



# COMMITTEES REPORT SEPTEMBER 2023

## MEMBER REPORT

Participation in an ACA committee is one of the best ways to engage and maximize the benefits of your association membership. There are many opportunities for members to participate in ACA committees, which work to shape the efforts of the association and facilitate peer interaction.

ACA's committees address an array of issues impacting the industry and are classified by specific sector, issue, or project. While all committees are conduits for information sharing, some collaborate to respond to regulatory initiatives, direct industry guidance publications, or host conferences. Each committee is led by a chairperson from the membership and ACA staff.

The association also has several specialty workgroups and participates in industry coalition groups. Often, these groups work collaboratively with ACA committees, coordinating responses and sharing information in areas of common interest.

Detailed information, including committee rosters, agendas, meeting minutes, and pertinent resources are available on ACA's website, where each committee has its dedicated page. Members must be logged in with individual usernames and passwords to access Committees on [www.paint.org](http://www.paint.org).

The following offers an overview of the efforts and accomplishments of ACA's committees over the past year.

### AIM VOC COMMITTEE

The AIM VOC Committee identifies, tracks, and disseminates information on federal, state, and local regulatory initiatives that limit or reduce volatile organic compound (VOC) emissions from architectural and industrial maintenance (AIM) coatings. The committee also establishes consensus positions on these initiatives and advocates on behalf of industry.

This year, the committee accomplished the following:

- **Convinced the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to align its AIM rule with the Ozone Transport Commission (OTC) Phase II Model Rule for AIM. In addition, the committee persuaded the department to clarify its enforcement policy of this new rule;**
- Submitted comments to the New Jersey Department of Environmental Protection and Clark County, Nevada Department of Environment and Sustainability. The committee urged both regulatory agencies to align their AIM rules with the OTC model rule and include a reasonable compliance date and sell-through period;
- Continued to lead the Parachlorobenzotrifluoride (PCBTF) coalition, which includes other industry members, trade associations, and companies, to assist in directing advocacy efforts with California's South Coast Air Quality Management District (SCAQMD). Based on the district's 2022 Rule 1168, which prohibits the use of PCBTF in industrial adhesives products, the committee gathered information about the implications of that decision on other district coatings rules (e.g., Rule 1113 for AIM coatings). ACA will advocate for practical alternatives, increased VOC limits, and reasonable sell-through and use-by provisions when SCAQMD opens those other coatings rule amendment process;
- Informed industry of SCAQMD's Rule 314 compliance provisions, including the annual quantity and emissions report;

- **Collaborated with the Mexican Paint and Coatings Association (ANAFAPYT) on Mexico's AIM rulemaking to ensure the regulation is reasonable for industry and consistent with standards in neighboring jurisdictions;**
- Worked with the Canadian Paint and Coatings Association (CPCA) to develop comments in response to Environment & Climate Change Canada's consultation paper on proposed amendments to Canada's architectural coatings rule. The committee supports CPCA's advocacy efforts to ensure the standards are consistent with the OTC Phase II Model Rule for AIM in Canada; and
- Maintained a matrix of regulations detailing VOC categories and limits for AIM coatings rules at the national, state, and local levels.

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### ARCHITECTURAL COATINGS COUNCIL

The objective of the Architectural Coatings Council is to provide guidance and direction for ACA activities to maximize the position of the architectural coatings segment of the paint industry. This is implemented through development of policy on issues likely to have an impact on the industry and its products. Implementation includes communication pathways with organizations outside the industry, and distribution of information to aid in decisions that may maintain and expand markets for the industry's products. The council is comprised of top-level executives in the architectural sector of the coatings industry.

Over the last year, the council tracked a variety of issues and provided input on ACA's regular federal advocacy efforts, including the following:

- **Congressional outreach urging passage of comprehensive trade legislation including the Miscellaneous Tariff Bill with full retroactivity;**

- Comments to the Federal Trade Commission (FTC) on its proposed revision of the ‘Green Guides.’ ACA urged the agency to provide additional guidance on comparative claims as well as the substantiation necessary to make those claims;
- **Urging Congress to fully fund the CHIPS Act to provide critical support for the semiconductor industry;**
- Urging Congressional opposition to the PFAS-Free Procurement Act, which ignores sound scientific principles in the requirements for federal procurement;
- **Opposing proposed duties and tariffs on tin mill products by the International Trade Administration;**
- Monitoring several rail safety federal legislative measures seeking to increase requirements on rail shipments, including the Railway Safety Act. ACA has expressed concerns about added fees and reporting requirements and continues to work toward solutions that will increase rail safety; and
- ACA’s efforts opposing legislation in Washington state seeking to ban polychlorinated biphenyls (PCBs) from paint, as well as other air quality regulatory efforts in California, the OTC, and Lake Michigan Air Directors Consortium (LADCO), and isolated efforts from states or counties.

Finally, the committee received quarterly updates for the ACA-produced Architectural Coatings market forecast through 2024. These detailed reports are based on a predictive model that attempts to size the architectural coatings market based on various known drivers of demand: existing home sales data published by industry groups such as the National Association of Realtors; current government statistics, such as construction figures; and historical data, including the discontinued Census Bureau MA325F report on paints and coatings shipments.

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## AUTOMOTIVE REFINISH COMMITTEE

The Automotive Refinish Committee monitors regulations and submits comments on rules affecting auto refinish operations across the country. While disparate programs regulate VOC emissions from refinish coatings at the federal, state, and local air district levels, the committee works toward securing more uniform and reasonable standards.

