May 12, 2025

Russell T. Vought
Director
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th St NW
Washington, DC 20503

RE: OMB Docket No. OMB-2025-0003 – Request for Information: Deregulation

Dear Director Vought:

The American Coatings Association (ACA)[1] submits the following comments to the Office of Management and Budget (OMB) regarding the agency's solicitation of suggestions for deregulation concerning those regulatory frameworks that impact the paint and coatings industry. ACA represents approximately 96% of the paint and coatings industry in the U.S., including paint and coatings manufacturers and their raw materials suppliers.

While ACA and our industry support reasonable regulations that are based upon sound science and create a level playing field, there are many requirements that do not serve the stated regulatory purpose or include elements that do not make logical sense. ACA highlights these regulations:

1. Chemicals Management and related regulations;
2. U.S. EPA's National Volatile Organic Compound (VOC) Emission Standards for Aerosol Coatings Amendments;[2]
3. U.S. EPA's universal waste rules;[3]
4. Build America, Buy America Act (BABA);[4] and
5. U.S. Environmental Protection Agency's (EPA) recent amendments to its Risk Management Program (RMP) regulations.[5]

1. Chemicals management and related rules

[1] 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. 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.
[2] *See generally* 90 Fed. Reg. 5697 (Jan. 17, 2025) (to be codified at 40 C.F.R. pt. 59).
[3] The federal regulations currently identify five specific categories of materials that may be managed as universal waste under 40 C.F.R Part 273. 40 C.F.R. § 273.1(a).
[4] *See generally* Off. of Mgmt. and Budget, *M-24-02*, OFF. OF MGMT. AND BUDGET (Oct. 25, 2023), https://www.whitehouse.gov/wp-content/uploads/2023/10/M-24-02-Buy-America-Implementation-Guidance-Update.pdf.
[5] U.S. EPA's amendments went into effect on May 10, 2024. 89 Fed. Reg. 17,622 (Mar. 11, 2024) (to be codified at 40 C.F.R. pt. 68); *see also* U.S. Env't Prot. Agency, *EPA Announces Reconsideration of the Risk Management Plan to Boost Safety, Competitiveness of American Businesses*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/newsreleases/epa-announces-reconsideration-risk-management-plan-boost-safety-competitiveness (last updated Mar. 12, 2025).

ACA and its members suggest several changes to rules implementing the *Toxic Substances Control Act* and the *Emergency Planning and Community Right to Know Act*, as listed below:

Reporting Requirements

1) Revisions to the TSCA 8(c) Reporting requirements under 40 CFR 717.17(b)

40 CFR 717.17(b) should be rescinded in its entirety. In the alternative, EPA must clarify specific instances where records are required to be submitted (e.g. in response to an inspection) and to specify that records submitted under this provision do not represent *best available science* and will not be used for purposes of Risk Evaluation (e.g. MBOCA FR Notice).

This requirement is unlikely to yield information that advances the quality of EPA's risk evaluations under or other programs. The requirement is vague, overbroad and likely to result in collection of non-contextualized and random information that is not reflective of the *best available science* for TSCA Section 6 (risk evaluation) purposes. The regulation does not provide clear parameters regarding when EPA can request records nor the purpose of the submission. Because of the potential for data that is not of sufficient scientific integrity, EPA should not use this rule for compliance and enforcement matters related to record-keeping requirements. EPA also should not use any of this collected information for risk evaluations, PMN evaluations, etc. EPA should rescind this regulation.

2. Eliminate requirement to report "unpublished health and safety studies" for 16 high priority chemicals (40 CFR 716.120),

ACA seeks recission of this requirement for the 16 high priority substances as finalized in 90 FR 11899 (March 13, 2025), EPA Docket No. EPA-HQ-OPPT-2023-0360-0059. The requirement is vague and over-broad, potentially resulting in submission of non-contextualized information that is not reflective of the *best available science*. Failure to establish thresholds triggering reporting imposes an unnecessary burden on industry, requiring evaluation of information for trace amounts, including in byproducts, impurities and mixtures. Requiring submission of unpublished studies for the 10 year look-back period further compounds the potential for submission of poor-quality and outdated data.

