

MICHAEL P. WALLS
VICE PRESIDENT
REGULATORY & TECHNICAL AFFAIRS



December 29, 2010

Stephen A. Owens
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail Code 7101M
Washington DC 20460

RE: TSCA Inventory Update Rule (IUR) Proposed Modifications, 75 Fed. Reg. 49656 (Aug. 13, 2010).

Dear Mr. Owens:

Although the Environmental Protection Agency's (EPA) proposed modifications to the Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) will not be final until mid-2011, the anticipated reporting deadline in the rule is nevertheless forcing companies to take action now to comply. ACC member companies have little option but to make significant financial investments now to modify their enterprise reporting software and other systems based on the proposed rule. Given the uncertainties associated with the economic recovery, companies should not be forced to make investments in new systems that may yet be modified by EPA. We strongly urge you to reconsider the reporting deadlines proposed in the 2011 IUR amendments.

As ACC outlined in its extensive comments on the proposed rule, the IUR provides important information on chemicals in U.S. commerce. The IUR database is one basis for the Agency to screen and prioritize chemicals for additional review, and the IUR can and should provide useful information to the public and industry. We noted our support for enhancements in the IUR database, and made recommendations for phasing in some of the new requirements.

Our general support for the substantive elements of the proposed IUR changes was tempered by our significant concern over the timing and practicality of the proposed modifications. Under the Agency's current proposal, virtually no time is left for the industry to modify their systems and report on time. We have been informed that the Agency may publish the final rule by May 1, 2010 – a mere 30 days before the start of the reporting "window" for 2010 data (June 1 through September 30, 2011). More recently, EPA announced in the 2010 Fall Semi-Annual Regulatory Agenda that the proposed date for final action is July 2011. By contrast, the extensive changes reflected in the 2006 IUR reporting cycle were made final in 2003, and were followed by a series of EPA workshops spanning the two years prior to the required reporting deadline.

In addition to the short time anticipated between the final rule and the reporting deadlines, the proposed requirement for five-years of retrospective production volume data will impose



significant compliance problems. As there was no prior requirement to collect data from the years between the IUR submission periods, the modifications – if made final as proposed – would force companies to have systems in place to capture data from prior years. This is particularly problematic for obtaining and analyzing the records received from import brokers, but also in locating and retrieving composition data for all of the mixtures that have been imported over the last five years. As we are certain you are aware, volume tracking for tens of thousands of annual imported mixtures makes up the largest part of the IUR effort. Simply put, the administrative systems to obtain, review, and report 5 years of data do not currently exist. In order to meet the anticipated compliance deadline, companies are forced to make investments in new systems now.

ACC's concerns are compounded by uncertainties over the availability and reliability of the Agency's proposed electronic reporting systems. ACC believes that valuable efficiencies can be gained by electronic reporting. Electronic reporting in the 2006 IUR cycle demonstrated that the Agency can quickly and effectively assess the information received, and publish the information on a timelier basis. We recognize the Agency's effort to reach out to the industry with early demonstrations of the e-IUR reporting tool, particularly the webinar held on November 30 of this year. However, there remains some uncertainty whether the tool will be completed, available and adaptable to company reporting systems in time to meet the proposed June –September reporting period.

ACC remains convinced that the goal of an enhanced, reliable IUR database is achievable. Specifically, we recommend that the Agency extend the June-September 2011 reporting window for 2010 data and tie it into the effective date of the final rule. We further recommend that the Agency publicly announce the intention to extend the reporting window as soon as possible. This will allow companies an opportunity to assess the final rule and make appropriate modifications to their reporting systems, and to integrate electronic reporting systems. An extended reporting window will ultimately produce a more accurate, useful database. ACC also opposes retroactive reporting for 2006-2009, but believes that IUR reporting beyond 2011 can still satisfy the Agency's information objective.

ACC and its members remain committed to ensuring a workable, effective IUR reporting process. If we can provide any additional information on ACC's concerns, please let me know.

Sincerely,



Michael P. Walls
Vice President
Regulatory and Technical Affairs

cc: Wendy Cleland-Hamnett, OPPT, EPA
Cass Sunstein, Office of Information and Regulatory Affairs, OMB