This year, the committee accomplished the following:

- Provided data and information on air toxics used in auto-refinish coatings as the California Air Resources Board (CARB) and the California Air Pollution Control Officers Association update California’s industry-wide auto body risk assessment guidelines. The committee’s goal is to ensure the risk assessment is representative of auto-refinish operations in the state;
- Assisted U.S. EPA’s technology review for paint stripping and miscellaneous surface coating operations categories regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart 6H Rule. Auto-refinish and metal/plastic surface coating operations that utilize certain compounds (e.g., chromium, nickel, manganese, lead, and cadmium) are subject to the final rule, which EPA issued in November 2022. **The committee was successful in convincing the agency to retain the existing emission limits, add key administrative requirements, and clarify requirements addressing emissions during periods of startup, shutdown, and malfunction;**

- Addressed concerns with an ordinance in Minneapolis related to auto-refinish operations, engaging with a local environmental organization and city officials who clarified the intent of the ordinance and its effective date;
- Provided information to CPCA on Canada’s “Federal Agenda for the Reduction of VOC Emissions from Consumer and Commercial Products.” The committee encouraged Canada to adopt auto-refinish regulations consistent with the OTC Phase II Model Rule for Auto-refinish;
- Engaged in U.S. EPA’s rulemaking process addressing new source performance standards (NSPS) for Automobile and Light Duty Truck Surface Coating Operations. The agency determined that revisions to the NSPS were needed to reflect the degree of emission limitation achievable through the application of the best system of emission reduction. The final amendments include revised VOC emission limits for prime coat, guide coat, and topcoat operations for affected facilities and various other updates that streamline the rule;
- Submitted comments to state and local regulatory bodies urging adoption of reasonable and uniform automotive refinish regulations, particularly aiding Ohio EPA and Michigan EGLE through their rulemaking processes; and
- **Maintained a matrix and interactive map detailing VOC categories, solvent limits, and exempt compounds for automotive refinish coatings rules at the national, state, and local air district levels.**

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## CHEMICAL SECURITY COMMITTEE

The Chemical Security Committee addresses critical homeland security issues – with a focus on chemical facility security – and disseminates vital information to member companies complying with the DHS Chemical Facility Anti-Terrorism Standards (CFATS), as well as those engaged in voluntary private sector preparedness accreditation and certification programs, such as PS-Prep.

This year, the Chemical Security Committee accomplished the following:

- Secured the participation of the DHS Cybersecurity and Infrastructure Security Agency (CISA) in ACA’s Member Webinar Series. CISA’s Associate Director for Chemical Security provided an instructive overview of the CFATS program addressing threat environment, key programmatic updates, and resources for industry. The webinar also highlighted CISA’s voluntary chemical security program, ChemLock;
- Submitted letters of support to Congressional leadership for the House Committee on Homeland Security and Senate Committee on Homeland Security and Governmental Affairs, urging passage of legislation to reauthorize the CFATS program. Although Congress did not pass legislation to extend CFATS, ACA will continue to work with CISA, Congress, and other industry sectors to reinstate this vital chemical security program;
- **Assisted CISA on revisions and updates to its ChemLock Program, Cyber Essentials Starter Kit, and Services Catalog.** These programs and resources are publicly available and provide valuable information and guidance to industry and the private sector on a variety of cybersecurity and infrastructure security topics;

- Continued to participate as a member of the Chemical Sector Coordinating Council, an advisory group formed to provide industry advice and guidance to DHS on chemical security and infrastructure protection.

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## CONSUMER PRODUCTS COMMITTEE

The Consumer Products Committee’s goal is to maintain a reasonable regulatory framework for consumer coating products in the United States and elsewhere. The committee and staff collaborate with related trade groups, government, consumer groups, and the public, to develop greater mutual understanding of industry products. The committee oversees two subcommittees: the Aerosol Coatings and Caulks, Sealants and Adhesives Subcommittees.

### *Aerosol Coatings Subcommittee*

The Aerosol Coatings Subcommittee reviews and monitors all legislative and regulatory developments related to aerosol coatings and works to deter the abuse of these products.

This year, the subcommittee accomplished the following:

- Convinced U.S. EPA to issue proposed amendments to the national aerosol coatings regulation to better align with California’s standards. The agency is expected to issue a final rule soon;**
- Developed strategies for member companies to comply with U.S. EPA’s national aerosol rule and CARB’s aerosol coatings regulation;
- Informed industry of its triennial reporting requirements under U.S. EPA’s current aerosol coatings rule;
- Monitored various hydrofluorocarbon (HFC) regulations throughout the United States, including California and Ohio. The subcommittee continues to monitor regulations on the sale of consumer products containing HFCs, including aerosols and foams, to ensure they are reasonable and appropriate for industry;
- Coordinated an approach with other industry stakeholders in response to CARB’s aerosol coatings and aerosol adhesives products survey data. CARB is evaluating the feasibility of further reducing VOC, toxic air contaminant (TAC), and greenhouse gas (GHG) emissions from aerosol coating and aerosol adhesive products, as well as updating its emissions inventory of aerosol coating and aerosol adhesive products;
- Engaged in discussions regarding with the U.S. Department of Transportation (DOT) on the agency’s requirements for hot water baths for aerosol products;
- Updated members on several state and local laws and ordinances relevant to the sale and display of spray paint;** and
- Monitored rulemaking activities in states across the country for any impact on aerosol coatings.

### *Caulks, Sealants, and Adhesives Subcommittee*

The Caulks, Sealants and Adhesives Subcommittee identifies legislative and regulatory concerns of the industry, establishes industry positions to deal with these concerns, and provides direction for ACA advocacy efforts on behalf of the industry and its products. The committee also assists in the application of existing

ACA goods and services to address industry interests and concerns; maintains liaison with related trade groups, state and federal governments, and the public; and works to develop programs to promote the welfare of the industry and its products.

