

DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION

RESPONSE TO COMMENTS

for the

PUBLIC HEARING held on July 18, 2012
in BALTIMORE, MD
related to Regulation .27-1 under chapter COMAR 26.11.19

Purpose of Hearing: The purpose of the public hearing was to allow for public comment on the Department's proposal to adopt Regulation .27-1 under chapter COMAR 26.11.19 Volatile Organic Compounds (VOC) from Specific Processes.

The proposed regulation adopts the requirements of the Environmental Protection Agency Control Techniques Guidelines (CTG) EPA -453/R-08-003, September 2008, Miscellaneous Metal and Plastic Parts Coatings, for pleasure craft coating.

Date and Location: The public hearing was held on July 18, 2012 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Aeris Conference Room, Baltimore, Maryland 21230.

Attendance: Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, served as Hearing Officer. Mr. John Dunigan, International Paint and Marine Trade Association of Maryland and Steven Unthoff, Annapolis Gel Coat and Fiberglass Repair.

Statement: The Department's statement was read by Husain Waheed, Senior Regulatory and Compliance Engineer of the Regulation Development Division of the Air and Radiation Management Administration, Department of the Environment.

Comments and Responses: Comments were received from Mr. John Dunigan, International Paint and Marine Trade Association of Maryland and Steven Unthoff, Annapolis Gel Coat and Fiberglass Repair. The oral comments received, in some instances, have been summarized and the Department's response given below.

Sell-Through Provision

1. COMMENT: Include a sell-through provision of 1 year be added to the proposed regulation. Sell-through provisions are intended to provide a smooth transition to a new emission standard by allowing businesses to sell, for a limited period of time, their inventories of noncomplying products that still exist on the effective date of the new standard.

RESPONSE: The proposed regulation, COMAR 26.11.19.27-1 does not outright prohibit the sale or use of noncompliant products in the State of Maryland. Affected sources may still sell noncompliant products so long as they are not applied at the affected facility. The ability to sell noncompliant product negates the necessity for a sell-through provision.

The Maryland Department of the Environment (MDE) began informing stakeholders of the proposed regulation, COMAR 26.11.19.27-1, in May of 2011. MDE received approval for an original version of the regulation by the Air Quality Control Advisory Council on June 13, 2011. The Department received significant comments from stakeholders at a public hearing held on September 27, 2011 and subsequently withdrew the regulation on October 21, 2011 to address stakeholder concerns. Under the provisions of the original proposed regulation, the requirements of the regulation would have become effective immediately upon adoption of the regulation. The Department amended the effective date of the regulation to January 1, 2013 to allow time for affected businesses to utilize existing product and to allow for additional compliant product to come to market and users to become familiar with their application and performance. The Department has worked closely with stakeholders through the regulation development and adoption process to provide ample time for usage and sale of existing products.

15 Pound Per Day Applicability

2. COMMENT: The standards become applicable at 15 pounds per day of VOCs averaged over a 30 day period. Consideration should be given to averaging over a period of 365 days as has been the case in New England states.

RESPONSE: The proposed regulation affects pleasure craft and fiberglass boat coating operations at a premises with actual VOC emissions of 15 pounds or more per day from coating operations as determined on a monthly average. 15 pounds or more per day from coating operations as determined on a monthly average is the applicability threshold that determines whether a facility needs to meet the standards and requirements of the proposed regulation.

Under the Department's original proposed rule published in the Maryland Register on August 26, 2011, the applicability threshold was established at 15 pounds or more per day of VOC. Based upon stakeholders comments the Department made amendments to the applicability section and allowed for a monthly averaging period. MDE arrived at this applicability threshold in consultation with EPA Region III. A monthly average would relax the original, tighter applicability threshold while still establishing an applicability that would provide meaningful emission benefits from the regulation. Due to the cyclical nature of pleasure craft coating in Maryland, an annual average of VOC emissions would not accurately reflect the true emission cycle. Pleasure craft coating operations in Maryland occur at a peak cycle during the spring, while operations continue throughout the summer with a subsequent peak in the fall.

