

Attachment A: Consultation Summary**Agency reach out:**

Hello,

I am contacting you to solicit your input on the renewal of the Information Collection Request (ICR) (see attached questions). This ICR titled “ICR Renewal Methylene Chloride Regulation under TSCA section 6,” identified by OMB Control No. 2070-0204. OMB requires federal agencies to consult with nine or fewer potential respondents prior to submitting the ICR renewal to OMB for review and approval. This consultation requirement is in addition to providing the public with 60 days to comment on the proposed collection activity. The notice announcing the ICR renewal and solicitation of comments was published in the **Federal Register** on August 25 , 2025, ([90 FR 41391](#)) See <http://www.regulations.gov/>, docket ID EPA-HQ-OPPT-2021-0303, and the ICR supporting statement for this renewal located is in that docket for additional information.

The Paperwork Reduction Act (PRA) requires that agencies receive Office of Management and Budget (OMB) clearance before requesting most types of information from the public. In order to receive OMB clearance, federal agencies prepare draft ICRs providing an overview of the information collection and estimates of the cost and time for the public to respond. The agencies consult with potential respondents and the public about the ICR and, where appropriate, incorporate comments received. The draft ICR is then sent to OMB for its review and approval. These ICRs are periodically renewed. Under this ICR, the Program is seeking approval to collect the data on the asphalt and concrete products purchased by state and local government agencies and the concrete products purchased by large architectural and engineering (A&E) firms. Among the data being requested is information on Environmental Product Declarations (EPDs) associated with these products. EPD information, along with data on amounts purchased of each product, will provide EPA with data that can be used in setting threshold values to define categories for labels under the Program. The underpinnings of being able to label construction materials with substantially lower levels of embodied greenhouse gas emissions is collecting, assessing the quality of, and analyzing data on embodied greenhouse gas emissions of products and materials and setting substantially lower embodied carbon emissions thresholds. To do so effectively, the Agency will need to supplement available data from public data sources with direct requests for information from users about the specifications for materials purchased and the volumes purchased. The Program’s

beginning focus is on four types of materials: (1) concrete and cement, (2) steel, (3) asphalt binders, and (4) glass. The ICR, however, will only need to focus on two sectors: concrete and asphalt. Additionally, this ICR is only focused on collecting data from the larger consumers of these two materials (state/local agencies and large A&E firms). EPA will include the other sectors in a future ICR.



October 24, 2025

Submitted to: **Regulations.gov, Docket ID EPA-HQ-OPPT-2021-0303**

Katherine Sleasman
Office of Program Support (7602M)
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1200 Pennsylvania Ave., N.W
Washington, DC 20460-0001

Re: Re: Agency Information Collection Activities; Proposals, Submissions, and Approvals: Consolidation of Methylene Chloride; Regulation under TSCA § 6(a). 90 Fed. Reg. 41391-92 (August 25, 2025). EPA ICR No. 2556.04 OMB Control No. 2070-0204.

Dear Ms. Sleasman:

The American Chemistry Council (ACC) appreciates the opportunity to submit the following comments to the U.S. Environmental Protection Agency (EPA) regarding renewal and consolidation of several existing approved Information Collection Requests (ICRs) under the Paperwork Reduction Act concerning the regulation of methylene chloride under Section 6(a) of the Toxic Substances Control Act.

As part of our comments, ACC requests that EPA change its burden estimate for the ICR and reconsider certain aspects of the rule to eliminate duplicative and overlapping requirements between the long-standing OSHA standards and the EPA rule.

If you have any questions or need further clarification on our comments, please feel free to contact me at Paul_DeLeo@americanchemistry.com or 202-249-6415.

Sincerely,

Paul C. DeLeo

Paul C. DeLeo, PhD
Senior Director





October 24, 2025

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Katherine Sleasman
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Sincerely,

Paul C. DeLeo

Paul C. DeLeo, PhD
Senior Director





Comments of the American Chemistry Council to the U.S. Environmental Protection Agency Regarding Potential Renewal and Consolidation of Several Existing Approved Information Collection Requests Regarding the Regulation of Methylene Chloride Under the Toxic Substances Control Act.

October 2025

EPA-HQ-OPPT-2021-0303

submitted to <https://www.regulations.gov>.

I. Introduction

In a notice in the Federal Register, the U.S. Environmental Protection Agency (EPA or Agency) solicited comments on potential renewal and consolidation of several existing approved Information Collection Requests (ICRs) under the Paperwork Reduction Act being proposed to the Office of Management and Budget regarding the regulation of methylene chloride under Section 6(a) of the Toxic Substances Control Act (TSCA).

The American Chemistry Council (ACC) provided comments in November 2021 on an existing ICR regarding regulation of methylene chloride in Paint and Coating Removal for Consumer Use Under TSCA Section 6(a) (86 Fed. Reg. 48700 (Aug. 31, 2021); Docket No. EPA-HQ-OPPT-2021-0303; FRL-8753-01-OCSP).¹

Here we provide responses to the EPA request for comments and information regarding the ICR consolidation and renewal below.² A summary comparison of the annual burden estimated by EPA to that reported by ACC members illustrates significant shortcomings in EPA's analysis (see Table 2 below).

ACC requests that EPA change its burden estimate for the ICR after considering the information from our members that we are providing. In addition, ACC requests that EPA reconsider certain aspects of the rule to eliminate duplicative and overlapping requirements between the long-standing OSHA standards and the EPA rule.

¹ <https://www.regulations.gov/comment/EPA-HQ-OPPT-2021-0303-0005>

² 90 Fed. Reg. 41391, August 25, 2025.



II. EPA Questions

- A. EPA requested comments and information to enable it to evaluate whether the proposed collection of information is necessary for the proper performance of Agency functions, including whether the information will have practical utility.

ACC does not believe the information requested is necessary for the proper performance of EPA functions.

