HEARING REPORT

Prepared Pursuant to Section 4-168(b) of the Connecticut General Statutes and Section 22a-3a-3(d)(5) of the Department of Energy and Environmental Protection Rules of Practice

Regarding
Amendment of Air Quality Regulations Concerning Consumer Products, Architectural and Industrial Maintenance Coatings and Prevention of Significant Deterioration Programs

Hearing Officers:
Daniel Vesa
Paula Gomez

Date of Hearing: December 14, 2016

On November 8, 2016, the commissioner of Connecticut's Department of Energy and Environmental Protection (DEEP) published a notice of intent to amend Connecticut's Consumer Products, Architectural and Industrial Maintenance (AIM) Coatings and Prevention of Significant Deterioration (PSD) programs. Pursuant to such notice, a public hearing was held on December 14, 2016, with the public comment period closing on December 16, 2016.

I. Hearing Report Content

As required by section 4-168(b) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies principal reasons in opposition to the proposal, and summarizes and responds to all comments received on the proposal.

II. Summary of Proposal

The commissioner of DEEP proposed to amend Connecticut's Consumer Products, AIM Coatings and PSD programs. Specifically, DEEP proposed to make the following changes to the air pollution regulations:

- Revise RCSA section 22a-174-40 to regulate the VOC content of consumer products on or after May 1, 2017. The section is amended with revised product categories and more stringent VOC content limitations, consistent with California’s consumer product regulations and revisions to the OTC regional model rule for consumer products, which are the basis for Connecticut's consumer products program.

- Revise section 22a-174-41 of the Regulations of Connecticut State Agencies (RCSA) to regulate AIM coatings manufactured through April 30, 2017. For AIM coatings manufactured on and after May 1, 2017, new section 22a-174-41a is proposed. New section 22a-174-41a includes a number of new coating categories and reduced volatile organic compounds (VOC) content limits for some existing coating categories, consistent with changes to the California AIM coatings program and a regional model rule of the Ozone Transport Commission (OTC), which form the bases for Connecticut's AIM program.
- Update the New Source Review (NSR) permitting program through revisions to RCSA sections 22a-174-3a and 22a-174-1. The revisions include an identification of nitrogen oxides (NOx) as an ozone precursor in the PSD program and the addition of a minor source baseline date for fine particulates ($PM_{2.5}$). These changes are made as a response to a request from the U. S. Environmental Protection Agency (EPA) to allow for EPA's final approval of four infrastructure State Implementation Plan (SIP) revisions for lead, nitrogen oxides, sulfur dioxide and ozone National Ambient Air Quality Standards (NAAQS) that DEEP submitted in 2008, 2011, 2012 and 2013.

The revisions to the consumer products and AIM coatings programs will reduce the amount of VOCs emitted to the ambient air. Since VOCs are a precursor of ground-level ozone, the reduction in VOC emissions is expected to reduce the formation of ozone and assist Connecticut to attain the 2008 and 2015 ozone NAAQS.

III. Opposition to the Proposal

No comments that expressed opposition to the proposal were received.

IV. Summary of Comments

Written and/or oral comments were received from the following persons on the **consumer product** portion of the proposal:

1. Joseph Yost
   Senior Director, Strategic Issues Advocacy
   Consumer Specialty Products Association (CSPA)
   1667 K Street NW, Suite 300
   Washington, DC 20006

2. Rhett Cash
   Counsel, Government Affairs
   American Coatings Association (ACA)
   1500 Rhode Island Ave NW
   Washington, DC 20005

3. Anne Arnold
   Air Quality Planning Unit Manager
   U. S. Environmental Protection Agency Region 1
   5 Post Office Square, Suite 100
   Boston, MA 02109

Written and/or oral comments were received from the following persons on the **AIM Coating** portion of the proposal:

4 Raleigh Davis
Assistant Director, Environmental Health and Safety
ACA
1500 Rhode Island Ave NW
Washington, DC 20005

5. Freidun Anwari
Technical Director
ICP Construction California Products
150 Dascomb Road
Andover, MA 01810

6. Chelsea Ritchie
Legislative and Regulatory Affairs Coordinator
Roof Coatings Manufacturers Association
750 National Press Building
529 14th Street NW
Washington DC 20045

No comments were received on the **PSD** portion of the proposal.

All comments submitted are summarized below with DEEP's responses. Comments are organized by topic (consumer products and AIM coatings), by type of comment (compliance date and additional comments) and by commenter (CSPA, ACA, EPA, etc.). Commenters are associated with comments below by the number assigned above. When changes to the proposed text are indicated in response to comment, new text is in bold font and deleted text is in strikethrough font.

Consumer products - comments regarding compliance date

Comment # 1-1 from Joseph Yost on behalf of CSPA

DEEP should establish a compliance date no earlier than January 1, 2018, for the provisions of the final regulation.

CSPA commented that member companies have very little (if any) advance time to either reformulate products or to make necessary changes in their product distribution system, if the proposed compliance date of May 1, 2017 is approved.

Although many CSPA member companies already manufacture or market products on a nationwide basis, in compliance with comparable VOC limits mandated by the current California regulation, additional reasonable time is needed for the CSPA member companies that manufacture and/or distribute products on a regional basis to: (1) reformulate products to comply with the new VOC limits, conduct stability testing, efficacy testing and make the necessary changes to product labels and other documents such as Safety Data Sheets (SDSs) and Technical Data sheets (TDSs); and/or (2) make necessary changes in product distribution channels to ensure that compliant products are supplied to retailers.

Reformulating products and changing distribution systems is a time-consuming and an expensive process. Since it is expected that proposed federal and state regulations may be withdrawn, postponed and altered unexpectedly - sometimes at the last minute, companies do not expend time and money to reformulate products or to restructure distribution systems to comply with new regulations until these requirements have binding legal effect.

Also, regional manufacturers that have to reformulate disinfectant or sanitizer products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) will face additional challenges in complying with the new VOC limits. These companies must register these products with the U.S. Environmental Protection Agency and the DEEP. On average, the federal and state review and approval process requires approximately 9-20 months to complete. Connecticut follows the California Air Resources Board (CARB) and the other OTC-states in providing one additional year for manufacturers of FIFRA-regulated products to comply with the new/revised provisions. *See* RCSA section 22a-l 74-40(c)(l l)(B). But, even with this additional time to comply, some regional manufacturers would not be able to formulate (or reformulate) products within the proposed time frame.

In addition, the Maryland Department of the Environment recently received approval from the state's Air Quality Control Advisory Council to initiate a rulemaking process to amend the state's existing consumer products regulation. These proposed revisions are consistent with the current OTC Model Rule; the new/revised VOC limits and related enforcement provisions will be proposed to take effect on January I, 2018.

For reasons stated above, the proposed compliance date of May 1, 2017, will not provide sufficient time for regional product manufacturers and marketers to formulate (or reformulate) products and/or make necessary changes in distribution channels to comply with the new/revised VOC limits and other provisions of the amended regulation. Therefore, CSPA recommends that the Department set the compliance date no earlier than January 1, 2018. This would provide companies with approximately six or seven months to make the necessary changes to product formulation and/or to distribution systems. In addition, establishing an effective date no earlier

than January I, 2018, will correspond with the revised Maryland regulation and will promote consistent regulations in the East Coast region.

Comment # 2-1 from Rhett Cash on behalf of ACA

A January 1, 2018 effective date, or a date no earlier than January 1, 2018, is needed to provide adequate lead time for implementation and compliance for industry members.

ACA requests that DEEP adopt a January 1, 2018 effective compliance date for the Consumer Products Rule Amendments, or a date no earlier than January 1, 2018. As a general matter, ACA members require sufficient lead time to adjust formulations and supply chain processes in order to ensure compliance with amended VOC limits, labeling, and reporting requirements. The proposed May 1, 2017 compliance date will not allow the coatings industry sufficient time to adjust production, labeling, and distribution networks to efficiently and effectively implement the amendments.

Manufacturers, distributors, and retail stores employ extensive computer systems that require upgrades to incorporate new formulations and ensure non-compliant products are not sold into jurisdictions with new VOC limits. Furthermore, manufacturing and labeling costs are generally expensive, and architectural coatings manufacturers tend to manage formulation changes to their products to minimize costs stemming from obsolete products and labels. Additionally, manufacturers will need sufficient time to communicate these changes to their distributors and retail customers to ensure compliance with amended VOC limits. Finally, most companies wait until a rule is finalized (*i.e.* its requirements are certain) before implementing changes to ensure compliance because it helps minimize the costs of implementation and compliance. However, this also means that companies will not implement changes during the early parts of a rulemaking and will need adequate time after finalization of the amendment to make appropriate changes. Thus, industry typically needs an adequate lead time of several months to a year to properly implement necessary changes to comply with the proposed amendments.

In addition, a delayed effective compliance date would give the State of Connecticut enough time to adopt a final rule. The rulemaking process that DEEP must follow in Connecticut is thorough and extensive. A January 1, 2018 effective compliance date would allow the State of Connecticut to completely go through the official rulemaking and adoption process before the rule is fully applicable to stakeholders. It's impractical and unfair for stakeholders to comply with a new rule that has not actually gone through the complete adoption process of the State.

Given DEEP's stated intention to proceed with a May 1, 2017 effective date and the need for industry to have adequate lead time for implementation and compliance, ACA respectfully requests that DEEP change the effective compliance date to January 1, 2018.

