American Coatings ASSOCIATION℠

April 4, 2024

Peter Bacas
Data Gathering & Analysis Division
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

RE: ACA Comments on EPA's Draft Criteria for Product Category Rules to Support the Label Program for Low Embodied Carbon Construction Materials

Dear Peter Bacas,

The American Coatings Association (ACA) submits the following comments to EPA regarding the Draft Criteria for the Product Category Rules to Support the Label Program for Low Embodied Carbon Construction Materials. ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services. The ACA represents approximately 96% of the paint and coatings products manufactured in the United States, including architectural, industrial, and specialty coatings.

The $29.5 billion paint and coatings industry manufactures a wide variety of coatings products for consumers, businesses, and manufacturing establishments alike and plays a critical role in helping to preserve and protect our infrastructure. Coatings are used not just on buildings but also across the pipeline infrastructure, on steel structures like bridges and railroads, and on the roads as traffic markings.

Advancements in product development have resulted in coatings that are safer, more resilient, sustainable, and more durable against extreme climate effects. This industry understands the effects of greenhouse gas emissions and has made efforts to minimize the impacts through having developed a series of Product Category Rules (PCRs) for specific coating products. Currently, ACA has developed PCRs for Architectural Coatings, Resinous Floor Coatings and

Powder Coatings, and is continuously updating these PCRs and developing additional ones for this industry.[1] Consequently, ACA has a significant interest in the criteria used in PCRs.

1. Recycled Content

Including recycling content as part of the life cycle assessment criteria is supported by the coatings industry because this aligns with industry-led and regulatory initiatives addressing recycled content. The coatings industry continuously conducts research and development for innovative and high-performance products. Because of this, the coatings industry has long been researching methods that use recycled material as feedstocks in product development to create more environmentally circular products that reduces the need for more virgin raw materials while meeting consumers' performance demands.[2] Research efforts continue to delve into ways that could replace conventional petroleum-based feedstocks as well as reprocessing thermoplastic materials. The criteria set forth in 2.1.C that includes recycled content allocation could be one way the manufacturers in the coatings industry get acknowledgement for these efforts.

Additionally, a growing number of states have passed and continue to introduce various versions of extended producer responsibility laws and/or recycled content laws with regards to packaging. The coatings industry has been monitoring the development of these laws to ensure compliance. As such, having recycled content included as part of the life cycle assessment criteria further supports the efforts this industry has taken and will continue to take with respect to recycled content in a variety of ways.

2. Implementation alternatives

While the need to ensure consistency and transparency in the data quality that is used for developing product category rules exists, ACA recommends that EPA consider alternatives to allow for more flexibility with respect to implementation. The number and variety of materials used in construction is just as immense as the number of suppliers for these materials. Gathering greenhouse gas emission data for such a broad spectrum of collection points is daunting let alone ensuring the data gathered is consistent and reliable.

One option ACA asks EPA to consider is implementing a pilot program for the Product Category Rules that supports the Label Program for Low Embodied Carbon Construction Materials. A pilot program could be set for a fixed amount of time that gives both EPA and various stakeholders time to gather and process greenhouse gas emissions to ensure reliability and consistency. Furthermore, a pilot program could then analyze the implementation in a smaller setting and allow EPA and the stakeholders involved to fully understand the impact of the guidelines set forth and develop a list of lessons learned. These lessons learned could then be

[1] American Coatings Association, "Product Category Rules," https://www.paint.org/programs-publications/publications/product-category-rules/ (last visited on Apr. 1, 2024.)
[2] Gary E. Spilman, et.al, "High Performance Coating Materials from Recycled Sources," CoatingsTech Vol. 14, No. 10, October 2017.

applied to the full implementation of this program, thereby helping to ensure the quality of data used is reliable. While this is just one option, ACA would like EPA to consider this option or consider other ways to allow for a more phased approach to potentially allow other industry time to adjust and correct their data collection and quality processes.

Another option ACA asks EPA to consider would be set forth a clearly defined phased approach to this program's implementation. While certain materials have been delineated as a primary initial focus for EPA's labeling program for low embodied carbon construction materials, such as for steel products, asphalt, concrete mixtures, and flat glass, it is so far unclear what level of priority coatings have in this implementation.[3] As iterated above, coatings are used on a multitude of products in construction, beyond just the walls of a building. ACA would like EPA to consider having a clearly defined list of construction material categories with a phased timeframe approach to implement this program.