In June 2020, EPA released the final risk evaluation for methylene chloride determining that most of the conditions of use (COUs) associated with occupational settings presented an unreasonable risk of injury to human health. The final methylene chloride rule³ was intended to address those unreasonable risks, however, the final rule duplicates existing regulations, is misaligned with existing regulations and is based on a risk evaluation that is seriously flawed.

1. The proposed collection of information is duplicative and therefore unnecessary.

Methylene chloride is the subject of a detailed occupational health standard in regulations from the Occupational Safety and Health Administration (OSHA) that require numerous systems and controls to limit exposure to methylene chloride below the permissible exposure limit (PEL) identified in the standard (29 CFR § 1910.1052).

2. The proposed collection of information is misaligned with other existing collections of information and therefore counterproductive.

The EPA methylene chloride regulation (40 CFR 751 Subpart B) duplicates portions of the OSHA regulations, but it is not aligned with others. As such, it imposes additional unnecessary costs to navigate the misalignment with no additional benefit to the regulated entity or the American public. For example, the responsible party in the OSHA regulations is the employer while the responsible party in the EPA regulations is the owner or operator. Consequently, each potentially regulated employer, owner or operator of a site must clarify responsibilities for the duplicative regulations.

³ 89 Fed. Reg. 39254, May 8, 2024.

3. *The findings of the underlying risk evaluation of methylene chloride are inaccurate, therefore the regulation of methylene chloride for many conditions of use is unnecessary and the information collection unnecessary.*

ACC commented repeatedly to EPA regarding the flaws associated with the risk evaluation for methylene chloride and the findings of unreasonable risk. For example, TSCA Section 6(b)(4)(F)(iv) requires EPA to “take into account, where relevant, the **likely** duration, intensity, frequency, and number of exposures under the conditions of use of the chemical substance” (emphasis added). However, many of the exposure estimates associated with the risk evaluation and the findings of unreasonable risk are based on assumptions of *highly unlikely* duration, intensity, and frequency of exposures. Moreover, those findings of unreasonable risk are often based on assumptions of a workplace with no exposure controls and out of compliance with OSHA regulations. In determining whether unreasonable risk is presented, EPA’s consideration of occupational exposure scenarios should consider reasonably available information on the implementation and use of occupational exposure control measures such as engineering and administrative controls and personal protective equipment.

- B. EPA requested comments and information to enable it to evaluate the accuracy of the Agency’s estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

ACC conducted a survey of its members to understand the burdens associated with complying with the requirement of the Workplace Chemical Protection Program (WCPP) for COUs that are not prohibited. We received responses to our survey from 12 ACC member companies related to eight COUs for which they were planning to develop a WCPP (Table 1).

Table 1. Number of ACC survey respondents compared to EPA economic analysis. ⁴

Use Category	Condition of Use	Number of Facilities*	Number of Workers*	ACC Member Respondents
Manufacturing	Manufacturing	6	533	3
Processing as a reactant	Processing as a reactant	35	703	3
Incorporation Into Formulation, Mixture or Reaction Product	Processing: Incorporation into a formulation, mixture, or reaction product Industrial and commercial use as solvent that becomes part of a formulation or mixture	54	310	1
Waste Handling, Disposal, Treatment and Recycling	Processing: Recycling Disposal	1,091	7,493	1
Laboratory Use	Industrial & commercial use as a lab. chemical	56	183	8
Processing Aid, Plastics Manufacturing, and Solvent Welding	Industrial & commercial use as processing aid Industrial and commercial use as a solvent that becomes part of a formulation or mixture... Industrial and commercial use for plastic and rubber products manufacturing Industrial or commercial use as a bonding agent for solvent welding	44	352	3 1 1

We compare burdens that our members reported to those found in the economic analysis.

Table 2. Comparison of EPA average annual burden estimate with burden reported by ACC members.

Compliance Activity	Average Annual Burden per Respondent	
	Agency Estimate ⁵	ACC Member Reported
Rule Familiarization (WCPP)	1 hr	hundreds of hours
Downstream Notification (SDS)	0.66 hr	<8 hr up to 50 hr
Respiratory Monitoring	7 hours + \$708 ⁶ (\$258/worker) ⁴	(\$230 to \$290 per sample)
Respiratory Recordkeeping	2.9 hr	<8 hr to 480 hr
Respiratory Notification	0.28 hr	1 - 60 hr per monitoring event
Exposure Control Plan	N/A	<8 hr to 480 hr
Training	N/A	<8 hr to 400 hr
Engineering Controls	N/A	\$100,000's to \$1,000,000's

⁴ USEPA. 2024. Economic Analysis of the Final Regulation of Methylene Chloride Under TSCA Section 6(a), Table ES-2. <https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0465-0420>.

⁵ Supporting Statement for an Information Collection Request for Methylene Chloride Regulation Under TSCA Section 6(a), available at: <https://www.regulations.gov/document/EPA-HQ-OPPT-2021-0303-0010>.

⁶ Non-labor costs

We received responses to our survey from 12 ACC members. One company reported employing 500 to 1,000 workers in the United States, four reported employing 1,000 to 5,000 workers, four reported employing 5,000 to 10,000 and three reported employing over 10,000 workers. Members reported that they expect to implement a WCPP under the Methylene Chloride Rule for eight specific COUs noted in Table 1 above. Those eight COUs involve specific manufacturing, processing and industrial or commercial uses. However, EPA reported a relatively limited number of facilities involved in those Use Categories (compared to other Use Categories, e.g., Furniture Refinishing, Aerosol Spray Cleaning/Degreasing). While we cannot say whether our members are definitively representative of any Use Category or COU, we note, for example, that the economic analysis estimates six facilities involved in manufacturing of methylene chloride and we received responses from three members, some of whom have multiple facilities.

