



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

January 3, 2020

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

Ms. Danielle Jones
Office of Information and Regulatory Affairs (OIRA)
Office of Management and Budget (OMB)
725 17th Street, N.W.
Washington, DC 20503

RE: Emergency Processing Request for Toxic Chemical Release Reporting

Dear Ms. Jones:

Pursuant to section 3507(j) of the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), as implemented in OMB regulations at 5 CFR §1320.13, the Agency is hereby requesting emergency processing of the collection of information necessary for the timely and efficient implementation of section 313 (commonly referred to as the Toxics Release Inventory (TRI)) of the Emergency Planning and Community Right-to-Know Act (EPCRA). More specifically, the Agency seeks approval on a new information collection request (ICR) for the toxic chemical release reporting of chemicals added to the scope of section 313 by the National Defense Authorization Act (NDAA) for Fiscal Year 2020, which was enacted on December 20, 2019. This new collection is related to an existing collection of toxic chemical release reporting, approved under the OMB Control No. 2025-0009. After this new request is approved, EPA anticipates consolidating the currently approved collection and this new request under a single OMB control number.

Under the PRA, an agency may ask OMB to authorize a collection of information if the Agency has determined that the collection is needed and the agency cannot reasonably comply with the normal clearance procedures under the PRA because public harm is reasonably likely to result if normal clearance procedures are followed, an unanticipated event has occurred, or the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

In submitting an emergency processing request pursuant to section 3507(j), the Agency must submit a request that includes a "written determination" describing the collection activity (5 CFR §1320.13(a)), identifying the time period within which OMB should act on the request (5 CFR §1320.13(c)), and specifying that the Agency has taken all practicable steps to consult with affected parties in order to minimize burden related to the emergency collection (5 CFR §1320.13(d)).

This document, along with the accompanying ROCIS forms, provides the required "written determination" to request emergency processing and approval of the collection activity described.

Requested Time Period for OMB Action

EPA requests that OMB take action by January 3, 2020 or as soon as possible.

What Information Collection Activities are Involved in this Emergency Request?

On December 20, 2019 the National Defense Authorization Act (NDAA) for Fiscal Year 2020 was signed into law. Among other provisions, section 7321 of the NDAA adds certain per- and polyfluoroalkyl substances (PFAS) to the EPCRA section 313 list of reportable toxic chemicals as of January 1, 2020. Specifically, the NDAA identifies 14 chemicals by name and/or Chemical Abstract Service Registry Number (CASRN) in section 7321(b) and identifies additional PFAS based on criteria on the following criteria:

- “(i) listed as an active chemical substance in the February 2019 update to the inventory under section 8(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2607(b)(1)); and (ii) on the date of enactment of this Act, subject to the provisions of—
 - (I) section 721.9582 of title 40, Code of Federal Regulations; or
 - (II) section 721.10536 of title 40, Code of Federal Regulations.”

EPA is currently reviewing the above-listed criteria. It is anticipated that more than 150 chemicals have been added to the TRI list of chemicals by the NDAA.

As established by the NDAA, the addition of these PFAS have an effective date of January 1, 2020. Accordingly, these PFAS are reportable for the 2020 reporting year (i.e., reports due July 1, 2021). In addition, the NDAA established a manufacture, processing, and otherwise use reporting threshold of 100 pounds for each of the listed PFAS.

Is the Information Collection Essential and Necessary for the Proper Performance of the Agency Functions?

Yes. Pursuant to statutory law, EPA must collect TRI data on the newly listed PFAS.

Rationale for the Emergency Request

EPA has determined that this collection of information is needed due to the addition of more than 150 chemicals. The chemicals added to the TRI list became effective on January 1, 2020. The regular process for ICRs under the PRA, which includes two comment periods with 60-day and 30-day timeframes, is infeasible due to the immediacy of this effective date, following the enactment of the NDAA on December 20, 2019.

Why can't the Agency reasonably comply with the normal clearance procedures?

The normal clearance procedures under the PRA require agencies to provide a 60-day public comment opportunity before submitting an ICR to OMB for review and approval. The OMB review and approval process involves another mandated 30 days for additional public comment. Combined with the necessary internal EPA development and clearance time frames, the normal clearance procedures under the PRA typically take at least 6 months to complete.

The normal clearance procedures are impossible to follow for this action due to the NDAA becoming law on December 20, 2019, and providing an effective date of January 1, 2020 for the chemicals that it added to the TRI list.

Has the Agency taken practicable steps to consult with affected parties in order to minimize burden?

Yes. EPA has notified facilities that have reported to TRI during the past two reporting years of the NDAA's passage. EPA will soon provide a webpage that provides more information on the specific chemicals added to the TRI list of chemicals by the NDAA.

What are the Estimated Burden and Costs for This Information Collection Activity?

The existing ICR for Form R reporting estimates an average burden of 35.70516 hours per Form R and a weighted average wage rate of \$55.38. This results in estimated burden of approximately \$1,977 per Form R submitted. Using information submitted to EPA's Chemical Data Reporting (CDR) program, EPA estimates that approximately 500 TRI Form Rs may be submitted due to the addition of the PFAS listed by the NDAA, resulting in an increased estimated burden of 17,852 hours (\$1 million). The annual burden for the currently approved ICR No. 1363.27, OMB Control No. 2025-0009 is 3,597,275 hours.

Requested Approval Period

EPA asks that OMB approve this collection for 180 days, i.e., through July 1, 2020. This will allow sufficient time for EPA to proceed with an ICR to be processed and approved under the regular process.

Thank you for your assistance in processing this request. Should any questions arise, please contact me on 202-564-0258.

Sincerely,

Angela F. Hofmann
Director of Regulatory Coordination

Attachment

cc: Alexandra Dapolito Dunn (EPA/OCSP)
David Fischer (EPA/OCSP)
Jeff Morris (EPA/OCSP/OPPT)
Tala Henry (EPA/OCSP/OPPT)
Courtney Kerwin (EPA/OMS)
Eric Schultz (EPA/OMS)
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