Over the last year, the subcommittee engaged in the following activities:

- Participated in numerous webinars and provided detailed comments to Clark County, Nevada’s Department of Environment and Sustainability as it develops a consumer products regulation. A formal proposal is expected in the coming months;
- Monitored consumer products rulemaking activities in the OTC states, including New Jersey. The subcommittee submitted comments urging the New Jersey Department of Environmental Protection to adopt rules consistent with the OTC model rule and neighboring jurisdictions. The subcommittee also requested reasonable compliance dates, exemptions, and sell-through provisions;
- Submitted comments to Michigan EGLE on amendments to its consumer products rule. The subcommittee was successful in convincing MI EGLE to adopt provisions consistent with the OTC model rule and persuaded the department to clarify its enforcement policy for the new rule;
- Engaged with California’s SCAQMD as it developed amendments to Rule 1168 (Adhesive and Sealant Applications), including a prohibition of the use of PCBTF and TBAC in industrial adhesives and sealants in the district. SCAQMD issued the final amendatory language in December 2022;
- Participated in industrial adhesives rulemaking processes in Michigan and Clark County, Nevada. The subcommittee was successful in convincing both regulatory agencies to adopt provisions consistent with U.S. EPA’s Control Technique Guideline (CTG) for Miscellaneous Industrial Adhesives;**
- Monitored consumer products rulemaking activities in Canada and worked with CPCA to develop comments in response to the Canadian government’s industrial adhesive and sealants questionnaire;
- Participated in the Colorado Department of Public Health & Environment’s (CDPHE) consumer products rule strategy meetings. Despite the subcommittee’s opposition, CDPHE codified a contingency measure to its consumer products rule in March 2023. In short, the standards and requirements from the OTC Phase V Model Rule have been incorporated as a contingency measure, should the state not meet its ozone obligations by July 20, 2027. The contingency measure would kick in 60 days after the effective date of a finding by U.S. EPA of a failure by Colorado to attain by the severe ozone attainment date or meet an applicable milestone under the 2008 National Ambient Air Quality Standards for ozone;
- Collaborated with the Mexican Paint and Coatings Association (ANAFAPYT) on Mexico’s consumer products rulemaking to ensure the regulation is reasonable for industry and consistent with standards in the United States and Canada;
- Maintained a list of industrial adhesives regulations by state and local air district that is intended to be used as a resource to assist industry’s compliance with the various industrial adhesives rules throughout the country; and
- Maintained an interactive Consumer Products VOC Map for members to reference consumer products rules by state.

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## ENVIRONMENTAL MANAGEMENT COMMITTEE

The Environmental Management Committee provides guidance to the paint and coatings industry on all issues related to environmental quality and management for facilities. It serves as a communication link between industry and federal and state agencies to ensure that regulatory development efforts are technically sound and economically feasible.

Over the last year, the committee has been engaged in multiple initiatives, and accomplished the following:

- **Submitted comments in response to U.S. EPA's proposed amendments to the NESHAP for Miscellaneous Coating Manufacturing (MCM) facilities. The committee was successful in convincing the agency to include a reasonable compliance date and add important clarification language to the performance test requirements.** The compliance date for the final MCM rule amendments is Feb. 22, 2024;
- Participated in a coalition to resolve an ongoing issue in EPA Region V (covering Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin and 35 Tribes) regarding the transportation and handling of non-RCRA empty containers that are inadvertently sent to reconditioning facilities. The committee will continue to advise EPA that its interpretation is incorrect and would dramatically alter existing requirements for the management, transport, and reconditioning of used industrial containers that contain residues of hazardous substances;
- Monitored and submitted comments on industrial cleaning solvent rulemakings in Michigan, Ohio, Maryland, and other states to ensure that they exempted coatings, ink, adhesive, and resin manufacturing operations from industrial cleaning solvent requirements;
- Monitored federal agency actions and court decisions pertaining to the definition of "waters of the United States" (WOTUS), which has been litigated and essentially undecided since 2015. ACA will update the committee as this effort continues;
- Updated the committee members on Congressional coalition letter the U.S. EPA Administrator Regan requesting that the agency "deliver the strongest possible protections for workers, environmental justice communities, and first responders under its proposed Risk Management Program (RMP) rule." Some key items that the letter urges EPA to address are:
  - » Broadly requiring RMP facilities to transition to inherently safer chemicals and processes, as well as lowering the threshold that prompts third-party compliance audits;
  - » Improving outreach to inform the public about RMP facility hazards and emergency response plans, such as requiring that information be made available in multiple languages and requiring EPA to maintain a publicly accessible RMP database;
  - » Expanding the conditions that grant workers and their representatives stop work authority and ensure that this authority extends to workers in all RMP facilities as well as improving the safety reporting process to better protect workers' anonymity; and
  - » Developing a program to ensure no retaliation against employees for using their right in preventing a chemical disaster.

- **Submitted comments and provided testimony to the New York State Department of Conservation on its proposed hazardous waste management regulatory revisions in January 2023. These revisions were adopted in July 2023 and include provisions for paint waste under the state's universal waste rule;** and
- Monitored and updated members on Extended Producer Responsibility (EPR) bills that have passed in Oregon, California, Maine, and Colorado addressing plastic packaging. ACA continues to communicate members on regulatory developments related to EPR laws with any potential impact to the paint and coatings industry.

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## INDUSTRIAL COATINGS COUNCIL

The Industrial Coatings Council seeks the continuous upgrading of the policies, practices, and product stewardship of manufacturers of industrial finishes. It disseminates information on the manufacture and sale of industrial finishes, including macroeconomic and sales analysis and U.S. and international regulatory schemes impacting the sector, so that member companies are better equipped to operate efficiently, progressively, and compliantly.

The council typically focuses on the following issues: chemicals management, trade, regulatory reform, and infrastructure efforts. Over the last year, the council provided industry data and updates on the following:

- In the federal infrastructure arena, ACA's advocacy for CFATS reauthorization, permitting reform, full funding for the Chips and Science Act, and more funding for airport infrastructure;
- **ACA and joint coalition efforts to address the rising costs of complying with government regulations by working with the Manufacturers for Sensible Regulations and outreach to members of Congress with specific cost data;**
- ACA advocacy efforts urging passage of the Miscellaneous Tariff Bill with full retroactivity and opposition to tariffs on products which cannot be made domestically;
- ACA's efforts with LADCO and the OTC, as both regional agencies consider lowering VOC limits for industrial coatings;
- ACA's tracking of the 'Waters of the United States' developments, as it was the subject of a Congressional Review Act effort that was ultimately vetoed by the President;
- PFAS legislation at the federal level in the National Defense Authorization Act as well as other efforts such as the PFAS-Free Procurement Act and the draft PFAS effort focused on the definition;
- **Quarterly Industry Pulse economic indicator data and forecasts through 2024 for the Industrial Coatings sector;** and
- Regular communications about ACA's advocacy efforts in several states developing industrial surface coating VOC regulations to ensure the rules are consistent with U.S. EPA's CTGs.