DEEP's Response to Comments # 1-1 and 2-1

DEEP agrees with CSPA and ACA that the proposed compliance date of May 1, 2017 does not provide sufficient advance time to either reformulate products or to make necessary changes in product distribution systems. Since DEEP anticipates that the proposal will be effective near June 1, 2017, the new compliance date is proposed as May 1, 2018. That date meets the CSPA and ACA request to propose a date not earlier than January 1, 2018 and provides nearly 12 months between rule adoption and compliance dates. To make this revision, the date May 1,

2017 should be revised to May 1, 2018 in the following subsections in proposed RCSA section 22a-174-40:

(a)(18), (a)(27), (a)(58)(A) and (B), (a)(68)(A) and (B), (a)(112)(A) and (B), (a)(125), (a)(141)(A) and (B), (a)(143), (a)(157), (a)(158), (a)(159), (d)(1)(A) and (B), (d)(4), (d)(6)(A), (d)(12), (d)(15), (d)(16), (d)(17) and (d)(18).

Because of the revision in the compliance date of the regulations, in RCSA section 22a-174-40(d)(13), it is also necessary to replace the date of May 1, 2018 with the date May 1, 2019.

Consumer products - additional comments

Comment # 1-2 from Joseph Yost on behalf of CSPA

CSPA supports adoption of regionally consistent consumer products regulations based the OTC Model Rule.

During the past 16 years, CSPA has supported - and continues to support - the efforts by the OTC to develop a workable regional regulatory framework for states to achieve technologically and commercially feasible reductions that are necessary to demonstrate compliance with SIP commitments.

CSPA participated as an active stakeholder in the initial rulemaking proceeding conducted by the DEEP in 2006 and the rulemaking to adopt necessary technical amendments in 2008. CSPA is on record supporting the current Connecticut consumer products regulation and other final state regulations that are based on the OTC Model Rule. CSPA supports these regulations because consistent regional regulatory standards achieve significant improvements in air quality without impeding interstate commerce.

DEEP's Response:

DEEP appreciates CSPA's support and efforts to provide constructive recommendations in 2006, 2008 and now for the current Connecticut proposal.

Comment # 1-3 from Joseph Yost on behalf of CSPA

A technical correction is needed in RCSA section 22a-l 74-40(b) to provide clarity.

The date of manufacture provides the clear and unambiguous factor needed to determine compliance with the applicable VOC limits and other requirements of the Connecticut regulation. This necessary element is present in the current Connecticut regulation and in all other state and federal VOC regulations for consumer products. However, as currently drafted, the proposed regulation deletes this necessary element. Therefore, CSPA respectfully urges the DEEP to remedy this fundamental omission by adopting the OTC Model Rule for Consumer Products text for the same reference, as follows:

(b) **Applicability**. Except as provided in subsection (c) of this section, this section applies to any person who [, on or after January 1, 2009,] sells, supplies, offers for sale, distributes for sale, or manufactures for sale in the state of Connecticut any consumer product manufactured on or after the effective date in Table 40-1 and Table 40-3 for use in the state of Connecticut.

This revision is also necessary for internal consistency with the requirements of the proposed amendment to RCSA section 22a-l 74-40(d)(l)(B):

(B) No person shall sell, supply or offer for sale in the state of Connecticut any consumer product manufactured on and after...

CSPA accentuates that the essential phrase "manufactured on or after" is present in other consumer products regulations such as OTC Model Rule for Consumer Products, Sections 1 and 3(a), in California's Standards for Consumer Products, 17 CCR § 94509 (a), and in the U.S. EPA's national consumer products regulation, 40 CFR § 59.201(a).

DEEP's Response:

DEEP should implement the suggested changes to RCSA section 22a-174-40(b), as shown below, adding where appropriate in the text: "…distributes for sale," and "… manufactured on or after the applicable date identified in Table 40-1 or Table 40-3".

(b) **Applicability**. Except as provided in subsection (c) of this section, this section applies to any person who [, on or after January 1, 2009,] sells, supplies, offers for sale, distributes for sale, or manufactures for sale in the state of Connecticut any consumer product manufactured on or after the applicable date identified in Table 40-1 or Table 40-3 for use in the state of Connecticut.

Comment # 1-4 from Joseph Yost on behalf of CSPA

Technical corrections are needed in Table 40-1 and Table 40-3.

As currently drafted, the title for Table 40-1 omits the essential word "manufactured." Thus, the title should be revised as follows:

Table 40-1. VOC Content Limits for Listed Product Categories, manufactured prior to...

As currently drafted, the title for Table 40-3 omits the word "manufactured." Thus, the title should be revised as follows:

Table 40-3. VOC Content Limits for Listed Product Categories, manufactured on ~~and~~ or after ...

These technical corrections are needed to clearly communicate the fact that the date on which a product is manufactured is the determining factor for the applicability and the enforcement of the VOC limits.

DEEP's Response:

DEEP agrees to implement the requested change to reinforce the regulatory text that states that the date on which a product is manufactured is the determining factor for the applicability and the enforcement of the VOC limits. Therefore at the title of Table 40-1, the word "manufactured" has been added, and at the title of Table 40-3, a correction has been made to add the text "manufactured on or after…"

Comment # 1-5 from Joseph Yost on behalf of CSPA

Provisions of RCSA section 22a-174-40(d)(6)(A) must be revised to eliminate the retroactive application of new regulatory requirements.

As currently drafted, the use of the phrase "manufactured prior" in section 22a-174-40(d)(6)(A) would impose the new restrictions retroactively. It is a fundamental premise of administrative law that an executive branch agency's rulemaking authority does not, as a general matter, encompass the power to promulgate retroactive rules unless that power is conveyed by the legislature in express terms. Therefore, DEEP must make the following technical correction to this section:

> (A) Sell, supply or offer for sale in the state of Connecticut any bathroom and tile cleaner, carpet and upholstery cleaner, construction panel and floor covering adhesive, electronic cleaner labeled as "energized electronic equipment use only", general purpose cleaner, metal polish/cleanser, oven or grill cleaner, sealant and caulking compound, or spot remover manufactured ~~prior to~~ on or after ...

Moreover, this revision is needed to ensure internal consistency with the current provisions of section 22a-174-40(d)(5), which in pertinent part states, "On or after January 1, 2009, no person shall .... ."

DEEP's Response:

DEEP concurs with CSPA that using the phrase "manufactured prior" in RCSA section 22a-174-40(d)(6)(A) is inappropriate. Therefore, in the final version of section 22a-174-40(d)(6)(A), DEEP should replace the phrase "manufactured prior to" with "manufactured on or after." In addition, as discussed in the response to Comments # 1-1 and 2-1, the date May 1, 2017 should be changed to May 1, 2018, as follows:

> (A) Sell, supply or offer for sale in the state of Connecticut any bathroom and tile cleaner, carpet and upholstery cleaner, construction panel and floor covering adhesive, electronic cleaner labeled as "energized electronic equipment use only", general purpose cleaner, metal polish/cleanser, oven or grill cleaner, sealant and caulking compound, or spot remover manufactured ~~prior to~~ on or after May 1, ~~2017~~ 2018, if such product contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight; or

Comment # 1-6 from Joseph Yost on behalf of CSPA

CSPA urges DEEP to amend the proposed new restrictions in RCSA section 22a-174-40(d)(6)(A) to be consistent with the OTC Model Rule.

CSPA noticed in section 22a-174-40(d)(6)(A) that restrictions on the use of perchloroethylene, methylene chloride and trichloroethylene are imposed in nine product categories, instead of five product categories listed in Section 3(o) of OTC Model Rule for Consumer Products, as well as in the final revisions to the Delaware consumer products regulation, effective January 1, 2017 and in the draft amendments to the Maryland consumer products regulation, proposed to take effect on January 1, 2018.

As currently drafted, the Connecticut proposed regulation is not consistent with the Section 3(o) of OTC Model Rule, Delaware and Maryland consumer products regulations, which each listing only five product categories: bathroom and tile cleaners; construction, panel, and floor covering adhesives; electronic cleaners labeled as energized equipment use only; general purpose cleaners; and oven or grill cleaners.

To ensure consistency with other East Coast state regulations, CSPA urges DEEP to delete the proposed restriction on the use of use of perchloroethylene, methylene chloride and trichloroethylene in the following product categories in the final rule: carpet and upholstery cleaner; metal polish / cleanser; sealant and caulking compound; and spot remover.

While the California regulation imposes restrictions on these four product categories, if the proposed regulation is adopted as a final rule, Connecticut would be the only state on the East Coast to impose these restrictions. This result would undermine Connecticut's stated intention to develop regionally consistent regulations to maintain a regional market for consumer products.

DEEP's Response:

DEEP agrees with CSPA that our regulations should align with all the other states in the region. Consequently, the following four product categories should be removed from section 22a-174-40(d)(6)(A) and (B): carpet and upholstery cleaner; metal polish / cleanser; sealant and caulking compound; and spot remover. In addition, the date should be revised as discussed in the response to Comments # 1-1 and 2-1. The final version of section 22a-174-40(d)(6)(A) and (B) should be as follows:

> (A) Sell, supply or offer for sale in the state of Connecticut any bathroom and tile cleaner, ~~carpet and upholstery cleaner~~, construction panel and floor covering adhesive, electronic cleaner labeled as "energized electronic equipment use only", general purpose cleaner, ~~metal polish/cleanser~~, or oven or grill cleaner, ~~sealant and caulking compound~~, ~~or spot remover~~ manufactured ~~prior to~~ on or after May 1, ~~2017~~ 2018, if such product contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight; or
>
> (B) Manufacture for sale in the state of Connecticut any bathroom and tile cleaner, ~~carpet and upholstery cleaner~~, construction, panel, and floor covering adhesive, electronic cleaner labeled as "energized electronic equipment use only", general purpose cleaner, ~~metal polish/cleanser~~, or oven or grill cleaner, ~~sealant and caulking compound, or spot remover~~ if such product contains methylene chloride, perchloroethylene or

trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight.

