AmericanCoatings ASSOCIATION℠

February 19, 2025

Charles Lee
Office of Environmental Justice and External Civil Rights (2201A),
Environmental Protection Agency,
1200 Pennsylvania Ave NW,
Washington DC 20460

Re: EPA Docket No. EPA-HQ-OLEM-2024-0360
Interim Framework for Advancing Consideration of Cumulative Impacts

Dear Mr. Lee:

The American Coatings Association ("ACA")[1] appreciates the opportunity to comment regarding EPA's *Interim Framework for Advancing Consideration of Cumulative Impacts*. The framework provides considerations designed to guide EPA decision-making addressing disproportionate impacts on communities, including tribal communities, low-income communities and rural communities. The framework emphasizes consideration of the impacts of pollution, socioeconomic disadvantage, lack of greenspace and other environmental benefits, and health susceptibility and vulnerability that tend to be clustered spatially in recurrent, persistent, and systematic patterns. ACA commends EPA's effort to address these important environmental justice matters. The Association remains committed to working with EPA to develop the proper framework to address issues related to chemical exposures and risk to communities.

The Association's membership represents 90% of the paint and coatings industry, including downstream users (or processors) of chemicals, raw materials suppliers, as well as chemical manufacturers. ACA appreciates EPA's willingness to interact with stakeholders during this process. ACA has been heavily engaged with EPA on matters related to chemical exposures and risk assessment. We look forward to continuing our engagement with EPA on matters related to

[1] ACA is a voluntary, non-profit 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. ACA's membership represents over 90 percent of the total domestic production of paints and coatings in the country.

environmental justice. We are optimistic that through continued involvement with the public and stakeholder community, EPA will successfully implement a strong, risk-based approach to managing impacts on communities.

While recognizing that the framework provides general principles towards assessing cumulative impacts, without specifying when such analysis would be appropriate or how to conduct such analysis within the context of specific EPA programs, ACA remains concerned that EPA's framework does not address assessment of significant causes of communal chemical exposure and principles related to exposure control. ACA requests that EPA consider the following comment:

## I. ACA recommends providing principles related to establishing causation to clearly link exposure to cumulative health impacts assessment.

Establishing significant causes of communal chemical exposures can present challenges to regulators, yet it is critical to determining the appropriate level and type of regulatory controls. Localized exposures within a community may not justify a national-level restriction affecting manufacture, processing and use of a chemical. Overly-broad regulatory measures can impact beneficial uses of a chemical. ACA recommends establishing general principles related to identification of significant causes of chemical exposure within a community with appropriate, localized controls and restrictions, e.g. "fit-for-purpose" regulatory controls. For example, chemical exposures might be considered as part of a facility's permitting process, if a cumulative impacts analysis establishes a local facility's use of a chemical a significant contributor to communal exposures.

ACA recommends revising the general principles at p. 11 of the framework accordingly. Some of these general principles may inherently indicate causation, although this element should be strengthened. ACA recommends the following changes to explanations of principles:

- Principle No. 2: ***Focus on the disproportionate and adverse burden of cumulative impacts.***
  This principle focuses on incorporating environmental justice considerations into agency decision-making while minimizing existing impacts. It also emphasizes community access to the decision-making process. As such, ACA recommends a statement here explaining that agency decision-making must consider narrowly-tailored measures to focus on causes of communal impacts identified in the impacts assessment. Further, narrowly tailoring decisions should not have adverse effects on other communities, including society at large. By narrowly tailoring EPA decisions, adversely impacted communities can better address issues relevant to EPA decisions, related to the impacted community.

- Principle No. 3: ***Apply a fit-for-purpose approach to assessing and addressing cumulative impacts.***
  EPA's proposed explanation of this principle focuses on fit-for-purpose assessment, but not *addressing cumulative impacts*, a key element of this principle. ACA recommends explaining that EPA regulatory decisions must be fit-for-purpose and narrowly tailored to address cumulative impacts.
- Principle No. 5: ***Use available data and information to make decisions and take action.***
  EPA proposes the following in the explanation:

  > *The EPA should look for opportunities within its existing legal and statutory authorities to act on evidence of cumulative impacts issues affecting individual communities or the nation as a whole*.

  ACA cautions against assuming a national-level impact from a local impact, absent data clearly establishing a national problem. Such assumptions potentially have an adverse effect on chemical uses that benefit society and could inadvertently result in adverse effects in other communities. As such EPA decision-making must consider the totality of impacts, while focusing on alleviating identified cumulative impacts within a narrowly defined, target community, while minimizing adverse effects to other communities and society at large. ACA recommends adding text stressing the importance of data in establishing causation as critical to assessing its legal and statutory authority and addressing communal impacts in an appropriate manner.
- Principle 6: ***Operationalize and integrate ways to consider and address cumulative impacts.***
  This principle requires emphasizing points made above, since it directly addresses EPA operations. Currently, EPA's proposed explanation emphasizes maintaining a comprehensive focus when addressing cumulative impacts across EPA programs. ACA recommends adding text to emphasize that:
  - EPA programs must be data driven, addressing clearly identified causes of cumulative impacts.
  - EPA decision-making must be narrowly tailored to address cumulative impacts within a community, while minimizing or eliminating adverse impacts to other communities or society at large. In effect, EPA decision-making must consider the totality of impacts.
  - EPA regulatory decisions must be fit-for-purpose and narrowly tailored to address cumulative impacts within a target community.

