

EPA Response to Public Comments for EPA Public Docket OEI-2003-0025

On Tuesday, July 1, 2003, Federal Register (FR) notices were published that began the Information Collection Request (ICR) renewal process for the TRI Reporting Form R (68 FR 39074) and the Form A Certification Statement (68 FR 39071). The TRI Program is seeking OMB approval in compliance with the Paperwork Reduction Act (PRA) for these two collection activities that are due to expire on October 31, 2003. The EPA docket for this action, OEI-2003-0025 received over 50 comment submissions. The commenters and their corresponding docket identifiers are listed in a table at the end of this comment response document.

For the Form R ICR renewal, the TRI Program sought public comment on extensive changes to the Form R in an effort to collect information in a more logical and easier manner. However, in light of significant comments from States, the regulated community and other TRI data users concerning the implementation burden of so many changes at once, EPA is deferring most of the proposed changes. Some of the changes for which EPA sought comment remain in this submission. For example, section 8.1 is subdivided into four subsections: section 8.1a Total on-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills; section 8.1b Total other on-site disposal or other releases; section 8.1.c Total off-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills; and section 8.1d total other off-site disposal or other releases. A copy of the revised Form R (EPA Form 9350-1, Rev. 01/2001) is being submitted to OMB for review and is included with the Form R ICR Supporting Statement as Attachment G.

An outline of the proposed changes to the Form R follows:

Part I & II:

- The TRIFID and chemical ID will be kept on every page.

Section 5: Quantity of the Toxic Chemical Entering Each Environmental Medium Onsite:

- The existing data element 5.5.3 Surface Impoundment will be broken out into 5.5.3.A RCRA Subtitle C Surface Impoundments and 5.5.3.B Other Surface Impoundments. This was proposed in the ICR and can easily be implemented.

Section 6: Transfers of the Toxic Chemical in Wastes to Off-site Locations:

- Information for surface impoundments for RCRA Subtitle C and other surface impoundments (as requested for Section 5) will be broken down. This was proposed as two separate data elements in the proposed Form R, however, this can be easily implemented by deleting the existing code M63-Surface Impoundment, and replacing it

with codes M66-RCRA Subtitle C Surface Impoundment and M67-Other Surface Impoundments.

- Because of the changes to Section 8.1 described below, the existing code M71-Underground Injection will be deleted and replaced with codes M81-Underground Injection to Class I Wells and M82-Underground Injection to Class II-V Wells.

Section 7B: On-site Energy Recovery Processes

- The code U09 - Other Energy Recovery Methods will not be used. This element is no longer applicable since the only energy recovery methods are combustion in a boiler or industrial furnace. Combustion units other than boilers and industrial furnaces are used for treatment of the toxic chemical (except for metal and metal compounds).

Section 8: Source Reduction and Recycling Activities:

- Section 8.1 will be broken out into the following four categories not using the proposed categories of “contained disposal” or “uncontained releases.” The terms “contained” and “uncontained” were dropped from the four disposal and other release subsections because those terms were too confusing to both the public and the regulated community.

8.1.a. Total on-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills

8.1.b. Total other on-site disposal or other releases

8.1.c. Total off-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills

8.1.d. Total other off-site disposal or other releases

Public Comments

It was generally agreed by the respondents to the FR notice’s request for public comment that the proposed Form R revisions resulted in a Form that was too lengthy and that would be costly to implement. Many commenters expressed their opinion that the proposed changes provided some clarity; others found the changes confusing and cumbersome. Most commenters recommended that, if substantial changes were to be made to the Form R, that they be implemented no sooner than Reporting Year 2004, and that additional training be provided to the regulated community and other users of the Form R. Comments were mixed regarding the utility of the proposed changes to Sections 5 & 6, however, it was generally agreed that the volume of the reporting form changes would be difficult and costly to implement. Many respondents supported changes to Part II, Section 8.1 of the Form R reporting form that would help to break out and clarify release quantities in Section 8.1. Others recommended additional changes to further clarify Section 8.1. Some were opposed to all proposed changes to Section 8.