Comment # 1-7 from Joseph Yost on behalf of CSPA

DEEP should delete the proposed restrictions on pressurized gas dusters, lubricants and wasp or hornet insecticides.

As currently drafted, proposed RCSA section 22a-174-40(d)(14)-(16) would: (1) impose new restrictions on the use of perchloroethylene or methylene chloride in pressurized gas dusters; and (2) impose new restrictions on the use of perchloroethylene, methylene chloride and trichloroethylene in lubricants and wasp or hornet insecticides. The OTC Model Rule does not include any such restrictions on these three product categories. If adopted as proposed, Connecticut would be the only state outside of California to impose restrictions on these product categories. As stated above, this result would be inconsistent with the Department's stated intention to develop regionally consistent regulations.

DEEP's Response:

As recommended in the comment, DEEP should delete the proposed new restrictions in RCSA section 22a-174-40(d)(14)-(16). The restrictions to be eliminated are as follows:

~~(14) No person shall sell, supply, offer for sale, or manufacture for use in Connecticut any pressurized gas duster that contains methylene chloride, or perchloroethylene.~~

~~(15) Effective May 1, 2017, no person shall sell, supply, offer for sale, or manufacture for use in Connecticut any lubricant that contains methylene chloride, perchloroethylene or trichloroethylene. A lubricant that is not a multi-purpose lubricant, penetrant or silicone-based multi-purpose lubricant and that is manufactured prior to January 1, 2014 may be sold, supplied, or offered for sale until April 30, 2017, as long as that product complies with the product dating requirements.~~

~~(16) Effective May 1, 2017, no person shall sell, supply, offer for sale, or manufacture for use in Connecticut any wasp or hornet insecticide that contains methylene chloride, perchloroethylene or trichloroethylene. A wasp or hornet insecticide manufactured prior to January 1, 2014 may be sold, supplied, or offered for sale until April 30, 2017, as long as it complies with the dating requirements.~~

Subsequent subdivisions (17) and (18) should be renumbered as subdivisions (14) and (15) respectively.

Comment # 1-8 from Joseph Yost on behalf of CSPA

A technical correction is needed to refer to "oven or grill cleaner" in Table 40-3.

As currently drafted, Table 40-3 incorrectly lists "oven cleaners," a term that is not defined by the regulation. The correct term is "oven or grill cleaner," which is defined in RCSA section 22a-174-40(a)(122).

DEEP's Response:

DEEP should make the recommended change to Table 40-3, changing "oven cleaners" to "oven or grill cleaner."

Comment # 1-9 from Joseph Yost on behalf of CSPA

DEEP should use the term "rubber / vinyl protectant" to be consistent with the term used by the OTC Model Rule.

As currently drafted, the proposed regulation would retain the existing definition for the "rubber and vinyl protectant" product category. The most current version of the OTC Model Rule revised the definition for this term to "rubber / vinyl protectant," because it identifies more precisely the type of products subject to the VOC limits. The OTC made this change to be consistent with the action by CARB to delete conjunctive particle "and" and use the disjunctive particle "or" to more clearly define the scope of regulated products.

DEEP's Response:

The Manual for Drafting Regulations published by the Legislative Commissioners' Office (LCO) of the Connecticut General Assembly explicitly discourages the use of slashes, dashes, parenthesis or similar punctuation within a definition of a particular regulation. The use of the slash recommended by the CSPA in the definition of "rubber/vinyl protectant" will likely be identified as a technical correction in the LCO report. Since the change is necessary to identify more precisely the type of products subject to the VOC limits, DEEP should use the term "rubber or vinyl protectant" following the CARB action and replace "rubber and vinyl protectant" in each instance it occurs in the following locations in RCSA section 22a-174-40: (a)(72), (a)(141), Table 40-1 and Table 40-3.

Comment # 2-2 from Rhett Cash on behalf of ACA

ACA Continues to Support Consumer Specialty Products Association’s (CSPA) Comments.

ACA continues to support CSPA’s comments made to DEEP. This support includes CSPA’s suggestion that DEEP delete the proposed restriction on the use of perchloroethylene, methylene chloride, and trichloroethylene in the sealant and caulking compound category, amongst other categories.

DEEP's Response:

As explained in the response to Comment # 1-6, DEEP should remove from section 22a-174-40(d)(6)(A) and (B) the following four product categories: carpet and upholstery cleaner; metal polish/cleanser; sealant and caulking compound; and spot remover.

Comment # 3-1 from Anne Arnold on behalf of EPA

EPA Region 1 recommends revising RCSA section 22a-174-40(c)(4)(A) and (B).

Connecticut's proposed section 22a-174-40, "Consumer Products," allows manufacturers to receive variance, innovative product, and alternative control plan exemptions from Connecticut's rule if the manufacturer obtains such an exemption from the New York State Department of Environmental Conservation or the California Air Resources Board. In order for this language to be approved into Connecticut's State Implementation Plan, these exemptions will also need to be approved by EPA. Therefore, EPA recommends revising subsection (c)(4)(A) and (B) to read as follows:

> "(A) A variance issued by the NYSDEC pursuant to 6 NYCRR 235-8.1 and approved by the Administrator, for the period of time such variance is in effect; or
>
> (B) A variance issued by CARB pursuant to 17 CCR 94514 and approved by the Administrator for the period of time such variance is in effect. "

DEEP's Response:

In the final version of the proposal, DEEP should revise subsection (c)(4)(A) and (B) by adding the text: "and approved by the Administrator" as recommended in the comment.

Comment # 3-2 from Anne Arnold on behalf of EPA

EPA Region 1 recommends RCSA sections 22a-174-40(c)(5)(A) and (B), and 22a-174-40(c)(7)(A) and (B) be similarly amended as requested in Comment # 3-1.

DEEP's Response:

In the final version of the proposal, DEEP should revise subsection (c)(5)(A) and (B) per EPA Region 1 request, by adding the text: "and approved by the Administrator". Subsection (c)(5)(A) and (B) will read as follows:

> "(A) An exemption by CARB pursuant to the Innovative Products provisions of 17 CCR 94511 or 17 CCR 94503.5 and approved by the Administrator for the period of time the CARB Innovative Products exemption remains in effect; or
>
> (B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 235-5.1 and approved by the Administrator for the period of time the NYSDEC Innovative Products exemption remains in effect."

In addition in the final version of the proposal, DEEP should revise subsection (c)(7)(A) and (B) per EPA Region 1 request. Subsection (c)(7)(A) and (B) should be revised to read as follows:

> "(A) Exempt by NYSDEC pursuant to the ACP requirements of 6 NYCRR 235-11.1 and approved by the Administrator for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall submit to the commissioner and the Administrator, upon request there for, a copy of the applicable ACP agreement; or
>
> (B) Exempt by CARB pursuant to the ACP requirements of 17 CCR 94511 and approved by the Administrator for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall

submit to the commissioner and the Administrator, upon request there for, a copy of the applicable ACP agreement."

Comment # 3-3 from Anne Arnold on behalf of EPA

EPA Region 1 recommends revising section 22a-174-40(f)(2)(C) and (D)

EPA recommends revising section 22a-174-40(f)(2)(C) and (D) to read as follows:

"(C) An alternative method approved by the NYSDEC pursuant to 6 NYCRR 235-9.1 as in effect on the effective date of this section and approved by the Administrator; or

(D) An alternative method approved by the commissioner and the Administrator that accurately determines the concentration of VOCs in a consumer product or its emissions."

DEEP's Response:

In the final version of the proposal, DEEP should revise subsection (f)(2)(C) and (D) to include a requirement that the alternative test methods should be approved by EPA as well as the commissioner. The revised language should be as set out in the comment.

AIM coatings - comments regarding compliance date

Comment # 4-1 from Raleigh Davis on behalf of ACA

ACA requests that DEEP adopt a January 1, 2018 effective compliance date for the AIM Rule Amendments. As a general matter, ACA members require sufficient lead time to adjust formulations and supply chain processes in order to ensure compliance with amended VOC limits, labeling, and reporting requirements. The proposed May 1, 2017 compliance date for Phases 1 and 2 will not allow the coatings industry sufficient time to adjust production, labeling, and distribution networks to efficiently and effectively implement the amendments.

Manufacturers, distributors, and retail stores employ extensive computer systems that require upgrades to incorporate new formulations and ensure non-compliant products are not sold into jurisdictions with new VOC limits. Furthermore, manufacturing and labeling costs are generally expensive, and architectural coatings manufacturers tend to manage formulation changes to their products to minimize costs stemming from obsolete products and labels. Additionally, manufacturers will need sufficient time to properly communicate these changes to their distributors and retail customers to ensure compliance with amended VOC limits. Finally, most companies wait until a rule is finalized (i.e. its requirements are certain) before implementing changes to ensure compliance because it helps minimize the costs of implementation and compliance. However, this also means that companies will not implement changes during the early parts of a rulemaking and will need adequate time after finalization of the amendment to make appropriate changes. Thus, industry typically needs an adequate lead time of several

months to a year to properly implement necessary changes to comply with the proposed amendments.