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## INDUSTRY SUPPLIERS COMMITTEE

The Industry Suppliers Committee maintains a forum for discussion of issues that affect the paint and coatings industry from the perspective of supplier and distributor members. The committee seeks to understand the impact of changes in the direction of the coatings industry and coatings end-users, by obtaining insight from leading experts.

This year, the Industry Suppliers Committee's Steering Committee have developed a robust agenda for the 2023 Fall meeting which includes sessions **focusing on the economic landscape for architectural and industrial coatings; the role of private equity in the coatings industry; the Bipartisan Infrastructure Law and the opportunities for coatings manufacturers; a preview of the 2024 presidential elections; benchmarking sustainability metrics; and a discussion of ESG (environmental, social, and corporate governance) initiatives and risk management.**

Members of the committee also received regular updates and forecasts on industry's architectural and industrial coatings market performance through the Industry Pulse series, published on a quarterly basis.

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## LEGAL AND GOVERNMENT AFFAIRS COMMITTEE

The Legal and Government Affairs Committee (LGAC) provides guidance on relevant legal issues and litigation affecting the industry; advises the association on key legislative and regulatory issues; offers input on the PaintPAC Action Plan; oversees the ACA Amicus Program; and acts as a network to share information from members to stay current on leading legal and policy issues.

Over the past year, the committee was updated regularly on a variety of matters, including the following:

- ACA's engagement on state legislative activity related to packaging. States continue to introduce legislation banning single-use plastics, as well as bills proposing overly broad "extended producer responsibility" (EPR) programs for plastic containers. While no new states adopted a packaging EPR law, Vermont became the first state to adopt an EPR law focused on household hazardous products, like paint thinners and other solvent-based products. ACA has provided members summaries of the new Vermont law and continues to analyze the specific requirements of paint manufacturers. There will be additional work on these issues in the legislature and at the rulemaking stage before this bill is implemented. In addition, other states continue to advance packaging legislation and ACA is actively engaged in these legislative efforts;
- **Paint stewardship legislative efforts in Maryland, Massachusetts, Missouri and Illinois. This year, Illinois adopted the legislation by an overwhelming vote in both chambers and the governor signed the bill in mid-July. Illinois PaintCare program operations will commence in 2025;**
- ACA's efforts on PFAS in the legislative and regulatory arena, including providing members updates on EPA's PFAS activities, as well as on the movement of federal legislation. ACA provided detailed comments on Sens. Carper and Capito's draft bill which could provide a federal definition for PFAS. ACA also provided comments

on other PFAS bills, such as the National Defense Authorization Act and the PFAS-Free Procurement Act. In the state legislatures, aggressive efforts to ban the use of PFAS in a variety of consumer goods continue. Minnesota adopted a PFAS reporting bill similar to the Maine law, and ACA continues to engage with Maine on the development of regulations to implement its reporting law;

- ACA's advocacy efforts to advance infrastructure measures, including funding and support for the CHIPS Act, passage of the Miscellaneous Tariff Bill, the Drive Safe Integrity Act, funding for airport infrastructure, CFATS reauthorization, and several recycling bills. In addition, ACA provided comments on the Build America, Buy America rulemaking issued by the White House Office of Management and Budget, urging that paint and coatings be included in the list of "construction materials;" and
- ACA's continued monitoring of legislative and regulatory activities on climate-related disclosures at the state and federal level. **While the Securities and Exchange Commission (SEC) has not finalized the rulemaking it announced last year, many state legislatures are moving forward with proposed disclosure and reporting requirements that mirror the SEC proposal. ACA has joined the industry coalition in California opposing such onerous bills.**

In addition to staying apprised of ACA's federal and state advocacy efforts, the committee directed ACA in several Amicus program filings, including the following:

- ACA's amicus brief filed in *Loper Bright Enterprises v. Raimondo* (U.S. Sup. Ct. 2023) to urge the U.S. Supreme Court to overrule *Chevron*, which stands to provide a high degree of deference to an agency's interpretation of vague or ambiguous statutory language. At issue in the case is a challenge to the National Marine Fisheries Service's (NMFS) authority to require fishers to pay for the salaries of federal compliance monitoring personnel aboard their ships. The statute makes clear that NMFS has the authority to require fishers to allow monitoring personnel aboard their ships, but it is silent regarding who is responsible for paying those personnel. A decision in the case is expected in the spring of 2024;
- **ACA's amicus brief filed in *Edwards v. Scapa Waycross* (S.C. Sup. Ct. 2023), in which ACA joined a coalition of industry groups to oppose the "cumulative exposure" theory for proving causation in toxic tort cases under South Carolina law. Acceptance of that theory would allow plaintiffs to essentially sidestep their duty to prove a meaningful dose that could cause the harm at issue in the case. Judicial adoption of the cumulative exposure theory could allow toxic tort plaintiffs to target virtually any solvent defendant without needing to show any meaningful causal relationship between the defendant and the harm at issue in the case. A decision in this case is not expected until 2024;**
- ACA's amicus brief filed in *Burford v. Howmet Aerospace f/k/a Alcoa* (TX Ct. App. 2023), which centers causation standards for toxic tort cases under Texas law. The plaintiff in the case claimed to have developed asbestosis as the result of her exposure to fibers brought home by her husband from his workplace. ACA joined a coalition of other groups to urge the court to maintain prevailing causation standards in toxic tort cases under Texas law, which require plaintiffs to prove a scientifically meaningful dose that is capable of causing the disease alleged in the case. The subject case remained pending at this writing;