Based on the comments received, the Agency has reduced and modified the proposed changes to the existing Form R, and is submitting this newly revised Form R to OMB for review and approval. The new draft Form R is being submitted to OMB for review as an attachment to the ICR renewal request (EPA ICR No.:1363.13, OMB Control No.: 2070-0093).

The comments submitted in response to EPA's request for renewal of the ICR for the Form R can be categorized into five broad issue areas that are outlined below.

A. Burden reduction at the TRI Program level

General Comments: The commenters suggested a number of changes to the TRI program that they believed would reduce the burden associated with reporting. Some of the comments focused on increased electronic reporting while others suggested specific changes to the TRI reporting requirements. Expansion of the eligibility to use the Form A was a common suggestion as were alternative reporting schedules.

Some Specific Comments:

- Mandate the use of TRI-ME to minimize errors and improve data quality
- Increase use of electronic reporting
- Expand use and eligibility for using Form A Certification Statement (do not include chemical quantity reporting in section 8.6 toward the 500 lb. threshold)
- Expand TRI-ME to include additional non-TRI chemicals for use as an inventory
- Have TRI-ME calculate summary fields for section 8 of current Form R
- Restore Form A, de minimis, and range reporting for lead and other PBTs
- Institute alternative reporting schedules: multi-year Form R, two-year reporting cycle, etc.
- Evaluate use of non-statutory data elements on Form R
- Allow multi-year reporting on a single Form R
- Exempt zero-releasers from TRI reporting
- EPA should develop electronic data management and reporting tool for the states that would compile the states' TRI data set and manipulate the raw data to deliver a standard set of statistical results at the state-specific level
- Allow forms to be submitted on CD ROM
- Expand CDX to include submissions to the states

Response: At this time, EPA has determined that it would not be appropriate and/or possible to make the changes suggested by the commenters. Some of the commenters' suggestions for reducing the reporting burden would require regulatory changes that cannot be accomplished under the ICR renewal process. In addition, many of the suggested changes are going to be included in an issue paper for an upcoming stakeholder dialogue on how to reduce TRI reporting burden. During the stakeholder process, EPA will solicit comments on the ideas included in the paper and any other suggestions that stakeholders may have for reducing the reporting burden of the TRI program.

B. Proposed changes related to the expansion of Form R sections 5 & 6

General Comments: In general, the majority of the commenters did not support the extensive changes to sections 5 and 6 of the Form R that EPA had proposed. Issues were raised concerning the increased burden that would result from the changes and the impact the changes would have on the electronic reporting systems that facilities and states use to report, process and store TRI data. Some states felt that the changes would have such a significant impact on their ability to process and maintain TRI data that they may even be prevented from processing the data. There was some support for certain specific changes but no support for the overall scope of the proposed changes. Most commenters felt that the changes were not needed and would neither clarify nor simplify TRI reporting. The commenters felt that none of the changes would reduce reporting burden but would rather increase burden and require additional training.

Some Specific Comments:

- Changes proposed will have a serious impact on states (e.g. changing databases and websites, retraining staff, providing training and assistance to industries, etc.)
- Proposed changes present significant implementation costs for facilities that report to the TRI such as training, data collection systems, etc. (many industry commenters)
- Proposed revisions do not clarify and simplify and greatly increase stakeholder burden
- EPA's proposed form collects additional information that isn't being collected on the current Form R, ie., quantities treated, recycled, or burned for energy recovery onsite by individual method
- Approves of changes to 5.8 - 5.11
- Recommends maintaining differentiation in section 5.12 to ensure consistency and avoid confusion
- Do not aggregate releases in 5.12, column B, this aggregation is misleading
- Does not support changes for reporting offsite transfers in section 5.6 and 6.1-6.3
- Supports addition of column B in Section 5
- Changes from M codes to individual categories make the Form R harder to read and more prone to errors in reporting. The current M code pull-down menus in TRI-ME work better.
- "Storage," "solidification/stabilization", "wastewater treatment", "other offsite management", and "transfers" should not be characterized as "uncontained releases" in Section 5.10. These activities are regularly covered by federal or state regulation. Call them "controlled releases" instead.
- Section 5.6.12 (Unknown Disposal) should not be included. Facilities should report the specific waste management method under Section 5.6.10 so the public doesn't have to guess.
- Supports using M codes to indicate final disposition of offsite transfers (-0046)
- Approves proposed sections in Section 6 for reporting onsite treatment, energy recovery and recycling quantities
- Retain range reporting in Sections 5 & 6 (was deleted from proposed Form R)
- Remove ability to enter range codes for release
- Supports factoring accidental releases in Col. B
- Does not support factoring accidental releases in Col. B