In addition, a delayed January 1, 2018 effective compliance date would give the State of Connecticut enough time to fully and completely adopt a final rule. The rulemaking process that DEEP must follow in Connecticut is thorough and extensive. ACA acknowledges that the extensive nature of Connecticut's rulemaking process is meant to ensure that the rules are properly written and fully complete. A January 1, 2018 effective compliance date would allow the State of Connecticut to completely go through the official rulemaking and adoption process before the rule is fully applicable to stakeholders. It's impractical and unfair for stakeholders to comply with a new rule that has not actually gone through the complete adoption process of the State.

Given DEEP's stated intention to proceed with a May 1, 2017 effective date and the need for industry to have adequate lead time for implementation and compliance, ACA respectfully requests that DEEP change the effective compliance date for Phase 1 and 2 changes to a January 1, 2018 effective compliance date.

Comment # 5-1 from Freidun Anwari on behalf of ICP Construction California Products

The following is our justification on why the implementation of Connecticut's AIM Rule should be no sooner than 1/1/18, preferably 7/1/18.

Reduction of VOCs in the Northeast is more difficult than in the Southwest, where much of this regulation originated. The more extreme temperature conditions in New England and the greater prevalence of less dimensionally stable wood (compared to masonry in the Southwest) demands coatings with greater substrate penetration, adhesion, and tolerance to extreme temperature during both their cure and service life. All these properties are more difficult to achieve with lower VOC coatings.

This has been recognized in California in two ways:

1) In the SCAQMD Rule 1113 amended 2/5/16, under Section (f) "Exemptions", paragraph (4) "The provisions of this rule shall not apply to:" states "(D) Use of stains and lacquers in all areas within the District at an elevation of 4000 feet or greater above sea level or sale in such areas for such use." This acknowledges the need for higher VOCs at higher altitudes (i.e. more extreme weather conditions).

2) The 2007 California ARB Suggested Control Measures (SCMs), which list VOC limits of 50 g/l for flats, 100 g/l for non-flats and 100 g/l for primes, sealers and undercoaters, are very similar to the proposed Connecticut AIM rule. However, Butte, El Dorado, Imperial, Mojave, Shasta, Tehama, and other Air Quality Management Districts located in high elevation/severe weather areas have yet to adopt these SCMs.

When SCAQMD Rule 1113 amended on 6/3/11 changed VOC levels for most categories effective 1/1/14 - a two and a half year advanced notice before implementation was given to achieve the reformulation. More recently, the version of Rule 1113 adopted 2/5/16, which changed VOC levels for two minor categories, (building envelope coatings and recycled

coatings) goes into effect on 1/1/17 – an 10 month lead time. The Connecticut proposal, much more sweeping in its effect on VOC levels, only provides five months for reformulation.

Finally, regional companies are put at a disadvantage to implementing the proposed Connecticut AIM rule. National companies have completed much of this reformulation about 10 years ago to satisfy the Southern California Market. For these companies, meeting Connecticut's rules just becomes a logistical exercise in moving inventory from one area of the country to another. Regional companies never had the need to reformulate for the proposed VOC levels until now. We feel that the given timeline is too short to introduce products to compete with companies that have had many years of market experience. Also, for some coatings that are EPA registered, five months is not sufficient time to reapprove EPA registrations with the required formula changes.

We are not claiming that it is impossible to reformulate coatings at the new VOC limits, just that it is more difficult and will require more time to achieve for the Northeast. Also, if regional/local manufactures are forced to do so in the proposed timeline, it will put them at a distinct disadvantage compared to larger national manufacturers, which have been selling these products in other areas of the country for many years.

Comment # 6-1 from Chelsea Ritchie on behalf of Roof Coatings Manufacturers Association (verbal comment):

RCMA agrees with ICP Construction California Products, the American Coatings Association and with the Consumer Specialty Products Association in that a compliance date of May 1, 2017 does not give affected business enough time to comply with RCSA sections 22a-174-41 and 41a.

DEEP's Response to Comments # 4-1, 5-1 and 6-1:

DEEP understands the basis for the comments stating that a May 1, 2017 compliance date does not give affected businesses enough time to plan, reformulate products, test reformulated products, create new labels, update technical data sheets, etc. DEEP originally defined May 1, 2017 as compliance date to coincide with the beginning of the ozone season (May 1 to September 30), hoping Connecticut could get credit for the VOC emissions reductions expected from this proposal for the 2017 ozone season and to help Connecticut attain the ozone NAAQS. However, DEEP recognizes the regulatory process for this proposal has taken longer than expected and the amended regulations will not be final at a date that will allow affected businesses enough time to comply with the more stringent requirements introduced by this proposal by May 1, 2017. DEEP also realizes that even though the proposal has been public since November 8, 2016, and although affected business may start planning for implementation of the amended regulations now, businesses doing regulated activities likely will not start taking actions until the regulations are final. For these reasons, DEEP should revise the compliance date of the proposal to allow affected businesses adequate time to comply. A compliance date of May 1, 2018 is recommended.

To make this revision, the date May 1, 2017 should be changed to May 1, 2018 in the following subsections in RCSA section 22a-174-41: (b)(2), (c)(2) and (g)(1). Also, the title of Table 41-1 should be revised with the new compliance date of May 1, 2018.

In addition, RCSA section 22a-174-41a should be revised by changing the date May 1, 2017 to May 1, 2018 in the following subsections: (b), (c)(2), (d)(1) and (g)(1). Also, the title of Table 41a-1 should be revised with the new compliance date of May 1, 2018.

Finally, the statement of purpose for the proposal should also be modified to reflect the revised compliance date.

AIM coatings phase 1 - additional comments

Comment # 4-2 from Raleigh Davis on behalf of ACA

ACA requests that DEEP revise the "Graphic Arts Coating or Sign Paint" definition in Sec. 22a-174-41(a)(31), which accidentally excludes murals, letter enamels, poster colors, copy blockers, and bulletin enamels. The proposed definition reads that graphic arts coating or sign paint "means a coating labeled and formulated for hand-application using brush, airbrush or roller techniques to indoor and outdoor signs, where signs do not include structural components ~~or murals~~. 'Graphic arts coating or sign paint' does ~~not~~ include letter enamel[s], poster color[s], copy blocker[s] or bulletin enamel[s]."

The definition should read, "'Graphic arts coating or sign paint' means a coating labeled and formulated for hand-application using brush, airbrush or roller techniques to indoor and outdoor signs and murals, where signs and murals do not include structural components. 'Graphic arts coating and sign paint' includes letter enamels, poster colors, copy blockers, and bulletin enamels." This revised definition would be consistent with the OTC Model AIM Coatings Rule.[1]

DEEP's Response:

In this case, the effort to translate the language of the OTC Model Rule to ensure the clearest possible language for Connecticut's regulation resulted in inaccuracies in the definition of "Graphic Arts Coating or Sign Paint." For this reason, the definition of "Graphic Arts Coating or Sign Paint" in RCSA section 22a-174-41(a) should be replaced with the definition used in the OTC Model Rule as follows:

> (31) "Graphic arts coating or sign paint" means a coating labeled and formulated for hand application ~~using brush, airbrush or roller techniques to indoor and outdoor signs, [excluding structural components, and murals including] where signs do not include structural components or murals. "Graphic arts coating or sign paint" does not include letter enamel[s], poster color[s], copy blocker[s] [and] or bulletin enamel[s].~~ **by artists using brush, airbrush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamel, poster color, copy blocker, and bulletin enamel.**

[1] OTC Model Rule: Architectural & Industrial Maintenance (AIM) Coatings, Part 2.33 definition of Graphic Arts Coating or Sign Paint: "A coating labeled and formulated for hand-application by artists using brush, airbrush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels."
http://www.otcair.org/upload/Documents/Model%20Rules/OTC_model%20rule_AIM_Clean.pdf

Comment # 4-3 from Raleigh Davis on behalf of ACA

ACA requests that DEEP add to Sec. 22a-174-41(c)(1) exemptions and exceptions provision. Connecticut's proposed rule reads, "This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut." It should read, "This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut **or for shipment to other manufacturers for reformulation or repackaging**." The additional language would make DEEP's rule consistent with the OTC Model AIM Coatings Rule.[2]

DEEP's Response

Although the phrase identified by ACA as missing from RCSA section 22a-174-41(c) is covered in other provisions of the regulation, for clarity and for the regulation to reflect more closely the language in the OTC Model Rule, RCSA section 22a-174-41(c)(1) should be modified to read as follows:

> (1) This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut **or for shipment to other manufacturers for reformulation or repackaging**.

