

Compliance challenge looms with TSCA notification requirements for PFASs

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Complex chemistry, global supply chains contribute to difficulties

United States

Electrical & electronics

Textiles & apparel

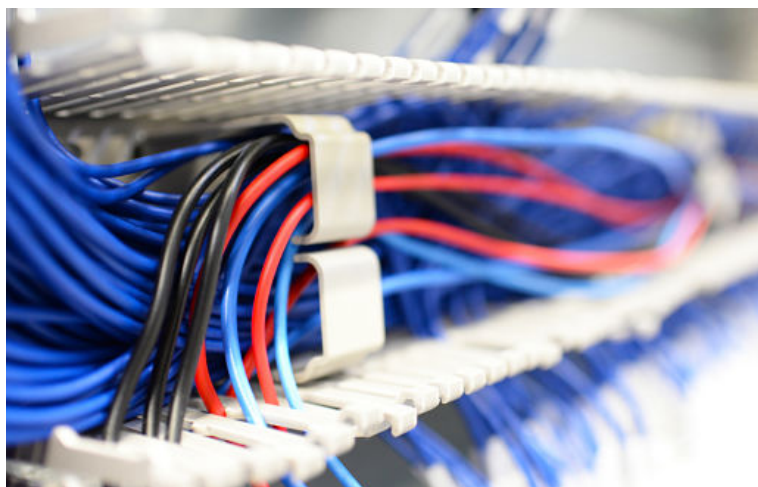
Chemical industry

Retail

PFAS

TSCA

The complex nature of global supply chains means many companies could face difficulties meeting the notification requirements in the US EPA's recent TSCA significant new use rule (Snur) covering certain long-chain per- and polyfluoroalkyl substances (PFASs).



Trade groups representing the semiconductor industry, automotive manufacturers, retailers and others voiced their concerns to the EPA before the agency [finalised the PFAS Snur](#) in June.

They pointed to the difficulty of identifying whether more than a dozen substances covered by the rule might be included in products that can contain thousands of component parts.

The finalised rule, which takes effect towards the end of the summer, requires prior notification and approval before a company can resume using certain long-chain perfluoroalkyl carboxylate (LCPFAC) substances and perfluorooctanoic acid (PFOA) or its salts.

It also mandates notification for the import of articles containing any of the substances in a surface coating.

A more precise definition of 'surface coating' is needed to clarify whether a component of an overall finished article might be covered by the Snur, the Semiconductor Industry Association (SIA) said in comments to the agency before the rule was finalised. But even with clarity on this, compliance with the rule is a heavy lift.

"It would be highly burdensome to attempt to identify and provide notification to EPA 90 days prior to importing a component or a piece of complex equipment based on the potential presence of a LCPFAC constituent substances that might be present in a surface coating applied to a component or piece of equipment," it said.

The issue is "not unique" to the electronics industry, Kelly Scanlon, director of EHS policy and research for electronics industries association IPC, told Chemical Watch.

PFASs are such a broad class of chemicals that can be combined or degraded into something else. They can be included in material that is sprayed on, embedded or otherwise included in components purchased from another supplier, she said.

Retailers have similar concerns

"Some LCPFAC substances are ubiquitous in the environment, and may also be present in coatings in treated textiles, outerwear, cookware and other articles sourced from certain areas outside the US where these substances may still be used," the Retail Industry Leaders Association (RILA) said in its comments to the EPA.

"Retailers frequently are not supplied with information on product composition to the level of detail that would allow them to readily discern which imported products may contain [the substances]," the group said.

And testing products may not be much help, it said, noting that available testing methods often "do not provide the precision necessary to differentiate LCPFACs from shorter-chain substances and other PFACs not covered under the Snur".

De minimis exemption, safe harbour provision rejected

These challenges prompted many groups to push for a [de minimis exemption](#), eliminating the notification requirements for trace amounts of PFASs present as contaminants or byproducts. Several also pushed for a safe harbour provision for companies that could show their use of PFASs was ongoing prior to the rule taking effect.

But the EPA did not include the *de minimis* or safe harbour exemptions in the final Snur. Instead it said it would evaluate each significant new use notification (Snun) for potential PFAS releases posed by specific conditions of uses.

While many NGOs were relieved that the agency did not pursue those exemptions, Betsy Southerland, former director of science and technology in the EPA's Office of Water, said there was still frustration the agency limited notification requirements to imports of article surface coatings. A version of the Snur [proposed in 2015](#) had planned to mandate notification for import of articles containing a covered PFAS anywhere in the product.

"The reason is that we know how these break down in landfills or in incinerators" whether they are applied on the surface or elsewhere in a product, Ms Southerland said.

The American Chemistry Council was generally supportive of the final PFAS Snur, noting that "long-chain PFAS chemistries are no longer produced in the US, EU and Japan and have been regulated globally."

The ACC added that their functional properties could make it easier to identify their presence in products: "PFAS coatings are used to impart very specific repellency properties that supply chains should be able to identify.

"We are largely supportive of the provisions in this Snur and hope the EPA works with any concerned businesses to address any potential compliance issues," it said.

'Tipping point'

Beyond the EPA's recent action, in the EU, an early draft of the chemicals strategy for sustainability [envisions a phase out](#) of all but 'essential' uses of PFASs.

As the regulatory requirements around their use in products grow, some sectors are starting to gather information on their prevalence in the components they need for their products.

"We've reached a tipping point and it's time to do a deeper dive," IPC's Ms Scanlon said.

The association in a 7 July blogpost made a call for information on the use of PFAS in the electronics industry, beyond those more well-known in semiconductors.

Ms Scanlon said information gathered would help inform what policy responses the electronics industry group might pursue. "We would be remiss not to take these steps," she said. "If you're not paying attention, now is the time to do so."

"This is where all the action is going to be," said Ms Southerland. "PFAS looks to be the one set of chemicals on which we have bipartisan support."