As an alternative, ACA suggests the following amendments:
- Establish a *de minimis* level triggering the requirement;
- Establish an exemption from data submission for manufacture as an impurity or by-product;;
- Establish exemptions based on SDS listing thresholds or at a minimum specify that downstream importers can rely on information provided in an SDS.
- Modify the "known to or reasonably ascertainable by" standard of due diligence for the purpose of this rule, so companies are not responsible to list studies identified via a database search;
- Extend the reporting period to 180 days after finalizing the rule; and
- Limit use of unpublished data that does not meet TSCA's standards for scientific integrity and/or TSCA's requirement of being fit for purpose.

Export Notifications

3) ACA requests revisions to the TSCA 12(b) Annual notification requirements for export.
Modify the notification requirement at 40 CFR 707.65(a)(1)(i) by changing reporting to a one-time reporting for all types of Export Notification, instead of annual notification. Filing of the annual report does not provide EPA or the public with useful information, and it is unduly burdensome on industry.

*4) Revisions to the TSCA 12(b) intent to export language at 40 CFR 707.*65(a)(2)
Remove language in this regulation regarding notification of "intent to export." This phrase is unduly vague with no clear standard for when intent is formed and triggering the requirement. Instead, EPA should require notification of actual export within a reasonable timeframe, extended from the current 7-day notification period. ACA suggests 30 to 90 days from the date of actual export.

PFAS Reporting Rule (TSCA 8(a)(7))

5) Revisions to the TSCA 8(a)(7) Rule – 40 CFR Part 705
ACA recommends revising this rule to focus requirements only on upstream PFAS manufacturers and importers. The burden on manufacturers of finished products with de minimis amounts is excessive when considering that upstream manufacturers of large volumes and raw materials will be submitting all relevant information. EPA should add exemptions in this rule for articles, byproducts, impurities, R&D and manufacturing at low volumes (<2500 lb).

ACA also suggests the following changes to enhance clarity and streamline the reporting requirements:

- Restrict the universe of reportable chemicals to those chemicals listed by CAS and/or TSCA Accession number in the proposal, while addressing confidential chemicals on a case-by-case basis by requesting information from the company claiming confidentiality;
- Restrict reportable chemistries to thresholds identified on OSHA compliant SDSs;
- Clarify that the "known to or reasonably ascertainable by" standard of due diligence allows reliance on SDS for the purpose of this rule;
- Exempt small businesses from reporting purely based on TSCA Section 8(a)(1) and the unique compliance burden faced by small businesses; and
- Reduce the scope of reportable data that applies to years in the beginning of the lookback period, since this information is unlikely to yield the best available science.

The current requirement is likely to result in redundant data submissions that are not required by statute and are overly burdensome to both EPA and industry. As such, these burdens outweigh any public benefits. Further, EPA has not specified how such a broad data collection effort will be used to advance PFAS regulation. It raises concerns that EPA will rely on information that does not represent the best available science. EPA should prioritize recent data which accurately reflects the current state of science and use of chemicals.

ACA notes that TSCA Section 8(a)(5) requires EPA, to the extent feasible, to (A) not require unnecessary or duplicative reporting, (B) minimize compliance costs on small manufacturers and processors, and (C) apply any reporting obligations to those persons likely to have information relevant to effective implementation of TSCA.

PMN and SNUR related requirements

ACA requests modifications to TSCA SNURs to align time-limited activities in SNURs with testing requirements in consent orders. ACA recommends rescinding time limits on commercial activities included in some final SNURs, when additional testing has been completed, making the requirement unnecessary. EPA sometimes adds time limits in SNURs, while requiring the PMN-submitter to complete testing specified in a consent order. Often the PMN submitter will complete testing, but the SNUR will not be updated to remove the time limit. For example, Alkanes, C22-30, chloro, as stipulated in the SNUR at 40 CFR 721.11077(a)(2)(i), requires: *Manufacture (and import) are limited to 5 years*.

The manufacturing and import time limit requirements in the SNUR is unnecessary when testing is completed pursuant to a Consent Order. It creates a significant administrative burden to file a SNUN, for continued use of a chemical, as the time period for the SNURs expiration approaches. At a broader level, the requirement

unnecessarily impedes economic development, requiring downstream customers of the original PMN submitter to expend resources managing the supply chain, to avoid disruptions in supply.