Comment # 4-4 from Raleigh Davis on behalf of ACA

ACA recommends that DEEP follow the language in the OTC Model AIM Coatings Rule with respect to Sec. 22a-174-41(c)(4). Connecticut's proposed rule reads, "This section shall not apply to any of the following architectural coatings: (A) Coatings sold in a container with a volume of one liter (1.057 quarts) or less; (B) Coatings sold as a kit containing containers of different colors, types or categories of coatings with a total volume of one liter or less; or (C) Multi-component coating sold in containers with a total volume of one liter or less." To be consistent with the OTC Model Rule, the exemption in Sec. 22a-174-41(c)(4)(B) should strike and read, "Coatings sold as a kit containing containers of different colors, types or categories of coatings ~~with a total volume of one liter or less~~." Similarly, the exemption in Sec. 22a-174-41(c)(4)(C) should be revised to read, "Multi-component coating sold in containers ~~with a total volume of one liter or less~~." The stricken language is already included in Subpart A. DEEP should also include the following provision that would be added as Sec. 22a-174-41(c)(4)(D), "This exemption does not include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit."

DEEP's Response:

RCSA section 22a-174-41(c)(4) should be revised in response to ACA's comment and DEEP should revert to the original OTC Model Rule language for consistency, as follows:

[2] OTC Model Rule, Part 1.2.1: "This rule does not apply to any architectural coating that is supplied, sold, offered for sale, or manufactured for use outside of [jurisdiction] or for shipment to other manufacturers for reformulation or repackaging."

(c)(4) This section shall not apply to any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less[.], including kits containing containers of different colors, types or categories of coatings and two component products. This applicability exception does not include bundling of containers one liter or less, which are sold together as a unit, or any type of marketing which implies that multiple containers one liter or less be combined into one container. This exemption does not include packaging from which the coating cannot be applied. This exemption does include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit.

Comment # 4-5 from Raleigh Davis on behalf of ACA

To be consistent with the OTC Model AIM Coatings Rule, ACA requests that DEEP add "Concrete Surface Retarders" to Sec. 22a-174-41(d)(3), which excludes several coatings categories from the most restrictive VOC content limits in Sec. 22a-174-41(d)(2).

DEEP's Response:

DEEP agrees with ACA's comment. The coatings category "concrete surface retarders" should be added to the list of coatings categories excluded from the most restrictive VOC content limit of RCSA section 22a-174-41(d)(2). Therefore subdivision (3) of RCSA section 22a-174-41(d) should read:

(3) The requirements of subdivision (2) of this subsection shall not apply to the following coating categories:
(A) Antenna coatings;
(B) Antifouling coatings;
(C) Bituminous roof primers;
(D) Calcimine recoaters;
(E) **Concrete surface retarders;**
~~(E)~~ **(F)** Fire-retardant coatings;
~~(F)~~ **(G)** Flow coatings;
~~(G)~~ **(H)** High temperature coatings;
~~(H)~~ **(I)** Impacted immersion coatings;
~~(I)~~ **(J)** Industrial maintenance coatings;
~~(J)~~ **(K)** Lacquer coatings, including lacquer sanding sealers;
~~(K)~~ **(L)** Low-solids coatings;
~~(L)~~ **(M)** Metallic pigmented coatings;
~~(M)~~ **(N)** Nuclear coatings;
~~(N)~~ **(O)** Pretreatment wash primers;
~~(O)~~ **(P)** Shellacs;
~~(P)~~ **(Q)** Specialty primers, sealers and undercoaters;
~~(Q)~~ **(R)** Temperature-indicator safety coatings;
~~(R)~~ **(S)** Thermoplastic rubber coatings and mastics; or
~~(S)~~ **(T)** Wood preservatives.

Comment # 4-6 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP add a "New Categories Provision" to Sec. 22a-174-41(d). Connecticut's proposed rule does not include a "New Categories Provision" in its Standards section. This "New Categories Provision" would read, "Prior to January 1, 2018, any coating that meets the definition in Sec. 22a-174-41(a) for a coating category listed in Table 41-1 (Table of Standards), and complies with the applicable VOC limit in Table 41-1 (Table of Standards) and reporting requirements, shall be considered in compliance with this rule." The addition of this provision would be consistent with the OTC Model AIM Coatings Rule.[3]

DEEP's Response:

The New Categories provision (provision 3.9 of the OTC Model Rule) is covered by subsection (b) of RCSA section 22a-174-41. Adding a "New Categories" provision to our regulation would introduce redundant language. It is not recommended to modify RCSA section 22a-174-41 as a result of this comment.

Comment # 4-7 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP revise its Recordkeeping and Recording Requirements in Sec. 22a-174-41(f)(2)-(3) to allow manufacturers to respond to compliance and distribution and sales data requests within 180 days after receiving such a request. Furthermore, ACA respectfully requests that DEEP change its recordkeeping requirement from five to three years. These changes are consistent with the OTC Model Rule and similar rules in neighboring jurisdictions.[4]

Sec. 22a-174-41(f)(2) should read:

"All records made to demonstrate compliance with this section shall be maintained for **three years** from the date such record is created and shall be made available to the commissioner or the Administrator no later than **180 days** after a request."

Sec. 22a-174-41(f)(3) should read:

"Each manufacturer of a coating subject to this section shall, upon request of the commissioner, provide data concerning the distribution and sales of coatings subject to a VOC content limit in subsection (d) of this section. The manufacturer shall, not later than **180 days** after receiving such a request, produce information including, but not limited to…."

DEEP's Response:

DEEP should not make any of the revisions recommended in this comment. The amendment to RCSA section 22a-174-41 will be submitted to EPA as a SIP revision, as indicated in the public notice, and the Clean Air Act requires a minimum record maintenance time of five years for many stationary source programs. A five year minimum record maintenance time is also required in other Connecticut air quality regulations. Also, advancement of technology

[3] OTC Model Rule, Part 3.9.
[4] OTC Model Rule, Part 5.

facilitates the process of recordkeeping and retrieval of records so that 90 days should be more than adequate time for a manufacturer to respond to a request for compliance, distribution and sales data from the commissioner of DEEP or the EPA. Allowing more time to respond to a request for information would interfere with the agency's ability to assure compliance with the regulations. Furthermore, the recently adopted AIM coatings regulations in Maryland and Delaware require recordkeeping for five years and Delaware's regulation also requires manufacturers to reply to a request for information made by the Environmental Authority within 90 days. For these reasons it is not recommended to modify subdivisions (2) and (3) of RCSA section 22a-174-41(f).

Comment # 4-8 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP strike and remove the recordkeeping and recording requirements in Sec. 22a-174-41(f)(4)-(5) because they are no longer required according to the OTC Model AIM Coatings Rule. The recordkeeping and recording requirements in (4) and (5) of subsection (f) are outdated and should be removed from Connecticut's proposed rule. This would allow consistency with the OTC Model Rule and rules in similar jurisdictions.[5]

DEEP's Response:

RCSA section 22a-174-41(f)(5) is proposed to be deleted from the regulation as it is no longer needed. The OTC AIM Model Rule was developed based on California's AIM rule and California included provisions requiring recordkeeping and reporting of information about perchloroethylene and methylene chloride to evaluate the data collected. During development of the OTC AIM Model Rule it was left to each adopting state to decide whether or not to include the recordkeeping and reporting of chlorinated solvents. As DEEP will not be evaluating data about chlorinated solvents, DEEP should not require mandatory reporting of perchloroethylene and methylene chloride. Therefore, RCSA section 22a-174-41(f)(4) should be deleted from the proposal and the remaining subdivision in the subsection should be renumbered, as follows:

> **[**(4) For each architectural coating that contains perchloroethylene or methylene chloride, the manufacturer shall, on or before April 1 of each calendar year beginning with the year 2009, maintain records of the following information for coatings sold in Connecticut during the preceding calendar year:
> (A) The product brand name and a copy of the product label with legible usage instructions;
> (B) The product category listed in Table 41-1 to which the product belongs;
> (C) The total sales, to the nearest gallon, in Connecticut during the preceding calendar year; and
> (D) The volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.**]**
> [(5) Each manufacturer of a recycled coating shall, on or before April 1 of each calendar year beginning with the year 2009, prepare and maintain an annual report that shall include the total number of gallons of recycled coatings distributed in Connecticut during the preceding calendar year and the method used to calculate the Connecticut distribution.]

[5] OTC Model Rule, Part 5.

[(6)] ~~(5)~~ **(4)** Any document submitted to the commissioner pursuant to this section shall include a certification signed by an individual identified in section 22a-174-2a(a)(1) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall examine and be familiar with the information submitted in the document and all attachments thereto, and shall inquire of those individuals responsible for obtaining the information to determine that the information is true, accurate, and complete, and each of whom shall certify in writing as follows:
"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute."

Comment # 4-9 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP add an asterisk and footnote for "Low Solids Coatings" in Table 41-1. The footnote would explain that this "Limit is expressed as VOC Content (see Sec. 22a-174-41(g)(2)(A)-(B))." This footnote is consistent with the OTC Model AIM Coatings Rule.[6]

DEEP's Response:

As noted in ACA's comment, the requested explanation about Low Solids Coatings is included in RCSA section 22a-174-41(g)(2)(A)-(B) and repeating that explanation is unnecessary. It is not recommended to follow ACA's comment to include a footnote in Table 41-1 to explain that for Low Solids Coatings the limit is expressed as VOC content.

AIM coatings phase 2 - additional comments

Comment # 4-10 from Raleigh Davis on behalf of ACA

ACA requests that the definition proposed in RCSA section 22a-174-41a(a) for "Concrete" or "Masonry Sealer" be combined into "Concrete/Masonry Sealer". The combination into a single phrase would reflect the definition as written in the OTC Model Rule[7].