- Supports getting rid of M codes and having a specific line for the activity covered by that code
- Not clear where to enter name/location of receiving facility or how to report multiple off-site locations

Response: At this time, EPA has determined that it would not be appropriate to implement all of the proposed changes to Sections 5, 6, and 7 of the current version of the Form R. This decision is predominantly based on the comments identifying implementation concerns. Data collection systems as well as systems that disseminate this information to the public would require significant updating. Also, there would be a need to significantly update existing compliance assistance materials such as guidance documents, training materials, etc. When the implementation concerns are considered as a whole, EPA believes it is not feasible to implement these changes immediately but rather the Agency should consider these changes in a more manageable period of time. EPA still believes that some of the proposed changes may still be feasible to implement now and in future years without increasing the reporting burden, but EPA has not identified which changes it might adopt in the future nor is the Agency going to respond to all comments in favor or against specific changes. Rather, EPA will reevaluate the changes in an appropriate future proceeding.

However, EPA will be implementing one change to Section 5 of the current reporting form. Section 5.5.3 will now be subdivided into two parts: 5.5.3A: RCRA subtitle C surface impoundment; and 5.5.3B: other surface impoundment. Previously this information was combined and reported in section 5.5.3 surface impoundment. There was support for this breakdown and EPA believes that this change is minor and will not cause significant implementation problems. This change is also consistent with the changes to Section 8.1 that EPA is making today, changes generally supported by commenters, as discussed below. Also, as noted in the July 1 proposal, EPA will no longer be using the code U09 - Other Energy Recovery Methods, because this element is not applicable since the only energy recovery methods are combustion in a boiler or industrial furnace. Combustion units other than boilers and industrial furnaces are used for treatment of the toxic chemical (except for metal and metal compounds). EPA did not receive any comments opposing the discontinuation of this code.

C. Proposed changes to section 8.1

General Comments: There were considerable changes to Part II, Section 8.1 that were proposed in the July 1, 2003, FR Notice. Also, there were considerable differences of opinion on the proposed addition of the “contained disposal” and “uncontained releases” language. While a number of the commenters supported the addition of the language, some did not support the definition EPA proposed to use and others suggested changes to the language. Several commenters requested that additional activities also be considered contained disposal rather than uncontained releases. Still others did not agree with the contained disposal and uncontained releases language at all. Some commenters suggested additional changes to section 8 and/or changes in the way EPA presents the data in its annual data release documents and electronic databases.

Some Specific Comments:

- Use rulemaking process for Section 8 changes, not ICR approval
- Make “Prior Year” col. A (new section 8.1.a - 8.1.d) optional the first year the new form is used
- Disagrees that all metals sent to POTWs be considered uncontained releases
- Recommends codified definitions for data required in Section 8
- Does not support Part II revisions
- Supports revisions to Part II of the Form R
- Supports addition of contained disposal category and distinguishing between contained disposal and uncontained releases
- Category of “contained disposal” should be expanded to include surface impoundments
- The existing Form R currently already makes the distinction between disposal and uncontained releases, therefore, no changes are necessary.
- The categories of “contained disposal” should be broken out as separate data elements within Section 8.
- The category of “contained disposal” will lead EPA and industry to characterize harmful toxic transfers and releases as having minimal impact on public health and the environment
- Believes that contained and uncontained release characterizations will work against source reduction and obscure pollution prevention
- Expand Section 8 to include total quantity in waste managed, quantity generated as waste on-site, and quantity received as waste from off-site
- Column A, prior year would need to be recalculated to fit new classifications
- New Form R should only institute change that distinguishes between a waste transfer or disposal and a release
- Definition of contained vs uncontained is inconsistent with other regulatory programs
- Distinction between “contained” disposal and “uncontained” releases will be fundamentally unfair to the mining industry and western states
- Limiting “contained” to landfills and Class I UIC wells places EPCRA 313 at odds with EPCRA and EPA’s implementing regulations
- Recommends that transfers to POTWs and waste brokers also be reclassified as contained releases
- If contained disposal is used, should be expanded to include all permitted management units
- Supports adding a footnote for section 8.1 that clarifies what is included as “contained disposal” and what is included in “uncontained release”
- Does not agree with designation of management activities as “uncontained” releases
- Supports format changes that affect Underground Injection
- Recommends clarification to the public on the difference between contained disposal and uncontained release
- Recommends use of the term “controlled disposal”
- Contained disposal should not be considered a release
- Only 8.1.a and 8.1.c should be classified as releases
- Objects to aggregating various types of contained disposal
- On-site land release - other disposal, considered “uncontained” in the proposed Form R,

