

THE DISPERSER

No. 84 Volume 105 January 2023
"Dispersing ideas among friends"

PROGRESS THROUGH COOPERATION

FPCA President Letter

Dear Current and Future FPCA Members,

Hello, and happy 2022! It is my sincere pleasure to begin my tenure as your President for the next two years. I would like to start by thanking Eddie Saxon for his tireless work and effort leading us for the past three years. With Covid, Eddie took on an extra year for us, and it is sincerely appreciated. We are blessed to still have him on our board for his guidance and input.

2022 is starting strong, and we look forward to some good growth in our industry. It's been a tough few years after Covid, and I know we all are hoping to "get back to normal" in some sense. And what better way to start the new year than to attend our annual Lake Buena Vista meeting at the beautiful Hilton Plaza hotel in Lake Buena Vista! The dates are February 24th-26th, and the meeting sign up information is attached. We will have great speakers, excellent business networking, a fantastic dinner, and hopefully some beautiful weather to enjoy. I look forward to seeing you all!

I would also like to thank, and welcome, our new officers and board members, as well as our existing officers. I am honored to be joined by:

Gabriele Blanco-Vice President
Laurie Barfield-Treasurer
Mary Bogan-Secretary
Board Member-Jeffery Alexander
Board Member-Curtis Deininger
Board Member-Aaron Dhawan
Board Member-Raj Dhawan
Board Member-Jack McMahon
Board Member-Leif Wahlquist
Past President-Eddie Saxon

Lastly, I want to thank you all for supporting the FPCA. YOU are the association. Our board of directors and our officers are here to make your membership as beneficial and enjoyable as possible. Please contact any of us with suggestions and comments you may have. I look forward to seeing you all at the meeting!

Regards,
Allison Lyman Rich
FPCA President



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Vice Pres..... Gabriela Blanco
Secretary.....Mary Bogan
Treasurer.....Laurie Barfield
Board Member..Jeffery Alexander
Board Member...Curtis Deininger
Board Member.....Aaron Dhawan
Board Member..... Raj Dhawan
Board Member.....Jack McMahon
Board Member....Lief Wahlquist
Past President.... Eddie Saxon





EPA Seeks Comments on Proposed PFAS Rule IRFA

- December 8, 2022
- Government Affairs
- Contact: Riaz Zaman

On Nov. 25, the U.S. Environmental Protection Agency (EPA) published an [Initial Regulatory Flexibility Analysis and Updated Economic Analysis \(IRFA\)](#) on the proposed rule, Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) under the Toxic Substances Control Act (TSCA). The IRFA stemmed from completion of a Small Business Advocacy Review (SBAR) panel's assessment of the proposed rule recommending detailed analysis of costs and benefits.

ACA advised the SBAR panel as a Small Entity Representative (SER) to assist in drafting the SBAR report and recommendations to EPA. ACA also provided formal comments in the public docket.

The rule, as proposed in June 2021, would require manufacturers and importers of defined PFAS to report data sets for manufacture and import in any amount over a 10-year period beginning on Jan. 1, 2011.

EPA estimates that 234 firms would be affected as manufacturers, assumed to include chemical importers, but not importers of articles. For these firms EPA adjusted its prior estimate of \$10.8 million in total compliance costs to \$876 million in industry costs. EPA also adjusted agency costs from \$948,078 to \$1.6 million. EPA estimates that small businesses would incur \$863,483,965 in costs for this one-time reporting. The distribution of per-firm costs for manufacturers are estimated to range from \$6,553 to \$1,800,068. Per-firm costs for article importers are estimated to range from \$4,046 to \$224,734.

EPA also states that it intends to make publicly available any non-confidential information reported under the final rule. Availability of information is intended to enhance benefits of the rule by providing the public and state regulators with information, while providing industry with data about PFAS.

[EPA is seeking comments regarding underlying assumptions and data affecting its analysis](#) through Dec. 27, 2022. ACA is developing comments with input from its TSCA Risk Evaluation and PMN working groups.