DEEP's Response:

The Manual for Drafting Regulations published by the LCO explicitly discourages the use of slashes, dashes, parenthesis or similar punctuation within a definition of a particular regulation. The use of the slash recommended by the ACA in the definition of "concrete or masonry sealer"

[6] OTC Model Rule, Table 1.
[7] OTC Model Rule, Part 2.19

will likely be identified as a technical correction in the LCO report. No changes are recommended as a result of this comment. However, the term should be expressed with one set of quotation marks. Thus, the internal quotation marks should be eliminated in subsection (a)(18). Also in subsections (a)(73) and (a)(74) and in Table 41a-1 of this section, the term appears as "concrete/masonry sealer" and it should be replaced with "concrete or masonry sealer".

Comment # 4-11 from Raleigh Davis on behalf of ACA

ACA respectfully requests that the definition for "Conjugated Oil Varnish" be rewritten to reflect the definition used in the OTC Model Rule[8]. Currently, the definition reads "Conjugated Oil Varnish" means clear or semi-transparent wood coating based on natural occurring vegetable oil (Tung oil) and modified with other natural or synthetic resins of which a minimum of 50% of the resin solids consist of conjugated oil. 'Conjugated oil varnish' may contain small amount of oil to control the final gloss or sheen. Lacquers or shellacs are not considered 'conjugated oil varnish". To reflect the language from the OTC Model Rule, the language should read "[a] clear or semi-transparent wood coating, labeled as such, excluding lacquers or shellacs, based on a natural occurring conjugated vegetable oil (Tung oil) and modified with other natural or synthetic resins; a minimum of fifty percent of the resin solids consisting of conjugated oil. Supplied as a single component product, conjugated oil varnishes penetrate and seal the wood. Film formation is due to polymerization of the oil. These varnishes may contain small amounts of pigment to control the final gloss or sheen."

DEEP's Response:

We believe the definition of conjugated oil varnish in RCSA section 22a-174-41a is accurate and complete. However, adding the two sentences that are not included in our definition of conjugated oil varnish and that are requested by ACA in this comment will not introduce error or create confusion. For that reason, it is recommended that definition (20) in RCSA section 22a-174-41a is modified as follows:

> (20) "Conjugated oil varnish" means clear or semi-transparent wood coating based on a natural occurring conjugated vegetable oil (Tung oil) and modified with other natural or synthetic resins of which a minimum of 50% of the resin solids consist of conjugated oil. **Supplied as a single component product, "conjugated oil varnish" penetrates and seals the wood. Film formation is due to polymerization of the oil.** "Conjugated oil varnish" may contain small amounts of pigment to control the final gloss or sheen. Lacquers or shellacs are not considered "conjugated oil varnish."

Comment # 4-12 from Raleigh Davis on behalf of ACA

To be consistent with the phrasing in the OTC Model Rule[9], ACA requests that DEEP combine Sections A and B in the current definition of "Industrial Maintenance Coatings". With these edits, the definition would read as follows:

[8] OTC Model Rule, Part 2.21
[9] OTC Model Rule, Part 2.36

(33) “Industrial maintenance coating” means a high performance architectural coating, including primer, sealer, undercoaters, intermediate coat and topcoat, formulated for application to substrates, including floors, exposed to one or more of the following extreme environmental conditions:

(A) Immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;
(B) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
(C) Frequent exposure to temperatures above 121°C (250°F);
(D) Frequent heavy abrasion, including mechanical wear and frequent scrubbing with industrial solvents, cleansers, or scouring agents; or
(E) Exterior exposure of metal structures and structural components.

DEEP's Response:

DEEP decided to separate the conditions 2.36.1 of the definition of Industrial Maintenance Coating in the OTC Model Rule into subparagraphs (A) and (B). We believe the definition produces the same result in categorizing regulated products. Furthermore, we believe our definition is clearer than the definition on the OTC Model Rule. Therefore, it is not recommended to modify definition (33) of RCSA section 22a-174-41a.

Comment # 4-13 from Raleigh Davis on behalf of ACA

ACA respectfully requests the following minor additions and edits to the following definitions, to harmonize the language with that of the OTC Model Rule[10]. The requested additional language is in bold font.

(50) “Reactive Penetrating Sealer” means a clear or pigmented coating that is labeled and formulated for application to above-grade concrete and masonry substrates to provide protection from water and waterborne contaminants, including but not limited to, alkalis, acids and salts. “Reactive penetrating sealer” penetrates into concrete and masonry substrates and chemically reacts to form covalent bonds with naturally occurring minerals in the substrate. “**Reactive Penetrating Sealer” lines the pores of concrete and masonry substrates with a hydrophobic coating, but does not form a surface film.** “Reactive penetrating sealer” improves water repellency by at least 80 percent and does not reduce the water vapor transmission rate by more than 2 percent after application on a concrete or masonry substrate.

(51) “Reactive penetrating carbonate stone sealer” means a clear or pigmented coating that is labeled and formulated for application to above-grade carbonate stone substrates to provide protection from water and waterborne contaminants, including but not limited to, alkalis, acids and salts. “Reactive penetrating carbonate stone sealer” penetrates into carbonate stone substrates and chemically reacts to form covalent bonds with naturally occurring minerals in the substrate. “**Reactive Penetrating Carbonate Stone Sealer**” **lines the pores of carbonate stone substrates with a hydrophobic coating, but does not form a surface film.** “Reactive penetrating carbonate stone sealer” improves water

[10] OTC Model Rule, Parts 2.57, 2.58, 2.73 and 2.79

repellency at least 80 percent and does not reduce the water vapor transmission rate by more than 10 percent after application on a carbonate stone substrate.

(65) "Swimming pool coating" means a coating labeled and formulated to coat the interior of swimming pools and resist swimming pool chemicals. "**Swimming pool coating**" **includes coatings used for swimming pool repair and maintenance.**

(69) "Tub and tile refinish coating" means a clear or opaque coating that is labeled and formulated exclusively for refinishing the surface of a bathtub, shower, sink, or countertop. "Tub and tile refinish coating" is formulated to have the following properties:

(A) Adhesion rating of 4B or better after 24 hours of recovery;
(B) Scratch hardness of 3H or harder;
(C) Gouge hardness of 4H or harder; and
(D) Ability to withstand 1000 hours or more of exposure with few or no #8 blisters.
(E) A weight loss of 20 milligrams or less after 1000 cycles.

DEEP's Response:

DEEP should make the edits and clarifications suggested above to definitions (50), (51), (65) and (69) of RCSA section 22a-174-41a(a), according to ACA's comment.

Comment # 4-14 from Raleigh Davis on behalf of ACA

ACA requests that DEEP add definitions of the terms "VOC Content", "VOC Actual" and "VOC Regulatory" referenced in Section 22a-174-41a(a) of the proposed rule. While Section 22a-174-41a(e) and Section 22a-174-41a(f) note that the actual VOC content needs to be used, neither "VOC Actual" and "VOC Regulatory", nor "VOC Content" are defined in the definition section of the rule. ACA is concerned that excluding definitions of those terms under Section 22a-174-41a(a) would cause unnecessary confusion. As such, ACA requests that DEEP include definitions of "VOC Content", "VOC Actual" and "VOC Regulatory" in Section 22a-174-41a(a) as follows to include the definitions from the OTC Model Rule[11]:

- "VOC Content" means weight of VOC per volume of coating. "VOC Content" is VOC Regulatory, as defined in Section 22a-174-41a(a) for all coatings except those in the Low Solids category. For coatings in the Low Solids category, the VOC Content is VOC Actual, as defined in Section 22a-174-41a(a). If the coating is a multi-component product, the VOC content is VOC Regulatory as mixed or catalyzed. If the coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process, the VOC content must include the VOCs emitted during curing. VOC Content must include maximum amount of thinning solvent recommended by the manufacturer.

- "VOC Regulatory" means the VOC content of a coating, excluding low-solids coatings, as determined using the procedures described in Section 22a-174-41a(g)(2)(A)

[11] OTC Model Rule, Part 2.84, Part 2.85 and Part 2.85

- "VOC Actual" means the VOC content of a low-solids coating as determined using the procedures described in 22a-174-41a(g)(2)(B)

DEEP's Response:

The term VOC content is defined in RCSA section 22a-174-41a(a). The terms VOC regulatory and VOC actual are not used in the regulation so it is not necessary to define them. Furthermore, the additional language used in the OTC Model Rule and that ACA requests to be added to the term VOC content, is now included in RCSA section 22a-174-41a(g)(2)(A)-(H). Including OTC's definition of VOC content in subsection (a), as requested by ACA, would result in the regulation being duplicative and confusing. RCSA section 22a-174-41a(a) should not be revised as a result of this comment.

Comment # 4-15 from Raleigh Davis on behalf of ACA

Mirroring our previous request for Phase 1, ACA also requests that DEEP add to Sec. 22a-174-41a(c)(1) exemptions and exceptions provision in Phase 2. Connecticut's proposed rule reads, "This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut." It should read, "This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut **or for shipment to other manufacturers for reformulation or repackaging**." The additional language would make DEEP's rule consistent with the OTC Model AIM Coatings Rule.[12]

DEEP's Response:

Although the part of the sentence identified by ACA as being missing from RCSA section 22a-174-41a(c) is covered in other provisions of the regulation, for clarity purposes and to have our regulation reflect more closely the language in the OTC Model Rule, RCSA section 22a-174-41a(c)(1) should be modified to read as follows:

> (1) This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut **or for shipment to other manufacturers for reformulation or repackaging**.