The time limits on SNUR requirements also apply to imports, preventing re-importation of products originally manufactured in the United States, but sent to abroad for additional processing. Re-import requires submission of a SNUN which often aligns exactly with the original PMN submission. The submission is duplicative and unnecessary. The SNUN submission often requires the same tests already submitted by the original PMN submitter under terms of the Consent Order.

7) ACA requests that EPA update SNURs with outdated volume reporting requirements
In consent orders and SNURs, EPA often includes a requirement to report manufacturing volumes, while developing testing data. Typically, EPA will require manufacturing in lower volumes, prior to submission of test data. But, once testing is complete, EPA should update SNURs or consent orders, and eliminate the continued reporting of volumes. This reporting requirements create an undue burden on industry. nt

8) Eliminate CDR reporting for manufacturers and importers of small amounts
ACA recommends that EPA modify the CDR reporting requirement that is triggered by the attachment of a SNUR, as this creates a significant and perhaps unintended reporting burden on industry. This requirement predates the *Lautenberg Amendments* to TSCA, when SNURs were not as common. Since the Lautenberg amendments, all new chemicals introduced to the market are assigned a SNUR, triggering lower reporting thresholds. Downstream chemical users of these SNUR'ed chemicals often are not familiar with CDR reporting. CDR compliance requires significant resources, which is unduly burdensome on companies using a SNUR chemical in small amounts.

9) EPA should formally rescind proposed SNURs that have been outstanding for several years and are clearly not proceeding towards being finalized
These proposals trigger 12(b) export notification requirements, imposing an unnecessary reporting requirement on industry. ACA is currently developing a list of eligible SNURs and would welcome the opportunity to provide additional information.

10) LVE and LoREX Exemptions Should Not be Subject to the PMN Process

EPA must evaluate applications on individual fluorinated chemicals (PFAS) for the LVE (low volume) and LoREX (low release and low exposure) exemption from the PMN procedure. Based on the prior administration's policies, PFAS chemicals are currently ineligible for the LVE and LoREX exemption based on a false assumption that all fluorinated chemistries (PFAS) meet the same criteria for persistence, bioaccumulation and/or toxicity. The LVE and LoREX process established expedited reviews for use in limited conditions so that the risk is mitigated. Due to the regulatory climate surrounding PFAS, companies only apply for LVE or LoREX exemptions based on the need to meet specific performance requirements.

Import Certification Requirements

11) Modification to TSCA 13 Import Certification policy statements at 40 CFR 707.20(c)

EPA should modify the rule to indicate that submission of a TSCA Compliance Certification Statement under TSCA Section 13 is not required where U.S. Customs and Border Protection has *not* refused entry of a shipment due to alleged non-compliance with TSCA. Further, the Certification Statement should not need to be maintained for the five-year period. In the alternative, EPA should require only that the Certification Statement is created and kept for 5 years by the importer but specify that it doesn't need to be directly submitted to EPA.

This change would more clearly align with TSCA Section 13. The current certification submission and record-

keeping requirement in 40 CFR 707.20 goes beyond the statutory requirement placing an undue burden on industry. The current requirement is duplicative since the shipment is still required to be in compliance with TSCA Inventory requirements and all other provisions of TSCA. Failure to comply results in severe penalties aggregating on a per day basis.

Polymer Exemption

11) ACA suggests several revisions to the Polymer Exemption rule at 40 CFR 723.250.

The polymer exemption has become critical to the development of new products, since the Lautenberg Amendments have led to increased backlog and delays in the PMN process. ACA strongly suggests streamlining the polymer exemption to facilitate efficiency. EPA should eliminate the requirement to annually report to EPA the number of substances manufactured under the exemption at 40 CFR 723.250(f). This requirement goes beyond what is required by the statute and the costs and burdens outweigh public benefits. Providing the number of substances manufactured under the exemption provides no useful information to the public or EPA.

