



SmallBiz@EPA

EPA's Asbestos and Small Business Ombudsman Program

A monthly newsletter for the regulated small business community

March 2021

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Policy & Regulation

EPA Seeks Small Businesses Input on Risk Management Rulemaking for Asbestos, Part 1: Chrysotile Asbestos and for C.I. Pigment Violet 29 (PV29)

Under the Toxic Substances Control Act (TSCA), EPA is required to evaluate the risks associated with existing chemicals in commerce using the best available science before taking action to address any unreasonable risk. The Agency issued a final risk evaluation, [Asbestos, Part 1: Chrysotile Asbestos](#), in December 2020, showing unreasonable risks to workers, occupational non-users (ONUs), consumers, and bystanders under certain conditions of use. EPA also issued a [final risk evaluation for PV29](#) in January 2021, showing unreasonable risks to workers and ONUs under certain conditions of use. EPA is now moving to the risk management step in the TSCA process by working to draft a regulation to protect public health from the unreasonable risks identified in these final risk evaluations.

The Regulatory Flexibility Act requires agencies to establish a SBAR Panel for rules that may have a significant economic impact on a substantial number of small entities. The SBAR panel will include federal representatives from the Small Business Administration (SBA), the Office of Management and Budget (OMB), and EPA. Small Entity Representatives (SERs) will be selected by the SBAR Panel to provide comments on behalf of their company, community, or organization and advise the panel on the potential impacts of the proposed rule on small entities.

In addition to engaging with small businesses, EPA is executing a robust outreach effort on risk management that includes formal consultations with state and local governments, tribes, and environmental justice communities. There will also be an open public comment on any draft risk management regulation. While outreach and stakeholder engagement on risk management activities for these chemicals will continue to move forward, EPA is actively reviewing the final risk evaluations to ensure it uses the best available science and protects human health and the environment, in accordance with the Executive Orders and other direction provided by the Biden-Harris Administration. The Agency will keep stakeholders updated as decisions are made and next steps are determined.

[Learn more about the Small Business Advisory Review process.](#)

[Learn more about TSCA risk management and opportunities for stakeholder engagement](#)

Fees for the Administration of the Toxic Substances Control Act (TSCA); Extension of Comment Period

In the *Federal Register* of January 11, 2021, EPA proposed updates and adjustments to the 2018 fees rule established under TSCA. [This document](#) extends the comment period for 30 days from February 25, 2021 to March 27, 2021. Provide comments to docket EPA-HQ-OPPT-2020-0493 on www.regulations.gov. EPA will use these comments to inform the final rule which the Agency plans to issue in 2021. [Learn more about the proposed revisions to the TSCA Fees Rule.](#)

Inventory of U.S. Greenhouse Gas Emissions and Sinks

Public Review of Draft U.S. Inventory of Greenhouse Gas Emissions and Sinks: 1990-2019

EPA develops an [annual report](#), called the Inventory of U.S. Greenhouse Gas Emissions and Sinks (Inventory), that tracks U.S. greenhouse gas emissions and sinks by source, economic sector, and greenhouse gas going back to 1990. Per an announcement in the *Federal Register* (FR) [FRL-10019-87-OAR](#), the draft 1990-2019 Greenhouse Gas Emissions Inventory is now available for public comment. To ensure your comments are considered for the final version of the document, please submit your comments by March 15, 2021. [Learn more about the draft report and how to submit comments.](#)

EPA has developed an interactive tool that provides access to data from the national greenhouse gas inventory. Visit the [Greenhouse Gas Inventory Data Explorer](#) to create customized graphs, examine trends over time, and download the data. Note: the Data Explorer will be updated with data through 2019 with publication of the Inventory in April after completion of public review of the Draft Inventory described above. For more information, visit epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks.

Notice of Data Availability (NODA) Relevant to the United States Hydrofluorocarbon Baselines and Mandatory Allocations

On February 11, 2021, EPA published a Notice of Data Availability (NODA) in the *Federal Register* to alert stakeholders of information relevant to HFC consumption and production in the United States for the years 2011, 2012, and 2013 and solicit stakeholder input. The Agency provided this information in preparation for upcoming regulatory actions under the American Innovation and Manufacturing (AIM) Act of 2020, included in the Consolidated Appropriations Act, 2021. This notice also provided the Agency's initial information on HFC use in sectors that would receive application-specific allowances under the Act.