1. *EPA's estimates of costs associated with a WCPP are inaccurate across use categories.*

In its Cost Analysis chapter of the economic analysis (Chapter 7), EPA focuses on five Key Quantified Elements:

- Costs of rule familiarization and downstream notification (Section 7.5)
- Costs of the prohibition of products containing methylene chloride (Section 7.6)
- Costs of the prohibition of methylene chloride for vapor degreasing (Section 7.7)
- Costs for switching to alternatives to methylene chloride as a processing aid (Section 7.8)
- Costs of a Workplace Chemical Protection Program (Sections 7.9, 7.10 and 7.11)

Since our survey was focused on the burdens associated with permitted COUs subject to a WCPP, we will only discuss the first and last bulleted items, costs of rule familiarization and downstream notification (Section 7.5), and the cost of developing and implementing a WCPP (Sections 7.9, 7.10 and 7.11).

a. Rule Familiarization and Downstream Notification

The greatest discrepancy estimates of level of effort (staff time) between EPA's economic analysis and member responses is rule familiarization. The economic analysis states:

The 6,483 facilities with PRA burdens and costs associated with a WCPP or other respiratory protection requirements are assumed to incur an initial cost of \$214 [per facility] for a 3-hour burden associated with rule familiarization. (Page 10-14).

Our members told us their organizations were spending hundreds to thousands of hours of staff effort to understand and implement systems to comply with the regulations.

Respondents to our survey said:

- *100's of hours of talking about the new rule and deadlines to different levels of the organization funding exposure assessment, providing feedback, etc...*
- *Approximately 400 hours*
- *Compliance with TSCA risk management regulations is a shared responsibility across various functional groups of the company, including but not limited to industrial hygiene, product stewardship, technical services, transportation, facility/plant staff, government affairs, legal, etc. Estimated level of staff effort exceeds 2080 hours, across company functional groups.*
- *Other workload impacts not included in the survey included the following: Review of new rule to understand content and applicability; Development of internal Standard outlining requirements and actions needed for compliance; Development of tools and templates to support implementation; Identification of impacted work groups and existing exposure data; Multiple communications with impacted workgroups to ensure understanding of implementation actions and track progress; and Development new training content. The estimated hours for this work is about 700 hours.*

As noted above, the duplication and lack of alignment with the OSHA standard for methylene chloride makes compliance with the regulations (and associated collection of information) particularly challenging. Our members are spending tens of thousands of dollars more on staff hours than the costs estimated by EPA simply to understand the path to compliance within their organizations.

With respect to downstream notification, the economic analysis states:

Each person who processes or distributes in commerce methylene chloride or methylene chloride-containing products for any use must, prior to or concurrent with the shipment, notify companies to whom methylene chloride is shipped, in writing, of the restrictions on its use. It is assumed that 32 respondents (manufacturers, import, and repackage facilities) accomplish this by modifying the SDS to note the restrictions and the burden associated with the downstream notification requirements, including the related recordkeeping, is 2 hours, with an associated labor cost of \$189. (Page 10-14)

Respondents to our survey said:

- *Estimated 20 hours per quarter.*
- *Company estimates staff hours to update affected SDSs are 50 hours.*
- *Production estimates 8 hours; Labs none/not applicable*

Several respondents noted that downstream notification was not applicable for the laboratory use condition of use. However, two respondents suggested that there may be monitoring and training burdens associated with downstream notification though it was not clear who might bear such a burden.

b. Exposure Monitoring

The economic analysis estimated that the costs associated with an exposure monitoring of ten workers sampled were \$3,005 (Table 7-49) based on a fixed cost of approximately \$423 and a variable cost per worker of \$258 (Table 7-50).

Ten of twelve respondents indicated for initial monitoring that they expected to collect and analyze <50 samples (5 respondents), 50 – 100 samples (2 respondents) or 200 – 300 samples (3 respondents). The following internal staff effort was reported among respondents: 8-12 hours (for each of two lab sites), 9-18 hours per task (each task was monitored 3-6 times and each instance required about 3 hours of IH time), less than 20 hours, 30 hours, 50 hours, 60-80 hours (15-20 hours/quarter), 100 hours, 135 hours, 360 hours, and 600 hours. Presumably, increased level of effort is associated with increased sample collection, and it suggests that 1-2 hours of internal staff time is required for each sample collected. Collection of samples associated with laboratory use appeared to be the least burdensome.

In addition, members reported the following external costs associated with initial monitoring for things like hiring consultants and the cost of the analytical lab: less than \$2,000, \$4,000, \$10,000 – \$15,000, \$11,000, \$15,000, \$20,000, \$28,000, and \$34,000 (\$14,000 for a consultant and \$20,000 for method development). Again, presumably, increased external costs are associated with increased sample collection.

The estimate of cost per worker in the economic analysis (\$258 per worker) appears comparable to what our members are experiencing on a cost per sample basis (approximately \$230 to \$290 per sample) if sample collection is strictly one per worker.

The biggest discrepancies between the Cost Analysis from the economic analysis and actual costs appear to be regarding the number of affected facilities and workers. For example, the economic analysis estimates that there are only 56 facilities and 183 workers for the Laboratory Use category who would be affected by the new regulations when we

know there are hundreds of laboratories (maybe thousands) and thousands of workers and other individuals (e.g., students) that are likely among those potentially exposed to methylene chloride in a laboratory setting. For the conditions of use with the highest number of potentially exposed workers (manufacturing and processing as a reactant), the average number of workers per facility reported in the economic analysis are 89 and 20, respectively,² and yet at least four of our members tell us they are collecting 50 – 100 samples or 200 – 300 samples. Likewise, for the four other conditions of use that our members indicated were relevant to their facilities, the average number of workers per facility ranges from 3 – 8 which appears to be much lower than the number of samples our members are collecting for those COUs if they are collecting only one sample per worker on average.

c. Notifications and Recordkeeping

The economic analysis used an OSHA estimate to approximate the **notification** burden for employers:

OSHA estimated that it will take a human resources manager 15 minutes per sample (i.e., per employee being monitored) to provide the required recordkeeping for exposure monitoring, which includes recording the sampling results and notifying the employee of the sampling results. (P. 7-85)

ACC members noted variable levels of effort associated with notifying employees: less than 1 hour, 8 hours per monitoring event, 18 hours, 20 hours, 25 hours, about 60 hours, and 96 hours (24 hours per quarter). One member noted the many tasks associated with notifying employees:

- prepare individual letter(s),
- document notification,
- prepare anonymized posting for others in same similar exposure group (SEG), and
- maintain record of all in SEG.