Comment # 4-16 from Raleigh Davis on behalf of ACA

ACA recommends that DEEP follow the language in the OTC Model AIM Coatings Rule with respect to Sec. 22a-174-41a(c)(4). Connecticut's proposed rule reads, "This section shall not apply to any of the following architectural coatings: (A) Coatings sold in a container with a volume of one liter (1.057 quarts) or less; (B) Coatings sold as a kit containing containers of different colors, types or categories of coatings with a total volume of one liter or less; or (C) Multi-component coating sold in containers with a total volume of one liter or less." To be consistent with the OTC Model Rule, the exemption in Sec. 22a-174-41a(c)(4)(B) should be

[12] OTC Model Rule, Part 1.2.1: "This rule does not apply to any architectural coating that is supplied, sold, offered for sale, or manufactured for use outside of [jurisdiction] or for shipment to other manufacturers for reformulation or repackaging."

revised to read, “Coatings sold as a kit containing containers of different colors, types or categories of coatings ~~with a total volume of one liter or less~~.” Similarly, the exemption in Sec. 22a-174-41a(c)(4)(C) should be revised to read, “Multi-component coating sold in containers ~~with a total volume of one liter or less~~. The stricken language is already included in Subpart A. DEEP should also include the following provision that would be added as Sec. 22a-174-41a(c)(4)(D), “This exemption does not include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit.”

DEEP's Response:

RCSA section 22a-174-41a(c)(4) should be revised as a response to ACA's comment, and DEEP should revert to the original OTC Model Rule, as follows:

> (c)(4) ~~This section shall not apply to any of the following architectural coatings:~~
> ~~(A) Coatings sold in a container with a volume of one liter (1.057 quart) or less;~~
> ~~(B) Coatings sold as a kit containing containers of different colors, types or categories of coatings with a total volume of one liter or less; or~~
> ~~(C) Multi-component coating sold in containers with a total volume of one liter or less.~~
>
> **This section shall not apply to any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less, including kits containing containers of different colors, types or categories of coatings and two component products. This applicability exception does not include bundling of containers one liter or less, which are sold together as a unit, or any type of marketing which implies that multiple containers one liter or less be combined into one container. This exemption does not include packaging from which the coating cannot be applied. This exemption does include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit.**

Comment #4-17 from Raleigh Davis on behalf of ACA

To be consistent with the OTC Model Rule[13], ACA requests that the thinning statement made in Section 22a-174-41a(d)(5) to read as follows:

> (5) No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in Table 41a-1 (Table of Standards)

DEEP's Response:

DEEP should modify RCSA section 22a-174-41a(d)(5) to read as follows:

[13] OTC Model Rule, Part 3.5

(5) No person who applies or solicits the application of any architectural coating shall ~~add additional solvent~~ **apply a coating if additional solvent has been added to thin the coating** such that the addition causes the coating to exceed the applicable VOC limit specified in Table 41a-1 of this section.

Comment # 4-18 from Raleigh Davis on behalf of ACA

ACA respectfully requests that manufacturers be able to utilize formulation data when displaying the VOC content on the product label. Not only is that consistent with the OTC Model Rule[14], but similar rules throughout the country. Currently, Section 22a-174-41a(e)(3) reads as follows: On the label, lid or bottom of the container of an architectural coating, the manufacturer shall display either the maximum or the actual VOC content of the coating, displayed in grams of VOC per liter of coating.

The revised Section 22a-174-41a(e)(3) would be written as follows:

(3) Each container of any coating subject to this rule shall display one of the following values in grams of VOC per liter of coating:
(A) Maximum VOC Content as determined from all potential product formulations;
(B) VOC Content as determined from actual formulation data; or
(C) VOC Content as determined using the test methods in Section 22a-174-41a(g)

DEEP's Response:

RCSA section 22a-174-41a(e)(3) should be revised to read as follows:

(3) On the label, lid or bottom of the container of an architectural coating, the manufacturer shall display ~~either the maximum or the actual VOC content of the coating, displayed~~ **one of the following values** in grams of VOC per liter of coating~~.~~**:**
(A) Maximum VOC content as determined from all potential product formulations;
(B) VOC content as determined from actual formulation data; or
(C) VOC content as determined using the test methods in subsection (g) of this section.

Comment # 4-19 from Raleigh Davis on behalf of ACA

To be consistent with the OTC Model Rule[15], ACA requests that the label requirements for specialty primers, sealers or undercoaters in RCSA section 22a-174-41a(e)(6) be edited to include the phrase "For Blocking stains" as one of the possible descriptions. With this edit, 22a-174-41a(e)(6) would read as follows:

(6) On the label of any specialty primer, sealer or undercoater, the manufacturer shall prominently display:

[14] OTC Model Rule, Part 4.1.3
[15] OTC Model Rule, Part 4.1.9

(A) “For blocking stains;”

(B) “For fire-damaged substrates;”

(C) “For smoke-damaged substrates;” or

(D) “For water-damaged substrates.”

DEEP's Response:

The omission of "For blocking stains" was caused by an oversight, and RCSA section 22a-174-41a(e)(6) should be revised to read as follows:

(6) On the label of any specialty primer, sealer or undercoater, the manufacturer shall prominently display:
(A) “For blocking stains;”
~~(A)~~ **(B)** “For fire-damaged substrates;”
~~(B)~~ **(C)** “For smoke-damaged substrates;” or
~~(C)~~ **(D)** “For water-damaged substrates.”

Comment # 4-20 from Raleigh Davis on behalf of ACA

To be consistent with the OTC Model Rule[16], ACA respectfully requests that the label requirement for any reactive penetrating carbonate stone sealer in RCSA section 22a-174-41a(e)(10) prominently display the statement “reactive penetrating carbonate stone sealer” instead of “reactive penetrating sealer”. This would as minimize confusion between the two categories.

DEEP's Response:

The label should read "reactive penetrating carbonate stone sealer" and RCSA section 22a-174-41a(e)(10) should be revised to read as follows:

(10) On the label of any reactive penetrating carbonate stone sealer, the manufacturer shall prominently display the statement: “reactive penetrating **carbonate stone** sealer.”

Comment # 4-21 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP revise its Recordkeeping and Recording Requirements in Sec. 22a-174-41a(f)(2)-(3) to allow manufacturers to respond to compliance and distribution and sales data requests within 180 days after receiving such a request. Furthermore, ACA respectfully requests that DEEP change its recordkeeping requirement from five to three years. As we stated previously, these changes are consistent with the OTC Model Rule and similar rules in neighboring jurisdictions.[17]

[16] OTC Model Rule, Part 4.1.12
[17] OTC Model Rule, Part 5.

Sec. 22a-174-41a(f)(2) should read:

"All records made to demonstrate compliance with this section shall be maintained for **three years** from the date such record is created and shall be made available to the commissioner or the Administrator no later than **180 days** after a request."

Sec. 22a-174-41a(f)(3) should read:

"Each manufacturer of a coating subject to this section shall, upon request of the commissioner, provide data concerning the distribution and sales of coatings subject to a VOC content limit in subsection (d) of this section. The manufacturer shall, not later than **180 days** after receiving such a request, produce information including, but not limited to…."

DEEP's Response:

DEEP should not make any of the revisions recommended in this comment. The amendment to RCSA section 22a-174-41a will be submitted to EPA as a SIP revision, as indicated in the public notice, and the Clean Air Act requires a minimum record maintenance time for many stationary source programs of five years. A five year minimum record maintenance time is also required in other Connecticut air quality regulations. Also, advancement of technology facilitates the process of recordkeeping and retrieval of records so that 90 days should be more than adequate time for a manufacturer to respond to a request for compliance, distribution and sales data from the commissioner of DEEP or the EPA. Allowing more time to respond to a request for information would interfere with the agency's ability to assure compliance with the regulations. Furthermore, the recently adopted AIM coatings regulations in Maryland and Delaware require recordkeeping for five years and Delaware's regulation also requires manufacturers to reply to a request for information made by the Environmental Authority within 90 days. For these reasons it is not recommended to modify subdivisions (2) and (3) of RCSA section 22a-174-41a(f).

Comment # 4-22 from Raleigh Davis on behalf of ACA

As stated under Comment #4-14, ACA has respectfully requested the DEEP utilize the terms "VOC Actual" and "VOC Regulatory" throughout Sec. 22a-174-41a for consistency with the OTC Model Rule and other jurisdictions across the country. In addition, we would request that the following sections to updated to reflect these terms, as follows (changes in bold):

> Section 22a-174-41a(f)(3)(F): the **VOC Actual** content and **VOC Regulatory** content in grams per liter. If thinning is recommended, list the **VOC Actual** content and **VOC Regulatory** content after maximum recommended thinning. If containers less than one liter have a different VOC content than containers greater than one liter, list separately. If the coating is a multi-component product, provide the VOC Content as mixed or catalyzed;
>
> Section 22a-174-41a(g)(2)(A): For all coatings that are not low solids coatings, determine the **VOC Regulatory** content in grams of VOC per liter of coating thinned to the manufacturer's recommendation, excluding the volume of any water and exempt compounds, using the following equation:

VOC Regulatory Content = (Ws - Ww - Wec)/ (Vm - Vw - Vec)

Where:

VOC Regulatory Content = the VOC content of a coating (g/L of coating)

Ws = weight of volatile components (g)

Ww = weight of water (g)

Wec = weight of exempt compounds (g)

Vm = volume of coating (L)

Vw = volume of water (L)

Vec = volume of exempt compounds (L);

Section 22a-174-41a(g)(2)(B): For low solids coatings, determine the **VOC Actual** content in grams per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds, using the following equation:

VOC Actual Content (ls) = (Ws - Ww - Wec)/ (Vm)

Where:

VOC Actual Content (ls) = the VOC content of a low solids coating (g/L of coating)

Ws = weight of volatile components (g)

Ww = weight of water (g)

Wec = weight of exempt compounds (g)

Vm = volume of coating (L);

For clarity, we also recommend that there be a reference to the Definitions section (Section 22a-174-41a(a)).