- ACA’s participation in a coalition of industry groups spearheaded by the U.S. Chamber of Commerce to challenge the FTC’s authority to ban non-compete clauses in employment agreements in the name of regulating competition. **The FTC issued a notice of proposed rulemaking in January 2023 that would broadly ban nearly all uses of non-compete clauses in contracts with employees and other workers. ACA and the coalition submitted comments on that rule, arguing that non-competes have legitimate pro-competitive uses and that Congress never provided the FTC with authority to promulgate rules addressing unfair methods of competition.** ACA is awaiting a final rule from the FTC and is coordinating with the U.S. Chamber of Commerce on potential legal challenges should the FTC issue a final rule that exceeds its statutory authority; and
- The FRE 702 Project, which is an effort long supported by ACA to have Federal Rule of Evidence 702 amended to correct years of misapplication of the rule by courts. The amended rules most notably make clear that it is the duty of the court to determine whether an expert witness’s opinion is (i) based on reliable principles and methods, and (ii) reflects a sufficiently reliable application of those principles and methods to the facts of the case. Many courts had been shirking their gatekeeping responsibility in this regard by holding that questions regarding the bases and application of an expert’s methodology went solely to the weight of the proffered testimony, rather than to its admissibility. The clarification to Rule 702 should help to keep “junk science” from being presented to juries. The amended rules have now been approved by both the U.S. Judicial Conference’s Advisory Committee on Evidence Rules and the U.S. Supreme Court. The amended rule is scheduled to take effect on December 1, 2023.

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## MARINE COATINGS LEADERSHIP COUNCIL

The Marine Coatings Leadership Council identifies and deals with problems specific to marine and offshore coatings manufacturers and maintains communication with all segments of the marine industry, including shipbuilders, ship operators, naval architects and government agencies. The International Maritime Organization (IMO), U.S. EPA, and state and local agencies have undertaken many regulatory initiatives under clean air and clean water programs or have set performance standards for anticorrosive marine coatings. As such, the leadership council works closely with the World Coatings Council Antifouling Coatings Committee and Marine Coatings Technical Committee since the World Coatings Council has consultative status as a non-governmental organization (NGO) with the IMO.

This year, the council accomplished the following:

- **Submitted comments on various marine and pleasure craft coatings rulemakings throughout the country, including Maryland, Arizona, Michigan, and Ohio. The committee promoted and secured consistent and reasonable VOC limits and regulatory requirements in these marine coatings rules;**
- Submitted comments to U.S. EPA regarding potential risk mitigation measures that may be imposed for zinc pyrithione used in antifouling coatings;
- Continued to work with U.S. EPA on its review of copper as an active ingredient used in antifouling coatings;

- Attended meetings at the IMO to monitor and advocate for reasonable amendments to various international regulatory instruments, including the Anti-Fouling Systems (AFS) Convention, Performance Standards for Protective Coatings, Biofouling Guidelines, and Ballast Water Convention;
- **Submitted informed responses to the IMO correspondence group on the review of the Biofouling Guidelines, to ensure that industry’s practical knowledge and expertise was considered. The IMO finalized the revised guidelines in July 2023;**
- Drafted and submitted a working document to the IMO to promote consistent and clear international procedures regarding survey and certification for antifouling coatings under the AFS Convention. The committee successfully convinced the IMO to recognize that type approval of antifouling systems is not a requirement of the AFS Convention, and, that it is the prerogative of each member state to introduce reasonable and effective requirements at the national level;
- Advocated for its working document at the IMO that is intended to clarify what the IMO and member states should do and consider before deciding to add a substance to Annex 1 of the AFS Convention. The committee discussed this paper with three member states to see if they would be interested in sponsoring a paper at a future session that will create new output on this topic for consideration by the IMO in 2024;
- Participated as a strategic partner in the IMO’s GloFouling Partnerships Project, which is intended to help protect marine ecosystems from the negative effects of biofouling via ship hulls. The committee will contribute to the project’s upcoming training courses in lead-partner countries throughout the next two years;
- Contributed to the IMO’s working group on marine plastic litter, including its development of a **guidance document on recommendations for the carriage of plastic pellets by sea in freight containers.** The draft guidance document is under review at other IMO committees and is expected to be finalized in 2024;
- Worked to increase maritime industry awareness of California State Lands Commission activities pursuant to the state’s Marine Invasive Species Act;
- Monitored marine coatings rulemakings throughout the country and submitted comments to ensure any amended VOC limits or regulatory requirements were consistent and appropriate; and
- Maintained a matrix of regulations detailing VOC categories and limits for marine coatings rules at the national, state, and local levels.

**ACA Staff:** Rhett Cash

## OCCUPATIONAL SAFETY AND HEALTH COMMITTEE

The Occupational Safety and Health Committee is responsible for recommending ACA policy on matters germane to safety and health within members’ facilities and provides members with guidance that will enable them to effectively manage their safety and health programs. It also directs ACA’s positions on relevant issues in the United States and international forums, such as the United Nations’ Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals.

This year, the committee’s work included the following:

- Providing information to members regarding U.S. EPA’s risk evaluations on possible effects on worker exposure mitigation and Personal Protective Equipment (PPE). **ACA and the committee represented industry positions to U.S. EPA during risk evaluation and ongoing risk mitigation strategies, including determination of exposure levels and appropriate regulatory strategy for risk mitigation.** ACA and the committee also engaged with the agency to discuss its methods for evaluating worker exposures;
- Providing members regular updates about the U.S. Occupational Safety and Health Administration’s (OSHA) regulatory interpretations and reporting requirements;
- Directing ACA’s annual Safety Awards Program recognizing members with exceptional safety records based on OSHA-recordable incidents data.
- **Publishing a revision of ACA’s *Generation and Control of Static Electricity in Coatings Operations* guide.** The information in this document will help members better understand static electricity — a major source of ignition of fires and explosions on coatings operations. Importantly, the guide provides an overview of safety considerations, general hazards, hazards specific to coatings operations, measurement and risk mitigation based on publications and standards related to static electricity, including standards issued by the NFPA, ASTM, ANSI/UL, IEC and API.