- could possibly be contained or uncontained releases
- “Contained disposal” category should include surface impoundments, which are equivalent to landfills.
- Form R should be modified to provide the option to report either “contained disposal” or “uncontained release” for each type of land disposal unit without any prior eligibility determination by EPA on the Form.
- The new categories “contained disposal” and “uncontained releases” should be added at the end of Section 5 to avoid reformatting of the entire Form R.
- EPA’s current regulations at 372.85(15) don’t require reporting of “contained disposal” and “uncontained releases;” thus, the proposed changes are substantive and must be done through rulemaking.
- With passage of the Data Quality Act and the data quality guidelines developed, EPA is obligated to accurately collect information on and report to the public the distinction between disposal of a toxic chemical into a secure landfill and release of a toxic chemical into ambient air, water, or soil
- No total release categories should be used
- Subtitle C landfills and transfers to disposal should not be considered “releases” or counted toward “total releases.” Describing such transfers as “off-site contained disposal” and thus as a subtotal of “total releases” violates current regulations and laws and must be changed
- Approves of section 8 changes proposed
- EPA could just change 8.1, not other more extensive changes proposed in sections 5 and 6 of the Form R.
- Move onsite inventory to Sec. 8 along with other chemical-summary data
- PDR should follow the new terminology of “disposal” and not “release” and reflect the data in the same manner in the PDR and TRI Explorer
- Add section total of total air releases, total water releases, total onsite land, and total offsite land. Remove total contained/uncontained on/offsite summaries
- It appears that EPA intends to continue classifying “contained disposal” as a “release,” even though such disposal does not introduce TRI chemicals to the environment. Requiring reporting of materials not actually released to the environment is inconsistent with the intent of Congress under EPCRA.

Response: Based on the comments received, EPA is proposing that Section 8.1 be further broken down as follows:

- 8.1.a. - Total on-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills;
- 8.1.b. - Total other on-site disposal or other releases;
- 8.1.c. Total off-site disposal to Underground Injection to Class I Wells, RCRA Subtitle C landfills, and other landfills; and
- 8.1.d. - Total other off-site disposal or other releases.

EPA believes that this description more accurately reflects the intent of EPA’s original

proposed breakdown without introducing the confusion created by using the terms “contained” and “uncontained.” As described in the initial proposal, EPA’s original intent to the breakdown of Section 8.1 was to provide a more accurate and precise characterization of TRI chemicals in waste streams in that it provides for distinctions between releases to ambient media. EPA does not believe that the changes being proposed to Section 8.1 are regulatory changes that would require a rulemaking since the proposed Section 8.1 will include all of the same information as before and no additional information is being collected. EPA also believes that this change will not cause implementation issues as previously discussed. This proposed Section 8.1 also provides for a greater parallel structure between data elements collected throughout the Form R. EPA has made no decisions at this time as to how these changes might be reflected in the annual Public Data Release or other public dissemination tools (e.g., TRI Explorer). Finally, EPA does not agree it is necessary to make prior year reporting for 8.1.a-8.1.d voluntary because facilities generated the information necessary to report prior year data when reporting

EPA received several comments suggesting that additional disposals or other releases should be broken out in a manner similar to Class I underground injection or disposal to landfills. The concern behind many of these comments appears to have been that calling one or more of these activities “uncontained releases” might lead to confusion about the regulatory status of such activities. For this reason, EPA is dropping the labels “contained disposal” or “uncontained release”, as discussed above. However, EPA believes that these two activities are distinct from the others mentioned by commenters, for the reasons discussed in the July 1, 2003 notice.