DEEP's Response:

The language used in the OTC Model Rule and that ACA requests to be added to RCSA sections 22a-174-41a(f)(3)(F) and 22a-174-41a(g)(2)(A) is unnecessary since the same result is obtained without using the requested terms in RCSA section 22a-174-41a(f)(3)(F) and in section 22a-174-41a(g)(2)(A)-(H). RCSA section 22a-174-41a should not be revised as a result of this comment.

Comment # 4-23 from Raleigh Davis on behalf of ACA

ACA respectfully requests that DEEP add an asterisk and footnote for "Low Solids Coatings" in Table 41a-1, as was also requested for Part I. As stated before, the footnote would explain that this "Limit is expressed as VOC Content (see Sec. 22a-174-41a(g)(2)(A)-(B))." This footnote is consistent with the OTC Model AIM Coatings Rule.

DEEP's Response:

As noted in ACA's comment, the requested explanation about Low Solids Coatings is included in RCSA section 22a-174-41a(g)(2)(B) and repeating that explanation is unnecessary, and it will create redundancy. It is not recommended to follow ACA's comment to include a footnote in Table 41a-1 to explain that for Low Solids Coatings the limit is expressed as VOC content.

PSD Program - no comments received

V. Comments of Hearing Officer

In making the revisions to this proposal requested by the commenters, additional changes need to be made to clarify provisions, to correct inaccuracies or to improve the format of the proposal. The changes that should be made to the proposal are highlighted below:

- The words "carbon" and "containing" in definition (14) of RCSA section 22a-174-40(a) should be linked by a dash. Definition (14) should be revised to read as follows:

  (14) "Aromatic compound" means a carbon - containing compound that contains one or more benzene or equivalent heterocyclic rings and has an initial boiling point less than or equal to 280°C. "Aromatic compound" does not include compounds excluded from the definition of VOC listed in section 22a-174-1 of the Regulations of Connecticut State Agencies.

- By error, definition (52) was missing from proposed RCSA section 22a-174-40(a) and it should read as follows:

  (52) **"Dual purpose air freshener or disinfectant" means an aerosol product represented on the product container, or on any sticker, label, packaging, or literature attached to the product container, for use as both disinfectant and an air freshener.**

- The definition for "medicated astringent" or " medicated toner" in RCSA section 22a-174-40 should be revised to read as follows:

  [(99)](106) "Medicated astringent" or "medicated toner" means any product regulated as a drug by the FDA that is applied to the skin for the purpose of

cleaning or tightening pores, and includes, but is not limited to, clarifiers and substrate-impregnated products. “Medicated astringent” or “medicated toner” does not include hand, face, or body cleaner or soap products, personal fragrance products, astringent or toner, cold cream, lotion, antiperspirants or products that ~~must~~ **may only** be purchased with a doctor’s prescription.

- In addition to the revision recommended in the response to comments 1-1 and 2-1, in RCSA section 22a-174-40(d)(17)(B), the date May 1, 2020 should be changed to April 30, 2020, and in RCSA section 22a-174-40(d)(17)(B)(ii), the date of November 30, 2019, should be changed to October 31, 2019 to better align with the language in the OTC Model Rule, as follows:

(17) Except as provided below, effective May 1, 2018, no person shall sell, supply, offer for sale, or manufacture for use in Connecticut any multi-purpose solvent or paint thinner that contains methylene chloride, perchloroethylene, or trichloroethylene, or greater than 1% aromatic compound content by weight, except as follows:
(A) Multi-purpose solvent aerosols and paint thinner aerosols that contain methylene chloride; perchloroethylene, or trichloroethylene, or greater than 1% aromatic compound content by weight and were manufactured prior to May 1, 2017 may be sold, supplied, or offered for sale through April 30, 2020, if that product complies with the product dating requirements;
(B) Any person who sells or supplies a consumer product identified in subparagraph (A) of this section must notify the purchaser of the product in writing that the sell-through period for that product will end on ~~May 1, 2020~~ **April 30, 2020**, however, this notification must be given only if both of the following conditions are met:
(i) The product is sold or supplied to a distributor or retailer; and
(ii) The product is sold or supplied on or after ~~November 30, 2019~~ **October 31, 2019**; and
(C) The requirements of subparagraph (B) of this subdivision shall not apply to any multi-purpose solvent or paint thinner that contains any methylene chloride; perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01 percent by weight.

- Subdivision (3) of RCSA section 22a-174-40(e) should be revised by replacing the word "must" with the word "shall" for proper form, as follows:

(e)(3) If a manufacturer uses a code indicating the date of manufacture for any consumer product subject to subsection (d) of this section, an explanation of the code ~~must~~ **shall** be available to the commissioner upon request [no later than January 1, 2008]. Such explanations are public information and may not be claimed as confidential.

- The Manual for Drafting Regulations published by the LCO explicitly discourages the use of slashes, dashes, parenthesis or similar punctuation within a definition of a particular regulation. Since the change is necessary to identify more precisely the type of products subject to the VOC limits, DEEP should replace slashes in a consumer product name in each instance it occurs in RCSA section 22a-174-40, as follows:

  "Antiperspirant/deodorant product" replaced by "antiperspirant or deodorant product", in subsection (e)(4);

  "Artist's solvent/thinner", replaced by "artist's solvent or thinner", in subsections (a)(15) and (a)(125)(A);

  "Clear/paintable/water resistant caulking compound", replaced by "clear, paintable or water resistant caulking compound", in subsection (a)(145)(D);

  "Dual purpose air freshener/disinfectant product", replaced by "dual purpose air freshener or disinfectant product", in subsections (a)(7) and (a)(52), and in Table 40-3;

  "Laundry starch/sizing/fabric finish product", replaced by "laundry starch, sizing or fabric finish product", in subsection (a)(100) and in Table 40-3;

  "Metal polish/cleanser", replaced by "metal polish or cleanser", in subsection (a)(108), in Table 40-1 and in Table 40-3;

  "Odor remover/eliminator", replaced by "odor remover or eliminator", in subsection (a)(7);

  "Thinning/balding areas", replaced by "thinning or balding areas", in subsection (a)(159);

  "Toilet/urinal care product", replaced by "toilet or urinal care product", in subsections (a)(7), (a)(48)(G), (a)(143)(H), (a)(161) and (d)(9), in Table 40-1 and in Table 40-3;

  "Vinyl/fabric/leather/polycarbonate coating", replaced by "vinyl, fabric, leather or polycarbonate coating", in subsections (a)(58)(B), (a)(72), (a)(141)(B) and (a)(163).

- Similarly, when a slash is used in the definition of coating categories in RCSA section 22a-174-41, this special character should be replaced with the word "or", when appropriate.

- RCSA section 22a-174-41(c)(2) should be modified as follows:

  (2) [Any architectural coating manufactured prior to May 1, 2008 may be sold, supplied or offered for sale for up to three years after May 1, 2008. In addition, a] <u>A</u> coating manufactured [before May 1, 2008]<u>prior to May 1, 2018</u> may be applied at any time as long as the coating complies with any applicable VOC standard in effect at the time the coating was manufactured. The exception offered in this subdivision shall only apply to a coating that displays a date or date code as required by subsection (e)(1) of this section.

- A quotation mark in subsections (e)(4)(C) and (e)(5) of RCSA section 22a-174-41 should be revised, as follows:

  (e)(4)(C) "Not for residential use~~"~~**;"** or

  (e)(5) Clear brushing lacquer. On the label of any clear brushing lacquer, the manufacturer shall prominently display the statements: “For brush application only~~“~~**,”** and “This product must not be thinned or sprayed.”

- The subparagraph designator in definition (76) of RCSA section 22a-174-41a(a) should be revised, as follows:

  (76) “Zinc-rich primer” means a coating intended for professional use only that meets the following specifications:
  ~~(77)~~ **(A)** Contains at least 65 percent metallic zinc powder or zinc dust by weight of total solids; and
  ~~(78)~~ **(B)** Is formulated for application to metal substrates to provide a firm bond between the substrate and subsequent applications of coatings.

- For consistency, when making reference to the commissioner of the DEEP, lower case "c" should be use in all instances where the word "commissioner" is used throughout the proposal.

- For proper form, the term "must" should be replaced with the term "shall", when appropriate, throughout the proposal.

- For consistency, the consumer product categories in Tables 40-1, 40-3, and the coatings categories in Tables 41-1 and 41a-1 should be expressed as singular nouns.

No additional comments and no additional changes to the proposal are recommended at this time.

VI. Conclusion

Based upon the comments addressed in this Hearing Report, we recommend the proposal be revised as suggested herein and that the final proposal be submitted by the commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, be submitted to the EPA as a SIP revision.

/s/ Paula Gomez
Paula Gomez, Hearing Officer

03/31/2017
Date