EPA is planning to issue a proposed rule in the near future that will take comment on an HFC Phasedown Program, including the Agency's approach to calculating HFC production and consumption baselines, allocating allowances in furtherance of the HFC phasedown, and defining sectors that receive application-specific allowances. More information about the AIM Act as well as EPA's current efforts to meet the statutory deadlines can be found at epa.gov/climate-hfcs-reduction.

EPA Takes Action to Address PFAS in Drinking Water

On February 22, 2021, EPA issued two actions to protect public health by addressing per- and polyfluoroalkyl substances (PFAS) in drinking water, highlighting the Agency's commitment to address these long-lasting "forever chemicals" that can enter drinking water supplies and impact communities across the United States. The Biden-Harris administration is committed to addressing PFAS in the

nation's drinking water and will build on these actions by advancing science and using the Agency's authorities to protect public health and the environment.

Taken together, these two actions will support the Agency's efforts to better understand and ultimately reduce the potential risks caused by this broad class of chemicals. EPA is reproposing the Fifth Unregulated Contaminant Monitoring Rule (UCMR 5) to collect new data on PFAS in drinking water and the Agency is reissuing final regulatory determinations for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) under the Safe Drinking Water Act (SDWA). After a thorough review in accordance with Biden-Harris administration executive orders and other directives, the Agency is reissuing these actions. EPA will build on them using a strong foundation of science while working to harmonize multiple authorities to address the impacts of PFAS on public health and the environment. EPA is also committed to a flexible approach and working collaboratively with states, tribes, water systems, and local communities that have been impacted by PFAS.

With the final Regulatory Determinations for PFOA and PFOS, EPA will move forward to implement the national primary drinking water regulation development process for these two PFAS. The Regulatory Determinations also outline avenues that the Agency is considering to further evaluate additional PFAS chemicals and provide flexibility for the Agency to consider groups of PFAS as supported by the best available science.

Additionally, the proposed UCMR 5 would provide new data that is critically needed to improve EPA's understanding of the frequency that 29 PFAS are found in the nation's drinking water systems and at what levels. EPA will accept public comment on the proposed UCMR 5 for 60 days, following publication in the *Federal Register*. EPA will also hold a virtual stakeholder meeting twice during the public comment period. For more information, visit epa.gov/safewater. [Read the full press release.](#)

EPA Registers Copper Surfaces for Residual Use Against Coronavirus

On February 10, 2021, EPA announced that certain copper alloys provide long-term effectiveness against viruses, including SARS-CoV-2, the virus that causes COVID-19. As a result of EPA's approval, products containing these copper alloys can now be sold and distributed with claims that they kill certain viruses that come into contact with them. This is the first product with residual claims against viruses to be registered for use nationwide. Testing to demonstrate this effectiveness was conducted on harder-to-kill viruses.

New efficacy testing supported by the Copper Development Association and conducted according to [EPA's protocols](#) demonstrated certain high-percentage copper alloy products can continuously kill viruses that come into contact with them. Based on testing against harder-to-kill viruses, EPA expects these products to eliminate 99.9 percent of SARS-CoV-2, the virus that causes COVID-19, within two hours. Antimicrobial copper alloys can be manufactured into a wide range of surfaces, including doorknobs and handrails. These high-percentage copper alloy products will be added to the [List N Appendix](#), the Agency's list of residual antiviral products that can be used to supplement routine cleaning and disinfection to combat SARS-CoV-2. To find products for routine cleaning and disinfection, see EPA's [List N](#).

The use of antimicrobial copper alloy products supplements but does not replace standard infection control practices. Individuals should continue to follow Centers for Disease Control (CDC), state, and local public health guidelines, including critical precautions like mask wearing, social distancing, and [ventilation](#). According to the CDC, COVID-19 is thought to spread mainly through close contact from person to person. For more information on how copper alloy products can be used against

viruses, see [EPA's website](#) or the product's label in the [Pesticide Product and Label System](#). [Read the press release](#).

EPA Commits to Strengthening Science Used in Chemical Risk Evaluations

EPA is continuing to act on the [Biden-Harris Administration's commitment](#) to making evidence-based decisions and developing policies and programs that are guided by the best available scientific data. EPA announced that the Agency will refine its approach to selecting and reviewing the scientific studies that are used to inform TSCA chemical risk evaluations (known as systematic review).

