

TSCA Inventory Update Reporting (IUR) Proposed Rule

API Issues

February 11, 2011

Oil and Gas Industry Overview

API members (> 450)

- Supply most of America's energy
- Support more than 9.2 million U.S. jobs and 7.5 percent of the U.S. economy
- Since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives, while reducing the industry's environmental footprint

TSCA and the Oil and Gas Industry

- Large scale and safe manufacturing of critical fuels and lubricants
- Petroleum refiners regulated as chemical manufacturers under TSCA
- By volume, 17 of the top 25 chemicals made in the USA were refinery streams (2006 IUR)
- IUR requires substantial resources to accurately report volumes, processing, use and other data

Overall Comments

- EPA should extend the reporting schedule and tie it to the effective date of the final IUR rule
- EPA should phase-in mandatory electronic reporting
- EPA should drop the proposed retroactive reporting of production/import volume data from 2006 – 2009
- EPA should reconsider proposed changes to reporting standard and threshold determinations
- EPA underestimated resources (4-6x more) required to collect, organize, verify, and report IUR data

Reporting Schedule

- The submission date of 9/30/2011 is unrealistic
 - Final rule not expected until late spring 2011
 - Insufficient time for clarifications and issuance of guidance documents
- Timeline for 2006 IUR changes was more realistic
 - Rule made final in 2003
 - Followed by a series of EPA workshops spanning the two years prior to the reporting deadline

Electronic Reporting

- Proposal would require electronic reporting using e-IURweb and submission to CDX
- System not yet in place, experience is needed
 - Time is needed for interface and validation of e-IURweb reporting tool, CDX issues abound
- API proposes phasing-in mandatory electronic reporting
- System needs to enable multiple-site firms to report centrally if desired

Retroactive Reporting

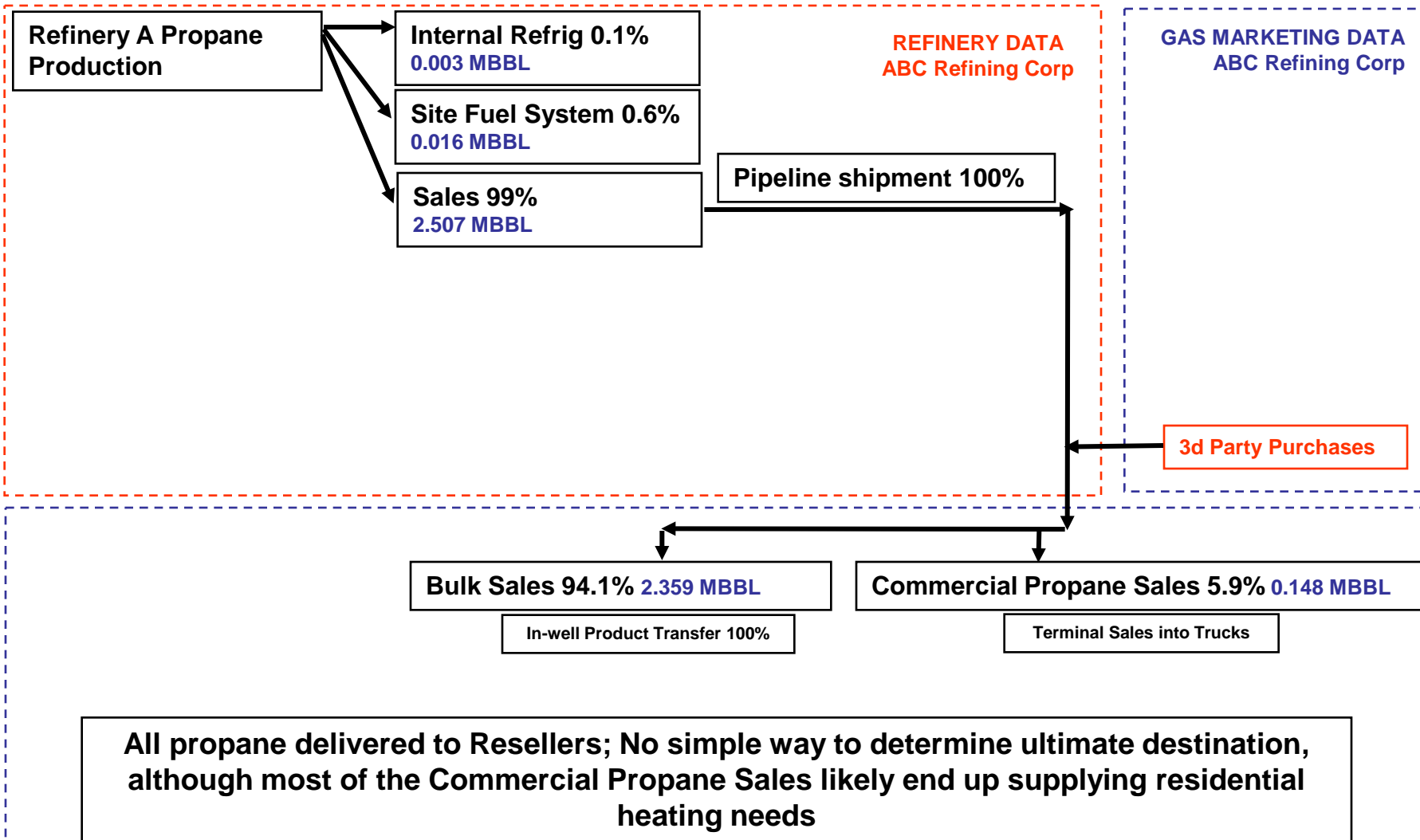
- Proposal requires retroactive reporting for production volumes from 2006-2010
 - Until now IUR collects single year of production volume (i.e., 2006, 2010—NOT 2006 - 2010)
- Company systems not in place to capture the data
- Especially problematic for imported mixtures
- This is the most resource intensive requirement with the least benefit – high cost/low benefit



Reporting Standard for Processing and Use Information

- Proposal would replace the “readily obtainable” reporting standard used for reporting processing and use information with the “known to or reasonably ascertainable by” reporting standard
 - Increased resources needed in data collection efforts
- Fuels/other refinery products are fungible commodities – impossible to track to every potential consumer with high confidence
- Example: Propane Flow

Example: Propane Product Flow



Problems with Proposed Reporting Standard

- Not readily obtainable
 - Total number of pipeline, terminal, and downstream workers
 - Ultimate proportion of product to various downstream uses – as fuel or as chemical feedstock
 - (Note that market data available, but not permitted by EPA)
 - The inherent nature of commodity sales makes ultimate uses virtually unknowable
- IUR is a data-reporting rule; should not force unreliable data-gathering

Threshold Determinations (1)

- Proposal would set a ZERO threshold for chemicals subject to TSCA rules or orders
 - Over 900 chemicals
- Compliance very difficult without a de minimis concentration
- Unjustified since these chemicals are already subject to TSCA regulation
- API opposes this change

Threshold Determinations (2)

- Proposal would eliminate the 300K lb. threshold for reporting processing and use information
 - Significant increase in burden for sites with chemicals manufactured and imported in the 25K – 300K lb. range
- API suggests EPA consider removal of the threshold on case-by-case basis for specific chemicals based on risk-based priorities and data needs

Threshold Determinations (3)

- Proposal would require reporting if production volume meets or exceeds 25K lb. in ANY calendar year since last reporting year (RY)
- API supports current approach of making threshold determinations based on a single RY
 - Approach is appropriate for purpose of IUR data

Thank You

Detailed API Comments were
submitted to EPA October 2010