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Office of Pollution Prevention and Toxics (OPPT)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Attn.: **Docket ID No. EPA-HQ-OPPT-2008-0504**

Re: Agency Information Collection Activities; Proposed Collection; Comment Request;
Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site
Reports; EPA ICR No. 1884.04, OMB Control No. 2070-0162

Dear Document Control Officer:

The American Petroleum Institute (API) is pleased to present comments to the U.S. Environmental Protection Agency (EPA or the Agency) on its development of the Information Collection Request (ICR) for Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports (also known as the TSCA Inventory Update Rule or IUR), as noticed at 73 *Federal Register* 51805-51807, September 5, 2008. API is the primary trade association of America's oil and natural gas industry and represents nearly 400 members involved in all aspects of the industry. API and its member companies have been stakeholders in numerous chemical management initiatives, including the High Production Volume (HPV) Challenge Program and all of the major rulemakings under the U.S. Toxic Substances Control Act (TSCA). Many of API's members have filed IUR reports in past reporting periods and will do so again in the 2011 reporting period.

We have reviewed EPA's Supporting Statement for the ICR.¹ Based on that review we offer two specific comments, which follow below. These comments are related to EPA's use of IUR data and the availability of the data to the public. Regarding EPA's burden estimates, we support EPA's raising of its burden estimates in comparison with the previous ICR.

¹ Supporting Statement for a Request for OMB Review under the Paperwork Reduction Act, Partial Update of the TSCA Section 8(b) Inventory Data Base Production and Site Reports, EPA-HQ-OPPT-2008-0504-0002.

1. EPA HAS BEEN TOO SLOW IN MAKING IUR DATA PUBLICLY AVAILABLE.

Because data utility and availability are key concepts that EPA needs to address during the ICR process, API believes it is important to highlight that EPA has not yet publicly released the data collected under the last IUR reporting period, which was almost two years ago. Regarding the availability of IUR data, EPA writes in its Supporting Statement:

IUR data are used to update and augment the Chemical Update System (CUS) database. Once updated, the database is then available to EPA technical reviewers for export into their various analytical modeling systems and databases. The IUR database is also available for quick screening and other direct uses. Non-CBI information is publicly available.²

However, at this writing, the data from the most recent cycle is not publicly available. The most recent publicly available data are from the 2002 reporting period.

EPA states in its Supporting Statement that it has “demonstrated the usability of the 2006 IUR data by making public, less than a year after the close of the 2006 IUR submission period, risk-based prioritization documents providing screening-level exposure and risk assessments for a number of chemicals in the Agency’s HPV Challenge program.” API finds it troubling that EPA is able to use IUR data to create risk-based prioritization documents and make those documents public before it has even released any IUR data to the public. EPA needs to address this basic transparency problem, and we urge the Agency to focus on the issue and make the data available as soon as possible.

2. EPA FAILS TO DISCUSS ITS PLANNED TSCA INVENTORY RESET.

EPA is considering initiating a new TSCA Inventory “reset” activity. This activity would be an updating of the TSCA Inventory, so EPA should discuss it in the current ICR. Since the effort is bound to involve use of IUR data to some extent, EPA at least should include the Inventory reset in its Supporting Statement discussion of uses of the IUR data. Furthermore, if for any reason EPA does not plan a separate ICR for the Inventory reset effort, EPA should cover the reset activity in this ICR.

On September 24, 2008, James Gulliford (Assistant Administrator, OPPTS) gave a speech at the Soap and Detergent Association Fall Meeting, in which he announced that EPA has decided to go forward with the TSCA Inventory reset. He said that the Agency favors a “clean reset” which would remove from the TSCA Inventory chemicals “no longer being manufactured or imported.” EPA envisions inviting companies to certify that they have manufactured or imported specific chemicals within a specified timeframe, e.g. a 3-year timeframe. Only chemicals that remain on the reset Inventory would maintain their current status. Chemicals removed from the Inventory would require notice prior to any future manufacture or import.

It not clear what administrative mechanism the Agency intends to use for the reset—e.g., whether there will be notice and comment rulemaking, whether there will be a separate ICR. We

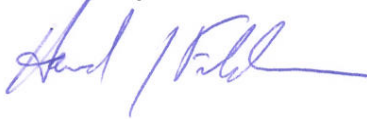
² Page 15.

think it is appropriate for EPA in this ICR to at least flag for the Office of Management and Budget (OMB) that it is planning the Inventory reset activity.

As stated in previous comments to EPA, API has recommended that EPA not pursue an Inventory reset effort at this time.³ EPA's goal for such an effort would be to create a more "accurate" TSCA Inventory, and we agree with that goal in principle. However, we do not think a TSCA Inventory reset project warrants priority from the Agency, particularly given the challenges EPA is already undertaking under the Chemical Assessment and Management Program (ChAMP). There is no indication that removing some chemicals from the TSCA Inventory would allow EPA to better plan and execute its mission to protect human health and the environment. Although some obsolete chemicals may be listed on the Inventory, EPA is not undertaking or planning any efforts that would include these obsolete chemicals, so eliminating them is of little value for planning purposes. Moreover, API believes that a TSCA Inventory reset would require substantial time and resources from both EPA and the regulated community.

API appreciates the opportunity to comment on this ICR. We support EPA's efforts to develop accurate burden estimates and to assess the practical utility of the data it collects. Please contact Derek Swick of my staff at 202-682-8341 or swickd@api.org if you have any questions about our comments, or would like additional information from API.

Sincerely,

A handwritten signature in blue ink, appearing to read "David / Phil", is written over the word "Sincerely,".

cc: API TSCA Task Force

³ API comments on Chemical Assessment and Management Program (ChAMP), June 3, 2008, docket EPA-HQ-OPPT-2008-0319.