

DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION

RESPONSE TO COMMENTS

for the

PUBLIC HEARING held on January 11, 2012
in BALTIMORE, MD

related to Proposed New Regulation COMAR 26.11.19.23
Control of VOC Emissions from Vehicle Refinishing

Purpose of Hearing: The purpose of this hearing is to allow for public comment on the Department's proposal to adopt new Regulation 23 under COMAR 26.11.19 Volatile Organic Compounds from Specific Processes.

Date and Location: The public hearing was held on January 11, 2012 at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Room, Baltimore, Maryland 21230.

Hearing Officer: Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, served as Hearing Officer.

Attendance: Mike Pecilunas of RRR Automotive, Hank Clark of Mid-Atlantic Paint, Randy Haranin of PPG Industries, Inc., James (Jaime) Young of DuPont Performance Coatings, Mark Meredith of NAPA, and Michelle Liljc of Finish Master attended the public hearing.

Statement: The Department's statement was submitted into the record by Mr. Eddie DuRant, Regulatory Engineer within the Regulations Development Division of the Air and Radiation Management Administration.

Comments and Responses: The comments received at the hearing and the written comments that the Department received during the 30-day comment period that relate to the proposed action have been summarized and the Department's responses are given below.

COMMENT: One commenter noted that the technology exists to be able to paint and repair cars using waterborne, low VOC coatings and paints as specified in the proposed regulation. The problem lies with a segment of auto body repair industry that is reluctant to change over to waterborne coatings unless there is a regulation on the books with a specific effective date. The commenter has urged the Department to make the proposed regulation effective as soon as possible in order to push the auto body repair industry to converting to complaint, waterborne coatings.

RESPONSE: The Department agrees with the concern raised by the commenter. While the use of waterborne, low VOC coatings and paints in the auto body and repair industry has been successful, the Department realizes that implementing standards and requirements found in the regulation often entails dealing with practical and logistical problems that requires significant time for affected sources to purchase new application equipment and products and to train personnel in their use. The Department believes the proposed compliance date of July 1, 2013 in the new regulation will give manufacturers, suppliers, and distributors of coatings, cleaning solvents, and application equipment and auto body and repair shops the necessary time to organize training, evaluate logistics, transition to low VOC coatings and application technologies, and ease the financial burden associated with implementing the proposed regulation.

COMMENT: One commenter disagrees with the source that estimates 677 shops are currently operating in Maryland that was cited in the technical support document for the proposed new regulation, COMAR 26.11.19.23 - Control of VOC Emissions from Vehicle Refinishing. The commenter believes that number is an extremely low estimate of the number of shops in the state and believes this data could have been a determining factor in the implementation of the time frame for the proposed new regulation by the Department.

RESPONSE: The estimate of the total number of shops (677) mentioned in the technical support document for COMAR 26.11.19.23 - Control of VOC Emissions from Vehicle Refinishing comes from the 2010 – 2011 State of the Industry Report prepared by Body Shop Business. The Department acknowledges that the number of auto body shops cited in the report is only an estimate based on methodologies such as population, number of registered vehicles, and the number of reported accidents, number of licensed drivers, etc which may not accurately reflect the actual number of auto body shops in the State. However, the Department believes that the estimated number of auto body shops in Maryland as cited in the report does indicate that a significant number of shops would be affected by the proposed new regulation. The Department has used this information to work closely with the auto body and repair industry through stakeholder meetings and other correspondence to lessen the impact of the proposed regulation on potentially affected sources. Stakeholders have communicated to the Department that they are able to meet the requirements of the regulation. The Department has granted additional time with regards to the compliance date to allow for a smooth transition to the requirements of the regulation and to allow smaller auto body shops to utilize existing products.

COMMENT: One commenter disagrees with the costs to auto body shops to make the transition [to compliant coatings] that was cited in the technical support document for the proposed new regulation; COMAR 26.11.19.23 - Control of VOC Emissions from Vehicle Refinishing. The commenter believes the costs to shops to implement changes to comply with the proposed new regulation is more in the realm of \$10,000 per facility as opposed to \$2,320 per facility cited in the regulation.

RESPONSE: The estimated economic impact on small businesses, specifically auto repair and refinishing operations cited in the technical support document for COMAR 26.11.19.23 - Control of VOC Emissions from Vehicle Refinishing is based on information that was submitted

to the California Air Resources Board (CARB) in response to survey questions mailed out to the auto body and repair shop industry by CARB. These results were subsequently published in a 2005 Suggested Control Measure (SCM) Staff Report which estimates that compliance costs for small businesses would average around \$2,320 per facility with an average annualized compliance cost of \$1,022 per facility. The Department believes that use of the cost data developed by CARB in assessing the economic impact (specifically the compliance costs for small businesses) of the SCM should not unrealistically represent the cost of compliance for Maryland.

