

# Government Relations



## Year-End Report & Outlook

# Words from SOCMA's Government Relations Team

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## Robert F. Helminiak

### Vice President, Legal and Government Relations

The Society of Chemical Manufacturers & Affiliates® (SOCMA) supports and fosters the growth of the North American specialty chemical industry by delivering legislative and regulatory advocacy, promoting the highest levels of safety, and strengthening business intelligence and manufacturing operations. SOCMA works with all parts of the federal government on key issues impacting the specialty and custom chemical industry. Through engagement with agency leadership and lawmakers, SOCMA influences and produces positive outcomes for its members and the industry at-large.



Member companies help drive SOCMA's advocacy activity through the Government Relations Steering, Environment, Health and Safety and International Trade Committees. The Steering Committee was redefined and reconstituted in 2021 to focus on evaluating strategic policy priorities and making recommendations to the Board of Governors on policy positions. The EHS and International Trade Committees dig deep into legislative, regulatory and compliance issues, while the Steering Committee focuses on the high level, broad priorities for SOCMA, creating policy principles to help guide SOCMA on the government relations front and developing individual policy statements on the important issues like chemical regulation, trade, worker health and safety and security.

In this report, we will review a variety of policy issues, reflecting the events and business impacts from 2021, such as the Infrastructure Bill, developments in the TSCA program, trade challenges including tariffs and more. We will then look ahead at some of the issues we anticipate in 2022 and how SOCMA is preparing to tackle those issues, like reopening the 301-exclusion process, the Risk Management Program Rule, the TSCA Fees rule and other topics.

While this report will take a high-level look at the policy, compliance and business challenges facing the specialty chemical industry, SOCMA members who want a deeper dive into these issues are encouraged to join our Environment, Health and Safety or International Trade Committees.

Thank you for your support and engagement with SOCMA's Government Relations work in 2021, and we look forward to continuing our work on your behalf in 2022.

Regards,

A handwritten signature in black ink, appearing to read 'R. Helminiak', written in a cursive style.

Robert F. Helminiak

# Strengthening the Global Chemical Supply Chain

## Section 301 Tariff Exclusion Process

2021

The 301 China Tariffs indiscriminately implemented tariffs on SOCMA member inputs and raw materials that are unavailable outside of China. SOCMA has assisted members in earning exclusions, but USTR did not establish firm criteria for winning an exclusion. In 2021, the exclusion processes were ended and the previously granted exclusions expired. The Senate passed legislation, [the United States Innovation and Competition Act](#), that would require USTR to reopen the 301 exclusion process.



2022

In 2022 SOCMA will pursue both regulatory and legislative methods to reopen the 301-tariff exclusion process. SOCMA has developed a task force of members to work on the issue. The House has passed the [America COMPETES Act](#), which does not include 301 exemptions. SOCMA will work to persuade the conference committee to include reopening the 301 tariff exclusion process in a final bill that will then be voted on again by both house of congress. In the case that this legislation does not include reopening exclusions, the likely path forward is the lame duck session of Congress after the November elections.



### Business Impact:

The significant tariffs on inputs which are not available from countries other than China increases the cost of production for SOCMA members.

# Strengthening the Global Chemical Supply Chain

## Miscellaneous Tariff Bill (MTB) Reauthorization

2021

The [Miscellaneous Tariff Bill](#) (MTB), which includes tariff suspensions or reductions on more than 3,000 imports expired on December 31, 2020. In 2021, legislation was introduced in both the House and Senate that would extend MTB through 2023 and would reauthorize two additional MTB cycles, through 2027. The Senate passed [the United States Innovation and Competition Act](#) which includes the extension of MTB.

2022

SOCMA will continue to lobby the Senate and House urging the passage of a new MTB as soon as possible and with retroactivity to January 1, 2020, leveraging opportunities for the legislation to move as a part of a wider trade, competition, and innovation package like USICA or America COMPETES Act.

### Business Impact

The lapse in MTB has increased the cost of domestic production and decreased global competitiveness. Restoration of tariff relief under MTB will reduce import costs and help level the playing field with countries that do not have similar tariff pressures.

## Trade Promotion Authority

2021

On June 1, 2021, [Trade Promotion Authority](#) (TPA) expired with no proposal for reauthorization, which effectively removed the White House's ability to negotiate trade agreements.

