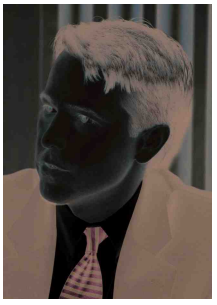
# A Surface Finishing Government Relations Update



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## *Industry's "Washington Forum" to Feature Economist Robert Scott, Author of U.S.-China Economic & Security Review Commission's January 2005 Report*

The Surface Finishing Industry Council's "Washington Forum" slated for May 11, 2005 will bring to the nation's Capitol top experts and policy leaders on the pressing issues facing the metal finishing industry. Among others will be Dr. Robert Scott of the Economic Policy Institute and author of the recent U.S.-China trade report for the U.S.-China Economic & Security Review Commission. Among the findings of Scott's report are:

- China now accounts for the entire $32 billion U.S. trade deficit in advanced technology products;
- China is rapidly gaining advantage in more advanced industries such as autos and aerospace;
- China's exports to the U.S. of electronics, computers and communications equipment, along with other products that use more highly skilled labor and advanced technologies, are growing much faster than its exports of low value, labor-intensive items such as apparel, shoes and plastic products.

While the general trend on Capitol Hill has been to eschew protectionist legislation and the Administration continues at a slow pace to pressure China to change its currency policies, the Commission recently discussed Scott's report and related topics associated with the growing U.S. current accounts deficit and the potential for future erosion in U.S. competitiveness and security vis-à-vis its trading relationship with China.

Congress created the U.S.-China Economic & Security Review Commission in late 2000 to monitor, investigate, and submit to Congress an annual report on the national security implications of the bilateral trade and economic relationship between the United States and China, and to provide recommendations to Congress for legislative and administrative action. The Commission focuses its work and study on the following nine areas: proliferation practices, economic reforms and U.S. economic transfers, energy, U.S. capital markets, corporate reporting, regional economic and security impacts, U.S.-China bilateral programs, WTO compliance, and media control by the Chinese government. See www.uscc.gov.

## *Industry Data Show OSHA Chromium Rule Will Cost U.S. Economy Over $3 Billion*

Recent estimates on the impact of the OSHA Chromium rule show that the proposed standard of 1 ug/m$^3$ will cost U.S. industry a staggering $3 billion or more annually, with no guarantees of compliance. Industry Government Relations developed new draft estimates of the rule's economic impact after uncovering serious shortfalls in OSHA's technical and compliance cost analysis in connection with the proposed worker exposure limit. The "general industry" study was first proposed by the finishing industry in late 2004, shortly after OSHA proposed its dramatically reduced exposure standard. The project is drawing financial support from the Surface Finishing Industry Council, Elementis, the U.S. Chamber of Commerce, and the Society of the Plastics Industry.

The new analysis demonstrates that the major cost impacts of the rule – which OSHA predicts to be only $220 million on an annualized basis – will be absorbed by the aerospace, shipbuilding, steel production and plating industries, among others. Sectors likely to see dramatically increased costs but have not been included in OSHA's economic impact analysis include small auto body and repair shops, as well as Department of Defense installations. The proposed rule's impacts on these facilities are likely to be considerable.

## *Finishers Top Witnesses at OSHA Hearings—Industry Filing Key Brief on Chromium Rule*

The finishing industry recently outpaced all other national trade associations in the number of witnesses presenting testimony before OSHA on the chromium worker exposure rule in Washington, DC. Nearly a dozen industry witnesses provided the Agency with wide-ranging testimony during 15 days of hearings on the shortfalls and potentially severe impacts of the chromium proposal on chromium, zinc and other finishing processes. Industry witnesses providing testimony included:

- Joe Arnold, Atotech USA
- Frank Altmayer, Scientific Control Laboratories
- Steve Corbett, Enthone/Cookson Electronics
- George Gatto, Gatto Industrial Plating
- Ken Hankinson, KCH Services
- John Kinne, Atotech USA
- J Kelly Mowry, Gull Industries

- Bill Saas, Taskem Inc.
- Stu Sessions, Environomics (for SFIC)
- Jack Waggener, URS Corp. (for SFIC)
- Joelie Zak, Scientific Control Laboratories

In addition to industry leaders who traveled to Washington to provide testimony to OSHA, thanks goes to a wide range of individuals who have assisted Government Relations in providing extensive and valuable data and technical information for use in industry's comments on the operational and cost impacts of the proposed rule.

Since the OSHA hearings, Government Relations has submitted over 100 pages of "post-hearing" comments featuring new analysis on compliance costs, technical feasibility of the proposed standard and exposure data for the industry. The next deadline for submitting industry's final brief to OSHA on the rulemaking will be April 20, 2005. In the meantime, the industry's Government Advisory Committee is assisting Government Relations on strategy for addressing fundamental unanswered questions remaining on the proposal.

