

June 4, 2021

Sarah Lopp
Director for Environment and Natural Resources
Office of the United States Trade Representative
600 17th St., NW
Washington, DC 20006

Subject: USMCA Environment Committee Meeting

Dear Ms. Lopp,

The Household & Commercial Products Association¹ (HCPA) appreciates the opportunity to provide the following comments for the Office of the United States Trade Representative (USTR) to consider for topics of discussion during the first meeting of the United States-Mexico-Canada Agreement (USMCA) Environment Committee to be held on June 17, 2021. Strengthening cooperation and enforcement of environmental laws and regulations is a critical component to trade between the three countries. HCPA looks forward to supporting the USTR as all three trading partners implement the Environment Chapter² of the USMCA.

HCPA is a voluntary, non-profit U.S. trade association representing companies engaged in the manufacture, formulation, distribution, and sale of products for household, institutional, commercial, and industrial use. HCPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products, air care products, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. Through its scientific and business-to-business endeavors, HCPA provides its members a platform to effectively address issues regarding the health, safety, and sustainability of their products.

Good air quality is of the utmost importance for maintaining public health and ecosystem integrity. Because air is always moving, it is important for each country to monitor and reduce domestic and transboundary air pollution. As the United States continues to work to improve air quality for Americans, much of what improves air quality in the U.S. can also be applied to

¹ The Household & Commercial Products Association (HCPA) is the premier trade association representing companies that manufacture and sell \$180 billion annually of trusted and familiar products used for cleaning, protecting, maintaining, and disinfecting homes and commercial environments. HCPA member companies employ 200,000 people in the U.S. whose work helps consumers and workers to create cleaner, healthier and more productive lives.

² Available at https://ustr.gov/sites/default/files/IssueAreas/Environment/USMCA_Environment_Chapter_24.pdf

Canada and Mexico. That is why HCPA recommends that USTR include two topics for the first USMCA Environment Committee meeting:

- (1) Volatile Organic Compound (VOC) Regulations for Consumer and Commercial Products
- (2) Phasedown of Hydrofluorocarbons (HFCs)

The following is to provide USTR with more information on both topics.

(1) VOC Regulations for Consumer and Commercial Products

HCPA and its members have worked cooperatively with numerous states and federal government agencies over the past thirty years that have developed regulations to limit the VOC content of consumer and commercial products. HCPA has worked with the U.S. Environmental Protection Agency (U.S. EPA) as it developed the National Volatile Organic Compound Emission Standards for Consumer Products.³ Since the late 1980s, HCPA has worked with California, Connecticut, Colorado, Delaware, District of Columbia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Utah and Virginia to provide our industry's perspective on their consumer and commercial product regulations. HCPA participates as an active stakeholder in the Ozone Transport Commission's (OTC) efforts to develop VOC model rules for consumer and commercial products that are based on the California Air Resources Board (CARB) Consumer Products Regulation.⁴

In 2019, Environment and Climate Change Canada published in the Canada Gazette, Part I, the proposed *Volatile Organic Compound Concentration Limits for Certain Products Regulations*⁵ with the stated intent to align the proposal with the CARB Consumer Products Regulation implemented in 2010.⁶ HCPA has been an active stakeholder in this process and has supported the Canadian Consumer Specialty Products Association (CCSPA) in their efforts to support closer alignment of the product category definitions and other critically important regulatory provisions. HCPA supported Environment Canada's promulgation of CEPA Voluntary Guidelines for VOCs in Consumer Products in 2002 based on current U.S. EPA federal Regulations and has since participated in various rulemakings in Canada that has not yet resulted in final VOC regulations for consumer and commercial products.

Mexico is also developing a national standard for the maximum permissible limits of VOC content in household cleaning products and cosmetic products based on the current U.S. EPA federal Regulations. While the draft regulation has been finalized, it is awaiting publication into

³ U.S. EPA's regulation is codified at 40 C.F.R. Part 59 Subpart C.

⁴ Cal. Code Regs. Title 17 §§ 94507-17. (Henceforth referred to as the "CARB Regulation" or "CARB Consumer Products Regulation.")

⁵ *Canada Gazette Part I, Vol. 153, No. 27* (July 6, 2019) at pp 3358 – 3433.

⁶ The ECCC stated that the proposed VOC limits align with California's current VOC limits as much as possible, provided it is technically feasible given Canada's climate differences. *Canada Gazette Part I, at p. 3391.*

the Mexican Gazette and submission to the World Trade Organization (WTO). HCPA has been sharing our experience with VOC regulations with CANIPEC (Asociación Nacional de la Industria de Cuidado Personal y del Hogar A.C.) during the development of this regulation.