2022

SOCMA supports the reinstatement of TPA to ensure that the Administration can pursue trade agreements that support U.S. manufacturing, create U.S. jobs, and strengthen the U.S. export market, though it is unlikely the Biden administration will seek TPA nor the House or Senate pass any legislation granting the administration TPA.



### Business Impact

Without TPA, the U.S. is limited in its ability to pursue further international trade agreements.

# Strengthening the Global Chemical Supply Chain

## Infrastructure Legislation

2021

SOCMA worked with congressional committees and federal agencies to help shape the [Infrastructure Investment and Jobs Act](#), which after months of effort finally passed in November of 2021. There are significant financial commitments to research and development as well as guaranteed government spending for downstream industries. SOCMA analyzed the legislation and created a [breakdown of potential opportunities for members](#).

### Business Impact:

There are both direct and indirect financial opportunities for SOCMA members in tax credits, as well as potentially creating new business opportunities by dedicating significant financial support for downstream companies which rely on the specialty chemical industry.



## Supply Chain

2022

There have been perpetual disruptions to the supply chain in recent years due to China shutting down entire industrial complexes with no notice, 301 Tariffs and finally the shipping and logistics challenges that have gotten increasingly worse in part due to COVID-19. SOCMA is working both internally and through coalitions to resolve port issues, the trucker shortage, and tariff challenges.

### Business Impact:

The economic impact of not having necessary inputs and raw materials is incalculable.

# Strengthening the Global Chemical Supply Chain

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## Superfund Tax

2021

The [Infrastructure Investment and Jobs Act](#) reinstated the Superfund excise taxes on 42 listed feedstock chemicals and other imported chemicals derived in part from them. These taxes were originally created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) in 1980 to fund the cleanup of contaminated sites. The original tax funding streams for CERCLA response actions expired in 1995 and the Superfund program has since been funded by Congress out of general revenues.

2022

SOCMA will assist affected members with compliance as the July 1, 2022 implementation date comes into effect. SOCMA has created a [guidance document](#) for members to understand the applicability and implementation of these taxes and will host an education session on Superfund Tax recoveries at the 2022 Specialty and Custom Chemicals Show.

### Business Impact:

Member companies who manufacture or import any of the 42 listed feedstock chemicals for use in their manufacturing process must pay excise tax via quarterly filings.

## Build Back Better

2021

In 2021, the Administration announced a sweeping reform package known as the [Build Back Better Framework](#) which encompassed a variety of its top priorities. Congress drafted legislation to implement tax and healthcare reforms, climate change, clean energy, and environmental justice components of the Framework. Intended to be passed via budget reconciliation – a process which only requires a 50-vote threshold to pass the Senate – negotiations on the legislation broke down.

2022

Negotiations are expected to continue in 2022, though the outlook is bleak. SOCMA will continue to engage as the legislative process continues.

### Business Impact:

This wide-ranging legislation may generate business opportunities for SOCMA members by creating funding for a variety of downstream industries.

# Chemical Regulation

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## Executive Order - CERCLA



### 2021

EPA conducted a review of the chemical industry and whether additional financial assurances were required in 2020, effectively an assessment of a need for chemical companies to have more insurance. SOCMA developed a coalition, spearheaded a study to deliver to EPA, and persuaded [EPA that additional financial assurances were not necessary](#). In 2021, President Biden issued an Executive Order requiring EPA to revisit similar CERCLA reviews, which could result in an additional review of the chemical industry.

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### 2022

EPA has not completed the rereview of the necessity for additional financial assurances. SOCMA continues to monitor the situation in case EPA decides to re-open the review of the chemical industry. SOCMA is confident that the previously developed study along with a strong coalition will persuade EPA to uphold its previous finding that there is no need for additional financial assurances.

### Business Impact

Additional financial assurances are essentially a requirement for more insurance, raising the cost of doing business and diverting funds that could be targeted for business development and growth.

# Chemical Regulation

## Executive Order - Refrigerant Management Regulation

2022

In an Executive Order, President Biden directed EPA to review the [Refrigerant Management Rule](#), which included an exclusion for appliances using 50lbs or greater for which SOCMA successfully advocated. SOCMA is tracking the situation but believes additional action on the rule is unlikely due to the passage of the AIM Act, which is a phasedown of HFCs. Presently, the exclusion SOCMA won is in place and unless a new rulemaking is completed, the exclusion cannot be removed.

