



January 17, 2017

Office of Pollution Prevention & Toxics  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave NW,  
Washington DC 20460

RE: Comments on TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors; 81 Fed. Reg. 90840 (December 15, 2016);  
EPA-HQ-OPPT-2016-0675

The National Rural Electric Cooperative Association (NRECA) encourages the Environmental Protection Agency (EPA) to amend the regulatory criteria defining “small manufacturers and processors” for purposes of the recordkeeping and reporting requirements under section 8(a) of the Toxic Substances Control Act (TSCA). NRECA agrees with the Small Business Administration Office of Advocacy (SBA)<sup>1</sup> that in establishing new criteria EPA should (1) reflect different business metrics in different industrial sectors rather than exclusively the Producer Price Index for Chemicals and Allied Products; (2) consider a broader set of factors in developing size standards under TSCA such as number of employees, revenue, inventory volume, or some combination of these factors; and (3) convene a Small Business Advocacy Review Panel<sup>2</sup> to consult with affected small entities affected by the criteria.

NRECA is the national service organization for more than 900 not-for-profit rural electric utilities that provide electric energy to approximately 42 million people in 47 states. NRECA is a member of the Utility Solid Waste Activities Group (USWAG) and supports the USWAG comments on this issue.

Rural electric cooperatives are small businesses. EPA’s notice is important to NRECA because our members manufacture chemical substances, such as beneficially used coal combustion residuals, potentially subject to TSCA’s section 8(a) recordkeeping and reporting requirements. The vast majority of NRECA’s members meet the Small Business Administration (SBA) small business size standards. The typical generation and transmission (G&T) cooperative, those most likely to be subject to section 8(a) reporting, employ approximately 120 employees, significantly below the SBA standard of 750 employees for fossil fuel powered electric power generation facilities<sup>3</sup>.

EPA issued a notice<sup>4</sup> on December 15, 2016, per requirements of the Frank R. Lautenberg Chemical Safety for the 21st Century Act which directs the Agency, after consultation with the Small Business Administration (SBA), to review the adequacy of the current regulatory standards for determining which manufacturers and processors qualify as “small manufacturers and processors” under TSCA section 8(a). NRECA agrees with EPA that revisions to the definition of “small manufacturer” are warranted. Updating the criteria is consistent with Congressional intent that TSCA section 8(a)(1) exclude or, at a minimum, reduce TSCA’s reporting and recordkeeping requirements as applied to small manufacturers like rural electric cooperatives.

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<sup>1</sup> SBA Office of Advocacy Comments, Docket ID No. EPA-HQ-OPPT-2016-0675 (January 11, 2017).

<sup>2</sup> 5 USC 609(b)

<sup>3</sup> See Small Business Administration Size Standard Tool at <https://www.sba.gov/tools/size-standards-tool?ms=nid4060> (retrieved January 16, 2017).

<sup>4</sup> 81 Fed. Reg. 90840 (Dec. 15, 2016).

As EPA recognized, the current criteria, which have not been updated since initially promulgated in 1988, are out-of-date as measured against the Producer Price Index (“PPI”) for Chemicals and Allied Products and the current size standards established by SBA. NRECA supports the Agency’s intent to proceed with a rulemaking to adjust the definition of “small manufacturer” under TSCA section 8 to reflect current business financial and operating metrics and concurs with SBA:

- The adjustment should reflect different business metrics in different industrial sectors, not be keyed exclusively to an increase in inflation in the PPI for Chemicals and Allied Products. This is consistent with SBA’s establishment of size standards for different industrial sectors at the six-digit NAICS code level.
- The adjustment should reflect the many factors and metrics that constitute a “small manufacturer” within a particular industrial sector. For some sectors that may be number of employees, or revenue, or inventory volume, or some combination of these factors and others.
- EPA should engage in a consultation with affected small entities by convening a Small Business Advocacy Review panel to help address this issue.

NRECA also agrees with USWAG and the American Chemistry Council (ACC) that EPA should look at this effort as an opportunity to review and revise the small business standard applicable under all provisions of TSCA, not just section 8.

NRECA looks forward to working with EPA on this important rulemaking. Please contact me ([Dorothy.kellogg@nreca.coop](mailto:Dorothy.kellogg@nreca.coop) or 703-907-5715) if you have question on these comments or need additional information on America’s electric cooperatives.

Most sincerely,



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National Rural Electric Cooperative Association

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