In both cases, Canada and Mexico are basing their actions off the regulations found within the United States, but these activities are not completely harmonized with the U.S. HCPA strongly believes that if Canada and Mexico promulgate national regulations that are aligned with currently applicable provisions within the United States, both countries can realize significant environmental benefits without disrupting vitally important domestic and international commerce. Alignment does not need to occur with the VOC limits of a product category – a windshield washer fluid sold in southern California cannot be sold in Canada as the product will freeze during winter months – but the product category definitions and provisions must be harmonized to be effective. As a practical matter, aligned regulations will ensure that companies can compete on a more “level playing field” when selling their products to end-users in all three countries.

The need for alignment extends beyond the express provision of these regulations to the specific interpretation and enforcement of all the numerous and complex requirements. HCPA therefore respectfully urges USTR to not only request that Canadian and Mexican authorities not only carefully align the provisions in their respective proposals to be consistent with the U.S., but also to work closely with U.S. authorities to ensure consistent policies in applying and enforcing those regulations. If regulations adopted in Canada and Mexico are not harmonized with the U.S., barriers to trade would be created and the full benefit of such regulatory activity might not be realized.

(2) Phasedown of Hydrofluorocarbons

With Canada and Mexico ratifying the Kigali Amendment to the Montreal Protocol and the United States currently developing the regulations to implement the American Innovation and Manufacturing (AIM) Act of 2020 with a similar intent, all three countries are responsible for phasing down the manufacture, import and use of HFCs. HCPA supports the phasedown of the use of HFCs and would like to see the three countries work together so that efficiencies can be realized.

The three countries are in different places as it relates to their respective phasedowns. Canada finalized their HFC regulation with the amendment of *Regulations Amending the Ozone-depleting Substances and Halocarbon Alternatives Regulations* in Canada Gazette, Part II⁷ to include their HFC phasedown which entered into force on April 16, 2018. The U.S. EPA is currently soliciting public comments on their proposed rule Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the AIM Act⁸ and is working

⁷ *Canada Gazette Part II, Vol. 151, No. 21* (October 18, 2017) at pp 2767– 2845.

⁸ *Federal Register, Vol. 86, No. 95* (May 19, 2021) at pp 27150 – 27221.

to implement other aspects of the AIM Act. The ratification of the Kigali Amendment of Mexico occurred on September 25, 2018, and its promulgation decrease as published in the Official Gazette on November 30, 2018. Mexico has not yet adopted regulations to implement their phasedown.

HCPA recommends that the three countries develop a consistent approach to the requirement for HFC allowances. Specifically, if a product is manufactured in one of the three countries for shipment and sale into either of the two other countries, the HFC allowance requirement should be the same as if it was manufactured in the “home” country. For example, if a product is filled in Mexico for sale in the U.S., then the imported product (filled in Mexico) should comply with U.S. HFC allowances. Conversely, if the product manufactured in Mexico is for the Mexican market, then the product should comply with Mexican allowances (once Mexico establishes their allowance program). This type of system not only protects U.S. jobs, but also puts U.S. manufacturers on a level playing field with imported products and prevents companies from moving manufacturing to other countries due to differences in the phasedown timeline.

In addition, it would be beneficial if there was a system to track the manufacture, import, export, and consumption of HFCs within North America. By developing a system beyond each individual country, each country can gain visibility in the trade of bulk HFCs and products containing HFCs throughout North America, reduce the individual needs of tracking, and ensure that trade between countries involving HFCs is not double counted.

Proper tracking of bulk HFCs and products containing HFCs is crucial for the phasedown to be effective, and not undermine the demand for and sale of alternatives, of which the U.S. industry is a significant global supplier.

Conclusion

HCPA appreciates the opportunity to provide these comments to USTR ahead of the first USMCA Environment Committee meeting. HCPA believes that by having the United States, Mexico, and Canada working together to implement harmonized regulations and provisions across North America, significant environmental benefits can be realized without disrupting vitally important domestic and international commerce.

HCPA recommends that USTR include two topics for the first USMCA Environment Committee meeting:

- (1) Volatile Organic Compound (VOC) Regulations for Consumer and Commercial Products
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HCPA commits to work cooperatively with USTR and other interested stakeholders to support trade and environmental policies and practices to maintain public health and ecosystem

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integrity. If you have any questions about our comments, please do not hesitate to contact me at ngeorges@thehcpa.org.

Respectfully submitted,

A handwritten signature in cursive script that reads "Nicholas Georges".

Nicholas B. Georges

Vice President, Scientific and International Affairs

Household & Commercial Products Association