### Business Impact:

SOCMA saved members both money and down time in manufacturing that would have come with additional regulatory compliance and record keeping requirements.

## Risk Management (RMP) Rulemaking

2021

The Risk Management Program (RMP) rulemaking has been an ongoing issue since 2015. A final rule was published in 2017 that had significant problematic requirements. SOCMA worked diligently to overturn that rule and was successful in 2019 with the [RMP Reconsideration Rule](#). Unfortunately, in a 2021 Executive Order, President Biden mandated EPA further review the rule, which led to a non-required “listening session” in which SOCMA testified. Additionally, SOCMA filed comments with EPA.

2022

The Biden administration is expected to deliver a new proposed rule on RMP by the end of 2022. This rule would supersede the Trump administration rule, which resolved extremely problematic requirements. SOCMA will work with EPA on the new proposed rule, though the Biden administration has indicated that it strongly supports including those problematic portions of the 2017 rule in its forthcoming rulemaking. Additionally, SOCMA will put together a task force of members to work on the issue.

### Business Impact:

Renewing the 2017 RMP rule would create the potential for significant security breaches with information disclosure requirements as well as impossible and subjective compliance and audit requirements that will disrupt the specialty chemical manufacturing process.





# Chemical Regulation

## TSCA Fees Rule

2021

The [TSCA Fees Rule](#), which was promulgated in 2018, is due to be updated by EPA. A proposed rule was developed in 2020, which included relatively flat increases to PMNs and LVEs. SOCMA was supportive of not increasing fees in the New Chemicals program.

2022

In 2022 the Biden administration is expected to introduce a new proposed Fees Rule. It is likely that the new proposed rule will increase fees for New Chemicals. SOCMA is working diligently to educate EPA on the negative impact of increased fees on innovation and growth of both the chemical industry and the US economy.

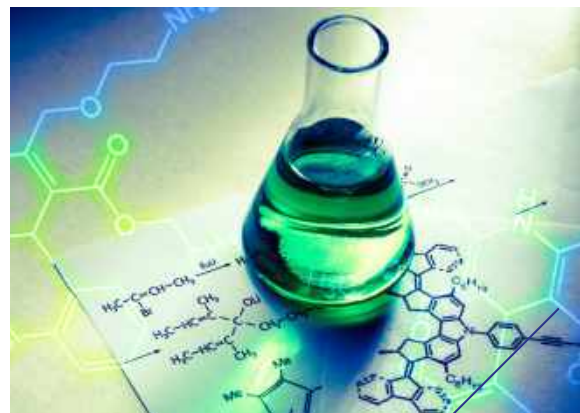
### Business Impact

An increase in fees would cost SOCMA members more money to innovate new chemicals, which is the life blood of the industry. This creates additional barriers to entry and hurdles to developing new products.

## TSCA New Chemical Review

2022

By statute, PMNs must be reviewed in 90 days and LVEs in 30 days, but EPA regularly misses the deadlines requesting suspensions with no justification. Further, EPA should refund fees if the reviews are not completed in the statutory timelines but does not; PMN and LVE applicants have no recourse but to grant suspensions without complaint. In 2021 EPA took a step in the wrong direction by further slowing down the reviews when it decided to not assume compliance with OSHA PPE regulations.



### Business Impact

The perpetual slowdowns make it difficult for SOCMA members to meet customer expectations for new products. Additionally, this can be seen by the dramatic reduction of PMN submissions since the passage of New TSCA in 2016.

# Chemical Regulation

## EPA Publishes HFC Phaseout Rule

2021



Enacted on December 27, 2020, the [American Innovation and Manufacturing \(AIM\) Act of 2020](#) directed EPA to phase down the production and consumption of listed HFCs. In 2021, EPA published its final rule on the phaseout of HFCs, which included a number of provisions that SOCMA successfully lobbied for, such as:

- An allocation for the manufacture of etching gases
- Retention of the destruction exclusion
- Adoption of a 12-month validity period for verification of transformation
- Removal of reporting requirements for historically produced, imported or reclaimed HFCs
- Protections for the preservation of confidential business information

SOCMA produced an [analysis of the final rule](#) and assisted affected members with compliance.