EPA should modify the list of reactants from which polyester may be made at 40 CFR 723.250(e)(3) to allow polymers of low concern to qualify without a PMN. EPA should include both isomer specific and broad/non-isomer specific CAS numbers for currently listed exempt monomers, including:

i. Anhydrides (often used as a diacid and not for anhydride functionality). Concerns related to anhydrides are addressed in requirements for "reactive functional groups" and derivatives of similar compounds. For example, esters, amides of carboxylic acids, qualify for the PMN exemption as part of the carboxylic acid groups. Anhydrides are functionally no different. EPA should take a similar approach to allow the polymer of low concern exemption for anhydrides.

ii. Stereoisomers of existing listed chemicals, especially UVCB since their structures are undefined under CAS.

The current procedure, requiring a PMN, is not required by statute for polymers of low concern. As a result, the PMN submission requirement is unnecessary and overly burdensome, especially in light of considerable delays in the PMN program since the *Lautenberg Amendments*. The exemption was designed to streamline approval of these substances, without going through the PMN process. Application of the exemption is critical and vital to the introduction of new products.

As referenced in relation to anhydride groups, EPA should modify the definition at 40 CFR 723.250(b) of "reactive functional group" to specify location of groups to clarify chemistries of concern. The current requirement is overly restrictive and is inclusive of groups that do *not* cause a risk. The definition can be better scoped to accommodate polymers of low concern.

EPA should modify the recordkeeping requirements at 40 CFR 723.250(j) to reduce redundant requirements. EPA should allow for polymer exemption certification from suppliers for imported polymers to meet this record submission requirement. That is, the supplier must meet criteria in Section 723.250(j):

- that the polymer meets the definition of polymer;
- polymer is not excluded from the exemption;
- polymer meets the exemption criteria; and
- supplier is responsible for maintaining records according to the recordkeeping requirements and will provide the records to US EPA within 15 working days of written request from EPA

Alternatively, EPA should restrict the recordkeeping requirement to suppliers with a US presence, US suppliers, or only to re-imported PE polymers that were originally manufactured in the United States.

This record-keeping requirement is not required by statute. It is overly burdensome and duplicative. It impedes

technological innovation and economic development. It restricts conducting business if a company cannot re-import products made in the United States.

12.ACA further requests enforcement discretion of the following rules, for the reasons identified above:

- TSCA 8(c) – 40 CFR Part 717.
- TSCA 12(b) – 40 CF Part 707 Subpart D.
- TSCA 13 Import Certification.
- Notice of Activity Form B.
- Polymer exemption documentation replication when supplier states it meets the requirements.

13. EPCRA / TRI Notifications and Listings

De minimis exemption at 40 CFR 372.45(d)(1) for *chemicals of special concern*

EPA should maintain the *de minimis* requirements that apply to chemicals listed in 40 CFR 372.28(a) (*chemicals of special concern*) and any additional chemicals listed therein, so that the *de minimis* exemption is available for TRI *chemicals of special concern*. Under the approach proposed by the prior administration at Docket No. EPA-HQ-OPPT-2023-0538, EPA would list chemicals of special concern without a *de minimis,* triggering downstream notification and reporting requirements. This approach is not authorized by the statute. The statute requires further analysis of toxicity prior to listing, while establishing a *de minimis*. Removing the *de minimis* for these chemicals is not required to adequately warn of any risks associated with storage and use. Removal of the *de minimis* exemption presents significant compliance challenges, with companies adopting varying limits of quantitation, to the extent quantifying amounts is even possible. Further, ACA recommends *not* listing PFAS chemicals as *chemicals of special concern,* without conducting analysis of the listing criteria in EPCRA §313(d)(2) for each chemical.[2]

The prior administration further proposed revisions to supplier notification requirements in EPA Docket No. EPA-HQ-OPPT-2024-0507. If finalized, rule would require companies to begin providing supplier notification for chemicals newly added to the Toxic Release Inventory(TRI) list, even before C.F.R. has been officially updated. The rule could impose an unreasonably short period to update notifications to buyers.

ACA is opposed to both proposals and recommends that EPA not finalize these rules. As a less desirable alternative, EPA must clarify that supplier notification requirements do not apply to PFAS automatically added by the NDAA until after the chemical is listed in the regulation at 40 CFR 372.65.
ACA has submitted detailed comments into the rulemaking docket.

