

ACA and the WCC: An Update on Global Regulatory Developments

*By Heidi McAuliffe,
American Coatings Association*

As an advocate and voice for the coatings industry, the American Coatings Association engages with regulatory agencies and legislators at the federal, state, and local levels in the areas of air quality, environmental requirements, chemicals management, occupational safety and health, and sustainability. In the global arena, ACA monitors and tracks these same issues, conducting its advocacy under the umbrella of the World Coatings Council (WCC) and its members.

The WCC is a network of trade associations for the paint and coatings industry in nations around the world. It provides a forum for the exchange of information and cooperation on major issues and priorities facing the industry. Founded in the early 1990s, the WCC established itself as a global voice for the industry. The council was established to ensure that the industry, in coordinating the development of policy on international issues, fully discussed and analyzed global implications.

When legislative or regulatory issues arise around the globe, usually the nation where the issue originates will become the lead advocate for the paint industry. ACA, WCC, and other council members will provide technical and strategic assistance to the nation's trade association that is most knowledgeable about the domestic paint industry and the regulatory agency. This framework allows the global industry to



World Coatings CouncilSM

participate in the advocacy effort and impact the course of the issue.

Here is a short list of issues that ACA is working on in the international arena:

MEXICAN PROPOSED RULEMAKING ON ARCHITECTURAL COATINGS

Mexico is currently revising its architectural coating volatile organic compound (VOC) official Mexican standard—Normas Oficiales Mexicanas, or NOM. The proposal applies to eight categories and proposes corresponding limits consistent with the 2019 California Architectural and Industrial Maintenance (AIM) Suggested Control Measure (SCM).

However, the draft of the Mexico architectural coatings proposal contains many other provisions that are not consistent with the 2019 SCM regulation in several respects. The proposal's definitions and small-container exemption are different. In addition, the proposed NOM includes burdensome conformity assessment provisions that would require coatings

manufacturers to register with the Mexican government and submit a declaration of compliance and sample product labels to confirm VOC content.

To demonstrate compliance, the proposal requires supporting documentation that will be requested by border officials for products imported to Mexico. There is not a similar requirement for domestically manufactured products. As a result, manufacturers will likely need to obtain a conformance assessment opinion from the Mexican government before products can be imported into Mexico.

At the time of publication, the draft regulation was anticipated to be published in early 2022.

EU CHEMICALS STRATEGY FOR SUSTAINABILITY, GREEN NEW DEAL

In October 2020, the European Commission (EU) published a policy document, "Chemicals Strategy for Sustainability Towards a Toxic-Free Environment," to update the EU's chemicals management requirements and to advance toward the goal of zero pollution articulated in the European Green Deal.

The commission recommends significant changes to the EU Classification, Labelling and Packaging (CLP) and Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) regulations as the foundation for policy changes, generally advancing the commission's goal of zero environmental chemical pollution.

As a result, companies placing products on the EU market will see significant changes in how those products are evaluated for safety with increased restrictions to market access. Companies may be required to update labels based on new hazard classes.

Certain hazard classes may trigger bans of consumer products and increased worker protections for industrial use, as EU regulators specify general risk mitigation measures by hazard class under the new strategy. The strategy may expand the scope of products subject to restriction for containing substances of very high concern. Products with endocrine disruptors or per- and polyfluoroalkyl (PFAS) chemicals may also be subject to restrictions. Coatings manufacturers may be required to submit information about polymers in products.

Note that there is an emphasis on responding to an identified hazard, rather than the risk of exposure. These policy changes clearly embrace the precautionary principle. The commission also plans to implement a hazard-based approach on a global scale by introducing new hazard classes into the Global Harmonized System (GHS) and seeking to phase out chemical groups and hazard classes through international conventions and agreements.

As a result, companies placing products on the EU market will see significant changes in how those products are evaluated for safety with increased restrictions to market access.

BIOCIDES UNDER SCRUTINY BY REGULATORS

As regulators express increased concerns about the safety of biocides in products, several biocides are being restricted in ways that limit paint and coatings formulators with options for reformulation and/or limit the types of claims that can be made on a product label. Canada and the EU have been fairly active in addressing biocides.



NEW PFAS REGULATIONS IN THE EU

The European Union has adopted several regulations that restrict the use of perfluorooctanoic acid (PFOA) and PFAS. In 2021, five nations announced their intention to restrict PFAS substances. In addition, the Organisation for Economic Cooperation and Development (OECD) has circulated a draft report entitled, "Per- and Polyfluoroalkyl Substances and Alternatives in Coatings, Paints and Varnishes (CPVs), Report on the Commercial Availability and Current Uses," which will likely lead to additional scrutiny of the use of PFAS in coatings as well as available alternatives.

MICROPLASTIC: CANADA, THE EUROPEAN UNION, JAPAN RESOLUTION, AND INTERNATIONAL MARITIME ORGANIZATION

There has been an increasing focus on microplastics, given possible effects on the marine and land environments.

