 5 pay rates ¹ | \$60.83 | Included in 60% overhead | N/A | 60% ² | 1.6 | \$97.33 |

¹ Source: U.S. Office of Personnel Management. (2023). Salary Table 2023-DCB. Retrieved March 6, 2023 from Pay & Leave: Salaries & Wages: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salarytables/23Tables/html/DCB_h.aspx.

²The 60 percent fringes-and-overhead rate is from an EPA guide, *Instructions for Preparing ICRs* (U.S. EPA, 2009).

Task 1: Receiving and processing incoming notices. In the first task, notices are received from firms that intend to export a product covered by this rule, the forms are checked for completeness, and the submissions are logged into a document control system. Based on conversations with the workers responsible for this task, about 10 notices can be processed per hour. EPA projects that an average of 4,034 notices (as estimated in section 6(a)) will be received per year over the period covered by this ICR, requiring 403.4 hours of support per year.

Task 2: Preparing and mailing notifications to importing countries. In the second task, workers prepare letters of notification which are subsequently reviewed and sent out to importing countries. Not all notifications submitted require that a notice be sent out. This work averages approximately 0.19 hours per notice. Based on information provided by PMOD, EPA estimates an average of 1,618 notification letters mailed each year. This yields a burden of 307.42 hours per year.

Task 3: Responding to requests for information and clarification from firms and importing countries. The burden described above covers the routine tasks of handling both incoming notices and outgoing notifications. Some notices sent to importing countries require a follow-up response. Based on information provided by PMOD, the work of responding to non-routine requests for information and clarification from industry and importing countries, and handling other tasks associated with the TSCA section 12(b) program can be expected to require about 54 hours per year.

Task 4: Review of CBI Claim Substantiation. In the fourth task, any submissions that claim CBI must be reviewed. Electronic submissions are completed by filling out a form. Review of the form for a non-ChemID claim requires 0.25 hours per report. It is expected to take 1.25 hours per report to review CBI claim substantiation that includes a ChemID claim. The estimated Agency burden to review CBI claim substantiation takes

into account the expectation that each firm will submit 18 reports per year and that approximately two percent of submissions will include ChemID claims and approximately seven percent of reports submitted will include non-ChemID claims.

TABLE 7: AGENCY CBI SUBSTANTIATION REVIEW BURDEN PER REPORT

| Type of Claim | Agency Burden per Report |
|---------------|------------------------------|
| | Electronic Reporting (hours) |
| ChemID | 1.25 |
| Non-ChemID | 0.25 |

Table 7 displays the Agency burden associated with reviewing ChemID and non-ChemID claims for e-reporting, which are used to calculate the average burden per report.

The Agency burden associated with reviewing CBI claim substantiation for an electronically submitted report is estimated by:

$$\text{Review of CBI Substantiation Burden} = \left(\begin{matrix} \text{ChemID} \\ \text{Element} \end{matrix} (0.02 \times 1.25) \right) + \left(\begin{matrix} \text{Non-ChemID} \\ \text{Element} \end{matrix} (0.07 \times 0.25) \right) = 0.043 \text{ hours.}$$

(per electronically submitted report)

Therefore, given an expected 4,034 reports per year and a e-reporting rate of 100 percent, the total Agency burden associated with reviewing CBI claim substantiation is estimated to be 173 hours per year.

TABLE 8: AGENCY ACTIVITIES, ANNUAL BURDEN AND COST (2023\$)

| Agency Activity | Unit Burden | Count | Burden Hours | Cost | |
|---|---|---------------------------------|--------------|----------|-----------|
| | | | | Labor | Non-labor |
| Receiving and Processing Incoming Notices | 0.1 hour per notice processing rate | 4,034 | 403 | \$39,263 | - |
| Mailing Notifications to Importing Countries | 0.19 hour per letter mailed | 1,618 | 307 | \$29,921 | - |
| | \$26 per certified mail \$0.54 per USPS mail | 572 certified 1,047 USPS | N/A | - | \$15,437 |
| Responding to Requests for Information and Clarification from Firms | N/A | 54 hours of staff time per year | 54 | \$5,256 | - |

| | | | | | |
|------------------------------------|--------------------------------------|------------------|-----|------------------|---|
| Review of CBI Claim Substantiation | 0.043 hour per notice reviewing rate | 4,034 | 173 | \$16,883 | - |
| Total Burden and Cost | | 937 hours | | \$106,760 | |

Values may not sum due to rounding.

15. Explain the reasons for any program changes or adjustments reported in hour or cost burden.

This ICR renewal's estimate reflects a decrease of 238 hours from 2,932 to 2,694 hours in respondent burden. This is a net decrease in burden caused by assuming 100% electronic submissions despite a small increase in burden due to a larger number of respondents compared to the previous ICR.

This ICR renewal's estimate reflects an increase of 94 hours in agency burden from 843 hours to 937 hours. This increase is due to the difference in information related to agency burden provided by OPPT PMOD for the current ICR period compared to the information provided by Information Technology and Resources Management Division (ITRMD) within EPA's Office of Program Support (OPS) for the previous ICR period. After a reorganization in 2019, PMOD started processing the export notifications for the TSCA 12(b) rule instead of OPS IMD.

16. For collections whose results will be published, outline the plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Agency does not intend to publish results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The Agency plans to display the expiration date for OMB approval of the information collection on all instruments.

18. Explain each exception to the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

This information collection complies with all provisions of the Certification for Paperwork Reduction Act Submissions.

SUPPLEMENTAL INFORMATION

This collection of information is approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (OMB Control No. 2070-0030). Responses to this collection of information are mandatory for certain persons, as specified at 40 CFR Part(s) 707. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The public reporting and recordkeeping burden for this collection of information is estimated to be 0.62 hour(s) per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Information Engagement Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

You can also provide comments to the Office of Information and Regulatory Affairs, Office of Management and Budget via <http://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

All comments received by EPA will be included in the docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

LIST OF ATTACHMENTS

The attachments listed below can be found in the docket for this ICR or by using the hyperlink that is provided in the list below. The docket for this ICR is accessible electronically through <http://www.regulations.gov> using Docket ID Number: EPA-HQ-OPPT-2015-0435.

| Ref. | Title |
|------|---------------------------------------|
| 1. | 15 U.S.C. 2611 |
| 2. | 40 CFR 707, Subpart D |
| 3. | PRA Consultation Document |
| 4. | Response to Comment Document |
| 5. | CBI Substantiation EPA Form 9600-031 |

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