EPA's ongoing effort to update its systematic review approach that was issued in 2018 is also part of EPA's broader efforts to review the first 10 TSCA risk evaluations. This review will be done in accordance with the Executive Orders and other directives provided by the Biden-Harris Administration to ensure that all Agency actions meet statutory obligations, be guided by the best available science, ensure the integrity of Federal decision-making, and protect human health and the environment.

EPA is committed to following an open and transparent process to review and update the Agency's systematic review approach. EPA expects to publish and take public comment on a TSCA systematic review protocol that will adopt many of the recommendations in the Academies' report later this year. [View the report from the Academies](#). [Read the full press release](#).

After Careful Consideration, EPA Supports Tenth Circuit's Renewable Fuels Association Decision

On February 22, 2021, EPA announced that after careful consideration of the 2020 decision of the U.S. Court of Appeals for the Tenth Circuit in *Renewable Fuels Association et al. v. EPA*, 948 F.3d 1206 ("Decision"), EPA supports that court's interpretation of the renewable fuel standard (RFS) small-refinery provisions. This conclusion, prompted by a detailed review following the Supreme Court's grant of certiorari in the case, represents a change from EPA's position before the Tenth Circuit. The change reflects the Agency's considered assessment that the Tenth Circuit's reasoning better reflects the statutory text and structure, as well as Congress's intent in establishing the RFS program.

RFS Program Background

Congress created the RFS program to reduce greenhouse gas emissions and expand the nation's renewable fuels sector while reducing reliance on imported oil. This program was authorized under the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act of 2007. In enacting the RFS program, Congress recognized the need to allow small refineries (those with aggregate crude oil throughput less than or equal to 75,000 barrels per day) to transition into the program. Small refineries were exempted from the RFS program in its earliest years, 2006-2010, after which a small refinery could petition EPA for and receive an extension of its exemption if it could demonstrate the refinery would suffer "disproportionate economic hardship" as a result of complying with its RFS obligations. See CAA section 211(o)(9).

Supreme Court Case and EPA's Position

On January 8, 2021, the U.S. Supreme Court granted the small refineries' petition for a writ of certiorari asking the Court to review the Tenth Circuit's holding regarding the SRE eligibility of small refineries that lack an existing exemption. *HollyFrontier Cheyenne Refining, LLC, et al. v. Renewable Fuels Assn., et al.*, United States Supreme Court, Case No. 20-472.

After further, careful review of the *RFA* Decision following the change of Administration, EPA has reevaluated the statutory text and now agrees with the Tenth Circuit's reading of CAA section 211(o)(9)(B)(i) that an exemption must exist for EPA to be able to "extend" it. EPA agrees with the court that the exemption was intended to operate as a temporary measure and, consistent with that Congressional purpose, the plain meaning of the word "extension" refers to continuing the status of an exemption that is already in existence. For background on EPA's RFS Program, see [epa.gov/renewable-fuel-standard-program/news-notice-and-announcements-renewable-fuel-standard](https://www.epa.gov/renewable-fuel-standard-program/news-notice-and-announcements-renewable-fuel-standard). Read the full press release.

Key Dates and Upcoming Opportunities

EPA Webinar: Air Sensor Performance Targets March 24, 2021, 3:00 to 4:00 PM ET

This webinar will highlight two reports developed by EPA's Office of Research and Development (ORD) that outline recommended performance testing protocols, metrics, and target values for fine particulate matter (PM_{2.5}) and ozone (O₃) air sensors. The reports apply to the use of PM_{2.5} and O₃ air sensor in non-regulatory supplemental and informational monitoring (NSIM) applications in ambient, outdoor, fixed site environments. The anticipated outcomes of this work are to:

- Provide a consistent approach for evaluating air sensor performance and reporting results;
- Help the user community better understand sensor performance;
- Assist the user community in making informed decisions on choosing sensors that appropriately suit their NSIM application; and
- Encourage innovation and product improvement in the marketplace.

Register Here. **For Registration Questions:** Email tools_resources_webinar@epa.gov. For more information, visit epa.gov/air-sensor-toolbox/air-sensor-performance-targets-and-testing-protocols.

EPA Announces Availability of Up to \$6 Million in Environmental Justice Grants

EPA has announced the availability of up to \$6 million in grant funding under the [Environmental Justice Collaborative Problem-Solving \(EJCPS\) Cooperative Agreement Program](#) and the [Environmental Justice Small Grants \(EJSG\) Program](#).