The economic analysis used an OSHA estimate to approximate the **recordkeeping** burden for employers:

OSHA estimated that it will take 4 hours for small employers (those with fewer than 20 employees) and medium employers (those with between 20 and 499 employees) and 8 hours for large employers (those with 500 or more employees) to develop the program and provide the appropriate recordkeeping. (P. 7-85)

ACC members indicated levels of effort associated with the new recordkeeping requirements that are generally higher than those estimated in the economic analysis:

- <8hours per year
- 24-30 hours of staff work
- 5-10 hours per site; approximately 30 hours for the company
- 40 hours per year
- 48 hours total: 16 hours per year for each of three sites
- 60 hours
- 40 hours per month (480 hours per year)

d. Exposure Control Plan

The methylene chloride regulations require that the WCPP include the development and implementation of an exposure control plan (ECP). The economic analysis does not contemplate this activity. ACC members provided the following estimates for preparation of an exposure control plan:

- less than 8 hours (one time)
- 10 hours each for internal lab ECP
- 48 hours total: 16 hours for each of three sites
- 50 hours
- 60+ hours (one production site)
- Approximately 80 hours (two responses)
- Estimated 135 staff hours.
 - Drafting and reviewing the plan
 - Necessary reviews, revisions, and approvals and
 - Employee acknowledgement and associated training.

e. Exposure Controls

Respondents indicated that they might implement a variety of engineering controls, administrative controls (especially training), and application of new personal protective equipment (PPE) to comply with the WCPP. EPA's economic analysis and ICR supporting statement only considers (PPE).

i. Engineering Controls

The EPA's economic analysis did not consider potential engineering controls installed to meet the requirements of the WCPP. Five respondents described plans and associated costs for engineering controls to be included or already installed in their facilities:

- *\$ 15,000 monitors installed + estimated 50 -100 hours/quarter.*
- *Some facilities could alter some equipment which may cost \$150,000.*
- *Design and installation of engineering controls: Estimated \$605,000 and 160 staff hours. These estimates are not inclusive of tariffs that could be as high as 39 percent of total equipment costs.*
- *Already invested and completed over \$0.8 million USD since the WCPP into effect.*
 - *1) Scrubber drains with enclosures (est.3000 ft) - completed*
 - *2) Re-located the QA labs to upgraded ventilation and fume hood labs - completed*
 - *3) Installation of improved design Sampling Pots (Minimum to zero emission) – completed*
 - *4) Installed more than 100 Air monitors with alarms*
- *New engineering controls for sampling points and equipment draining: \$6,700,000 for equipment installation. Annual costs associated with the new equipment has not been estimated.*

ii. Training

The economic analysis and supporting statement only consider minimal training (one hour per employee per year) associated with dermal PPE. Only three respondents indicated that they would implement new dermal protection and associated training with their WCPP. However, eight respondents noted new training burdens associated with their WCPP beyond training on dermal protection:

- Approximately 1-8 hours of additional training
- <8 hours (one time) for training development
- 16 hours for WCPP-related training
- 24 hours (8 hours per year, 3 times per year), not included needed documentation
- 25 hours in training development plus 55 hours of training deployment initially
- About 130 hours
- 400 hours (200 hours per site annually X two sites)

One respondent stated more generally “Existing training programs on methylene chloride, respiratory protection, PPE, need to be revised to incorporate EPA references. Additional people will require training.”

iii. Personal Protective Equipment

The methylene chloride regulations require that the WCPP include respiratory protection for all persons potentially exposed to methylene chloride above the ECEL or ECEL STEL. One of the challenges with respiratory protection to methylene chloride is that conventional cartridge respirators are not sufficiently effective, so supplied air is necessary which is much more expensive to provide. The economic analysis estimates initial costs of supplied air of approximately \$1,350 to \$1,500 and recurring costs of \$800 – \$900 per year.

The costs for respiratory protection to methylene chloride estimated in the EPA economic analysis seem realistic. Only two respondents to the ACC survey indicated that they expected to implement new respiratory PPE in order to comply with the regulations. Those respondents provided the following estimates of costs:

- For regulated areas and supplied air requirements estimated staff resources are 110 hours with an estimated cost of \$10,000.
- Estimating \$25,000.

One additional respondent noted that they would need to provide gloves that are chemically resistant to methylene chloride with activity-specific training where dermal contact with methylene chloride is possible. As such, the respondent noted the following level of effort: *Glove trials with users to ensure selection of appropriate gloves for various tasks, stocking of new gloves, updating PPE Grids and procedures. Estimate about 120 hours.*

2. Summary of EPA estimates of costs associated with a WCPP compared to ACC member survey.

The costs estimated by EPA to implement a WCPP for methylene chloride are inaccurate because, while some key elements are accurately characterized, others underestimate the needed level of effort or the number of entities that will implement them. In addition, there are key elements that are completely missing.

- EPA's estimate of per worker costs associated with initial and recurring monitoring appear to be consistent with costs ACC members have incurred or expect to incur provided only one sample per worker is necessary. Likewise, the costs associated with application of supplied air respirators as personal protective equipment which are an expensive option appear to be accurate.