## *USEPA Formally Proposes Federal Air Permitting "Permanent Exemption" for Plating, Halogenated Solvent Degreasers, Other Industries*

USEPA published on March 25, 2005, its much-anticipated proposal to permanently exempt chrome plating, halogenated solvent degreasers and a few other industry sources from federal air permitting requirements under Title V of the Clean Air Act Amendments of 1990. The rulemaking addresses several industry categories for which the Agency had deferred permitting restrictions for the past five years. The deferral deadline expired on December 9, 2004, and prompted states to begin the process of imposing new permitting rules on plating facilities.

Government Relations efforts have prompted the Agency to point out in the rule that the deferral overrules state permitting efforts under the Title V program. The rulemaking, once finalized, would exempt small, or "area" sources, of chromium emissions from costly and cumbersome procedural requirements. Government Relations will be working to develop comments on the rulemaking proposal for submittal prior to the comment deadline of May 24, 2005.

## *New Study Shows International Automakers Creating Significant U.S. Job Gains*

A new study by the Association of International Automobile Manufacturers reported that international U.S. automakers have invested $27 billion in new factories and created more than 55,000 new, high-paying jobs over the past 20 years. These manufacturers will invest $4 billion in new factories over the next 3 years and hire more than 9,000 Americans. These new U.S. automakers are responsible for 93,000, direct, high-paying manufacturing and non-manufacturing jobs, as well as hundreds of thousands more related jobs in dealerships, suppliers, and other auto industrial services. See or http://www.AIAM.org

## *U.S. Machinery Exports Surged in 2004*

According to a recent independent analysis, exports played a larger role in the rebound of some manufacturing sectors last year, particularly machinery, which increased 22% to $92.7 billion. Exports accounted for 31% of U.S. machinery sales. Sales to the top-10 export markets – Canada, Mexico, Japan, China, Taiwan, UK, South Korea, Germany, Singapore, and Australia represented 66.5% of total U.S. exports and totaled $61.5 billion, an increase of nearly 24% from 2003. Japan remained the largest Asian market, while China closed in, with sales around $5.0 billion for both markets. See http://www.globalinsight.com

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## *SFIC Government Relations Brief Summary of Industry Comments January 2005*

**OSHA Chromium Workplace Exposure Rule Litigation Prompting OSHA to Change Existing Workplace Standard**

A federal appellate court has ordered OSHA to change the existing workplace standard for hexavalent chromium. While the court has allowed OSHA considerable latitude in selecting an appropriate permissible exposure limit (PEL), OSHA's recently proposed standard would dramatically lower the existing workplace limit of 52 ug/m$^3$ to 1 ug/m$^3$. A new limit must be finalized by January 2006.

No Major Industrialized Nation Has an Occupational Exposure Limit as Stringent as OSHA's Proposed Standard of 1 ug/m$^3$

Most major U.S. trading partners have set an exposure limit of 50 ug/m$^3$, including Japan, China, the European Union and South Africa. Most EU member states such as Germany, France, the United Kingdom and Finland have set limits at 50 ug/m$^3$. Sweden has a limit of 20 ug/m$^3$. The most restrictive among EU member states is Denmark, with a limit of 5 ug/m$^3$.

**Proposed Rule Has Broader, Deeper Impact on U.S. Manufacturing Than OSHA Considers**

Lowering the standard so sharply will impact a wide range of manufacturing operations and their suppliers (e.g., aerospace/defense, automotive, industrial/medical equipment, shipbuilding, steel, welding, metal finishing, pigments and dyes), some of which are not included in OSHA's analysis. Many of these operations are not traditionally viewed as chromium-based processes and involve relatively small amounts of chromium (e.g., zinc finishing operations, plastics coating). These operations would incur large costs with few, if any, benefits, and should be appropriately identified and evaluated by OSHA. And, among industries that do use chromium extensively (e.g., chrome plating, stainless steel), the very tight standard will bring under regulation large numbers of employees who are not directly involved in chromium operations (supervisors, maintenance and shipping personnel, etc.). The rule also affects large numbers of service activities that OSHA does not recognize, including auto repair shops, HVAC contractors, industrial laundries, etc.

**OSHA Has Substantially Underestimated Compliance Costs**

OSHA asserts that to achieve the new limit facilities will simply need to "tweak" existing control systems, with minimal additional costs. To illustrate, OSHA estimates the new limit will cost small metal finishing operations $14,000 annually, yet industry's engineering studies show annual costs at least 10 times this level, and as high as $226,000. This amounts to 15 percent of annual sales for typical, family-owned metal finishing firms, many of which would likely close under the new rule. Total costs of the rule will likely exceed $2 billion per year, not $220 million as OSHA estimates.

