

EPA ICR No. 1741.06; OMB Control No. 2070-0145

ATTACHMENT 5

Public Comment on ICR Renewal and EPA's Response

VIA EPA ONLINE

October 5, 2010

Document Control Office (7407M)
Office of Pollution Prevention and Toxics (OPPT)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)
Attention: Desk Officer for EPA
725 17th Street, NW Washington, DC 20503

Subject: Request for Comment on Renewal of Information Collection Request, Correction of Misreported Chemical Substances on the TSCA Inventory; EPA ICR No. 1741.06, OMB No.2070-0145, 75 FR 47589, August 6, 2010

Dear Sir or Madam:

The American Chemistry Council (ACC) is pleased to submit these comments on EPA's Information Collection Request (ICR) on Correction of Misreported Chemical Substances on the TSCA Chemical Substance Inventory. ACC supports the continued availability of this important correction mechanism.

The American Chemistry Council's member companies manufacture, distribute, process, import, use and dispose of chemical substances regulated under the Toxic Substances Control Act (TSCA). As such, they are obligated to provide information related to the TSCA Chemical Substances Inventory and, at times, may need to correct information on that Inventory. Consequently, the Council's members are directly affected by and have a significant interest in this ICR.

These comments address ACC's concerns about the industry burden estimate provided by EPA relating to TSCA Inventory corrections. However, to be clear, the Council views the Inventory correction process as essential for regulatory compliance and fully supports EPA's continued effort to provide this mechanism. The need for such a correction can arise, for example, when new analytical technology provides an improved understanding of the chemical identity of a listed substance.

We noted that EPA has decreased the annual public reporting and recordkeeping burden for a single TSCA correction to 2.25 hours, versus the 2008 burden estimate of 2.5 hours. We continue to maintain that the original burden estimate was too low, and request that EPA reconsider the updated estimate.

As noted in ACC's comments in 2001 and 2008, Council members have indicated that it takes *at least* 4-5 hours to complete the process needed for an Inventory correction. This time is spent establishing correct chemical nomenclature, gathering historical production records, confidentiality reviews, consulting with plant operations and suppliers, preparing internal files, and preparing the submission to EPA. The estimate of 4-5 hours assumes that all records can be readily found and that no major obstacles are encountered. Each case is variable, but just the actions to establish and verify correct chemical nomenclature will involve multiple people, and could involve communications with CAS or outside experts. Searching records can burn additional hours.

Significantly more time would be needed to address corrections for submissions prior to 1978 or for businesses that have been sold, gone through mergers, or purchased product lines from other companies. In these cases, companies may have to search through years of production records, review shipping records, and obtain sworn affidavits from staff. Under these circumstances, it is not unreasonable for a company to spend several weeks working to address an Inventory correction. Additional time may also be spent to address follow-up communications with EPA after the submission is made.

Finally, the ICR does not fully account for the start-up and training time necessary for TSCA Inventory corrections. As duly noted by EPA in its ICR, inventory corrections do not occur frequently. As such, many company staff and locations are not accustomed to the activities associated with the process. When a correction needs to be made, companies have to spend additional time and energy in training personnel on what the requirements are and what needs to be completed. Just the final action of developing the correction submission to the EPA, involving others with internal reviews/approvals, and mailing and generating a recordkeeping file for that notice could easily take more than 2 hours.

Providing a burden estimate that better reflects actual industry practices and associated costs will allow OMB and the regulated community to more accurately assess the cumulative burden of TSCA regulations.

If you have any questions regarding the Council's concerns, please feel free to contact me at 202-249-6414.

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Sincerely,

/s/

Robert J. Kiefer
Director
Regulatory & Technical Affairs

February 21, 2011

MEMORANDUM

SUBJECT: Response to Comments Received on ICR 1741.06: Correction of Misreported Chemical Substances on the TSCA Inventory

FROM: Matthew Leopard, Director /s/
Information Management Division (7407-M)

TO: Angela Hofmann, Director
Regulatory Coordination Staff (7101)

On August 6, 2010, in announcing its intention to renew OMB clearance for Information Collection Request (ICR) 1741.06, Correction of Misreported Chemical Substances on the TSCA Inventory (OMB Control No. 2070-0145), EPA published in the *Federal Register* a Notice that initiated a 60-day public notice and comment period that ended on October 5, 2010 (75 FR 47589). EPA received written comments from the American Chemistry Council (ACC). This memorandum summarizes the comments submitted by the ACC and provides EPA's response to those comments.

The commenter, Robert J. Kiefer, took issue in several respects with the burden estimates EPA had made for the information collection activities addressed in the ICR. Specifically, the commenter (1) asserted that EPA had reduced the estimated per-response burden from 2.5 hours to 2.25 hours per response; (2) questioned EPA's overall per-response burden estimate; and (3) argued that EPA did not address a certain significant respondent activity.

The commenter was incorrect in stating that EPA had decreased its burden estimate from 2.5 hours per response in the 2008 renewal of this information collection to 2.25 hours per response in the current proposed renewal. EPA has maintained an estimate of 2.25 hours per response for this information collection since at least 2005, at which time EPA actually raised its estimate from 2.0 hours per response to the current value. In fact, EPA has raised its burden estimate several times in requesting OMB approval of this information collection, due at least in part to industry comments on earlier renewals. As recently as the ICR that OMB approved in 2002, for example, EPA's burden estimate was 1.0 hour per response.

In its burden estimate, EPA calculated a burden of 2.25 hours per response, which the Agency believes is reasonable and similar to the same calculation expressed in earlier renewals of this ICR. The commenter simply asserted that respondents take “... *at least* 4-5 hours to complete the process needed for an Inventory correction.” In making this assertion the commenter provided no factual basis or supporting data for a burden estimate that is any better justified than EPA’s estimates. The commenter did not provide either a specific burden total or specific subtotals of respondent activities and their respective burdens.

The commenter also stated that EPA failed to account for the burden involving start-up and training time for purposes of responding to the information collection described in OMB 2070-0145. (The commenter claimed that such activities “...could easily take more than 2 hours,” again without supporting data.) In EPA’s view, the need for such a burden calculation as part of this ICR is problematic. EPA has in effect addressed training and other initial activities for purposes of preparing TSCA inventory corrections under another related and more broadly used information collection activity mandated under TSCA. Specifically, the closely related information collection “Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports” (OMB Control No. 2070-0162) includes burden calculations that relate to potential respondents becoming familiar with the rule and respondents’ actions to determine their compliance with the rule. It is unlikely that there will be respondents to the information collection activities found under OMB 2070-0145 that are not also affected by the broader information collection activities under OMB 2070-0162. That is, respondents to OMB 2070-0145 are almost certain to be a subset of respondents to OMB 2070-0162, and will already be familiar with the regulatory requirements, and will have already undergone training, for purposes of preparing responses to either information collection. Nor would any start-up or training activities be significantly different for responses prepared under OMB 2070-0145 from those prepared under OMB 2070-0162. Therefore a burden calculation involving start-up and training for respondents under OMB 2070-0145 would be redundant, in that EPA effectively addresses the burden for such activities under OMB 2070-0162.

For the above reasons, EPA has decided not to make changes to the Supporting Statement for ICR 1741.06 as a result of the comments received from ACC.