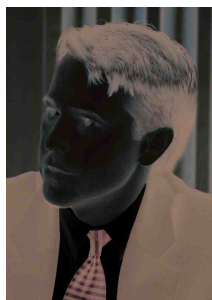


A Surface Finishing Government Relations Update



Christian Richter & Jeff Hannapel, The Policy Group, LLC, Washington, DC

Mark Your Calendars—New Finishing Industry “Washington Forum” Slated for May 2005

Understanding and staying ahead of industry change is now more challenging than ever. To help firms and individuals in the finishing industry do both, Government Relations is working with association leadership to create a new event packed with relevant topics that will headline as the “Washington Forum: Surface Technology Policy & Regulatory Conference.” The two-day session will be held May 11–12, 2005 in Washington, DC, and will merge the best programmatic efforts of Orlando-based “AESF Week,” which stresses technology, regulatory and compliance topics, and the SFIC Washington “Fly In,” which covers policy and legislative issues. Discussions among industry, government and academic experts will highlight global pressures on the manufacturing supply chain, European Union and U.S. regulatory actions, and impacts of the ELV, RoHS, REACH and other metals/chemicals initiatives. Also featured will be top federal officials on trade and competitiveness, federal R&D efforts on nanotechnology and the potential impacts on the metals industry of the Pentagon’s corrosion control strategy. Tune in for more information on the Washington Forum as further details are finalized.

Regulatory Milestone—OSHA Chrome Exposure Proposal Due in October

OSHA is scheduled to propose changes to existing chromium workplace exposure standards in October. Government

Relations continues to engage the agency and convened an industry group earlier this year to highlight concerns on the rule. Finishers noted that OSHA’s possible regulatory options—as low as 1 microgram per cubic meter—may not be technically feasible and could cost the average plating facility as much as \$300,000 a year. The industry’s “panel report”—which OSHA is required to develop under the Small Business Regulatory Enforcement and Fairness Act (SBREFA)—concluded that a PEL of 23 ug/m³ would protect workers’ health and not harm the industry. Once the proposal is published, there will be a 60- to 90-day public notice and comment period and OSHA public hearings. Government Relations has already developed some analysis for the rulemaking package, and will be working with industry leadership and technical experts to develop formal comments and testimony. Under federal court order, a final rule must be issued by January 2006.

Pentagon to Hold Surface Finishing Symposium—Likely Summer 2005

The Department of Defense Strategic Environmental Research & Development Program (SERDP) has agreed to hold a surface technology symposium in 2005. Pressure to develop new materials and superior alternative surface coatings is now driven by a combination of regulatory and market factors, including likely changes to OSHA’s chromium exposure standards, emerging European Union materials and product directives, and OEM demands in the automotive, electronics, aerospace and other industries. It’s vital that the Department of Defense selects coatings in

the future that can meet environmental and health protection goals as well as cost and functionality objectives. Planning for the session is in the preliminary stages, and more information will be available shortly.

Industry Alliance Gets EPA Delay On Nickel Risk—European Action Ominous

Joint finishing industry efforts with global nickel producers have succeeded in delaying EPA’s pending human health assessment for nickel until spring 2005. Government Relations and scientists at the Nickel Producers Environmental Research Association (NiPERA) held discussions with senior EPA officials over the summer to discuss progress associated with the Nickel industry’s \$1.2 million animal study underway. The extensive toxicological study will contribute new data and fill existing gaps in the literature on potential health effects to humans from oral ingestion of soluble nickel compounds. Results will be available in spring 2005, and EPA requested that the study undergo further peer review prior to submittal to the Agency. EPA scientists have spent several years weighing the potential health impacts of both inhalation and ingestion of nickel, and the 2002 reclassification of soluble nickel compounds as a “known” human carcinogen by the U.S. Department of Health & Human Services’ National Toxicology Program (NTP) spurred increased domestic scrutiny of the metal. Meanwhile, the European Union is finalizing its own risk assessment for nickel compounds this fall. EU action will likely drive new regulatory scrutiny for industry, and there is little argument that companies with operations

located in Europe, supplying an OEM producing or selling in Europe, or selling products directly in the EU may be subject to new requirements, including obtaining authorization to market nickel-containing products if the expansive EU chemicals policy (known as the REACH initiative) is finalized. See www.nickelforum-eura.org/multimedia/nickel_risk_assessment/European_Nickel_Risk_Assessment_Update/August_2004.pdf.

