

Advocacy Provides Public Comments on EPA’s Proposed Updates to New Chemicals Regulations Under the Toxic Substances Control Act (TSCA)

On May 16, 2023, the Environmental Protection Agency (EPA) published a proposal to update its new chemical procedural regulations under the Toxic Substance Control Act (TSCA). EPA proposes to amend its existing requirements under section 5 to align with the new statutory requirements under the Frank R. Lautenberg Chemical Safety for the 21st Century Act, including:

- Amending the regulations to specify that EPA must make a determination on each pre manufacturer notice (PMN), significant new use notice (SNUN), and microbial commercial activity notice (MCAN) received before the submitter may commence manufacturing or processing of the chemical substance. In addition, EPA should list the five possible determinations and the actions they require.
- Clarifying the level of detail expected for the information that a submitter must include in a PMN, SNUN, or exemption notice.
- Amending review procedures for PMNs and SNUNs, specifically for those that have errors, are incomplete, or are amended during the applicable review period.
- Amending the regulations for low volume exemptions (LVEs) and low release and exposure exemptions (LoREXs) for per-and polyflouralkyl substances (PFAS) and others.
- Amending the regulations pertaining to suspensions for all TSCA section 5 notices to allow submitters to request suspensions for up to 30 days via oral or email request.

The Office of Advocacy (Advocacy) has filed public comments on this proposed rule. EPA’s RFA certification lacks an adequate factual basis because the agency does not adequately capture the impact of the rule on small entities. Advocacy is also concerned about the agency’s use of conservative data and default values instead of using the submitted data. In addition, Advocacy is concerned about the agency’s proposal to restart the review process when a submitter provides new data to counter the agency’s conservative assumptions and default values.

Advocacy recommends that EPA provide an adequate factual basis for its RFA certification that accurately takes into consideration all direct impacts of the proposed requirements on small entities. Advocacy further recommends that the agency address concerns related to its use of conservative assumptions and consideration of additional data provided to address those assumptions. EPA should consider feedback from small businesses on these issues.

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