Specific Comments Sought

EPA is interested in comments about all aspects of the analysis, but identifies the following issues for comment:

- Number of entities that would be affected by a reporting threshold of 2,500 pounds or 25,000 pounds per year. (NOTE: EPA has indicated an interest in requiring reporting for *de minimis* amounts to consider potential toxicity at low levels of exposure.)
- Reporting exemptions common to other reporting programs such as *de minimis* amounts, R&D substances, by-products, impurities, etc.
- Regulatory flexibility alternatives, such as exemptions for businesses with less than \$12 million or \$6 million in revenue, exemptions for article importers with less than \$6 million in revenue, limiting the scope of PFAS to a finite list, establishing reporting thresholds, simplified reporting forms for certain entities (*i.e.*, article importers and manufacturers of research and development (R&D) substances in volumes less than 10 kg per year).
- Number of affected small articles manufacturers.
- Number of PFAS chemicals subject to reporting by small entities, including governments, NGOs, and industry.
- Number of hours small entities will spend to understand the structural definition of PFAS.
- Potential duplicative or overlapping reporting requirements.
- Confidential Business Information (CBI) procedures and disclosure of confidential identities.

Notably, EPA summarizes cost estimates in Table 9 of the [IRFA](#), at page 19. Estimates factor in costs of rule familiarization, form completion, CBI substantiation, recordkeeping and CDX registration and signature (CDX is Central Data Exchange, EPA's electronic reporting site). EPA details time estimates and costs of each activity in pages 2-18 of the IRFA. EPA estimates that 93% of the 234 reporting manufacturers are small businesses, based on employment and revenue distribution data from the Census' Statistics of U.S. Businesses. See page 31 of the IRFA for additional information.

November 6, 2022

Coronado Paint
C/O Mr. Eddie Saxon
9592 Parksouth Court
Orlando, FL 32837

Dear Mr. Saxon,

I would like to take a moment to thank you and the members of the Florida Paint and Coating Association for the opportunity to be a recipient of the FPCA Scholarship. This scholarship will greatly help cover my textbook and class material costs. I appreciate your support and encouragement and will continue to work hard during the rest of my senior year at Carthage College.

Sincerely,


Kathryn Shuty



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How to Use Silence During a Negotiation

Using silence during a negotiation is a learned skill. If you practice the following steps, you will gain recognition as a Master Negotiator.

1. Silence helps you mentally analyze what you're hearing.

We all tend to prepare our response rather than listen when someone is speaking to us. If you think you have a solution early in a discussion, hold your thoughts. This silent gesture sends a powerful message that you are listening. Try not to immediately respond after someone's comments because doing so implies you think your response is more important than what was said. Allowing a few moments of silence in negotiation before you respond will help you turn off your internal voice and listen more effectively.

2. Silence in negotiation allows you to use active-listening skills such as understanding before being understood, asking questions and mentally agreeing where appropriate.

Most people are not natural listeners. Being silent during a verbal discussion is a learned skill. If the other party feels listened to, your results may be more agreeable to both sides. Think about people you admire. Are they good listeners? Probably so.

3. Silence in negotiation can allow you to defuse confusing statements.

Being quiet after your speaker has made an unusual statement or request, can be a powerful tool. Your speaker may be trying to gain a huge advantage and your silence can lessen the impact. You may think there is no way you will agree to the comments, but silence may force the speaker to push his or her agenda and give you more valuable clues to the reasoning behind the statements.

4. Silence can allow you to view the person speaking and learn clues about his or her personality and beliefs.

Trying to get all the facts during a negotiation can sometimes be difficult. During your silence, you can observe the speaker and look for signs of nervousness or other physical attributes. Is the speaker confident? Taking a shot in the dark? Providing good evidence to support statements? Silence buys you time to ask yourself: "What's happening here?"

5. Silence allows you to view the discussion from a distance.

Silence allows you to "see" the discussion from a distance. It also allows you to ask yourself, "How would a third party manage the situation?" Silence gives you the time to take 360-degree view of the entire discussion.