D. Other Form R formatting issues

General Comments: There were a wide range of comments on other aspects of the format and content of the Form R. These comments ranged from general comments that the proposed form was too long to very specific comments such as what kind of font should be used on the Form R. Some commenters suggested that certain data elements should be removed entirely from the Form R while other commenters suggested some minor additions to the form.

Some Specific Comments:

- Proposed form is too long
- Support addition of chemical name, reporting year and facility ID number to each page
- Add NAICS codes now
- Remove redundant headers; Use Arial font for everything; include 2.1 (trade secret names) into 1.4 field since trade secrets are a very rare case; group water releases together into same section (i.e., 5.3 & 6.1); use NA check box for source reduction activities instead of “yes/no” for purpose of consistency
- Reordering and renumbering of data elements will cause confusion.
- The proposed format does not accommodate the entry of large numbers.
- The proposed Form as well as the existing Form should better accommodate the use of additional pages.
- Drop Section 7A (proposed Section 10). The information is not used by EPA for the PDR or on an EPA website.

- Do not collect e-mail addresses. They cannot be protected from misuse by spammers, and EPA has previously stated it would release them in response to FOIA requests.
- Format text consistently throughout and clearly mark section headings
- Would like to use TRI software for including all chemicals whether they are Sec. 313 chemicals or not for the purpose of keeping a chemical use inventory
- Revise form to allow for reporting of multiple owners of a facility (e.g. joint owners of power plants)
- Support TEQ reporting for dioxin and dioxin-like compounds
- Add GPS to Form R since addresses can change
- Evaluate/eliminate 13 non-statutory data elements that add to overall reporting burden
- Continued changes to TRI since its inception affect the public's ability to use and understand TRI data
- The proposed changes will make data analysis more difficult (e.g., trend analysis using previous year data)
- Revise Form R to clarify that those toxic chemicals that are removed from the ambient environment as part of a remediation operation need not be recounted as "releases" by remediation waste generators when managed in treatment or contained disposal facilities. Hazardous waste treatment and disposal operations receiving the waste should not have to account for such waste in their Form R reporting
- Request that EPA consider adding sections for Total Air Releases, Total Land Releases, and Total Water Releases to assist in analyzing the data by ensuring that states and Federal EPA calculate these totals in the same manner

Response: In the Federal Register notice that was issued on July 1, 2003 (68 FR 39074), numerous changes were proposed to clarify and simplify reporting Form R. Although some of those who commented on the proposed Form R changes believed that the changes had merit, the overwhelming majority of commenters believed that implementing so many changes at once would be difficult and costly.

Based on the those comments received during the public comment period and other comments received from TRI stakeholders, EPA will not implement most of the proposed changes, but is proposing that OMB approve some minor modifications (described in detail above) that will help to clarify the data reported without adding undue burden to TRI data users. The length of this proposed Form R will remain the same as the existing Form. The chemical name and facility identification number (TRIFID) will appear on each page of the reporting form. Although no additional formatting changes will be proposed now, EPA will consider the proposed format revisions (e.g., consistent headings, consistent font, combining like sections, adding GPS codes) in future Form R ICR renewal.

Two commenters requested that the Form R be revised to allow facilities to report multiple/joint owners. Q&A 625 in the 1998 version of the EPCRA Section 313 Questions and Answers document responds directly to an example of an electricity generating facility that is comprised of multiple independent owners, each with his or her own separate operation but with a financial interest in the operation of the entire facility. The response states that an "electricity

generating facility should enter in Part I, Section 5.1 of the Form R the name of the holding or parent company, consortium, joint venture, or other entity that owns, operates, or controls the facility.” Also, further clarification is provided in the *2001 Reporting Forms and Instructions* document.