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## POWDER COATINGS COMMITTEE

The Powder Coatings Committee supports and advances the industry’s powder coatings sector. Committee activities include outreach and conference planning; monitoring and responding to legislation and regulations; producing business intelligence and relevant market studies and statistics on powder coatings; pursuing initiatives consistent with sustainability and product stewardship; and coordinating with external powder coatings groups. These efforts support a healthy, vibrant powder coatings market.

Over the past year, the committee accomplished the following:

- Hosted a webinar on the Powder Coatings Product Category Rule (PCR) for Lifecycle Assessment, which may be used in pursuit of environmental product declarations. Notably, the webinar featured a member use case study from industry application. ACA published the PCR for Powder Coatings in 2020, which is currently valid through April 2025;
- Ensured a short course at ACA’s 2023 CoatingsTech Conference addressed powder coatings, to raise the profile of this important and growing coatings application;
- **Hosted a member webinar titled, “More than Just Wood – Low-Temp Cure Technology Opens Up a World of New Substrates for Powder Coatings,” which addressed the emerging powder technologies and application techniques that will serve these innovative end-uses.** As powder applications for MDF and hardwoods become more commonplace, low-temp powder technology is evolving as an option to the finish variety of other, non-traditional substrates, such as plastics, composites, and molding compounds;

- Coordinated activities with external groups, including collaboration with the Powder Coatings Institute, the ChemQuest Powder Coating Research Group, and the Association for Materials Protection and Performance; and
- Provided input for the July-August issue of *CoatingsTech* magazine Powder Coatings issue.

**ACA Staff:** Karen Bab

## PRODUCT STEWARDSHIP COMMITTEE

The Product Stewardship Committee provides guidance to members on matters that impact the safe use of industry products. The committee is primarily focused on regulations associated with product safety affecting toxicity benchmarks, toxic substance designations and risk evaluations, hazard communication, and exposure control measures and chemical risk mitigation. The committee covers a wide range of regulatory and policy initiatives that impact risk reduction and product safety throughout a product’s lifecycle, including product design, formulation, labeling, safe use, and end-of-life disposal.

This year, the committee’s work largely focused on federal TSCA risk evaluations and subsequent risk mitigation, as well as antimicrobial re-registration risk assessments under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In addition, the committee addressed other chemicals management issues at the state, federal and international levels, including the following:

- The committee’s TSCA Risk Evaluation Workgroup coordinated advocacy positions related to TSCA risk evaluations and risk mitigation activities, including scoping, data availability and interpretation, exposure assessment, hazard assessment, and fees. The workgroup developed advocacy positions related to TSCA fees, confidential business information, PFAS reporting, and methylene chloride;
- **The committee’s Preservation Product Stewardship Workgroup developed comments on several critical preservatives currently under FIFRA review by EPA, including several isothiazolinones, zinc pyrithione, diuron, propiconazole, folpet, carbendazim, and DBNPA, among others.** The workgroup hosted multiple calls with EPA to discuss industry concerns with the agency review. Also, the workgroup completed a second life-cycle assessment of paint preservatives that documents how they are critical, especially for water-based coatings;
- The committee’s PMN/New Chemical Review Workgroup developed advocacy positions related to proposed changes in EPA premanufacture notice (PMN) regulations, policies and review requirements under TSCA. The group is considering how EPA can avoid unwanted deleterious effects on the supply chain and downstream users caused by the proliferation of Significant New Use Rules (SNURs) while maintaining risk mitigation strategies;
- The committee’s PCBs Workgroup continued its engagement in Washington State inadvertent polychlorinated biphenyls (PCBs) initiatives. Since the Washington State Department of Ecology (DOE) has listed paints as part of its Safer Products for Washington program, **ACA has successfully advocated that the state not proceed with regulation of PCBs in paints due to preemption of federal TSCA requirements. In 2023, the Washington legislature considered two bills that would have banned or restricted PCBs in dyes and/or dyes made through a chlorinated process when used in paints. ACA**

**advocated against these bills in meetings with their sponsors and provided testimony at hearings before legislative subcommittees, noting that the bills would have far-reaching, unintended impacts while providing little to no environmental benefit. As a result of this advocacy, the legislature declined to pass these bills at the 11<sup>th</sup> hour, as they were set to be finalized;**

- The committee’s Plastics Workgroup monitored initiatives and proposals related to microplastics and extended producer responsibility, including single-use plastics and packaging. The workgroup submitted comments on microplastic regulations to authorities in Europe, Canada, and California. The workgroup is currently investigating paint container management and completed a microplastics literature review; and
- **Under the committee’s oversight, ACA finalized updates to several chapters of the *ACA Industry Labeling Guide, Sixth Edition*, to provide companies at all stages of the supply chain an understanding of labeling requirements and common labeling practices relevant to paints, coatings, sealants, and adhesives.**

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## SCIENCE & TECHNOLOGY COMMITTEE

Members of the Science & Technology Committee direct the outreach and programming for research and development (R&D) and innovation-management professionals. The committee supports ACA technical publications, scientific education, and professional development programs, and spearheads efforts to enhance relationships with academic institutions supporting the education of new coatings technology professionals. Importantly, the committee continually explores new services that can provide value to the technical community.