6. What's the lesson?

The power of using silence as a bargaining tool is critical to successful negotiations. Mastering the skill of being silent will also greatly help with coaching, mentoring and teaching.



EPA Website Provides More Insight into Agency's New Chemicals Review

- January 9, 2023
- Government Affairs
- Contact: Riaz Zaman

In December 2022, the U.S. Environmental Protection Agency (EPA) updated a section of its [website to provide a general overview of EPA's new chemicals workload](#), track the current status of active cases currently under review by EPA, and illustrate general statistics for all new chemical submissions received since the Toxic Substances Control Act (TSCA) was amended in June 22, 2016.

The website is intended to provide greater transparency into EPA's status on its New Chemical Review and additional metrics for both the public and regulated companies.

The website also allows visitors to view statistics related to new chemical submissions prior to the 2016 TSCA reauthorization, [New Chemical Program Statistics Prior to June 22, 2016](#).

Background

TSCA requires EPA to review the potential risks of new chemicals before they enter the U.S. market and, when necessary, put safeguards in place to protect human health and the environment from any risks.

The revised TSCA Section 5 requires any company that plans to manufacture – including import – a new chemical substance for a commercial purpose to provide EPA with notice and obtain EPA's approval before commercialization. This notice is known as a pre-manufacture notice (PMN). Under the TSCA statute, EPA has 90 days to review the PMN submission and make a determination about effects on human health and/or the environment by evaluating any intended, known or reasonably foreseen uses of the chemical, without consideration of costs or other non-risk factors. EPA's review must consider effects on susceptible populations such as workers, children and communities located near industrial facilities.

However, the mandate of evaluating PMNs prior to commercialization has led to a significant backlog at EPA and delays in PMN approvals, exceeding the 90-day review period specified in the statute. This has resulted in companies delaying or canceling introduction of new chemical technologies to the U.S. market, or seeking foreign markets for new products. Where prior to the TSCA amendments, companies could begin commercial activity 90 days after a PMN submission, companies now often wait a year or more before EPA completes evaluation of a PMN, leading to uncertainty and derailed market innovation.

Prior to the 2016 amendments to TSCA, EPA issued risk determinations for approximately 20% of new chemical submissions. In 80% of cases, EPA "dropped" the chemical from further review and allowed it to go to market. Following the 2016 amendments to TSCA, EPA is required to make an affirmative risk determination on 100% of new chemical notices submitted under TSCA section 5. Because EPA only made determinations on around 20% of submissions under the pre-2016 law, the amendments resulted in an approximate 5-fold increase in workload for the agency.

Despite the increase in workload, the TSCA new chemicals program has been operating with insufficient resources to meet all the requirements under the amended law. According to EPA, the agency considers a variety of factors in prioritizing new chemical submissions for review including:

- The date of receipt of submission (e.g., EPA generally strives for a first-in-first-out approach, absent extenuating circumstances)
- Statutory and regulatory deadlines
- The extent to which the submitter has provided additional information DURING the review period – subsequent to the original submission – and the level of effort needed to potentially rework some or all of the risk assessment as a result
- Applicability of new innovative approaches EPA has developed to standardize reviews for certain new chemicals (e.g., biofuels, mixed metal oxides (MMO) /cathode active materials (CAMs), etc.)

In the last few years, EPA has received an average of about 500 TSCA section 5 notices and other applications each year. This includes premanufacture notices (PMNs), significant new use notices (SNUNs), and microbial commercial activity notices (MCANs) – all of which must be reviewed within 90 days. EPA's total new chemicals workload also includes applications for exemptions from the full PMN review process (e.g., low volume (LVE), low release and low exposures (LoREX), test market (TME), etc.). These applications represent over 50% of annual applications, have between 30 and 60 days review periods, and are also reviewed by EPA using a robust risk assessment process. EPA review may indicate that an exemption can be granted only if the submitter amends the exemption request to include certain additional limitations on processing, use or disposal. Grants for LVEs only apply to the LVE submitter, any other manufacturer is required to send a new chemical notice before manufacture.



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