Congressional Review Act Issues

EPA identified chemicals management issues under the *Congressional Review Act.* ACA supports further review and amendment of:

- EPA's Risk Evaluation Procedural Rule
  1) ACA supports revocation of this rule so the *whole chemical approach* is no longer codified as part of EPA's procedures. As consistently noted in ACA's comment, the whole chemical approach leads to an inaccurate understanding of risk and raises the likelihood of EPA imposing unnecessary and inadequately justified risk mitigation requirements.
  2) EPA must factor existing risk mitigation requirements and practices into its exposure evaluation.

- New Chemical Review Procedural Rule
  ACA supports revocation of this rule as it fails to address critical issues in EPA's new chemical review program. Please see ACA's supplemental document detailing issues and related suggestions to improve

EPA's new chemical review program and related rules.

Federal Fungicide Insecticide and Rodenticide Act

ACA does not support an expansion of EPA authority over treated articles, allowing them to be regulated as pesticides. Treated articles are articles containing a pesticide for the purpose of product preservation. The treated article is not considered a pesticide because the product is not used for a pesticidal purpose. Coatings are treated articles when it contains a pesticide to prevent mold and bacterial growth in the paint. In contrast, some paints are advertised as preventing mold growth and bacteria on the surface of a substrate after application. In this case, the paint or coating serves a pesticidal purpose and can be regulated as a pesticide under current requirements. The treated article exemption is a statutory interpretation codified at 40 CFR 125.25, based on strong precedent.

EPA's ANPRM at Docket No. EPA-HQ-OPP-2023-0420 proposes that the treated article requirements at 40 CFR 125.25 is an "exemption" to the pesticide registration requirements which could be eliminated. EPA proposed to amend the rule to require conditions precedent to application of the treated article rule in order to require labeling, PPE requirements and even product registration of treated articles, such as paint and agricultural seeds treated for preservation. Under this proposal, EPA would be authorized to impose the full range of regulatory controls used for pesticides on treated articles, although the treated article does not serve a pesticidal purpose.

ACA strongly recommends rescinding this ANPRM. The ANPRM suggests changes that are a clear expansion of EPA authority beyond authority granted under FIFRA. FIFRA clearly limits EPA to regulation of "pesticides," - products that serve a pesticidal purpose, not treated articles.

2. U.S. EPA's National VOC Emission Standards for Aerosol Coatings Amendments

On January 17, 2025, U.S. EPA published its final amendments to the national aerosol coatings rule in the Federal Register.

ACA provides the following recommendations to the OMB regarding U.S. EPA's aerosol coating rule:

A. Extend the rule's compliance date to two years from publication

In its amendments to the National VOC Emission Standards for Aerosol Coatings, U.S. EPA set the compliance date as July 17, 2025 — a mere six months from the date of the rule's publication. Members of the aerosol coatings industry expressed concerns regarding the rule's quick turnaround to come into compliance, as the compliance date did not warrant enough time for the industry to reformulate products and meet new product labeling requirements. Thus, ACA began working with members of the industry to develop a strategy and conduct outreach to U.S. EPA for an extension of the rule's compliance date.

On April 3, 2025, U.S. EPA granted an industry member's Petition for Administration Reconsideration, effectively agreeing to extend the rule's compliance date by two years. Ultimately, ACA is pleased with the agency's recent actions, and we recommend that U.S. EPA consider acting quick and issuing a notice in the Federal Register to inform members of the industry that the rule's compliance date has been extended to July 17, 2027.

B. Eliminate triennial reporting

U.S. EPA's aerosol coatings rule requires regulated entities to report certain information to the agency every three years.[6] In these triennial reports, aerosol coatings manufacturers must report VOC formulation data, VOC amounts, individual product codes, and other identification information.

The triennial reporting requirement is not only burdensome and costly for aerosol coatings manufacturers, but it also provides little, if any, useful value or information to U.S. EPA. Furthermore, if there are compliance issues, this same information can be requested by the agency at any time. The additional triennial reporting requirement is unnecessary and overly burdensome. As such, ACA urges U.S. EPA to remove the triennial reporting requirement for aerosol coatings manufacturers.