- EPA's Cost Analysis for rule familiarization, worker notification, downstream notification, and recordkeeping are significantly underestimated particularly with respect to the cost of firms trying to understand how to comply with the EPA regulations which are duplicative and misaligned with the OSHA methylene chloride standard, other OSHA standards and current industrial hygiene practices.
- EPA's Cost Analysis does not consider costs associated with development of the exposure control plan, training, engineering controls, and process changes that companies might implement to reduce potential exposures to workers. Planning and implementing engineering controls can require hundreds of thousands of dollars of capital and take years to complete.

C. EPA requested comments and information that will enable it to enhance the quality, utility, and clarity of the information to be collected.

As noted above, ACC believes the easiest way to enhance the quality, utility and clarity of the information collected under EPA regulations is to align EPA regulations with OSHA regulations, in this case, the OSHA standard for methylene chloride.

D. EPA requested comments and information that will enable it to minimize the burden of the collection of information on those who are to respond.

Again, ACC believes the easiest way to minimize the burden of the collection of information on those who are to respond is to align EPA regulations with the existing OSHA standard for methylene chloride. Any firm that can document it is following the OSHA standard for methylene chloride should not have to implement additional controls, recordkeeping, or notification. With respect to the difference between the OSHA PEL for methylene chloride (25 ppm as an 8-hr time weighted average (TWA)) and ECEL (2 ppm, 8-hr TWA), firms should not be required to collect new monitoring information at a lower detection limit if they can show through statistical analysis of their existing data that the **likely** air exposure concentration is at or below the ECEL. In addition, since the ECEL was derived based on an assumption of daily exposure **frequency** of 260 days per year for 40 years, and exposure **duration** of 8 hours per day, EPA should make clear that for firms meeting the OSHA standard but having air concentrations exceeding the ECEL, the WCPP is met provided that the frequency and duration of worker exposure are significantly below that used to calculate the ECEL (i.e., 8 hours per day, 260 days per year for 40 years).

III. Conclusion

EPA needs to amend its ICR for Regulation of Methylene Chloride under TSCA Section 6(a) to include all relevant elements associated with compliance with the rule, accurate estimates of the number of responses, the time spent, and additional costs incurred by each respondent *before* it is resubmitted to OMB. In addition, EPA should reconsider the methylene chloride regulations under 40 CFR 751 Subpart B and eliminate unnecessary duplication or misalignment with other existing regulations including the long-standing OSHA standards.



515 KING STREET, ALEXANDRIA VA 22314

MEMORANDUM

To: Hon. Lee Zelden, Administrator, US Environmental Protection Agency
From: Andrew Langer, Director, Center for Regulatory Freedom, CPAC Foundation
Date: October 23, 2025
Re: Comments on the US Environmental Protection Agency's Information Collection Request, "Consolidation of Methylene Chloride; Regulations Under TSCA Section 6(a)", Docket No. EPA-HQ-OPPT-2021-0303-0009, Posted August 25, 2025

Below are comments of the American Conservative Union Foundation's (d/b/a. Conservative Political Action Coalition Foundation) (hereinafter "CPAC Foundation") Center for Regulatory Freedom (hereinafter "CRF"), in response to the US Environmental Protection Agency's Information Collection Request, "Consolidation of Methylene Chloride; Regulations Under TSCA Section 6(a)", Docket No. EPA-HQ-OPPT-2021-0303-0009, posted August 25, 2025.

CRF is a project of the CPAC Foundation, a non-profit, non-partisan 501(c)(3) research and education foundation. Our mission is to inject a common-sense perspective into the regulatory process, to ensure that the risks and costs of regulations are fully based on sound scientific and economic evidence, and to ensure that the voices, interests, and freedoms of Americans, and especially of small businesses, are fully represented in the regulatory process and debates. Finally, we work to ensure that regulatory proposals address real problems, that the proposals serve to ameliorate those problems, and, perhaps most importantly, that those proposals do not, in fact, make public policy problems worse.

Introduction

The issue of compliance burdens under the Toxic Substances Control Act (TSCA) is not new. I have been raising these concerns for nearly two full decades—first as an expert witness before Congress in the mid-2000s, and now through the work of the Center for Regulatory Freedom (CRF). Long before CRF's founding in 2023, I warned that the Environmental Protection

Agency's administrative culture—its tendency to equate more paperwork with better policy—was imposing hidden costs on small businesses while producing little measurable safety benefit. Those warnings, voiced in multiple hearings before the House Government Reform Committee, the Small Business Committee, and the Subcommittee on Regulatory Affairs, were grounded in the experience of small manufacturers and service firms struggling to comply with reporting obligations that seemed detached from the practical realities of production.

In 2005, I testified that EPA's handling of lead and lead-compound reporting under the Toxics Release Inventory demonstrated the Agency's chronic underestimation of paperwork burdens. EPA, I said then, had transformed what was intended as a simple disclosure program into a regulatory gauntlet that required small businesses to hire consultants, purchase software, and divert productive labor to fill out complex forms. I noted that this pattern was not confined to TRI reporting; it reflected a broader institutional belief that if information was good, more information must be better—even if it did not improve environmental outcomes. Two decades later, that dynamic persists within EPA's implementation of TSCA.

In this proceeding, EPA seeks to renew and consolidate the information-collection requirements associated with its methylene chloride regulations under TSCA §6(a). On paper, this appears to be a routine Paperwork Reduction Act exercise. In substance, however, it reveals the continuation of a deeper problem: the assumption that regulatory effectiveness can be measured by the quantity of data collected rather than by the quality of risk management achieved. The agency's methylene chloride regime—combining the 2019 consumer ban, the 2024 workplace chemical protection rule, and now this consolidated Information Collection Request (ICR)—represents a system that is heavy on documentation but light on demonstrable public benefit.