The work of the Science & Technology Committee is organized into five subcommittees. Over the last year, they accomplished the following:

- The Conference Programs subcommittee organized and **hosted a wildly successful 2023 CoatingsTech Conference, which boasted great attendance and brought together members of the coatings industry for three days to learn and share about the industry’s latest science and technology developments.** The conference embraced the theme, “Coatings Technologies: Adaptation in a Complex World,” featured more than 35 advanced technical sessions held during eight concurrent, topically focused tracks, and offered attendees an opportunity to attend one of five concurrent pre-conference technical short courses. During the conference more than 20 Student Posters were presented and were extremely well received by industry veterans eager to attract the next generation of coatings scientists;
- The R&D Subcommittee assembled a panel on the “Future of Laboratory Work” during the CoatingsTech Conference, which was engaging, brought in various points of view, and focused on the innovative technology horizon and its implications for industry R&D;
- The Technology Roadmaps Subcommittee **published the second ACA Technology Roadmap: Lightweighting and Novel Substrates.** While the “lightweighting” topic arose from the ongoing efforts by the transportation industry to use lighter materials to increase fuel efficiency, discussions with experts also covered the trends toward vehicle electrification, autonomous driving, and even lightweight building materials. Accordingly, this ACA Technology

Roadmap considered research and development needs for paint and coatings products supporting end-user moves toward lightweight and novel substrates that address energy efficiency, electrification, infrastructure construction, and 3D-additive manufacturing. A third Technology Roadmap is expected to be published later this year and will focus on waterborne coatings’ durability;

- The Publications Subcommittee stayed apprised of the association’s two mainstay technical publications: *CoatingsTech* and the *Journal of Technology and Research (JCTR)*. Both titles are flourishing, with *CoatingsTech* revealing a successful rebrand in January 2023 and featuring strong technical papers via a high rate of submission. *JCTR* is thriving equally, and is on track to receive a record 800 submissions for the 2023 year, and likely to publish around 150; and
- The STEM Subcommittee provided direction for **production of a 2-minute video aimed at attracting college-level STEM students to a post-graduate career in the coatings industry. The video features industry members talking excitedly about their careers and highlights the expansive nature of coatings with themes of sustainability, diversity, social impact, and answering growing technology challenges.** The video will be made public later this year with a call to action to Explore Coatings!

The committee at large is also preparing for the upcoming American Coatings Conference and Show, which will run concurrently from April 30 – May 2, 2024 in Indianapolis, Ind.

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## SME COMMITTEE

ACA’s SME Committee serves the needs of small and mid-size enterprise (SME) paint manufacturers. The committee meets three to four times a year, during which issues of importance to SME members are discussed, allowing the association to better serve, retain and attract small companies. In between these meetings, ACA staff provide regular updates on topics that include health, safety, and environmental issues, as well as business concerns such as supply-chain management and market changes. The committee is currently comprised of approximately 20 coatings companies, all leaders from this segment of ACA’s membership.

In 2023, the committee addressed the following topics:

- Market trends for the coatings and specialty chemicals industries;
- **Cybersecurity issues, including the shift from IT-centric to business-focused risk considerations; the threat landscape specifically manufacturing industry risk; and security and risk elements within the business;** and
- The *ACA Industry Labeling Guide, Sixth Edition*, published in early 2023. This guide provides members at all stages of the supply chain an understanding of labeling requirements relevant to paints, coatings, sealants, and adhesives. The SME committee was apprised of newly updated chapters that address labeling and registration considerations for paints with pesticides, commercial and shipping labeling, and labeling considerations for adhesive, sealant and repair products. Notably, the completed guide can aid companies placing products on the market as they develop product labels for products intended for the workplace, consumer markets, or both consumer and industrial/commercial markets.

Additionally, in 2023 ACA partnered with The ChemQuest Group, to offer a new, limited series of four webinars focused on **Operational and Manufacturing Excellence, developed for this committee.** To date, two webinars have been held:

- **“Process Optimization & Overall Equipment Effectiveness,”** focusing on key performance indicators (KPI’s) both in the development and implementation phases of operational areas: asset utilization, yield/quality, waste reduction/elimination, fixed costs, working capital; and
- **“Optimizing Plant Operations including Design Considerations for Growth,”** focusing on facility start-ups, plant expansion, increases in operations capacities, alternate capabilities, plant relocations, and asset retirements.

The latter two webinars in the series will be held this fall and focus on **“Optimizing Supply Chain to Increase the Bottom Line,”** and **“Best Practices in Environmental, Health and Safety.”**

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## SOCIETY LIAISON COMMITTEE

The Society Liaison Committee (SLC) serves as a link between ACA and regional societies for coatings technology and local coatings associations. The SLC provides a forum for discussion, information sharing, and coordination among the regional societies and local associations. The SLC, in conjunction with ACA staff and the societies’ leadership, works to develop effective grassroots network on technical, educational, and policy matters.

This year, the committee accomplished the following:

- **Issued academic scholarships to potential future coatings industry professionals and contributed to universities that offer coatings programs;**
- Addressed best practices in society membership, recruitment and retention, and shared information on key society issues, including dues and financial management, scholarship programs, and technical events and society mergers. Some local societies have chosen to participate in ACA’s grassroots program, COATINGSVOICE;
- Supported the goal of increased educational and social programs and in-person meetings, as well as the growth of SLC membership and society participation.

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## SUSTAINABILITY COMMITTEE

The Sustainability Committee develops guiding principles for the coatings industry to address today’s sustainability issues and challenges, both domestically and internationally. The committee responds to green building standards and codes that contain environmental, health, indoor air quality, and chemical requirements for building materials that affect the architectural coatings, adhesives, and sealants market. In addition, the Sustainability Committee oversees several sustainability-related projects.

Over the past year, the committee accomplished the following:

- Worked to finalize a PCR for Coil Coatings and initiated the renewal of the industry’s Architectural Coatings PCR;

- **Reinstated the Plastics Working Group to focus on single-use plastics issues, microplastics, and extended producer responsibility programs;**
- Submitted comments on California’s Department of Toxic Substances Control’s proposal to add microplastics to its Candidate Chemicals List;
- Continued participation in the development of the Cool Roof Rating Council’s Wall Product Rating Program, advocating for achievable test methods for solar reflectance and thermal emittance levels of wall coating products and assisting with the additional technical questions as the product inventory was published;
- **Participated in several green building standard development processes to ensure alignment with industry sustainability goals;**
- Completed development of a third-party, multi-attribute Architectural Coating Sustainability Standard in tandem with NSF International. This program would allow members to achieve maximum credits under LEED by streamlining testing requirements and help mitigate problematic green building standards and building codes that were developed without industry input. The program is currently being reviewed by members; and
- Started work on the 2024 ACA Sustainability Report.