Industry Marshalling Congressional Support for Plating Recycling Exemption Based on Environment, Competitiveness Demands

The industry has solicited EPA to develop a new rule that would exempt F006 wastewater treatment sludge from being listed as a hazardous waste if it is recycled. Besides working closely with EPA officials on this rulemaking, Government Relations worked over the summer to educate key members of Congress on the benefits of an exemption for both the environment and the metal finishing industry. Earlier this year, John Lindstedt of Artistic Plating in Milwaukee and B.J. Mason of Mid-Atlantic Finishing in Capitol Heights, MD, testified before the U.S. House Small Business Committee, noting that U.S. finishers' competitiveness in the global market demands a streamlined waste regulatory framework, particularly where changes do not adversely impact the environment. Government Relations has requested that Illinois Republican Committee Chairman Don Manzullo draft a letter directing EPA to complete the rulemaking package as soon as possible. Government Relations efforts are garnering bipartisan support for the letter in the House. If EPA keeps its schedule, the proposed F006 exemption would be published in early 2005. The industry will continue to push EPA to finalize the regulation, which could save some metal finishing facilities up to \$50,000 a year.

Finishing Industry Submits Comments to FAA on Proposed Drug/Alcohol Testing for Aviation Maintenance & Repair Contractors

The industry recently submitted comments to the Federal Aviation Administration (FAA) opposing its sweeping proposal subjecting firms that perform safety-sensitive functions—directly or by contract—to comprehensive FAA drug and alcohol testing programs (see 69 Fed. Reg. 27980). The new regulations would apply to hundreds of metal finishing job shops plating parts that are used for aviation maintenance or repair work, regardless of

how remote the contractual relationship to the maintenance or repair may be. In comments to FAA, Government Relations urged the agency to reconsider its overly broad application of drug and alcohol testing requirements. Industry is arguing the proposed rule is unnecessarily redundant and burdensome and that existing rules already ensure safety in the aviation maintenance and repair supply chain. What is needed is continued diligence with quality assurance programs, not additional drug and alcohol testing requirements. Imposing the new requirements on all metal finishing operations in the aviation maintenance and repair supply chain would: (1) increase operational costs for metal finishing shops with no benefits; (2) render finishers less competitive; and (3) force facilities to abandon further aviation maintenance and repair work; and (4) adversely impact the aviation maintenance supply chain. While the FAA reviews comments on the rule, Government Relations will continue to pursue this matter and provide periodic updates to industry.

EPA Tells Finishers Enforcement Not Intended on Chrome MACT Compliance Glitch

While the industry's regulatory reform objectives were realized when EPA pushed to finalize more flexible changes to the Chrome MACT standard in July (69 Fed. Reg. 42885), the rule's immediate effective date (July 19, 2004) for a lower surface tension standard in certain circumstances (35 dynes when measured with a tensiometer) was an unintended surprise. Some firms using tensiometers found themselves technically out of compliance with the new standard and contacted Government Relations. In response, Government Relations raised the issue recently to EPA officials. Agency air officials have acknowledged the temporary compliance "glitch" was unintended, and emphasized EPA will apply enforcement discretion and allow facilities a limited grace period for those situations in which the immediate effective date poses a problem.

Analysis Concludes that U.S. Manufacturers Abet China Trade Imbalance

Recent analysis reported in IndustryWeek show that China is a major contributor to the trade imbalance. Official data indicate in 2003, \$148.6 billion in manufactured goods were imported from China and \$21.8 billion of U.S. manufactured goods were exported to China, yielding a manufactured goods trade imbalance of \$126.8

billion. As most in the industry know, the imbalance is not just in consumer goods but also in components and materials, as U.S. manufacturers outsource to China. The analysis found that 45% of manufacturing plants surveyed now source components and materials from China. Furthermore, 74% of the plants that source from China indicated that the dollar volume of components and raw materials sourced from China has increased over the last three years (18% say the volume has increased by more than 20%). Among the highlights of the IW analysis, among industries with at least 20 facilities responding to the survey, computer and electronic product manufacturers source the most from China (61% of plants), followed by furniture and related products manufacturers (56%), miscellaneous manufacturers (54%), and machinery makers (52%). Also, 35% of surveyed plants said that competitors in China had a negative effect on their profitability versus 14% who increased profits. See analysis at www.industryweek.com.

Al Frink Confirmed as New "Manufacturing Czar"

Al Frink, a California carpet manufacturing CEO, was confirmed September 10, 2004 as the first Assistant Secretary of Commerce for Manufacturing and Services, the so-called "Manufacturing Czar." One of his first acts was a September 16 meeting with the heads of about 12 leading manufacturing organizations, including the National Council for Advanced Manufacturing (NACFAM), of which the Surface Finishing Industry Council is a member. Frink made a favorable impression at the meeting, and participants noted his strong personal commitment to serving as a vigorous advocate for manufacturing in Washington. Government Relations will be discussing finishing industry concerns with Frink in the coming weeks.

For more information, please contact:

Christian Richter
crichter@thepolicygroup.com

Jeff Hannapel
jhannapel@thepolicygroup.com

Phone (202) 457-0630