To be fair, EPA has taken a small but meaningful step in the right direction. Its direct burden estimate—72,700 annual hours at an aggregate cost of \$5.27 million—is consistent, transparent, and internally sound. The arithmetic is correct. But the policy context is wrong. The real question is not whether EPA can count paperwork hours; it is whether the paperwork serves any genuine regulatory purpose. In this case, the program appears to be a proverbial “solution in search of a problem.” The risks that the agency purports to address are already managed effectively under existing occupational-safety, transportation, and waste-handling regimes. EPA's new documentation requirements largely duplicate protections already administered by OSHA, the Department of Transportation, and the Food and Drug Administration.

For CRF, this issue lies at the intersection of two long-standing concerns: regulatory cost accountability and respect for statutory boundaries. TSCA was never intended to function as a workplace-safety statute. It was designed to manage chemical risk at the product and process level, not to duplicate OSHA's oversight of industrial hygiene. By embedding occupational monitoring and training documentation inside a TSCA rule, EPA has crossed that jurisdictional line. The result is an elaborate paperwork apparatus whose complexity bears little relationship to the incremental safety benefit it purports to deliver.

These comments, therefore, approach the methylene chloride ICR not as an isolated administrative matter but as a case study in the misalignment of purpose and practice. They evaluate the economic costs, institutional consequences, and statutory implications of EPA's approach and recommend a reconsideration of both the information-collection and the underlying 2019 rule that set this process in motion. The goal is to restore a sense of proportion—to ensure that regulation serves the public by solving real problems, not by creating administrative ones.

Executive Summary

The Center for Regulatory Freedom appreciates the opportunity to comment on the Environmental Protection Agency's proposed renewal of its information-collection authority for methylene chloride under TSCA §6(a). CRF commends EPA for accurately quantifying the direct paperwork burden associated with this rule but remains deeply concerned that the agency's overall approach represents regulatory excess. The methylene chloride framework exemplifies a pattern of duplication and mission creep that has transformed TSCA from a chemical-risk statute into an instrument of workplace micromanagement.

Methylene chloride is an indispensable chemical in modern manufacturing, used in metal cleaning, degreasing, paint stripping, pharmaceutical processing, and as a chemical intermediate for low-global-warming-potential refrigerants. These functions are already governed by robust federal and state safety systems. OSHA enforces a permissible exposure limit of 25 parts per million and requires ventilation, respiratory protection, and training. FDA regulates food-contact residues. DOT oversees transportation. EPA's 2024 Workplace Chemical Protection Program (WCPP) overlays a second, redundant layer of monitoring, training, and recordkeeping that adds cost but not commensurate safety.

EPA estimates that the paperwork associated with this rule will consume 72,700 hours per year at a direct cost of \$5.27 million. CRF accepts that figure but emphasizes that it tells only part of the story. When opportunity costs are considered—the lost productivity, deferred research, and diverted capital resulting from compliance—the total societal burden rises to between \$10.5 million and \$100 million annually, depending on the multiplier used. On average, the economic impact approximates \$55 million per year. For many small enterprises, this is not sustainable.

The agency's own conduct confirms that the rule is unworkable. Within months of finalizing the 2024 WCPP, EPA was forced to propose an 18-month extension of compliance deadlines after laboratories and small entities reported that they could not meet the original timelines. This is not a minor administrative adjustment; it is an implicit acknowledgment that the rule was mis-designed. Rather than recalibrating the paperwork itself, EPA has opted merely to delay its enforcement.

CRF therefore urges EPA to suspend implementation of the current ICR pending a comprehensive necessity and duplication review. The agency should reopen the 2019 methylene chloride rule, reassess its economic and practical effects, and coordinate with OSHA to eliminate redundant obligations. Finally, EPA should commit to retrospective review of all TSCA §6(a) rules every five years to ensure continued relevance and proportionality. Good governance demands not more paperwork, but smarter regulation.

I. Background on Methylene Chloride and Its Industrial Importance

Methylene chloride, or dichloromethane, is a clear, volatile liquid with exceptional solvent properties. It dissolves paints, resins, oils, and greases more efficiently than almost any alternative. For decades, it has been the solvent of choice in paint stripping, precision metal

cleaning, and degreasing operations across industries ranging from aerospace to automotive manufacturing. In the pharmaceutical and food sectors, it functions as an extraction and purification solvent, valued for its high selectivity and easy recovery. Beyond its direct solvent uses, methylene chloride is a chemical intermediate critical to producing hydrofluorocarbon-32 (HFC-32), a low-global-warming-potential refrigerant central to next-generation climate-friendly cooling technologies. These applications demonstrate that methylene chloride is not a marginal chemical but an industrial cornerstone.

EPA's current regulatory approach, however, treats methylene chloride primarily as a hazard to be controlled rather than a tool to be managed responsibly. The agency's 2019 rule prohibited its use in consumer paint removers—a narrowly targeted action that addressed specific safety incidents involving unventilated residential spaces. That step was proportionate to the risk. The 2024 rule went far further, imposing a comprehensive Workplace Chemical Protection Program (WCPP) on virtually all commercial uses. Under this framework, employers must conduct initial and periodic exposure monitoring, establish regulated areas, maintain written records of engineering controls, provide extensive employee training, and preserve all documentation for decades. The intent was to harmonize TSCA with OSHA's standards; *in practice, it has doubled the administrative burden.*

International comparison reinforces this point. The European Union regulates methylene chloride primarily through workplace exposure limits and process controls under the REACH regime; Canada employs a similar model. None of these systems requires the level of duplicative documentation imposed by EPA. By over-specifying administrative tasks, the United States now risks creating a compliance structure so intricate that it diverts attention from the very safety outcomes it seeks to achieve.

II. Historical Context: Two Decades of Warnings on Paperwork Burden

The current situation did not arise in isolation. It is the culmination of a regulatory philosophy that has been building for years. When I testified before Congress in 2005, 2006, and 2007, I highlighted EPA's failure to account for paperwork costs in programs like the Toxics Release Inventory and the Chemical Data Reporting rule—both predecessors to today's TSCA framework. Small businesses were struggling with duplicative forms, ambiguous instructions, and inconsistent electronic reporting platforms. EPA's own estimates, I noted then, captured only the direct cost of staff time, not the opportunity cost of diverted management attention or the downstream consequences for productivity.