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## TRANSPORT COMMITTEE

The Transport Committee directs ACA policy in matters regarding the safe, secure, and economic movement of members’ products and the raw materials used in them. It also directs industry positions on matters of proposed legislation and regulatory compliance in the United States and in international forums such as the United Nations’ Subcommittee of Experts on the Transport of Dangerous Goods (UN SCE TDG).

This year, the committee accomplished the following:

- **Worked with the U.S. DOT’s Pipeline and Hazardous Materials Safety Administration (PHMSA) on a rulemaking to harmonize the federal Hazardous Materials Regulations (HMR) with international standards.** This effort resulted in a proposed rule to maintain alignment with international regulations and standards by incorporating various amendments, including changes to the hazardous materials table, proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements;
- Submitted comments in response to PHMSA’s request for information regarding electronic hazard communication alternatives. The committee supports the agency’s effort to provide a viable alternative to hard copies of shipping papers, while still maintaining an equivalent level of safety and providing shippers, carriers, enforcement personnel, and emergency responders the necessary information about the hazardous materials being transported. However, the committee urged a consistent alternative system between various shippers/transporters to ensure that enforcement personnel and emergency responders would only need to understand one format. The committee also maintains that hard copy shipping documents should continue to be allowed for transitional ease. The committee will continue to monitor this effort and respond accordingly;

- Worked with PHMSA on an initiative to convert historical letters of interpretation germane to the HMR into broadly applicable frequently asked questions (FAQs). PHMSA responded to comments received from stakeholders, finalized the first set of FAQs, and announced the topics for future FAQs. The committee is supportive of this effort because it will help clarify, explain, and promote better understanding of the HMR and assist the regulated community in understanding how to comply with the regulations;
- **Submitted comments in conjunction with a transport industry coalition (IP Group) in response to PHMSA's advance notice of proposed rulemaking on potential adjustments to the statutorily mandated hazmat registration and fee assessment program.** Specifically, the coalition supports hazmat registration fee caps; opposes expanding the pool of persons subject to registration for the purpose of generating more revenue for the emergency preparedness grant programs; and endorses the current two-tier fee scale based on the level of commercial activity assigned to business entities by the SBA that PHMSA has used since 2000-2001. The committee will continue to work with PHMSA as it seeks to adjust the registration and fee assessment program in an appropriate and equitable manner;
- Worked with PHMSA on modernizing the HMR to improve hazmat transportation efficiency, improve transparency and stakeholder engagement, and better accommodate technological innovations – all while maintaining or improving public safety and environmental impacts. The agency solicited input on questions related to 46 distinct topics under consideration, and comments, data, and information received will be used to evaluate and potentially draft proposed amendments to the HMR. The committee will continue to participate in this effort;
- Submitted comments in response to PHMSA's notice of proposed rulemaking to adopt miscellaneous petitions and update certain regulatory requirements. Notably, the committee supported the authorization of smaller combustible placards for Intermediate Bulk Containers (IBCs) and proposed an extension of it to DOT portable tanks. A final rule is expected in the coming months.
- Analyzed PHMSA's recycled plastics policy effort, which seeks to reduce climate pollution by extending the life cycle of existing plastic through reuse and recycling. Increasing the use of recycled plastics in packaging is one potential avenue to innovate within this complex issue. In addition, an increasing number of countries throughout the world are interested in expanding the use of recycled plastics in plastic packaging manufactured for hazmat. The committee will monitor any regulatory action that results from this effort;
- Alerted members to annual, federal hazmat registration requirements;
- Informed industry of various ongoing initiatives at PHMSA, including revisions to the incident reporting forms (F.5800) and continued conversion of special permits. The committee will monitor these efforts and respond accordingly;
- Participated in PHMSA's Research, Development, and Technology Forum. During the meeting, PHMSA presented the results of recently completed projects, briefed new project plans, and obtained stakeholder input on the direction of current and future research projects on topics including mitigation of climate change, risk management and mitigation, packaging integrity, emerging technology, and technical analysis to aid risk assessment;
- Drafted and presented a working document to the UN Sub-Committee of Experts on the Transport of Dangerous Goods (UN SCE TDG) in December 2022 regarding transport provisions for small quantities of environmentally hazardous paints and printing inks. Specifically, the working document outlined industry's packaging issues for certain Class 9 environmentally hazardous paint and printing ink. While these proposals were not accepted by the subcommittee, feedback helped shape industry's approach on this issue;
- Drafted and presented an informal document (INF) to the UN SCE TDG in July 2023 that requested a working group meeting to informally discuss industry's packaging issue. The subcommittee agreed to industry's request for an informal work group, which was attended by more than 20 individuals representing a wide variety of member states and NGOs. A positive and collaborative discussion ensued, informing how to proceed with another working document in the future;
- Attended the UN SCE TDG meetings to monitor other proposals of interest to the paint and coatings industry, including the use of recycled plastics material for flexible IBCs, a proposal related to ethylene oxide, and an informal document related to the differentiation between compressed gases (UN 1950, aerosol and UN 2037, gas cartridges). The committee will continue to advocate for reasonable amendments to the UN Model Regulations at future sessions;
- Drafted and circulated a final report of the UN SCE TDG meetings that highlighted the background of each proposal, the discussions, and outcome;
- Monitored regulatory developments in Canada, including Transport Canada's update to its training requirements and amendments to the registration database under its transport of dangerous goods regulations. ACA will continue to work with CPCA on this effort;
- Continued stressing the importance of reliable and uninterrupted regulatory development regarding the transportation of dangerous goods both domestically and internationally;
- **Assisted shippers and carriers with enforcement matters involving the shipment of paint and paint-related materials;** and
- Continued to work with global shippers to find compliance solutions for cross-border multi-modal shipments.

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