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**REVISED**

**DEPARTMENT OF ENERGY & ENVIRONMENTAL PROTECTION**

**SMALL BUSINESS IMPACT STATEMENT**

**Amendment of RCSA Sections 22a-174-1, 22a-174-3a, 22a-174-40 and 22a-174-41**

**Adoption of RCSA Section 22a-174-41a**

**Architectural and Industrial Maintenance Coatings and Consumer Products;  
 Prevention of Significant Deterioration**

By the time a notice of intent for a new regulatory action is published, section 4-168a of the Connecticut General Statutes (CGS) requires the proposing agency to consider the effect of such action on small businesses as defined in CGS section 4-168a. CGS section 4-168a directs the agency to prepare an analysis that identifies six criteria about the regulatory action. Such criteria are addressed in this document for the following regulatory action:

Agency Submitting Regulatory Action: Energy and Environmental Protection (DEEP)

Subject of Regulatory Action: Control of Volatile Organic Compound (VOC) Emissions – Architectural and Industrial Maintenance Coatings and Consumer Products; Prevention of Significant Deterioration (PSD)

Date Prepared: 5 January 2017

If an action may have an adverse impact on small businesses, the agency shall notify the Department of Economic and Community Development (DECD) and the Commerce Committee of the Connecticut General Assembly of the intent to adopt the regulatory action.

The regulatory action will not have an effect on small businesses.

The regulatory action may have an effect on small businesses, and DECD and the Commerce Committee of the Connecticut General Assembly were notified.

**ANALYSIS**

**Scope and objectives of the action:**

This proposal may have an impact on small businesses yet the impact, if any, in Connecticut is likely to be minimal, as explained below. The proposal consists of two main parts and one minor part. The two main parts are an update to the air quality regulatory requirements for architectural and industrial (AIM) coatings and an update to the air quality regulatory requirements for consumer products. The minor portion of this proposal consists of administrative revisions to our permitting program.

The administrative revisions to our PSD permitting program will not have any impacts on small business therefore this small business impact statement focuses on the two main parts of the proposal.

With regard to the two main parts of this proposal, the scope and objectives are as follows: Reducing VOC emissions in Connecticut is important to assist Connecticut to attain the national ambient air quality standards (NAAQS) for ozone, which the U.S. Environmental Protection Agency (EPA) revised in 2008. VOCs are a precursor of ground-level ozone, an air pollutant that negatively impacts human health and the environment. Under the Clean Air Act, states, such as Connecticut, that do not attain the ozone NAAQS must engage in a number of activities, including the adoption of control measures that will reduce ozone precursors. The revisions to the AIM coatings and consumer product regulations will result in a reduction in the overall VOC emissions from AIM coatings and consumer products used in the state.

**Types of small businesses potentially affected:**

The AIM and consumer product proposals impact manufacturers and sellers of the regulated AIM coatings and consumer products. Some small businesses that are retail sellers of regulated coatings and products may be impacted, such as small hardware stores or drugstores.

**Total number of small businesses potentially subject to the regulatory action:**

The American Coatings Association estimates that at least 50 coatings manufacturers and distributors would likely be impacted by the proposal with five to ten impacted manufacturers located in the state of Connecticut. PaintCare staff estimate there are 391 paint retailers located in the state of Connecticut that potentially can be impacted by the AIM proposal.

**Communications by the agency with small businesses in developing the proposal:**

DEEP has consulted with the State Implementation Plan Recommendation Advisory Committee (SIPRAC) during the development of this action and has shared draft regulatory language with SIPRAC. SIPRAC includes representatives from environmental consulting firms, law firms, and regulated industries in Connecticut. SIPRAC meets monthly to address issues in air quality and new actions by the Bureau of Air Management at DEEP. SIPRAC's membership includes the Connecticut Business and Industry Association (CBIA), and DEEP relies on CBIA to provide information to its small business members. Through SIPRAC, DEEP has also been in touch with a number of large end users of regulating coatings and products in Connecticut. In addition, DEEP has been in contact with representatives from the American Coatings Association and the Consumer Specialty Products Association concerning the development of this proposal. Those Associations are national associations of manufacturers and sellers of the regulated coatings and products, including both large and small businesses.

