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August 16, 2016

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

Re: EWG Comments on Agency Information Collection Activities; Proposed Renewal of Existing Collection (EPA ICR No. 0794.16) (TSCA Sec. 8(e))

Docket No. EPA-HQ-OPPT-2015-0744

We respectfully submit this letter on behalf of the Environmental Working Group, in response to the U.S. Environmental Protection Agency's proposal to ask the Office of Management and Budget to renew the agency's information-collecting authority under Section 8(e) of the federal Toxic Substances Control Act.^{1,2} Section 8(e) requires anyone in the business of making chemicals to immediately report to EPA when obtained information shows a chemical "presents a substantial risk of injury to health or the environment."³ For the reasons explained herein, EWG strongly supports EPA's renewal request, believing the agency needs to utilize all available tools to ensure the safety of chemicals Americans encounter in their everyday lives. If anything, EPA needs *even greater* authority to fulfill that duty, which is why we will continue to advocate ways for EPA to expand its ability to address risks emerging from the frontiers of chemical science.

EWG is a national environmental health organization dedicated to empowering people to live healthier lives in a healthier environment.⁴ For years, EWG has employed groundbreaking research, education, and advocacy to shape public policy and hold the chemical industry accountable as we seek to protect the public – including workers, pregnant women, infants, and children – from exposures to toxic chemicals. Through that work, EWG has found time and again that the chemical industry is in the best position to know whether the substances it makes present health risks. The industry typically has this insight years before the scientific community can document these concerns in published studies.⁵

¹ Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA IR No. 0794.16), 81 Fed. Reg. 43,601 (July 5, 2016).

² Toxic Substances Control Act of 1976 § 8(e), 15 U.S.C. § 2607(e).

³ Id.

⁴ Env'tl. Working Group, www.ewg.org (last visited Aug. 3, 2016).

⁵ Michael Hawthorne, "Firemaster 550 the Latest Flame Retardant Allowed onto Market Without Thorough Study," Chicago Tribune, May 10, 2012, <http://www.chicagotribune.com/news/ct-met-flames-regulators-20120510-story.html> ("By the time the scientific community catches up to one chemical, industry moves on to another" said Deborah Rice, a former EPA toxicologist who works for the Maine Center for Disease Control and Prevention.").



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To underscore this point, we urge EPA to familiarize itself with EWG's Chemical Industry Archives.⁶ The Archives is a searchable database containing thousands of internal documents from chemical makers and their trade associations, chronicling instances in which the industry knew about chemical risks long before the public had access to such information.⁷ EWG has submitted Archives highlights in previous correspondence with EPA: for example, to cite early-life and biomonitoring studies conducted by the industry, which we believe are critical to evaluating potential exposures and health hazards.⁸

Also documented in the Archives and various EWG reports, is DuPont's long-held knowledge that perfluorooctanoic acid (PFOA), once widely used to make Teflon, presents serious risks.⁹ In the 1980s, DuPont conducted internal studies in Parkersburg, W.Va., the location of its Teflon plant.¹⁰ Not only did DuPont find widespread PFOA contamination in Parkersburg's drinking water, but it also found that two workers at the plant had children with birth defects potentially linked to PFOA exposure.¹¹ DuPont kept these studies and their findings secret.¹² The public only learned about these findings when they were uncovered by plaintiff's attorney Rob Bilott through litigation, and were subsequently published by EWG.^{13,14} Ultimately, EWG's reporting resulted in EPA imposing a \$16.5 million fine against DuPont for failing to submit the studies – under the *very* reporting requirement that EPA is proposing to renew, Section 8(e).¹⁵

To maintain a level information field, chemical makers must be required to relay evidence of risk to EPA. Such disclosures enable EPA to fill data gaps and pursue health protections where they are due, a hallmark principle of TSCA. Absent that requirement, chemical makers would have little incentive to share such information. The result: EPA would be left to regulate chemicals in the dark, at least until the scientific community was able to conduct its own research. During that

⁶ Env'tl. Working Group, Chemical Industry Archives, <http://www.chemicalindustryarchives.org/search/> (last visited Aug. 4, 2016) [hereinafter Archives].

⁷ The Archives features meeting minutes of the Chemical Manufacturers Association, renamed the American Chemistry Council, as well as internal chemical industry documents regarding vinyl chloride, polychlorinated biphenyl, beryllium, and perfluorinated compounds. Id.

⁸ Letter from Ken Cook, President, Env'tl. Working Group, to Lisa Jackson, Administrator, U.S. Env'tl. Prot. Agency (June 2, 2011), <http://static.ewg.org/pdf/EWG-Letter-to-EPA-Biomonitoring-6-2-2011.pdf>.

⁹ See Archives, note 6; see also, e.g., Env'tl. Working Group, DuPont Hid Teflon Pollution for Decades (2002), <http://www.ewg.org/research/duPont-hid-teflon-pollution-decades> [hereinafter DuPont Hid].

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Nathaniel Rich, "The Lawyer Who Became DuPont's Worst Nightmare," N.Y. Times, Jan. 6, 2016, http://www.nytimes.com/2016/01/10/magazine/the-lawyer-who-became-duponts-worst-nightmare.html?_r=0.

¹⁴ DuPont Hid, supra note 9. Building on what DuPont eventually revealed, the scientific community is now largely in agreement that PFOA is clearly associated with effects ranging from cancer to hormone disruption. C8 Science Panel, C8 Probable Link Reports, http://www.c8sciencepanel.org/prob_link.html (last updated Oct. 29, 2012) (last visited Aug. 3, 2016). As a result, chemical makers have largely agreed to stop PFOA's production in the U.S. U.S. Env'tl. Prot. Agency, 2010/2015 PFOA Stewardship Program - 2014 Annual Progress Reports, <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/20102015-pfoa-stewardship-program-2014-annual-progress> (last visited Aug. 3, 2016).

¹⁵ Press Release, Env'tl. Working Group, EPA Fines Teflon Maker DuPont for Chemical Cover-Up (Dec. 14, 2005), <http://www.ewg.org/news/news-releases/2005/12/14/epa-fines-teflon-maker-dupont-chemical-cover>.



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time gap, EPA would likely waste limited resources trying to determine which chemicals were worth closer review. More troublingly, one could expect EPA to miss early warning signs about chemicals that are indeed harmful, and, in the meantime, the public would be exposed to them as the chemicals were brought to market.

EWG has spent years drawing attention to TSCA's deeply rooted flaws and believes that its recent amendments do not go far enough to protect vulnerable populations.¹⁶ Our view is that companies should assess chemicals to provide reasonable assurances that their products are safe before they go to market. Companies should also share *any* information that might have a bearing on chemicals' exposure and hazard potential, including early-life and biomonitoring studies, with EPA – not just evidence of significant risks. However, at the very least, companies should still be required to immediately report when they obtain information showing such risks. That is why we resoundingly support EPA's proposed request to renew its Section 8(e) authority.

Thank you for your consideration.

Sincerely,

Ken Cook
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¹⁶ E.g., Statement of Ken Cook, President, Env'tl. Working Group, Chemical Reform Law Falls Short in Protecting Public Health, Environment (May 24, 2016), <http://www.ewg.org/testimony-official-correspondence/chemical-reform-law-falls-short-protecting-public-health>.