Those hearings produced modest reforms, including expanded use of electronic reporting and occasional small-entity exemptions. But the underlying institutional incentive—the belief that more documentation equates to more diligence—remained unchanged. The methylene chloride rule is the latest expression of that belief. It demonstrates that even after twenty years of public discussion, the agency continues to conflate procedural activity with substantive progress.

In many respects, the present paperwork regime is more burdensome than anything contemplated two decades ago. What once required a single annual report now demands continuous exposure monitoring, written chemical hygiene plans, and formalized employee-training certifications.

The cumulative effect is not better safety but a bureaucratic treadmill that consumes time and money without measurable improvement in worker protection.

III. The Scale of the Compliance Burden

EPA's ICR accompanying the methylene chloride rule estimates that regulated entities will spend 72,700 hours annually on compliance activities. Using the inflation-adjusted labor rate of \$72.50 per hour, the direct cost is \$5.27 million. These are significant but manageable figures. The problem is that they capture only the surface of the burden. The true cost lies in lost opportunity—the projects deferred, the contracts unfulfilled, and the innovations postponed while compliance staff compile and verify data that serve no immediate operational purpose.

Patrick McLaughlin with the Hoover Institution concludes that for every dollar in direct regulatory cost, there is an additional dollar in lost opportunity cost. In contrast, in their seminal 2012 study of regulatory costs, economists Dawson and Seater essentially concluded that this is, potentially, a \$19 opportunity cost for every dollar of direct regulatory costs.

When measured through established opportunity-cost multipliers, the impact expands dramatically. Using the McLaughlin 2× ratio yields an annual burden of \$10.54 million; applying the Dawson and Seater 19× multiplier produces a staggering \$100.14 million. The midpoint—approximately \$55 million—represents a reasonable estimate of the total economic effect of this paperwork regime. Even at the low end, the cost rivals or exceeds the projected safety benefits identified in EPA's own analysis.

For small businesses, the burden is especially acute. A regional metal-finishing shop, for example, might employ twenty workers and use methylene chloride in limited quantities for degreasing. To comply with EPA's WCPP, that firm must hire industrial hygienists to conduct baseline exposure testing, purchase monitoring equipment, and dedicate management hours to documentation. The total annual expense could exceed \$30,000—an amount large enough to deter the firm from continuing the process altogether. The result is not improved safety but reduced economic activity.

IV. The Compliance Gap and EPA's Own Admissions

The agency's subsequent actions reveal its awareness of these problems. In May 2025, EPA proposed an 18-month extension of compliance deadlines for non-federal laboratories, citing widespread reports that facilities could not meet the existing schedule. The agency specifically acknowledged shortages of industrial-hygiene services, delays in equipment procurement, and limited training capacity. Those admissions validate what industry stakeholders, including CRF, had warned from the outset: the original timeline was unrealistic.

The extension proposal was a necessary act of pragmatism but also a tacit confession that the rule's design exceeded real-world feasibility. If the agency had conducted a genuine Regulatory Flexibility Act analysis before finalizing the rule, these issues would have been apparent. Instead, EPA treated feasibility as an afterthought. The result was a regulation that looked comprehensive on paper but proved unworkable in practice.

The episode illustrates a larger institutional pattern: EPA often recognizes implementation failures only after they have manifested. By that point, the regulated community has already incurred significant expense and uncertainty. Extending deadlines offers temporary relief but does nothing to address the underlying problem of duplicative requirements and misaligned authority. A policy architecture that cannot be implemented without emergency deferrals should not be renewed without fundamental revision.

V. Statutory Boundaries and Institutional Overlap

TSCA §6(a) authorizes EPA to regulate chemical substances that present an “unreasonable risk” of injury to health or the environment, considering costs and alternatives. It does not authorize EPA to superimpose a comprehensive occupational-safety regime. Congress assigned that responsibility to the Occupational Safety and Health Administration. The division is intentional: EPA addresses chemical hazards through environmental and product controls; OSHA manages workplace exposure.

By creating the Workplace Chemical Protection Program within a TSCA rule, EPA has collapsed this boundary. Employers now face two sets of nearly identical obligations—one under OSHA and another under EPA—each with its own monitoring, recordkeeping, and training expectations. This duplication generates cost without corresponding benefit. It also complicates enforcement, since it is unclear which agency takes precedence in the event of a dispute.

The broader implication is institutional. When agencies expand their mandates beyond the limits set by Congress, they erode public trust and invite judicial scrutiny. EPA’s foray into workplace safety under TSCA risks both. Courts have repeatedly warned against “mission creep,” and Congress has emphasized that regulatory authority must rest on clear statutory language, not administrative ambition. EPA’s current approach to methylene chloride tests those boundaries and undermines the integrity of TSCA as a chemical-management statute.

VI. Economic and Sectoral Consequences

The consequences of this regulatory overlap extend beyond paperwork to broader economic and industrial performance. Methylene chloride is essential to several critical supply chains. It serves as a feedstock for low-GWP refrigerants, a cleaning agent for precision metal components, and a processing solvent in pharmaceutical manufacture. When the cost and uncertainty of compliance increase, these industries face higher prices, reduced capacity, and potential outsourcing of production to jurisdictions with more predictable regimes.

The irony is that EPA’s own climate objectives depend on a stable domestic supply of the very chemicals its rule burdens. Methylene chloride’s role in producing lower-GWP refrigerants means that over-regulation here could slow progress on emissions reduction. An agency that imposes duplicative requirements in one program while relying on the affected chemical in another undermines its own policy coherence.