### Business Impact:

Member companies who use any of the listed HFCs in their manufacturing process will need to apply for an annual allocation and comply with EPA's new recordkeeping and reporting requirements.

# Chemical Regulation

## Policy Activity on PFAS & PFOA

### 2021



There was a flurry of legislative and regulatory activity on PFAS and PFOA in 2021. Most notably, EPA issued its [PFAS Strategic Roadmap](#), which lays out a whole-of-agency approach to regulating PFAS. SOCMA monitored developments in Congress and the Administration and kept affected members apprised on the status of relevant legislation and regulation. Several PFAS provisions were included in the [2022 National Defense Authorization Act \(NDAA\)](#), primarily focused on spill prevention and mitigation and environmental remediation and clean-up of military installations, formerly used defense sites, and national guard sites.

### 2022

EPA will continue to execute on the various actions announced in its PFAS Strategic Roadmap, and Congress will continue to work on the dozens of bills still pending on PFAS and PFOA regulation. SOCMA will monitor and communicate with members as these develop in 2022.

### Business Impact

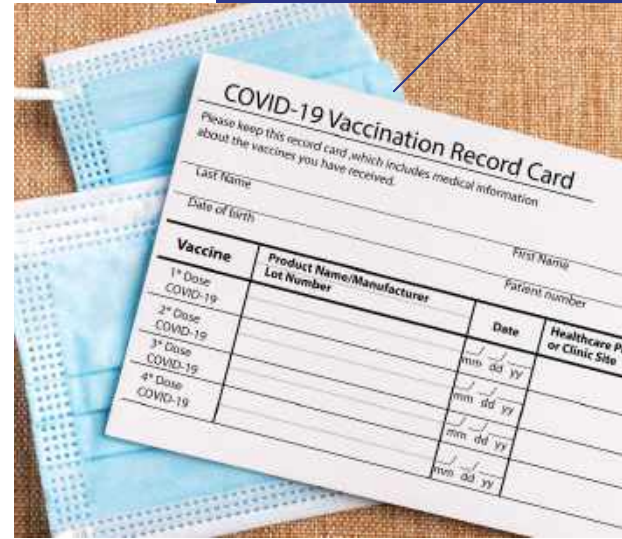
SOCMA members who manufacture or use PFAS and PFOA in their manufacturing processes will need to comply with any additional regulations or restrictions as EPA and Congress move forward.

# Worker Health & Safety

## COVID-19

2021

The COVID-19 pandemic has impacted all aspects of life in the US. It has created challenges for the specialty chemical industry, and at the same time, the specialty chemical industry has been integral in recovering from the pandemic. Additionally, [SOCMA produced compliance assistance materials as well as sample preventive policies for companies](#). Finally, SOCMA held Town Halls and Roundtables to give SOCMA members access to experts and the ability for peer-to-peer conversations.



### Business Impact

COVID-19 has been incredibly disruptive to all business, especially manufacturing in the US.

## OSHA Emergency Temporary Standard on COVID-19 Vaccinations

2021

In November, the Occupational Safety and Health Administration (OSHA) published its long-awaited Emergency Temporary Standard (ETS) to carry out the September 9 Executive Order (EO) requiring companies with 100 or more employees to mandate vaccinations (with health and religious exemptions) or take weekly COVID-19 tests and wear masks. SOCMA hosted virtual ETS Compliance Town Halls to keep members apprised of all the latest developments and new information.

2022

The ETS was retracted by OSHA after a Supreme Court decision on a stay of the rule signaled that the Court would find against OSHA on the merits of the case. OSHA has indicated that it still intends to use the ETS as a normal rulemaking process, but it will likely be a more tailored rule which focuses on workplaces that the Supreme Court would find have specific susceptibility to a pandemic.

### Business Impact

The long-term business impacts of the ETS and potential rulemaking could include additional record keeping and broader disease prevention measures.