**OSHA's Estimate of Benefits From the Rule Are Greatly Exaggerated**

OSHA asserts the proposed rule has benefits exceeding its costs, yet relies on questionable methodologies and data to draw this conclusion. OSHA estimates

that the benefits associated with the PEL option of 1 ug/m$^3$ could range anywhere from $25 million to $700 million annually, an astonishingly wide range reflecting considerable uncertainty with respect to health protection. To demonstrate that the rule has positive net benefits, OSHA selects the midpoint of this range and compares it with an unreasonably low compliance cost estimate. Industry has re-estimated benefits using more accurate methods, and benefits fall well short of even OSHA's underestimated costs.

**OSHA's Risk Modeling Efforts Are Characterized by Significant Uncertainty**

OSHA's risk modeling efforts on potential adverse health effects are based on worst-case scenario assumptions and considerable scientific uncertainties. Using this approach, OSHA assumes that health effects will occur at 1 ug/m$^3$ in direct proportion with those found to occur historically (i.e., 50 to 70 years ago) at exposure levels significantly greater than 52 ug/m$^3$. A more reasonable and scientifically defensible approach recognizes the uncertainties and lack of precision with the data and employs more reasonable assumptions regarding the cancer slope factor, latency period, value of a statistical life, and baseline for existing workplace exposure levels. Accordingly, credible health experts assessing the same data as OSHA have concluded that 23 ug/m$^3$ is a protective workplace standard.

**State of the Art Engineering Controls Cannot Ensure Compliance for Key Industry Sectors**

Industry sectors that handle significant amounts of hexavalent chromium generally have engineering controls in place to reduce workplace exposure levels to protect their employees. The proposed workplace exposure level of 1 ug/m$^3$ and action level of 0.5 ug/m$^3$ are so low that even these facilities with the most advanced engineering controls cannot ensure consistent compliance with the new standard.

**Economic Impact of Proposed Rule Will Be Severe, Including Facility Closures, Job Losses, Supply Chain Disruptions and Continuing Movement of Manufacturing Jobs Abroad**

OSHA concluded that the proposed standard would have no significant economic impact on any affected industry sectors. Industry strongly disagrees with this conclusion. For a different regulatory action potentially affecting the metal finishing industry, EPA recently estimated that annual compliance costs of $61,000 per facility would close more than 50 percent of the industry. This rule may cost more than $200,000 annually per metal finishing facility, yielding even more severe impacts than EPA predicted. More than 80,000 U.S. jobs will be lost in this industry alone. Intense global competition and continuing downward pressure on prices for domestic manufactured goods suggest that key U.S. industry sectors affected by the rule will be unable to absorb these costs and survive in today's markets.

**Lowering the Existing Limit by More Than Half – to 23ug/m$^3$ Provides Protection for Workers and is Technically and Economically Feasible**

Based on independent evaluations of health data, risk modeling, control measures, economic impacts and benefits assessment, lowering the standard to 23 ug/m$^3$ is both protective and operationally feasible. This level represents a reduction by more than half from the existing standard of 52 ug/m$^3$ and would avoid unnecessary compliance costs and economic impacts for operations that already have relatively low workplace exposure levels.

## *White House Selects Key Finishing Industry Priorities for Streamlining Regulation*

The White House Office of Management and Budget (OMB) last month published a report on streamlining regulation for U.S. manufacturers. The report emerges from the Bush Administration,s focus on the negative impacts of regulatory, tax and litigation drag in its 2004 "Manufacturing in America" strategy. Because manufacturing bears a disproportionate share of overall regulatory costs in the economy, OMB initiated a government-wide effort to reform regulation of the U.S. manufacturing sector. In its draft 2004 Report to Congress on the Costs and Benefits of Federal Regulation, OMB requested public nominations of specific regulations, guidance documents, and paperwork requirements that, if reformed, could result in lower costs, greater effectiveness, enhanced competitiveness, more regulatory certainty, and increased flexibility for the private sector. OMB expressed particular interest in reforms that address burdens on small and medium-sized manufacturers. In response to the solicitation, The Policy Group, on behalf of the Surface Finishing Industry Council, joined 40 other commenters in nominating nearly 200 reform recommendations, which are summarized in OMB's final 2004 Report to Congress on the Costs and Benefits of Federal Regulation. See www.omb.gov. A majority of the reform nominations address programs administered by the Environmental Protection Agency and the Department of Labor, a pattern that reflects the large effect of environmental and labor regulation on this sector of the nation,s economy. OMB also evaluated a recent study done by the Small Business Administration that found what many finishing firms know almost intuitively—the study showed that manufacturing firms face a total regulatory burden approximately six times greater than the average firm and a regulatory burden per employee approximately twice that of the average firm. The OMB has determined that 76 of the 189 nominations have potential merit and justify further action—6 of the 76 are finishing industry recommendations, including OSHA's Chromium exposure limit, EPA's pretreatment streamlining rule, and others. In several cases, agencies are already taking action to address the reco mendations. Government Relations is working vigorously to ensure credible scrutiny of OSHA's chromium proposal, scheduled for final publication in January 2006.