

**EPN Comments on the Proposed Rule for
Confidential Business Information Claims
Under the Toxic Substances Control Act**

Docket No.: EPA-HQ-OPPT-2021-0419

July 11, 2022

Founded in 2017, the Environmental Protection Network (EPN) harnesses the expertise of more than 550 former Environmental Protection Agency (EPA) career staff and confirmation level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

EPN appreciates the opportunity to provide these comments on the May 12, 2022, proposed rule “Confidential Business Information Claims Under the Toxic Substances Control Act (TSCA).” As described in EPA’s summary of this proposed rule, EPA is proposing new and amended requirements concerning the assertion and treatment of confidential business information (CBI) claims for information reported to or otherwise obtained by EPA under TSCA. The proposed rule addresses the many new provisions in the 2016 Lautenberg amendments concerning the assertion, agency review, and treatment of confidentiality claims. The proposed rule identifies procedures for submitting such claims in TSCA submissions. It addresses issues such as substantiation requirements, exemptions, electronic reporting enhancements (including expanding electronic reporting requirements), maintenance or withdrawal of confidentiality claims, and provisions in current rules that are inconsistent with amended TSCA. The proposed rule also addresses EPA procedures for reviewing and communicating with TSCA submitters about confidentiality claims.

EPN applauds EPA’s efforts to address all the important issues related to the assertion and treatment of all types of CBI claims under the many sections of TSCA in one rulemaking. This proposed rule is complex and involves modifications to 10 parts of Title 40 of the Code of Federal Regulations (CFR), as well as adding a whole new part to the CFR. Consequently, because of the complex and broad scope of this proposed rule, EPN is confident that this proposed rulemaking will receive careful scrutiny by the manufacturers, importers, and processors of chemical substances in the United States, numerous trade associations, and NGOs.

EPN is generally supportive of all aspects of the proposed rule, but we realize that those individuals and organizations most directly affected by the rule (i.e., those who make TSCA submissions and those who review/use such submissions) will have more detailed and specific comments on certain aspects of the proposed rule, such as limitations on confidentiality protections for health and safety information. EPN believes that EPA has made a very credible attempt in Unit III and throughout the document to clearly identify the new definitions and the many specific issues for which the agency (and rule reviewers) is most interested in receiving public comment.

EPN supports EPA’s proposal to organize/centralize most procedural requirements for asserting and maintaining confidential claims under TSCA into a new part 703 of Title 40 in the CFR. Hopefully, this new section will enable submitters to more clearly understand their responsibilities as well as the procedures that EPA will follow in reviewing submissions and communicating with submitters.