



SOCMA

SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

FAX TRANSMITTAL SHEET

To: John Morrill Date: 5/28/02
 Company: OMB From: Jeff Gunnulson
 Fax: 202-395-6974 Phone: 202-721-4198
 Number of pages including cover sheet: 6

Message:

Comments on Draft Report to Congress on
 Costs and Burden of Regulations

UPCOMING EVENTS SPONSORED BY SOCMA

- May 12 - 15, 2002, SOCMA'S Annual Meeting, Scottsdale, AZ.
 Visit www.socma.com/events.html. Contact Diane McMahon at (202) 721-4174 or memahond@socma.com.
- Feb. 25 - 28, 2003, INFORMEX® 2003, New Orleans, LA.
 Visit www.informex.org. Contact Diane McMahon at (202) 721-4174 or mcmahond@socma.com.

If you have any problems receiving this fax or are missing any pages, please contact the sender at the number provided.





SOCMA

SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

May 28, 2002

Mr. John Morrall
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB
Room 10235
725 17th Street N.W.,
Washington, DC 20503

RE: Comments on OMB Draft Report to Congress on the Costs and Benefits of Federal Regulations

Dear Mr. Morrall:

The Synthetic Organic Chemical Manufacturers Association ("SOCMA") appreciates the opportunity to share its experience and perspective, **and** that of its members, in these comments on **OMB's** Draft Report to Congress on the Costs **and** Benefits of Federal Regulations (67 Fed. Reg. 15014 (March 28, 2002)).

SOCMA's members are heavily affected by environmental regulations **and** are required to expend significant resources as a result **of** those regulations. SOCMA and its members believe that reconsideration of the costs and benefits of **a** number of these environmental regulations is overdue.

Our comments address Chapter IV of the Report regarding recommendations from the public for the reform of Federal **rules**. SOCMA's members operations are subject to **a** broad, overlapping array of federal and state regulations. Applicable federal programs include the Clean Water Act (CWA), the Clean Air Act (CAA), the Emergency Planning and Community Right to Know Act (EPCRA) the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA) **and** the Occupational Safety **and** Health Act (OSHA).

I. Background on the Perspective of SOCMA and SOCMA Members

SOCMA is the leading trade association representing the batch **and** custom chemical industry. SOCMA's 300+ member companies make the products and refine the

raw materials that make our standard of living possible. From pharmaceuticals to cosmetics, soaps to plastics, **and** all manner of industrial and construction products, SOCMA members make materials that save lives, make our food supply safe and abundant, and enable the manufacture of literally thousands of other products. Over 70% of these **SOCMA** members qualify as small businesses. Thus, SOCMA and its members have direct experience with the impact of numerous federal regulations on small businesses. For example, SOCMA was supportive of the recent Resource Conservation and Recovery Act (“RCRA”) Burden Reduction Initiative proposed rule because though the proposed paperwork and recordkeeping changes would be small they would free valuable **man** hours for an environmental manager at a small chemical company.’ (January 17,2002).

SOCMA members play a key role in the U.S. chemical industry. However, this is often a less visible role due to the nature of our products. **SOCMA** members typically produce intermediates, specialty chemicals or ingredients that are, in turn, **used** to produce a wide range of commercial and consumer products. Thus, SOCMA’s members manufacture products that are key building **block**; and ingredients in a range of other production operations.

Many SOCMA members make “specialty chemicals.” “Specialty chemicals” are formulated to meet the detailed specifications of various end users. Specialty chemicals usually have unique, special purposes, such as **making nylon** fibers stronger, or serving as the active ingredient **in** medicine. Specialty chemicals **are** often an essential element in the end-user’s manufacturing process. Both the volumes sought and the demands for particular specialty chemicals vary. Thus, specialty chemical manufacturing **is** an ever-changing business, often requiring production of small quantities in a timely manner. These **needs** are often best met by use of batch manufacturing operations.

Batch manufacturing is **an** efficient method of producing relatively small quantities of chemicals in response to specific customer demands for specialized products. Batch processes differ from the continuous chemical manufacturing operations **used to** produce large volumes of commodity chemicals. **A** continuous chemical operation constantly feeds the same raw material into the process. That **process** consistently and constantly manufactures the **same** product.

By contrast, production at a batch manufacturing facility is not continuous. In batch manufacturing, products are manufactured *in* separate, distinct “batches,” by operations that start and finish within relatively shorter periods of time. Because the products and the processes change, the process operating conditions **and** even the configuration of the equipment can change as well. **A** single piece of equipment can be put to multiple uses **and** may well process a range of different materials over the course of a year.

¹ 67 Fed. Reg. 2517 (January 17,2002)

The differences between batch **and** commodity chemical production often are significant in a regulatory context. **Many** regulatory requirements have a disproportionately greater impact due to the fluctuating nature of batch production. Managing this cost burden is a significant issue for **SOCMA** members. Even seemingly “small” regulatory costs have a real impact on a small business, as does **the** aggregate impact of **the** multiple environmental regulations that apply to this industry sector.

In this segment of the chemical industry, flexible production is the key. Batch producers are expected to respond quickly to new requests by customers, fill **small** market niches, and participate in the development of new products. **U.S.** batch producers are at the cutting edge of new technology and provide products often made nowhere else in the world. The depth **and** expertise of this industry sector are vital components of the **U.S.** chemical industry and U.S. global competitiveness.

