

# Regulation in the Canadian Coatings Industry



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## Technical Challenges Associated with Adopting CARB VOC Limits

Early in 2020, Environment and Climate Change Canada presented the results of a study that compared the actual VOC content in products sold in Canada to various models used in the United States, including CARB 2019 and OTC Phase II. At the time, CPCA submitted comments recommending a phased-in adoption of OTC Phase II limits, stating that it took several years for all U.S. states to officially move from OTC I to OTC II, but noting that not all U.S. states have yet done so. Additionally, CPCA noted that most of the impact of adopting U.S. CARB rules will be on specialty products such as maintenance enamels and specialty primers that serve specific needs, and are difficult and costly to reformulate.

In December 2020, government officials shared their intent to adopt CARB 2019 VOC limits, mainly because OTC indicated they would be moving forward to adopt CARB-2019 limits in Phase 3. This was done as studies showed that alignment with CARB 2019 would provide significant reductions of up to 7.7Kt of VOC emissions in Canada. A formal consultation of the proposed amendment to Canada's Architectural VOC Regulations is planned later in the Spring of 2021. Regulators specifically asked CPCA to provide more detailed information on all product categories that would present problems for the paint industry under the proposed new limits; and to further explain how formulators expect their conversion to lower VOC limits will be technically challenging. CPCA subsequently distributed a survey to members and compiled the technical information from several architectural members pointing to roughly 18 category limits deemed to be particularly problematic for the coatings industry. This feedback was shared with regulators, and CPCA held a meeting in March to discuss these, and other issues, with officials before the formal consultation takes place.

## Draft Paint Recycling Regulation in Ontario Worrying

Since the windup of the Municipal Hazardous or Special Waste (MHSW) program in Ontario, the Ministry of Environment consulted with stakeholders on a new regulation for paint under the Resource Recovery and Circular Economy Act (RRCEA). The draft regulation is now available to stakeholders for a public consultation period until March 28, 2021. CPCA is working with the program operator for paint recycling here in Ontario on the analysis of these new regulations, and will make appropriate interventions where required to ensure a reasonable regulation for paint recovery and recycling in Ontario. CPCA continues work with other like-minded associations in Ontario in seeking enhanced transparency and more accountability for ongoing changes to increasing waste recovery costs for producers in Ontario. This is being done as the Province has become the high-cost jurisdiction in the world for waste paint recycling, and it is only getting worse under a new Act introduced by the previous government and now weighing down the current government who is keen to reduce growing red tape in the province. If increasing regulatory burden is to be reduced, substantive amendments will have to be made to the current legislation to ensure greater accountability of officials involved with waste recovery, those responsible for developing policy and regulations driving excessive costs without any impact analysis showing better outcomes in waste recycling. The new paint recycling regulation is being targeted to come into force at the end of June 2021.

## Alignment with the EU to Prohibit Specific Uses of Chlorothalonil Unhelpful

In a letter to registrants dated February 10, 2021, Canada's Pest Management Regulatory Agency (PMRA) confirmed it will not reopen its final decision on the special review of chlorothalonil published for agricultural and turf products in 2018. PMRA is alleged to have based its decision on an EU preliminary risk analysis, which later led to a final decision in 2020 to eliminate the use of chlorothalonil in plant protection as well as in all uses based on human health and environmental concerns. Similarly, as with OIT, chlorothalonil may very well be another example of a continuing PMRA misalignment with the U.S. EPA. At an upcoming meeting with the PMRA, CPCA intends to get some clarity on PMRA's current position with respect to their proposed decision on six preservatives, including chlorothalonil. Selective alignment is not an option. Government cannot choose to ban a substance, as it did in the case of OIT

(since reversed due to actions taken by CPCA), that the U.S. EPA did 'not' ban in the United States, thus causing misalignment initially.

In the case of chlorothalonil, the arbitrary decision to cherry pick EU data, not critical data already available in the United States, to effectively ban a substance does not help trade between the two largest trading blocks in the world. Paint preservation is critical for water-based products as much in Canada as it is in the United States. More than 50 percent of paint sold in Canada is imported from the United States, and a large portion of paint manufactured in Canada is done by U.S.-based companies. CPCA continues to view this matter among one of the most important issues that must be addressed.

### **Ongoing Chemicals Assessment in Canada**

The ongoing risk assessment of chemicals in commerce continues under the Chemicals Management Plan (CMP). CPCA continues to monitor substances implicated in paint, coatings, sealants and adhesives, and update members on regulatory actions via our digital platform, the Canada Coatings HUB, and regular bulletins. In early February, the final screening assessment for benzophenone was published and confirmed that the substance is toxic for human health when used in interior and exterior paint and coatings. Government proposed a Code of Practice as an instrument to limit its use in these products to a maximum concentration of 0.1% by weight. CPCA is reviewing the current levels of benzophenone use and will prepare an official submission with member input in the coming weeks. The Phosphoric Acid Derivatives group was also evaluated; three substances in the group were found CEPA non-toxic, however the use of triethyl phosphate in consumer products will be monitored via significant new activity provisions.

Several other final assessment reports were published including those for Dinoseb, Dimethoxymethane, Acetic Acid, and the Alkylimidazoline and Used/Re-refined Oils groups, which all concluded the substances implicated do not meet any toxicity criteria under CEPA. Finally, Draft Screening Assessment reports were released for Na3NTA and the Decenes group. Na3NTA does not meet any of the toxicity criteria, and no follow-up activities are planned at this time, however a specific risk assessment was made for wood furniture polishing and wood floor cleaning products as well as for spray boat cleaners. For the Decenes group, two of the substances are proposed as toxic for human health: hydrogenated didecene and HTTD. These will be added to Schedule I of the Act, but they do not appear to be used in paint and coatings in Canada.

CPCA continues to update its comprehensive CMP substances database as these publications are released. All members are encouraged to consult the up-to-date database on the Canada CoatingsHUB to ensure full compliance and minimize surprises that could mean unintended non-compliance for some.

### **Inspection Reports Reveal Full Compliance with Certain Regulations**

Health Canada recently published its cyclical enforcement reports for several regulations under the Canada Consumer Product Safety Act, including the CCCR, 2001 and the Surface Coatings Materials Regulations (SCMR). For the latter regulation, in fiscal year 2019-2020 lead testing of 31 different products was carried out, resulting in only one recall. No CPCA manufacturer members appeared directly implicated in the corrective actions required or the non-compliance issues during the two-year period. However, these publicly posted reports remind members that enforcement activities are constantly being carried out and take all necessary measures to remain in full compliance. Regularly consulting the Canada CoatingsHUB for full details on all substances under development is critical.



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