3. Clarification when upstream data is unavailable

It is apparent that a product's full life-cycle data is necessary to understand the environmental impact which a product has because greenhouse gas emissions occur at every stage of that product's life cycle. Within criteria 3.2.F, the requirement for PCRs to have environmental product declarations (EPDs) with "facility-specific data for upstream unit processes that cumulatively contribute to 50% or more to the disclosed GWP" reflects this point. However, within this industry, a coatings manufacturer is just one stage of a coating product's manufacturing process and life cycle. There could be multiple upstream suppliers that a coatings manufacturer relies upon, and then that coatings manufacturer would then be required to provide facility-specific data regarding that upstream facility. This raises the concern for when a coatings manufacturer would not be able to acquire or control the quality of the facility-specific data for their upstream companies, especially since the coatings industry is a global industry. ACA is requesting that EPA provide further clarification on how a manufacturer may address the lack of upstream facility-specific data that is out of a coatings manufacturer's control.

Additionally, coatings are both within the upstream and downstream supply chain for many other construction materials that would fall under EPA's labelling program for low embodied carbon construction materials. If a coatings manufacturer cannot obtain proper data from its upstream suppliers, then the coatings manufacturer would also struggle to provide proper data to those companies that are downstream to themselves. Companies downstream of the coatings manufacturer would then be given data that contains gaps or becomes unreliable, through no fault of the coatings manufacturer. ACA urges EPA to clarify how manufacturers should address lacking upstream suppliers' information in order to reduce the propagation of errors and data gaps further downstream.

[3] EPA, "Inflation Reduction Act Programs to Fight Climate Change by Reducing Embodied Greenhouse Gas Emissions of Construction Materials and Products," https://www.epa.gov/inflation-reduction-act/inflation-reduction-act-programs-fight-climate-change-reducing-embodied (last visited on Apr. 1, 2024).

4. Flexibility in data sets

ACA requests that EPA consider manufacturers be given flexibility in which datasets are used when modeling the environmental impacts in a PCR. Criteria 3.2.B, states that "publicly accessible data sets are preferred." Currently, the options for data to be used in developing a PCR are either free and publicly available or private data sets that can be purchased by manufacturers. Many manufacturers in the coatings industry currently rely on the use of private data sets as the data is more consistent and reliable for coatings manufacturers in developing their PCRs. ACA understands that private data sets are not publicly accessible since companies typically invested their own funds to gather this data and conduct the modeling; however, this industry ask that EPA acknowledge that publicly available datasets could serve as equally valid sources for developing PCRs and EPDs or provide clearer justification in requiring public datasets over private ones.

Rather than prescribing users to rely on public data sets, ACA is requesting EPA to consider removing the requirement for the use of EPA designated public data sets by January 1, 2026. ACA would prefer that EPA set forth data quality metrics or criteria so that any data set, whether public or private, could be validated for use in PCR and EPD development. This would give the coatings industry, as well as other industries, the ability to continue the use of private data sets so long as those data sets meet the prescribed metrics for data validity. This would also eliminate the need for companies to potentially redo any processes with public data sets that could introduce more variance in their results.

5. Clarification on underlying and reference life cycle assessments (LCA)

ACA requests further clarification on the requirements for the underlying LCA and the reference LCA used in the development of a PCR. ACA has completed several PCRs that have been instrumental for our industry to highlight the life cycle of its products. These include PCRs for Architectural Coatings, Resinous Floor Coatings and Powder Coatings. ACA has relied on proprietary LCAs conducted by companies within the coatings industry that participated on the PCR development committee specific to that coatings industry segment. These industry-segment specific LCAs have allowed our PCRs to improve the classification of relevant coating product categories that recognize the regional nature of an LCA and the coatings industry, especially with regards to architectural coatings. In the proposed EPA guidelines in Section 2, it states that if an underlying LCA is unavailable, a reference LCA could be considered if they meet the criteria listed in section 2.2 and 2.1. This requirement could impact our ability to complete and update PCRs in a timely manner since complying with the guidelines does not allow for the use of proprietary LCAs.

Additionally, industry wide, underlying LCAs are resource and time intensive and that could cause additional financial and time burdens to industry as we continue to update the existing PCRs and expand PCR developments to other industry segments. Industry-wide LCAs are also not practical for this industry because of the standardized approach that does not work for the wide range of formulated products. One example mentioned above is the regional nature of architectural coatings, especially for those coatings used in an outdoor environment because relevant data would need to be regionally specific. The coatings industry is open to ensuring its data complies

with the guidelines EPA sets forth for this labeling program; however, EPA should consider that modifications to the guidelines may occur in the future that addresses more specific and formulated products. Underlying and reference LCAs, as defined, are not widely used in the creation of PCRs for this industry, and ACA requests that EPA consider modifying the criteria for underlying and reference LCAs for products that are specific to certain industry segments.

6. Conclusion

In conclusion, ACA appreciates the opportunity to provide comments on this issue, and we look forward to working cooperatively with EPA. Please do not hesitate to contact us if you have any questions or require additional clarification.

Sincerely,

Suzanne Chang
Counsel, Government Affairs

Katherine Berry
Director of Sustainability

Sent via email