**Will small businesses be required to perform any of the following tasks under the regulatory action: (A) create, file or issue additional reports; (B) implement additional recordkeeping procedures; (C) provide additional administrative oversight; (D) hire additional employees; (E) hire or contract with additional professionals, including, but not limited to, lawyers, accountants, engineers, auditors or inspectors; (F) purchase any product or make any capital investment; (G) conduct additional training, auditing or inspections; or (H) pay additional taxes or fees?**

This action will not require a small business to perform any of the listed tasks. For the AIM coating and consumer product portions of this action, existing regulatory programs are amended with new or revised product and coating categories and some new and revised VOC content limits for the regulated coatings and products. However, the proposed action does not change the nature of or scope of the compliance and recordkeeping requirements of the existing programs. Thus, businesses now have in place adequate recordkeeping, reporting and compliance procedures under the existing programs, and these procedures will be applicable to the amended programs as well. Businesses only need to update the VOC content standards for regulated coatings and products and ensure that purchased products meet the revised standards. Because compliant products are now available from manufacturers that sell in California and some other states, where the new VOC content limits are in effect, we anticipate little to no impact from the proposal on Connecticut's small businesses for the following reasons:

- The California Air Resources Board (CARB) analyzed the economic impacts of the 2007 revisions proposed to its AIM coatings program and the 2009 revisions to the consumer products program.<sup>1</sup> These revised California requirements are the basis for the Connecticut revisions to its programs. CARB estimated the costs that businesses and end users would incur due to the implementation of the AIM coatings and consumer product VOC limits proposed. CARB concluded that most affected businesses could absorb the costs of the proposed VOC limits and requirements with no significant adverse impacts on their profitability. A small business that uses regulated AIM coatings or consumer products may see no cost increase, to a small or moderate cost increase, depending on the type of coating or product used. The impact of any cost increase on a small business depends on the amount of product or coating used, the business's ability to pass the added cost to customers and the overall profitability of the business.
- Price increases will be partially mitigated because of the sell-through provisions of the proposal. Coatings manufactured prior to May 1, 2018 are expected to be available and can be sold through April 30, 2021 with no expected price increase. The competition from these existing compliant coatings will likely constrain any price increases for the reformulated coatings.
- Most manufacturers supplying coatings in Connecticut have already incurred any costs related to developing compliant coatings and products in response to the adoption of similar regulations by other states such as California, as some compliant coatings and products are now sold in the state. In addition, other Northeast and Mid-Atlantic states are developing similar state regulations. The latest consumer products OTC model rule has been adopted in New Hampshire and Delaware and it is under development in Maryland and New York. The latest AIM coatings OTC model rule has been adopted in Maryland and Delaware and it is under development in New York.
- This proposal also reduces business costs by streamlining reporting requirements. Annual reporting of recycled coatings and coatings that contain certain toxic substances has been removed from the new AIM coatings requirements. No periodic reporting is required in either the AIM coatings or consumer products regulation. Reporting is only required upon request by the DEEP commissioner.

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<sup>1</sup> CARB, *Technical Support Document for Proposed Amendments to the Suggested Control Measure for Architectural Coatings*, Chapter 7: "Economic Impacts," September 2007, <http://www.arb.ca.gov/coatings/arch/docs.htm>. CARB Initial Statement of Reasons: Proposed Amendments to the California Consumer Products Regulations (August 7, 2009).

**Does the regulatory action provide alternative compliance methods for small businesses such as:**

- (A) Less stringent compliance or reporting requirements;**
- (B) Less stringent schedules or deadlines for compliance or reporting requirements;**
- (C) Consolidation or simplification of compliance or reporting requirements for small businesses;**
- (D) The establishment of performance standards to replace design or operational standards otherwise required in the action; and**
- (E) The exemption of small businesses from all or part of the requirements of the regulatory action.**

The proposed action does not include alternative compliance methods or exceptions specific to small businesses because no such alternatives are necessary. The compliance and reporting requirements for retailer sellers and manufacturers, in the AIM coatings and consumer products programs, is not onerous. For example, the current AIM and consumer products programs only require reporting upon request, so there is no periodic reporting required under either program. This practice is continued in the proposed action. Also, small businesses now regulated by the AIM coatings and consumer product programs will have compliance procedures in place that will need only minor adjustments, if any, under the proposed action.