The Agency is conducting a rulemaking to add NAICS codes to the TRI reporting process. Public comments to the proposed rule are currently being reviewed. After a final rule is published, NAICS codes will be reported by facilities on the Form R. In regards to dioxin TEQ reporting, the Agency is now in the process of preparing a proposed rule.

EPA has responded in the past to requests to eliminate some or all of the “non-statutory” data elements from Form R reporting. First, EPA maintains statutory authority to collect all of the information contained on the Form R. Second, the data elements discussed by commenters are requested on the Form R in order to cross-reference the facility and the level of activity being certified with other reporting systems and data bases. They are also useful for more accurate tracking of a facility’s reporting history.

E. Chemical Assessment Guidelines (CAG) and TRI rules, lawsuits and petitions

General Comment: Some commenters raised issues that concern TRI program projects or issues that are not part of the Form R ICR renewal process. These included rulemakings, lawsuits, guidance documents, etc.

Some Specific Comments:

- CAG: EPA must revise its listing guidance through notice and comment rulemaking and must undergo OMB review under EO12866. EPA cannot make any new listing determinations until guidance is finalized. Any new EPA proposed or draft final TRI listing determinations which have raised significant data quality or “practical utility” issues in public comments must be submitted to OMB with a new ICR and pursuant to EO 12866 after the listing guidance has been revised.
- TRI lead and lead compounds rule
- Barrick lawsuit issues
- Discusses mining lawsuits
- Incorporate risk context to data reported
- Facilities should not be allowed to report amounts of non-PBT listed chemicals to the right of the decimal place. Only whole numbers should be reported

Response: Since the comments on these issues are not within the scope of the ICR renewal process they are not being addressed by EPA at this time.

F. Form R and Form A Burden

General Comments: Many of the comments related to Form R burden focused on the proposed revisions to the Form R and the expected impact of these proposed changes on reporting burden.

Many comments indicated that the increase in form length and changes in formatting would result in additional burden. Comments also noted that the proposed changes would create additional burden for states.

There were also a number of comments related to EPA's revised burden estimates for subsequent year reporting on Form R and Form A. Some comments acknowledged that EPA's revised estimates were consistent with the reporting experience at affected facilities, however other comments took issue with the revised estimates and EPA's method for deriving them. On the issue of TRI-ME's impact on reporting burden, most comments indicate that TRI-ME reduces reporting burden, but some comments disagreed with EPA's burden reduction estimate. Finally, there were a few comments related to the relationship between Form R and Form A burden.

Some Specific Comments:

- Proposed revisions to Form R will increase reporting burden beyond EPA estimates due to increased length of form, need for in-house training, revision of multiple spreadsheets, changes to collection and aggregation of data, proofing, need to make prior year calculations, and software revisions.
- Proposed revisions may not increase Form R burden
- Proposed revisions to not comply with the Paperwork Reduction Act (PRA)
- Proposed revisions will create additional burden for states to handle more paper, revise databases, provide training and outreach.
- Burden for completing existing Form R is consistent with EPA's revised burden estimate
- Larger, more complex facilities have more burden than is estimated for the "typical" facility especially in the area of compliance determination.
- Burden estimates based on EPA sample not valid because other facilities may not be of the same size, may have more complex Form R issues, may file different numbers of Forms, and may have less experience with TRI compliance
- There is no quantifiable public benefit to requiring reporting from zero releasers
- Delaying Form R changes to RY 2004 or later would give States adequate time to implement
- Burden estimates fail to account for the hours spent making a threshold determination that does not result in the filing of a Form R
- TRI reporting is a year-round effort that includes many activities
- Facilities in the glass and ceramic decorating industry take longer to report than EPA estimates.
- Staff turnover occurs at all facilities and requires new employees to become familiar with TRI reporting requirements.
- Some new rule familiarization occurs every year for TRI filers as a result of program changes, interpretation, guidance, new information, and training.
- Increased availability of information has increased the reporting burden.
- EPA has not accounted for the increased burden of PBT and lead reporting which does not allow *de minimis* exclusions or range reporting.
- EPA has incorrectly assumed that the current reporting pattern will be replicated in future reporting years.