SOCMA plays **an** important role in representing this industry sector. SOCMA seeks to provide federal and state agencies with **an** in-depth understanding of the nature and value of the batch and specialty chemical manufacturing sectors. Given that over 75% of SOCMA’s active members are small businesses, **SOCMA** also serves as an important vehicle for outreach with its members **on** a range of regulatory issues. SOCMA **also** continuously works with its members to identify tools and systems for addressing the environmental, health **and** safety issues that **arise** in the specialty chemical manufacturing sector.

[Add batch and specialty discussion. One size fits all. SOCMA advocacy position. Aggregate cost impact.]

II. Reform of Federal Rules

The following is a list of Federal environmental regulations that **SOCMA** members feel need to be **revised**, revoked, or modified for the benefit **of** the greater public.

A. Removal Credits in Pretreatment Regulations

Statute: Clean Water Act

CFR Citation: 33 C.F.R. § 403.7

Problem: Under the Clean Water Act, industrial sources of wastewater **are** designated **as** either direct or indirect dischargers. Effluent **from** indirect dischargers must meet specified “pretreatment standards” prior to being discharged to a publicly owned treatment works (POTW). Effluent from direct dischargers (including POTWs) must meet specified standards prior to being directly discharged into surface waters. In many circumstances this results in redundant treatment because the indirect dischargers are **required** to spend money treating effluent that the POTW would be capable of treating to required levels with less, **and** in some

cases no pre-treatment, by the indirect discharger. In order to reduce such wasteful, redundant treatment, Congress established a program under which the POTW authorities can grant removal credits to the indirect dischargers (i.e., giving an indirect discharger credit for the removal efficiencies of its POTW). Removal credits have been virtually unobtainable, in part due to a court decision that concluded that removal credits were available only with respect to chemicals for which sludge disposal standards have been adopted by EPA. The unavailability of removal credits unnecessarily raises the cost of wastewater treatment without a commensurate level of protection for the environment.

Proposed Fix: SOCMA has urged EPA for years to take measures to make the removal credit program viable. One measure that would have been helpful was contained in a pre-proposal for a regulation intended to streamline the pretreatment program. The pre-proposal contained a provision under which EPA would have allowed removal credits to be granted with respect to chemicals for which it had determined no sludge standards were required. This provision was not included in the proposed rule, with the explanation that EPA had decided not to address the removal credit program in the streamlining rule.

Benefit to the Public: Eliminating redundant treatment would end wasteful spending on treatment with no real environmental benefit and would free up limited resources for projects that would provide benefit to the environment.

B. Reporting of Off-Site TRI Transfers

Statute: Emergency Planning and Community Right to Know Act

CFR Citation: 40 CFR Part 372

Problem: Provision of this information grossly misrepresents the impacts on human health and the environment, causing undue concern and misunderstanding regarding the handling and use of chemicals. In virtually all cases, off-site transfers do not result in releases to the environment, because the material is incorporated into products or otherwise recycled, is fundamentally altered in a fashion that minimizes environmental impact (e.g., incineration), or is disposed of in a protective manner without release to the environment. Further, many off-site transfers go to facilities that themselves are subject to TRI reporting, which results in double counting.

Proposed Fix: Eliminate requirement, or at a minimum separate and distinguish off-site transfers from actual releases to the environment (e.g., releases to air and water) so that the public does not misconstrue the actual impact of a facility's operations.

Benefit to the Public: Removal of undue concern and misunderstanding regarding the handling and use of chemicals.

C. **Definition of Solid Waste**

Statute: Resource Conservation and Recovery Act

CFR Citation: 40 C.F.R. § 261.2.

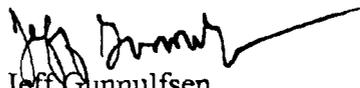
Problem: **An** overly broad and complicated set of regulations, known as the “definition of solid waste,” prevents **many** companies from reusing, recovering or recycling valuable secondary materials. The result is that potentially reusable, recyclable and recoverable materials are unnecessarily disposed of as “hazardous waste.”

Proposed Fix: Revise the definition of solid waste to establish specific terms upon which **reuse**, recovery and recycling of these materials is recognized as **an** activity, **which** falls outside the definition of solid waste. This could **be done** by establishing a conditional exclusion that identifies management practices and uses **which** do not involve “discard” and hence are outside the scope of regulations governing “waste” management.

Benefit to the Public: Barriers to recycling and resource recovery promote unnecessary disposal and incineration of valuable materials. The significant environmental benefits of materials reuse and recovery **cannot be pursued**. The general public goals of more environmentally responsible and **energy** efficient production are thwarted.

SOCMA appreciates **the** opportunity to provide these comments on the OMB Draft Report to Congress on the Costs **and** Benefits of Federal Regulations. We **look forward to working** with OMB to implement changes in the regulatory scheme that are **beneficial** to the nation’s economic and environmental health. If you have any questions or need further information please contact me **at** (202) 721-4198 or at gunnulfsenj@socma.com.

Sincerely,



Jeff Gunnulfson
Manager, Government Relations
SOCMA