EPA will give special consideration to the following focus areas:

- Addressing COVID-19 concerns faced by low-income communities and communities of color
- Climate Change and Natural Disaster Resiliency outreach and planning
- New applicants to either grant funding opportunity
- [Ports Initiative](#) to assist people living and working near ports across the country
- Small non-profits

The EJCPS Cooperative Agreement Program's total estimated grant funding is approximately \$3,200,000. EPA anticipates awarding two cooperative agreements of \$160,000 each within each of the 10 EPA Regions. To learn more about pre-application assistance calls and how to apply for funding, visit: epa.gov/environmental-justice/environmental-justice-collaborative-problem-solving-cooperative-agreement-0.

The EJSG Program estimates approximately \$2,800,000 will be awarded to approximately five applications per EPA region in amounts of up to \$50,000 per award. This includes EPA's [Ports Initiative](#) program which anticipates funding up to six additional projects to address clean air issues at coastal and inland ports or rail yards. To learn more about pre-application assistance calls and how to apply for funding, visit: epa.gov/environmentaljustice/environmental-justice-small-grants-program.

Applicants interested in either funding opportunity must submit grant proposal packages by **May 7, 2021** to be considered for the available funding. Applicants should plan for projects to begin on October 1, 2021. Interested applicants are also encouraged to participate in a pre-application assistance call or webinar on March 5, March 10, March 23, or April 7, 2021 (en Español). More information is available at: epa.gov/environmentaljustice/environmental-justice-small-grants-program#Assistance. For more information on EPA's environmental justice grants, funding, and technical assistance programs, visit: epa.gov/environmentaljustice.

EPA Online Training Course: How to Develop a Budget

This online training course is designed to introduce EPA grant applicants and recipients to key aspects of grant budget development. The training may be used by applicants and recipients of EPA funds when preparing proposed work plans, budgets, and budget narratives for EPA grants. Throughout this training, the term **grant** is used as a general term to refer to both grants and cooperative agreements.

The course is divided into separate modules that can be completed individually. Each module includes knowledge checks to verify your understanding of key concepts. If you need to leave a module, the last slide to be completed will be saved, and you will be able to return to that location later. Upon completion, you will be prompted to generate a downloadable certificate of completion.

Related Training: [EPA Grants Management Training for Applicants and Recipients](#): This online training course is designed to introduce EPA grant applicants and recipients to key aspects of the entire grant life cycle, from preparation of an application through grant closeout. Access the training modules and more information at epa.gov/grants/how-develop-budget.

Ask SBEAP

Dear SBEAP,

COVID-19 has changed many things for our small business. There's been a lot about financial relief, masks, sanitation and regulations, but I'm struggling to keep track as things keep changing. Is there anything new regarding COVID and environmental compliance? Is there a website where I can keep track of current information?

Sincerely,
Sarah Small

Dear Ms. Small,

The COVID-19 pandemic has affected many aspects of our lives, including how businesses operate. Its impacts have been devastating for some of our small business communities, while others have thrived. With regard to environmental compliance, the COVID-19 Enforcement Policy issued last spring ended in August. EPA and state regulatory agencies have changed the way they are doing inspections, and these changes may or may not stay after the pandemic ends. The National SBEAP has created a page of [COVID-19 resources](#) relevant to small businesses to help keep you connected with the latest information from sanitation and health concerns to financial relief. This includes mask guidance, resources on social distancing and disinfection, printable posters for your workplace and [SBA Economic Injury Disaster Loans](#). As always, we can also help connect you with resources [specific to your state](#), or you can call our hotline at 800-578-8898.

Spotlight

EPA SBIR Small Business Receives 2020 Tibbetts Award

Each year, the U.S. Small Business Administration (SBA) honors the best and brightest within the Small Business Innovation Research (SBIR) program with Tibbetts Awards. Named after Roland Tibbetts, the founder of the SBIR program, Tibbetts Awards recognize the companies, organizations, and individuals who exemplify SBIR achievement with measurable impacts. Nominees are judged on technical innovation, business impact and overall societal and economic benefit. This year, ASAT, Inc., an EPA SBIR-funded small business, was awarded a Tibbetts Award for their success and excellence.