- Data used by EPA to re-estimate burden pre-date PBT and lead rules
- No discussion of statistical sampling method and representativeness of data is provided
- Surveys were not specifically designed to gauge reporting burden
- EPA should conduct a broader, more accurate survey
- EPA should include a burden question on the Form R
- TRI-ME reduces burden
- TRI-ME has not reduced burden as much as EPA estimates
- TRI-ME is not widely used
- Some facilities use proprietary software instead of, or in addition to, TRI-ME
- Commenter's facility uses a loading factor of at least 75 percent for most purposes which is higher than EPA's loading factor.
- Supports downward adjustment to the number of anticipated Form Rs submitted over the next 3-year period.
- EPA did not address OMB's terms of clearance for additional review and support of burden estimates.
- Estimate for Calculations/Certification should be the same for both Form A and Form R filers because the same upfront work is done for both the Form A and Form R
- EPA based Form A burden estimate on an unjustified relationship to the burden of completing Form R.

Response: EPA will not implement most of the proposed changes to Form R described in the proposed ICR renewal notice from July 1, 2003 (68 FR 39074) at this time. However, EPA is proposing that OMB approve some minor modifications (described in previous sections of this document) that will help to clarify the data reported without adding undue burden to TRI data users. These changes will not affect the overall length of the Form R, and are expected to have a negligible impact on total reporting burden.

The issues raised in comments on revised burden estimates for subsequent year reporting and EPA's methods for deriving these estimates are addressed at length in the Supporting Statements for the Form R and Form A ICRs, in EPA's response to OMB's Terms of Clearance, and in responses to comments from the previous ICR renewal. The revised burden hour estimates are based on the actual reporting experience of TRI facilities, while existing burden hour estimates are based on engineering estimates dating to the late 1980s. In eliciting burden data, facilities were encouraged to think comprehensively about the overall burden of TRI reporting including time for the activities mentioned in the comments. The available burden data are appropriate and adequate for the purpose of revising unit reporting burden estimates, especially in light of the validation provided by more recent burden data independently gathered by the American Petroleum Institute after implementation of the PBT and lead rules. Overall, the available data reflect the experience of a broad range of industries reporting to TRI, and the data consistently show that existing estimates of reporting burden used by EPA are not an accurate representation of current reporting burden.

As reported in the appendix to EPA's response to OMB's Terms of Clearance, average total reporting burden per Form R is 11.7 hours plus or minus 1.8 hours. This is lower than the

revised estimate used in the ICR renewal of 19.5 hours per Form R (composed of 14.5 for calculation/report completion and 5 hours for recordkeeping/submission) plus 4 hours per facility for compliance determination. Although EPA's revised estimate is more of an aggregate estimate than an estimate that is built-up from numerous discrete activities, there is little danger that the total reporting burden is underestimated. The revised estimate is based on responses that reveal actual facility burden hours, and is substantially higher than the average of these responses. It may be appropriate to think of the difference in estimates of total hours per form as addressing various comments about additional time spent on training, guidance review, and other activities that are not individually estimated as part of EPA's revised burden hour estimate for subsequent year reporting. The revised burden estimates represent an improvement over the previous estimates dating back to the 1980s, and their use provides a more accurate representation of the current burden of the TRI program on reporting facilities.

With respect to the burden reduction attributable to TRI-ME, EPA has reduced its estimate of burden reduction from 25 percent to 15 percent. At the time of the last ICR renewal EPA had contacted 9 facilities that used a pilot version of TRI-ME in RY2000. EPA has now incorporated additional data from 9 facilities using TRI-ME for the first time in RY2001 as described in the Supporting Statements for the ICRs. Preliminary counts from RY2002 show 92 percent of Form R responses and 86 percent of Form A responses were filed using TRI-ME (TRI-ME output for submission can be in paper or electronic formats). For the purposes of this ICR renewal, EPA is using an estimate of 90 percent of Form Rs and 85 percent of Form As being filed using TRI-ME.

