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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

Prior to adopting a new section or amendment, section 4-168a of the Connecticut General Statutes (CGS) requires that each state agency consider the effect of such action on small businesses as defined in CGS section 4-168a. When such regulatory action may have an adverse effect on small businesses, CGS section 4-168a directs the agency to consider regulatory requirements that will minimize the adverse impacts on small businesses if the addition of such requirements (1) will not interfere with the intended objectives of the regulatory action and (2) will allow the new section or amendment to remain consistent with public health, safety and welfare.

State Agency Submitting Proposed Amendment: Energy and Environmental Protection (DEEP)

Subject of Regulation: Control of Volatile Organic Compound Emissions – Architectural and Industrial Maintenance Coatings and Consumer Products

In accordance with CGS section 4-168a, staff analyzed the effect on small businesses of the proposed regulations and determined the following:

Check all appropriate boxes:

- ☐ The regulatory action will not have an effect on small businesses.
- ☐ The regulatory action will have an effect on small businesses, but will not have an adverse effect on such small businesses.
- ☒ The regulatory action may have an adverse effect on small businesses, and no alternative considered would be both as effective in achieving the purpose of the action and less burdensome to potentially effected small business. Alternatives considered include the following:
- (1) The establishment of less stringent compliance or reporting requirements for small businesses;
 - (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - (3) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - (4) The establishment of performance standards for small businesses to replace design or operational standards required in the new section or amendment; and
 - (5) The exemption of small businesses from all or any part of the requirements contained in the new section or amendment. **SEE EXPLANATION**
- ☐ The regulatory action will have an adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

Explanation: 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 consist of administrative revisions to our permitting program.

AIM Coatings

This regulatory action adopts RCSA section 22a-174-41a to reduce emissions of volatile organic compounds (VOCs) from AIM coatings manufactured on and after May 1, 2017 through the use of VOC content limits and revises RCSA Section 22a-174-41 to limit the applicability to AIM coatings manufactured prior to May 1, 2017. RCSA section 22a-174-41a adopts the VOC content limits developed by the Ozone Transport Commission (OTC) in their revised AIM coating model rule issued in 2011. RCSA section 22a-174-41 is based on OTC's 2002 AIM coatings model rule. OTC updated the AIM coating model rule based on the California Air Resources Board's (CARB's) 2007 revision of CARB's AIM coatings requirements, which CARB established in year 2000 in its Suggested Control Measure (2007 SCM).

There are 24 coating categories and VOC content limits that will be new or reduced from a current limit as a result of the adoption of this proposal. While such changes have the potential to increase costs for retail sellers of regulated products or end users of regulated products, we anticipate little to no impact from the new and revised VOC content limits for the following reasons:

- CARB analyzed the economic impacts of the 2007 SCM.¹ CARB estimated the costs that businesses and end users would incur due to the implementation of the AIM coatings VOC limits proposed in the SCM. 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 may see no cost increase, to a small or moderate cost increase, depending on the type of coating used. The impact of any cost increase on a small business depends on the amount of product 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, 2017 are expected to be available and can be sold through April 30, 2020 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 in response to the adoption of similar regulations by other states such as California, as some compliant coatings are now sold in the state. In addition, other states in the OTC region are developing similar state regulations based on the OTC model rule.
- This proposal also reduces business costs by streamlining reporting requirements. Annual reporting of recycled coatings and coatings that contain certain toxic substances has been

¹ 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>.

Amendment of RCSA Sections 22a-174-1, 22a-174-3a, 22a-174-40 and 22a-174-41; adoption of RCSA section 22a-174-41a

removed from RCSA section 22a-174-41. No periodic reporting is required in RCSA section 22a-174-41a. Reporting is only required upon request by the DEEP commissioner.

Consumer Products.

The proposed amendment to RCSA section 22a-174-40 adds nine new regulated product categories and VOC content limits and reduces the VOC content limits for 14 existing product categories. While such changes have the potential to increase costs for retail sellers of regulated products or end users of regulated products, as for AIM coatings, we anticipate little to no impact from the new and revised VOC content limits for consumer products for the following reasons:

- CARB analyzed the economic impacts of the California regulatory changes that underlie the revisions to the OTC Model Rule for consumer products. CARB judged that the proposal would not alter the profitability of most businesses.² A small business that uses regulated consumer products may see no cost increase, to a small or moderate cost increase. The impact of any cost increase on a small business depends on the amount of product used, the business's ability to pass the added cost to customers and the overall profitability of the business.
- Most manufacturers supplying consumer products in Connecticut have already incurred any costs related to developing compliant consumer products in response to the adoption of similar regulations by other states such as California, as some compliant consumer products are now sold in the state. In addition, other states in the OTC region are developing similar state regulations based on the OTC model rule, which will create a regional market and reduce the number of non-compliant products available in the state.
- Amended RCSA section 22a-174-40 includes no periodic reporting requirements, which will reduce the administrative costs for small businesses. Reports are required only upon request by the commissioner.

Minor revisions: definition of "minor source baseline date" and NOx as an ozone precursor in the prevention of significant deterioration program

The proposed revisions to the new source permitting program are required by the U.S. Environmental Protection Agency to satisfy an administrative requirement. The revisions will not have any impact on DEEP's current permitting practices because the revisions apply to the prevention of significant deterioration program, which does not currently apply in Connecticut for ozone because Connecticut is a member state in the Ozone Transport Region and is currently in nonattainment for ozone. EPA nonetheless requires Connecticut to adopt these provisions for national consistency.

² From CARB Initial Statement of Reasons: Proposed Amendments to the California Consumer Products Regulations (August 7, 2009).