# Worker Health & Safety

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## OSHA Hazardous Communications Standard

**2021**

OSHA published a proposed rule to update the [Hazard Communication Standard](#) (HazCom) in 2021. The proposed rule included provisions that SOCMA supports, such as revised labeling requirements for small containers. SOCMA submitted [formal comments](#) during the rulemaking process and worked with OSHA on aspects of the rule that have unintended consequences such as trade secrets and classification requirements.

**2022**

In 2022 OSHA may hold a formal hearing on HazCom, though it's unlikely that the rule will be finalized in 2022. SOCMA will continue to track the issue and lobby to support the small package labelling measures and suggest changes to the proposed rule.

### Business Impact

New labelling requirements will have economic impacts by requiring companies to develop new labels for products. It will also likely increase shipping costs with trucking and rail having new, potentially greater compliance responsibilities.

## OSHA Emergency Response Standard

**2021**

In October of 2021, The Small Business Administration (SBA) in conjunction with the Occupational Safety and Health Administration (OSHA) convened [a panel](#) to collect stakeholder input on a proposed new health and safety standard for Emergency Response. SOCMA members Ascensus Specialties, and DanChem, and VanDeMark Chemical, Inc., testified before a panel of OSHA and SBA staff where they shared the unique concerns and perspectives of the specialty chemical industry regarding the proposed new standard. Their comments were reflected in the [report issued by SBA](#) on the impacts of the proposed standard on small businesses and will help inform OSHA as they continue to develop the proposed standard.

### Business Impact:

A more rigorous and onerous standard would add complexity and costs for facilities that have industrial fire brigades and plant emergency response teams. SOCMA's participation in the SBREFA panel will help guide OSHA in crafting the final rule, with the goal of limiting these negative impacts on businesses while ensuring the health and safety of employees who participate in these emergency response activities.



# 2022 Issues

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## Once In, Always In Rule

The Biden administration is likely to reverse the Trump administration's reversal of "Once In Always In". The current rule, which came into effect in 2020, allowed companies to move from a Major Source Emitter to the lower classification level of Area Source Emitter. In 2022 EPA is likely to retract and revert to previous policy which would not permit companies to return to a lower level of emitter class.

### Business Impact:

Companies that sought to capitalize on the 2020 change of policy will likely not be permitted to eliminate the additional regulatory compliance that comes with being a Major Source Emitter.

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## Manufacturing Process Unit (MPU) Exclusion

The MPU Exclusion is a top priority for SOCMA. There were no new enforcement actions in 2021 since SOCMA began educating EPA on the topic. SOCMA will reconvene the SOCMA member task force that has been working on the MPU exclusion once appropriate political appointees are in place.

### Business Impact:

The fine from EPA can be anywhere in the \$100,000 to 250,000 range. More expensive though, is that the company will be forced to make facility changes potentially including altering manufacturing processes. Finally, the company will be forced to treat materials as hazardous which were not previously considered hazardous which requires compliance with additional RCRA regulations.

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## DHS Chemical Facility Anti-Terrorism Standards



SOCMA has created a task force of members to work on issues surrounding the DHS CFATS program. The goals of the task force are educating DHS on the batch manufacturing process, revising the thresholds for chemicals on Appendix A, as well as seeking recognition for third-party training programs such as ChemStewards.

# Events

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## SOCMA's Virtual Policy Town Hall Series



With consideration of the growing number of cases of COVID-19 in the United States, numerous travel restrictions of member companies and out of an abundance of caution for the health of attendees, SOCMA made the decision to forgo an in-person SOCMA Policy Summit and instead held a virtual Policy Summit Series. For the month of April, SOCMA hosted weekly webinars on topics such as TSCA, 301 tariffs, worker safety, environmental regulations and trade.

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### 2022

In 2022 SOCMA will once again hold a series of virtual town halls. This will allow members to engage with legislators and regulators to both deliver the concerns of the industry and learn about upcoming developments from congress and the White House.



# Join Us for Our 2022 Programing

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**Quarterly** | Capital Hill Insiders Webinar Series

**April** | Second Annual Virtual Policy Summit Series

**Virtual** | Virtual Lobby Day efforts with member task forces that drive SOCMA's efforts

**Monthly** | International Trade and Environment, Health and Safety Committee Calls

**November** | SOCMA Summit, Taking Place November 14-16 in New Orleans, LA





# Meet Our Government Relations Team



## Advocating for Specialties



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