With respect to the comments on the revised burden estimates for Form A, EPA notes that the calculations needed to determine eligibility are a subset of the calculations necessary to complete Form R. Thus, the time required to calculate the annual reportable amount was estimated in previous ICRs and economic analyses by aggregating EPA's estimates of the time required to calculate each of the sections of Form R that are relevant to determining annual reportable amount. According to these estimates, calculations for a Form A take approximately 64 percent of the time of calculations for the Form R. To validate the revised burden hour estimate for Form A, EPA contacted 9 facilities that filed Form As to inquire about the typical facility level burden associated with using the reporting form. Depending on whether the midpoint or maximum of the reported range was used, the average facility-level burden hours per chemical certification was reported at 11.2 to 15.5 hours. EPA's revised estimate of 13.7 total hours for a facility certifying one chemical on a Form A falls within this range.

Form R ICR Commenters

Commenter	OEI E-Docket Identification Number
John Parker	OEI-2003- 0026 -0003 (Form R comment, submitted under Form A docket)
Center for Regulatory Effectiveness (CRE)	OEI-2003-0025-0006
Anonymous	OEI-2003-0025-0008
3M Company	OEI-2003-0025-0010
Minnesota ERC	OEI-2003-0025-0011
Indiana Dept. of Env. Mgmt.	OEI-2003-0025-0012
Intl. Dairy Foods Assn.	OEI-2003-0025-0013
Ameren	OEI-2003-0025-0014
Louisiana DEQ	OEI-2003-0025-0015
ML Johnson, Conectiv	OEI-2003-0025-0016
Tri-Power Consulting Svcs.	OEI-2003-0025-0017
Clean Harbors Env. Svcs.	OEI-2003-0025-0018
Ohio EPA	OEI-2003-0025-0019
Waste Management Inc.	OEI-2003-0025-0020
Information Unlimited, Baton Rouge, La	OEI-2003-0025-0021
Edison Electric Institute	OEI-2003-0025-0022
Anonymous	OEI-2003-0025-0023
PPG Industries	OEI-2003-0025-0024
Claude Earl Wells	OEI-2003-0025-0025
Environmental Technology Council	OEI-2003-0025-0026
Weyerhaeuser	OEI-2003-0025-0027
Michigan DEQ	OEI-2003-0025-0028
National Association of Manufacturers	OEI-2003-0025-0029
Pharmaceutical Research & Manufacturers of America	OEI-2003-0025-0030
NFIB Legal Foundation	OEI-2003-0025-0031
Va. DEQ	OEI-2003-0025-0033
Southern Company	OEI-2003-0025-0034
Onyx Environmental Svcs.	OEI-2003-0025-0035

Tennessee Valley Authority	OEI-2003-0025-0036
Texas Chemical Council	OEI-2003-0025-0037
Synthetic Organic Chemical Association (SOCMA)	OEI-2003-0025-0038
IPC	OEI-2003-0025-0039
Society of Glass & Ceramic Decorators	OEI-2003-0025-0040
Dupont	OEI-2003-0025-0041
National Paint and Coatings Assn.	OEI-2003-0025-0043
National Mining Association (NMA)	OEI-2003-0025-0044
ACC - UIC Task Force	OEI-2003-0025-0045
Alcoa, Inc.	OEI-2003-0025-0046
Eastman Chemical Co.	OEI-2003-0025-0047
Washington State TRI Program	OEI-2003-0025-0048
Texas Commission on Env. Quality	OEI-2003-0025-0049
American Chemistry Council (ACC)	OEI-2003-0025-0050
Louisiana Mid-Continental Oil	OEI-2003-0025-0051
Northeast Utilities System	OEI-2003-0025-0052
American Petroleum Institute	OEI-2003-0025-0053
Phelps-Dodge	OEI-2003-0025-0054
State of Utah Department of Env. Quality	OEI-2003-0025-0055
Working Group on Community Right-to-Know	OEI-2003-0025-0056
Cytec Industries, Inc.	OEI-2003-0025-0057
Lower Colorado River Authority (LCRA)	OEI-2003-0025-0058
Westar Energy	OEI-2003-0025-0059
Monsanto	OEI-2003-0025-0060
Utility Solid Waste Activities Group (USWAG)	OEI-2003-0025-0061
Ground Water Protection Council (GWPC)	OEI-2003-0025-0062