

Advocacy Provides Public Comment on EPA's Proposed Risk Management for Methylene Chloride under the Toxic Substance Control Act

On May 3, 2023, EPA published a proposed rule to restrict the use of methylene chloride under the Toxic Substance Control Act (TSCA). Methylene chloride is used as a solvent in a wide range of industrial, commercial, and consumer applications. EPA evaluated 53 conditions of use of methylene chloride and determined that 47 conditions of use present an unreasonable risk of injury to health for workers and consumers. Based on these risk determinations, EPA is proposing to prohibit the manufacture, processing, and commercial distribution of methylene chloride for consumer use. EPA is also proposing to prohibit most industrial and commercial uses of methylene chloride. For the remaining uses, EPA is proposing to require a workplace chemical protection program, which would include a requirement to meet an existing chemical exposure limit set by EPA, alongside exposure monitoring. The proposal only includes time-limited exemptions for uses of methylene chloride that would otherwise significantly disrupt national security and critical infrastructure.

The Office of Advocacy (Advocacy) has filed public comments on this proposed rule. Advocacy is concerned that the agency's proposal exceeds its statutory authority by prohibiting most commercial and industrial uses of methylene chloride. Furthermore, Advocacy highlights the absence of regulatory flexibilities for the use of methylene chloride by small businesses that do not have feasible alternatives. Additionally, Advocacy is concerned that EPA does not satisfy the statutory requirements to consult and coordinate with OSHA to avoid duplicative and overlapping requirements. Lastly, Advocacy strongly recommends that the agency accept additional data after the public comment period, address concerns pertaining to the proposed action level, and establish a de minimis threshold to mitigate unintended consequences. Advocacy urges the agency to consider feedback from small businesses on these important issues.

A complete copy of [Advocacy's letter to EPA is available](#). For more information, please contact Tabby Zeb, Assistant Chief Counsel, at tayyaba.zeb@sba.gov or (202) 798-7405.

