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PROJECT OF CPAC FOUNDATION

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M E M O R A N D U M

To:	**Hon. Lee Zelden, Administratory, 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,

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