ASAT, Inc. is an EPA SBIR small business out of Oregon. ASAT's [EPA SBIR projects](#) focused on the development of the ASAT Integrated Stove, an affordable and clean-burning biomass stove for heating and cooking. Nearly 3 billion people in the world depend on the burning of biomass and coal in rudimentary stoves or open fires and are exposed to smoke with high concentrations of fine particles composed of toxic compounds. The Integrated Stove has innovative stand-alone, affordable accessories, including a thermoelectric generator to provide light and charge cell phones; an efficient air-cooled radiator; the Jet-Flame, a cleaning system for the combustion chamber that reduces fine particulate matter emissions by 90 percent; and an electrostatic precipitator, which eliminates smoke output through the chimney and captures 95–99 percent of fine particulate matter. U.S. and global sales of ASAT's accessories guarantee smoke-free biomass heating and cooking, resulting in protected health, sustainable energy use, cleaner cooking with biomass and reduced respiratory illness.

EPA SBIR funding was critical to develop, manufacture and market ASAT's innovations. "EPA SBIR funding enabled ASAT to research and develop many commercially viable inventions," said Dean Still, ASAT's Executive Director. "This includes the Jet-Flame that increases combustion efficiency, an air-cooled thermoelectric generator, a low-cost electrostatic precipitator and the clean-burning Integrated Stove which has all of these features."

EPA funding has also led ASAT to accelerate the commercialization of their innovative technologies. Since receiving their award, ASAT has attracted a partnership with the Gates-funded Global Health Laboratories and additional funding from third-party sources. EPA SBIR funding allowed ASAT to succeed in making international sales and its products are now found in more than 30 countries, including a tender from the Nigerian government for 25,000 Integrated Stoves. "Without EPA SBIR, this would not have happened," said Still.

2020 marks the first year since 2016 that SBA has announced Tibbetts Awards. EPA SBIR small businesses have a history of receiving these prestigious awards. For more information, visit epa.gov/sbir/epa-sbir-small-business-receives-2020-tibbetts-award.

Statistics for the TSCA CBI Review Program

Under TSCA, EPA must review and make determinations for certain confidential business information (CBI) claims. Specifically, TSCA section 14(g)(1) requires that EPA, within 90 days of receipt of the claim:

- review and make determinations on CBI claims for chemical identity after the chemical substance has been offered for commercial distribution; and
- review and make determinations on a representative subset of at least 25% of other CBI claims that are not exempt from substantiation and review.

The CBI review requirements of TSCA section 14 apply to submissions to EPA under TSCA, including Sections 4, 5, 6, 8, and 12. [Learn more CBI review and determination requirements.](#)

Since the enactment of the TSCA amendments in June 2016, EPA has established numerous new processes, systems, and procedures to enable submitters to provide the information required when making confidentiality claims and to facilitate EPA's review, and where applicable, determinations on these claims. In January 2021, EPA published an updated list of cases with completed CBI reviews under TSCA section 14. This publication keeps the commitment made by EPA to periodically publish information on CBI determinations. These actions continue the Agency's commitment to transparency as we fulfill our responsibilities under the Lautenberg amendments to TSCA.

[Download data on completed TSCA CBI determinations \(XLSX\).](#) This spreadsheet includes the results of completed CBI determinations and cases with approved claims for specific chemical identity for which unique identifiers have been assigned.

Annual CBI Goal

TSCA section 8(b)(4)(C) required that EPA promulgate a rule establishing a review plan for all active substances whose specific chemical identities are protected from disclosure by inclusion on the confidential portion of the TSCA Inventory. TSCA section 8(b)(4)(E)(ii)(II) and 40 CFR 710.55(d) provide that EPA will publish an annual goal for reviews and the number of reviews completed in the prior year at the beginning of each calendar year. After consideration of the number of claims needing review and EPA's available resources, EPA has determined that its goal for calendar year 2021 is to prioritize the review of confidential chemical identities reported in the Active Inactive Rule that were also reported in the 2020 Chemical Data Reporting (CDR) rule reports. EPA will also prioritize refining document handling and review infrastructure to facilitate the efficient reviews of the remaining CBI claims for chemical identity which will be completed by February 19, 2024.

EPA publishes the results of TSCA CBI determinations for all TSCA submissions a few times each year. EPA issued 540 final confidentiality determinations for chemical identity in Notice of Activity Form A (NAA) filings concerning 383 active substances on the confidential portion of the TSCA Inventory in 2020. For details, visit epa.gov/tsca-cbi/statistics-tsca-cbi-review-program.

Share with the small business community through EPA's SmallBiz@EPA Bulletin

Do you have a story, upcoming event, resource, or information that may be beneficial to the small business community? Please email us at asbo@epa.gov to provide a brief submission with a suggested title, your contact information, and a website link for more information on the topic.

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