3. Designate Paint Waste as a Universal Waste

Paint and paint-related wastes should be recognized as a universal waste under 40 CFR Part 273. There is an increasing public awareness and desire to improve recycling efforts as well as find alternatives for reducing the amount of paint waste ending up in municipal landfills. Several states have enacted their own state-level universal waste programs that designate paint as universal waste. These states include Ohio, Texas, New Jersey, Pennsylvania, and New York. In addition, Illinois recently proposed amendments to its universal waste rules to include paint and paint-related waste. Ultimately, designating paint and paint-related waste as universal waste in U.S. EPA's universal waste rules would streamline regulatory requirements, ease the burden on the paint and coatings industry, and facilitate responsible stewardship for any paint and paint-related waste.

U.S. EPA's universal waste rules streamline the waste management standards for certain types of hazardous materials that are known to present a low hazard and are commonly generated by a wide variety of establishments. These streamlined regulations help promote the collection and recycling of universal waste, ease the regulatory burden on retail facilities and other types of establishments that generate and wish to collect and transport these types of wastes, and encourage municipal development as well as other commercial programs to reduce the amount of waste going to landfills. Designating paint and paint-related wastes as a universal waste would advance these goals. For these reasons, EPA should amend the federal universal waste rules to include paint and paint-related waste.

4. Requirements under Build America, Buy America (BABA)

Under BABA, federal agencies are prohibited from supplying funds that have been made available for federal financial assistance programs for infrastructure "unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the [U.S.]"[7]

Classification of Paint and Coatings Products should be uniform and consistent

The issue of how paint and coatings products are classified under BABA demands clarification. While it is clear that paint and coatings products are not "construction materials", the very same coating can be subject to different requirements depending upon the location where it is applied or the substrate it is applied to. For instance, if the coating is brought to the worksite and applied there, it will be subject to different requirements than if it is applied at the manufacturing facility. The Office of Management and Budget (OMB) should adopt and provide for a consistent classification for paint and coatings products used for infrastructure projects.

Certification and Waiver Processes Should be Clarified

Manufacturers of products used for an infrastructure project receiving federal funds are required to certify that their product complies with BABA or request a waiver. OMB's issued guidance does not contain any self-

[6] See 40 CFR § 59.511(i)(1)-(4).

[7] BlueGreen All., *Making BABA Work for American Manufacturers*, BLUEGREEN ALL. 2, https://www.bluegreenalliance.org/wp-content/uploads/2024/12/BABA-User-Guide.pdf (last visited May 2, 2025).

certification requirements. Moreover, the agency's guidance provides federal agencies with the broad authority to develop their own waiver request requirements. As a result, paint and coatings manufacturers must adhere to the various BABA certification and waiver request requirements that federal agencies providing financial assistance for infrastructure projects have adopted.

ACA believes that uniform BABA self-certification and waiver request requirements would help alleviate the burden imposed on the industry and the government by streamlining the review process and maximizing efficiency. As such, ACA recommends that the OMB issue additional guidance containing uniform self-certification and waiver request requirements to assist paint and coatings manufacturers' compliance with BABA.

5. U.S. EPA's Amendments to its RMP Regulations

The RMP rule, which implements Section 112(r) of the Clean Air Act,[8] was first promulgated in 1996. Subsequently, the rule has been further amended. In January 2017, the RMP Amendments Final Rule provided new requirements for accident prevention, response, and public disclosure of information. However, key provisions of U.S. EPA's rulemaking were paused, and a majority of the new measures never went into effect. Rather, in December 2019, U.S. EPA issued the RMP Reconsideration Final Rule, which rescinded and/or modified some of the measures in the previous rule.[9] Finally, in August 2022, U.S. EPA published the proposed RMP Safer Communities by Chemical Accident Prevention rule. The rule, which included U.S. EPA's amendments to the RMP regulations, was finalized on February 27, 2024, and went into effect on May 10, 2024.

A. Eliminate the requirement for a third-party compliance audit

Under 40 C.F.R section 68.58, a third-party compliance audit is required when certain criteria has been met, such as an accidental release of chemicals. While safety is of the utmost importance for both the workers and the surrounding communities, specifically requiring an audit to be done by a third-party burdens the industry to guarantee the qualifications of the third-party auditors. In addition, this requirement inaccurately presumes that third-party compliance audits would be more rigorous, thorough, and timely than an internal or some other type of audit conducted by members of the industry. Ultimately, U.S. EPA has not demonstrated that requiring a third-party compliance audit would sufficiently prevent accidental chemical releases.