Furthermore, Maryland regulations pertaining to VOC emissions do not have a 365 day averaging period for the applicability for any VOC standard. A longer averaging period would mean that fewer sources would be affected and fewer benefits would be achieved. VOC emission reductions in Maryland remain as an important factor in meeting current and future, stricter federal ground level ozone standards. Maryland, and in particular the Baltimore metropolitan region, is exposed to some of the worst air quality levels in the nation.

Also of note, while there was an initial draft of a pleasure craft coating regulation released by the State of Connecticut which included a 365 day average of VOC emissions for applicability, Connecticut's regulation has not been adopted or approved by EPA.

Effective Date of Regulation

3. COMMENT: The effective date of this regulation is January 1st, 2013. Due to the nature of the pleasure craft coating industry and the difficulty in changing equipment and spray techniques and the learning curve for applicators on using new products, it would be helpful to have an effective date of June 1st, 2013, to give enough time to retrain, reeducate and resupply affected facilities.

RESPONSE: As stated above in response to comment #1, the Department has already made amendments to the effective date of the regulation to accommodate product development, user training and usage of existing product. Under the provisions of the original proposed regulation, the requirements of the regulation would have become effective immediately upon adoption of the regulation. The Department amended the effective date of the regulation to January 1, 2013 to allow time for affected businesses to utilize existing product and to allow for additional compliant product to come to market and users to become familiar with their application and performance. Therefore, the Department believes that adequate time for usage of existing products has already been made available through the regulation development and adoption process.

Multiple Businesses

4. COMMENT: The landowner who pays the property taxes determines whether the facility is VOC-compliant or not based on the amount of product used. In some cases, there are renters or leased businesses on the same property that will fall below the 15 pounds average per day over a 30-day period. It puts a burden on these businesses to use compliant products when they are actually below the regulation. There are separate businesses located under one landowner and they pay separate taxes and are separate entities. These businesses should be considered as separate units for the applicability of the regulation.

RESPONSE: The regulation applies to pleasure craft coating operations at premises where the total VOC emissions equals or exceeds 15 pounds per day from pleasure craft coating operations. Therefore the premises, in this case the marina, is subject to the regulation and needs to determine all emissions released by the marina and all independent contractors performing pleasure craft coating operations on the premises for

purposes of determining applicability and ensuring compliant products are used and maintaining records of such usage.

Small Mobile Businesses

5. COMMENT: For a mobile company, the 15 pounds per day limit, over a 30-day period, could restrict activity or put it out of business. Most boatyards have basically informed mobile companies that business cannot be carried out as usual. If eighty-five percent of the work is done on a mobile basis, it is a severe impact on business. It could cost tens of thousands of dollars in equipment and modifications to comply. It could be like another California of several years ago, as significant number of companies, marine repair businesses, went out of business. These are pretty significant changes to the industry, and it's happening very quickly. More time is needed to be able to mold the businesses around the regulation and try to conform with it.

RESPONSE: The purpose of this action is to adopt the requirements of the EPA's Control Techniques Guidelines (CTG) for miscellaneous metal and plastic parts which include controls for pleasure craft coating operations. EPA develops CTGs as guidance on control requirements for source categories. States can follow the CTGs or adopt more restrictive standards. Maryland is required to adopt the federal CTG into the Code of Maryland Regulations and has worked closely with affected stakeholders and association representatives to develop a regulation that addressed industry concerns and incorporated stakeholder recommendations.

EPA estimated the economic impact of this regulation on a national level. Cost effectiveness is approximately \$1,800/ton of VOC controlled. The standards and requirements of the CTG have already been implemented in other states and as a result cost of production of compliant coatings has been dramatically reduced from the initial phase of implementation. The availability and performance of new, compliant products have increased as well. As more states adopt regulations for the pleasure craft coating CTGs the costs of compliant coatings are expected to be reduced further and therefore not posing as great an economic burden upon businesses.