## II. ACA recommends further guidance identifying considerations for "Meaningful Engagement" to include repeated engagement of the community and a process for evaluating key decision points.

The Interim Framework for Advancing Consideration of Cumulative Impacts lays forth a proposed guide on a "Meaningful Engagement" in conducting a cumulative impacts assessment to protect human health and the environment. The key steps highlighted in the "Meaningful Engagement" include (1) Initiation, (2) Scoping and Problem Formulation, (3) Assessment, and (4) Informing Decisions. Included under each of these steps are more detailed actions, labeled "Fit for Purpose," to help conduct the assessment. While these steps provide a systematic approach, EPA could provide further guidance to (a) encourage periodic and repeated reviews of the process; and (b) additional guidance regarding how impact assessments can address key decisions.

A) Additional opportunities for community engagement can efficiently inform agency decisions and enhance the decision-making process.

Including periodic reviews throughout the engagement process provides opportunities for phased-in engagement and consideration of evolving data and strategies related to cumulative impacts. For example, during the "Scoping and Problem Formulation" step, EPA proposes detailed steps that include:

- identifying goals and actions, and
- determining data needs and methods.

ACA can envision situations where the goals, actions, data needs and methodologies might change over time, such that additional opportunities for community engagement would benefit EPA's understanding of cumulative impacts. For example, during a project related to site remediation and/or land use, the scoping, goals and actions may change based on the proposed uses of land. Including a periodic review or at least identifying the need for a periodic review helps to acknowledge that communities do not remain static, and this assessment should be flexible enough to adapt to changes in both the project scope and community needs. Additional opportunities for community engagement also provide a potentially more efficient means of gathering information relative to a public rulemaking process.

B) ACA recommends additional considerations to inform agency decisions, based on "meaningful engagement" as described in the proposed framework.

Another critical element related to "meaningful engagement" that EPA identifies is "informing decisions" based on community engagement. ACA recommends providing additional guidance about how key decisions should be made. While the framework identifies steps and a process to evaluate criteria for a cumulative impacts assessment, EPA could strengthen guidance related to incorporating cumulative impacts into agency decisions. Under the "Informing

Decisions," section at page 22 of the framework, EPA lists actions such as considering the impacts of decisions and alternatives, describing assessment methods and recommendations, and documenting decisions.

ACA recommends adding considerations related to:

- weight of the evidence.
- quality of data.
- considering the totality of impacts, including impacts on the target community, impacts on other communities and impacts on the economy and society at large.
- Considering whether an agency decision addresses causes of cumulative impacts to the extent necessary to address underlying causes in the target community while minimizing inadvertent and adverse effects, including effects on other communities and society at large.

The proposed framework does not provide guidance related to synthesize data into a decision-making process. Although EPA includes steps related to documentation of possible alternatives, methods, and recommendations, it does not provide guidance about how to make critical decisions. The absence of such guidance raises several issues related to the decision-making process:

- Are there any thresholds or metric values that could be identified to also inform the decision-maker?
- Could the decision-maker possibly identify any metrics or thresholds that helped persuade the decision-maker, and to include those within the documentation?

Although it would be challenging to identify specific thresholds, it may be useful to include guidance for decision-makers to identify these types of metrics during the assessment process.

## III. Conclusion

ACA appreciates the opportunity to provide comments regarding EPA's framework related to cumulative impacts. To develop effective methodologies of addressing environmental justice concerns, it is critical that the agency mitigate any unintended effects of regulatory actions, including any unnecessary social impacts that do not address underlying causes of cumulative impacts in a clearly identified target community. Any related regulatory actions must be supported by the weight of the evidence, based on the current state of science. To this end, ACA requests that EPA incorporate its suggestions related to identifying and incorporating causation analysis into its framework document. This would require updating principles 2, 3, 5 and 6 as described above. ACA also requests that EPA add considerations related to meaningful community engagement and guidance related to agency decisions as described above.

Please feel free to contact us if we can provide any additional information or if you would like to discuss our comments.

Respectfully submitted,

Riaz Zaman
Sr. Counsel, Government Affairs
American Coatings Association
901 New York Ave., Ste. 300
Washington, D.C. 20001
rzaman@paint.org
202-719-3715

Suzanne Chang
Counsel, Government Affairs
American Coatings Association
901 New York Ave., Ste. 300
Washington, D.C. 20001
schang@paint.org
202-719-3689