U.S. EPA fails to demonstrate why requiring a third-party audit provides significant benefits. Furthermore, this requirement significantly increases the cost and resources on a facility without any tangible guarantee of improved safety. Lastly, U.S. EPA has not provided any effective guidelines or criteria on what would make a

[8] *See generally* U.S. Env't Prot. Agency Off. of Land and Emergency Mgmt., *Clean Air Act Section 112(r): Accidental Release Prevention/Risk Management Plan Rule*, U.S. ENV'T PROT. AGENCY (Apr. 2020), https://www.epa.gov/sites/default/files/2020-03/documents/caa112_rmp_factsheet_march_2020_final.pdf (describing that "[w]hen Congress passed the Clean Air Act Amendments of 1990, Section 112r required EPA to publish regulations and guidance for chemical accident prevention at facilities using substances that posed the greatest risk of harm from accidental releases").

[9] *See* U.S. Env't Prot. Agency, *Final Risk Management Program (RMP) Reconsideration Rule*, U.S. ENV'T PROT. AGENCY, https://www.epa.gov/rmp/final-risk-management-program-rmp-reconsideration-rule (last updated June 5, 2024) (describing how the RMP Reconsideration final rule (1) "[r]escinds all major accident prevention program provisions of the RMP Amendments rule (i.e., third party audits, safer technology and alternatives analyses, incident investigation root cause analysis), and most other minor changes to the prevention program;" (2) "[r]escinds the public information availability provisions of the RMP Amendments rule;" (3) "[r]etains the requirement to hold a public meeting within 90 days after an accident, but only applies the requirement to accidents with offsite impacts;" (4) "[m]odifies the emergency coordination provisions to address security concerns with the Amendments rule coordination provisions;" (5) "[m]odifies the exercise provisions to give more flexibility to regulated facilities and local emergency responders in complying with these provisions;" and (6) "[m]odifies some compliance dates to provide necessary time for program changes").

third-party auditor knowledgeable and/or experienced in conducting compliance audits for RMP-regulated facilities. As a result, facilities and staff at these facilities would need to seek out the proper expertise, which could artificially spike the demand and price for third-party compliance audits. Overall, ACA recommends that U.S. EPA amend this requirement to provide the industry with the flexibility to conduct an appropriate audit option that would effectively improve safety.

B. Information availability requirements and notification range should be refined

Under 40 C.F.R section 68.210, facilities must provide any member of the public that resides, works, or spends significant time within six miles of the fence line of a stationary source with chemical hazard information. In its RMP regulations, EPA does not specify how members of the industry ought to determine if someone resides, works, or spends significant time within that six-mile range. Furthermore, U.S. EPA does not specify if any tangible evidence (e.g., identification, employment information, etc.) would be necessary to validate someone's claim of being within this six-mile radius. Ultimately, this is an impractical requirement as it would be overly burdensome for a facility to verify and respond to every individual claiming to reside, work, or spend significant time within six miles of a stationary source.

Although EPA claims that the six-mile distance requirement limits any potential security risks, the amendments' requirements regarding information availability creates an insecure and unbalanced system of sharing information. EPA has indicated that these amendments are intended to encourage communities and individuals to be better prepared for an emergency. However, EPA should work with the local responders to ensure they receive proper training and equipment so they can respond accordingly without endangering themselves or others within the community. Furthermore, EPA should work with communities through the local emergency planning committees to help educate the general public on nearby chemical hazards. Overall, ACA recommends that U.S. EPA amend its information availability requirement so that it more effectively addresses the preparedness of the local responders.

Conclusion

Paint and coatings products are essential in the built environment, providing protection, beauty and maximizing the performance of all manufactured items. The regulations that apply to our manufacturing facilities, the finished products, and the means to transport our product to endusers are complex and numerous. ACA appreciates that opportunity to highlight those regulations that impede efficiency and innovation and are an obstacle to economic expansion. We look forward to discussing these ideas with the relevant agencies and remain available for further discussion and amplification.

If you have any additional questions on the topics raised in this comment letter, please do not hesitate to contact ACA's Senior Vice President for Government Affairs, Heidi McAuliffe.

Respectfully submitted,

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