Small entities bear the greatest cost. A university lab or municipal facility operating on tight budgets may divert funds from research or public services to maintain EPA-mandated records that duplicate existing OSHA files. For private sector firms, the loss manifests as foregone investment, slower productivity growth, and reduced competitiveness. These are the hidden costs that never appear in EPA's ICR spreadsheets but that compound across the economy.

VII. The Case for Revisiting the 2019 Rule

Given the magnitude of these issues, CRF believes that EPA should reopen the 2019 methylene chloride rule and re-evaluate its entire regulatory approach. The original consumer ban was narrow and justified by specific incidents involving improper home use of paint strippers. The subsequent expansion to commercial and industrial uses transformed a targeted consumer-protection rule into a comprehensive workplace safety program. That shift has no clear basis in TSCA's text or legislative history.

Reopening the rule would allow EPA to re-examine its risk assessments, cost-benefit analyses, and statutory interpretation. It would also permit a meaningful dialogue with OSHA to clarify jurisdictional boundaries and avoid further duplication. Most importantly, it would give the agency an opportunity to demonstrate that it can course-correct when evidence shows a rule is causing more burden than benefit.

Such re-evaluation is consistent with Executive Order 14094 on Modernizing Regulatory Review and with OMB's long-standing guidance under Circular A-4, which calls for periodic retrospective analysis of major rules. If EPA is to maintain credibility as a science-based regulator, it must apply those principles to its own programs.

VIII. Institutional Integrity and Public Trust

Public confidence in environmental governance depends not only on good intentions but on competent execution. When regulations become so complex that even diligent entities cannot comply without extensions and clarifications, faith in the system erodes. EPA's handling of methylene chloride illustrates this problem. An agency that spends more time revising deadlines than enforcing standards risks appearing out of touch with practical realities.

CRF believes EPA can restore trust by embracing a culture of regulatory humility—one that values clarity, cooperation, and proportionality. That means treating information collection as a means to an end, not an end in itself. Each data point requested from the regulated community should serve a defined analytical purpose tied to risk reduction. If it does not, it should be eliminated.

Institutional integrity is built not on the volume of paperwork but on the discipline to ask only for what is necessary and to act only within statutory limits. EPA's future success under TSCA depends on adopting that discipline.

IX. Policy Recommendations

CRF respectfully offers the following recommendations for EPA's consideration:

1. **Suspend the current ICR pending review.** Under the Paperwork Reduction Act, agencies must demonstrate that each information collection is necessary and not duplicative. EPA should pause implementation until that standard is met.
2. **Reopen and reassess the 2019 rule.** A full TSCA §6(g) review should be conducted to re-evaluate risk, cost, and jurisdictional scope in light of experience and technological advances.
3. **Coordinate with OSHA and SBA.** EPA should formally consult with OSHA to harmonize workplace provisions and with the Small Business Administration's Office of Advocacy to assess small-entity impacts.
4. **Adopt small-entity compliance alternatives.** Third-party certifications, streamlined electronic reporting, and model chemical hygiene plans could maintain accountability while reducing burden.
5. **Commit to retrospective review.** All TSCA §6(a) rules should be evaluated every five years for necessity and effectiveness, consistent with modern regulatory-review principles.

Conclusion

The methylene chloride rule under TSCA §6(a) represents a well-intentioned but misdirected exercise in regulatory control. EPA's precise accounting of paperwork hours is commendable, but it cannot disguise the inefficiency of a system that confuses documentation with protection. The agency's subsequent need to extend compliance deadlines confirms that its rule design outpaced the capacity of regulated entities.

For nearly twenty years, I have urged EPA and Congress to recognize that paperwork, while necessary for accountability, becomes counterproductive when it substitutes for judgment. The methylene chloride program is a case in point—a proliferation of forms and records designed to reassure rather than to resolve.

CRF therefore urges EPA to suspend its current information-collection request, reopen the 2019 rule for comprehensive review, and realign its approach to TSCA implementation with the principles of clarity, necessity, and institutional coherence. The objective should not be to accumulate more data but to ensure that every regulatory action demonstrably improves safety, efficiency, and trust in government. Only by restoring that balance can EPA fulfill its mission within the bounds Congress intended and the public deserves.

Sincerely,



Andrew M. Langer

Director

CPAC Foundation Center for Regulatory Freedom

Consultation Questions for ICR Renewals

(1) Publicly Available Data

- A. Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency?

- B. If yes, where can you find the data?
(Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

(2) Frequency of Collection

Can the Agency collect the information less frequently and still produce the same outcome?

(3) Clarity of Instructions

- A. The ICR is intended to require that respondents provide certain data so that the Agency can utilize them.

- B. Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do, and how to submit such data? If not, what suggestions do you have to clarify the instructions?

- C. Do you understand that you are required to maintain records?

- D. Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical, and easy to complete?

- E. Are there forms associated with this process? Do you use them? Are they clear, logical, and easy to complete?

(4) Electronic Reporting and Record keeping

The Government Paperwork Elimination Act requires agencies make available to the public electronic reporting alternatives to paper-based submissions by 2003, unless there is a strong reason for not doing so. One such reason is that, at the present time, the Agency is unable to ensure the security of CBI that might be transmitted over the Internet.

- A. What do you think about electronic alternatives to paper-based records and data submissions? Current electronic reporting alternatives include the use of web forms/XML based submissions via the Agency's Internet site and magnetic media-based submissions, *e.g.*, diskette, CD-ROM, etc. Would you be interested in pursuing electronic reporting?

- B. Are you keeping your records electronically? If yes, in what format?

Although the Agency does not offer an electronic reporting option because of CBI-related security concerns at this time,

- C. Would you be more inclined to submit CBI on diskette (CD or DVD) than on paper?

- D. What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

- A. Are the labor rates accurate?

- B. The Agency assumes there is no capital cost associated with this activity. Is that correct?

- C. Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, *e.g.*, the ICR does not include

estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate? If you provide burden and cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates.

D. Are there other costs that should be accounted for that may have been missed?