The EU is introducing a proposal that will apply to intentionally added microplastics. The regulation would regulate "primary microplastics," which refer to intentionally added materials such as "micro-beads," "micro-fibers," and "secondary microplastics," which are the "polymeric fragments" released into the environment over time from plastic-containing products, largely through the degradation of larger materials (i.e., macroplastic).

These secondary microplastics include releases from synthetic fibers in clothing (primarily from the laundering process), weathering of macroplastic wastes, degradation of polymeric surfaces (such as paint) on exterior substrates, and wastewater streams that may receive discharges and/or releases of secondary microplastics from all sources. While the European regulation will likely not restrict coatings, the regulation will likely include labeling and reporting requirements.

In January 2020, the Canadian minister of environment and climate change published the "Draft Science Assessment of Plastic Pollution" and committed to ban harmful single-use plastics as soon as 2021. Further, in October 2020, the minister proposed an "order" designating "plastic products" as toxic on Schedule 1 of the Canadian Environmental Protection Act.

At the International Maritime Organization fall 2021 meetings, a proposal entitled, "Microplastics from Antifouling Paints—An Overlooked Source of Marine

Plastic Litter,” was submitted by several environmental non-governmental organizations (NGOs). The proposal asked the Marine Environment Protection Committee to note the impact of microplastics from paints and antifouling coatings on ships, urged it to prioritize the need for further investigation and noted the need to take action to reduce the inputs of microplastics from paints and antifouling coatings into the marine environment. Although this proposal was not adopted, the issue of microplastics in the ocean environment will continue to generate debate and discussion.

A draft resolution, proposed by Japan, was offered at the United Nations (UN) Environment Assembly in early December 2021, requesting the executive director of the UN Environment Programme to convene an inter-governmental negotiating committee with the mandate to prepare an international legally binding instrument to address marine plastic pollution. The resolution proposes that an intergovernmental negotiating committee develop an international legally binding instrument in 2022 based on a comprehensive approach to address marine plastic pollution covering the entire marine life cycle and promoting resource efficiency and a circular economy.

FORCED LABOR RESTRICTIONS ON RAW MATERIALS SOURCED FROM CHINA

In June 2021, the Biden administration announced actions in response to labor practices of companies operating in China’s Xinjiang Uyghur Autonomous Region. Most significantly, the U.S. Customs and Border Protection (CBP) issued a Withhold Release Order (WRO) on silica-based products manufactured by Xinjiang-based Hoshine Silicon Industry Co., Ltd. (Hoshine)

and its subsidiaries. The WRO authorized CBP personnel at all U.S. ports of entry to immediately begin detaining shipments containing silica-based products made by Hoshine and its subsidiaries.

The scope of the WRO applies to finished goods such as photovoltaic cells, solar generators, solar panels, electronics, adhesives, and lubricants, and CBP has indicated that if silica is an insignificant or unessential additive to a product, it may be out of the scope of the order.

More recently, President Biden signed the Uyghur Forced Labor Prevention Act into law in December 2021, which will go into effect on June 21, 2022. The act will create a rebuttable presumption that goods produced in whole or part in the Xinjiang region of China were produced with forced labor and thus banned from U.S. importation unless the importer can provide clear and convincing evidence that the goods were not produced with forced labor. Additional information on the scope of this law will be forthcoming and will surely have an impact on the supply of silica.

WCC DEVELOPING SUSTAINABILITY REPORT

The WCC is currently developing a “Sustainability Report for the Global Coatings Industry.” The framework of the report is consistent with the United Nations Sustainable Development Goals most relevant to the coatings industry. It contains key sustainability performance indicators and sustainability case studies from the global industry. The report is anticipated to be final in mid-2022.

ESTABLISHING LEAD PAINT LEGISLATION

The WCC is a contributing member of the Lead Paint Alliance (LPA)—formerly the Global Alliance to Eliminate Lead Paint—an organization established under

The WCC is currently developing a “Sustainability Report for the Global Coatings Industry.”

the United Nations Environment Programme and the World Health Organization.

The LPA has been working to engage national governments, industry, and non-governmental organizations in establishing restrictions on lead use in paints that pose public health and environmental risks, especially to children.

The current focus of the LPA is to assist in the expansion of the number of regions or countries in restricting lead use in paint by virtue of a universal, consistent model regulation. The WCC contributes to the LPA highlighting the widespread existing restrictions on lead use in paints, encouraging the adoption of similar restrictions by governments that currently have none, and providing industry expertise on technical issues raised by reformulation challenges. Recent legislative campaigns have been conducted in Benin, Ecuador, Peru, Columbia, Mexico, Morocco, Nigeria, Congo-Brazzaville, Laos, Guyana, Malaysia, and Suriname.

CONCLUSION

For more than two decades, the WCC has worked to improve communication and coordinate policy on matters of international concern to the paint and coatings industry. As common issues facing the industry on a global level increase, the council will continue to provide a forum for exchange and cooperation on major issues and priorities, as well as serving as a global voice for the industry. For more information, visit www.worldcoatingscouncil.org. ✱

HEIDI MCAULIFFE is ACA vice president of Government Affairs.