COMMENT: Uniform Finish Coating Category: As agreed during discussion with the OTC Stationary Area Source Committee Refinish Model Rule working group, we support the 4.5lb/gal limit proposed for the *Uniform Finish Coating Category*. We urge Maryland to adopt the definition from the CARB SCM, “Uniform Finish Coating means any coating labeled and formulated for the application to the area around a spot repair for the purpose of blending a repaired area’s color or clear coat to match the appearance of an adjacent area’s existing coating.” Further on this point, we agree with the suggested changes to the definition of Spot Repair to be “less than a panel” instead of “one square foot”.

RESPONSE: The uniform finish coating category was removed from the OTC Model Rule for Vehicle Refinishing and subsequently the proposed new regulation at the request of the American Coatings Association (ACA), which stated the term “uniform finish coating” is “confusing and even misleading”. In addition, the Maryland Department of the Environment (MDE) received an April 15, 2011 letter from the ACA requesting removal of the term “uniform finish coating” which further states, “*it must be recognized that there is no regulatory VOC limit or requirement specified for it [uniform finish coating] as a coating. This is because in reality it is not a coating; instead it is a solvent blending material that blends coatings into one another so there is not a visible demarcation.*”

COMMENT: Administrative Requirements: We suggest that section (1)(c) of this section be removed in deference to the requirement in (2)(a). Section (1)(c) states a requirement for the date code to be placed on the can at least 30 days BEFORE the can is offered for sale in the state. ACA believes this is an outdated requirement that has been replaced in other states by the statement that appears in (2)(a), which is much more logical. Manufacturers can simply provide a letter explaining any new date code to the state 30 days prior to introducing an automotive coating with such a new date code into Maryland.

RESPONSE: The Department believes the product date code provision of section (1)(c) cited by the commenter is consistent with the provisions found in the OTC Model Rule for Vehicle Refinishing and similar regulations adopted by other states such as Delaware.

COMMENT:

General Requirements, Effective Date: For consistency and clarity we submit that Section E(1)(b) specify a date, as section E(1)(a) specifies “effective July 1, 2013”. Therefore, we suggest Section E(1)(b) read as follows, “Except as provided elsewhere in this regulation, effective July 1, 2013, a person may not use or apply to a motor vehicle, mobile equipment, or

associated parts and components, an automotive coating or cleaning solvent for vehicle refinishing that exceeds the VOC content specified in Table 1 of §E(1) or in §E(5) of this regulation.”

RESPONSE: Regulation §D(1)(c) addresses the concerns of the commenter, as the provision applies to a person who, on or after July 1, 2013 that “*uses or applies an automotive coating or cleaning solvent within the State.*”

COMMENT: Section E(5)(a) limits solvents NOT for bug and tar removal to a VOC content of 25 grams per liter, while section E(5)(b) limits solvents for bug and tar removal to a VOC content of 40% by weight. Solvents not used for bug and tar removal would fall into the: “General Purpose Cleaner” or the “General Purpose Degreaser” category within the Consumer Products Rules already adopted in Maryland at COMAR 26.11.32 and as well as in the other OTC states. Since many of these automotive cleaners are sold in stores open to the public, the two sets of rules should line up. Thus, we recommend the limit for solvents, NOT for bug and tar removal, be a VOC content of 4%, which is identical to the limits adopted at COMAR 26.11.32.04 and by the OTC states for “General Purpose Cleaners” and “General Purpose Degreasers.”

RESPONSE: The Department disagrees with the commenter. The Department believes that the terms “cleaning solvent”, “general purpose cleaner” and “general purpose degreaser” each constitute distinct product categories with specified VOC content limits that are intended for specific tasks, application on specific substrates and surfaces, and use under certain circumstances for this regulation.

COMMENT: Section E(2)(a)(iii) provides the method to calculate the VOC of cleaning solvents in grams per liter and the labeling requirements for cleaning solvents [section I(2)(c)] requires the VOC content to be in grams per liter. To remain consistent with the CARB SCM, the VOC content should be as VOC actual, calculated as described in section E(2)(a)(iii). However, if Maryland wishes to remain consistent with other solvent rules, the VOC content of cleaning solvents would need to be in weight percent, calculated as:

$$\text{VOC content} = 100 * (\text{Wv} - \text{Ww} - \text{Wec}) / (\text{Wm})$$

Where:

VOC content in weight percent =

Wv = weight of total volatiles, in grams;

Ww = weight of water, in grams;

Wec = weight of exempt compounds, in grams;

Wm = weight of material (cleaning solvent, including water, exempt compounds, and added solvent), in grams

RESPONSE: Regulation E(2)(a)(iii) which provides the method to calculate the VOC of cleaning solvents in grams per liter is consistent with the methods in the 2005 SCM Staff Report by CARB, the Ozone Transport Commission (OTC) Model Rule for Auto Refinishing, and several other states with similar regulations.

COMMENT: In addition, we believe that the VOC content for these two types of cleaners should not include LVP volatile organic compounds. Since there will be extreme overlap between this regulation and the Consumer Products regulation COMAR 26.11.32 of these cleaners, the two regulations should have the same limits and should have the same exclusions from determination of VOC content. LVPs are not included in the determination of VOC content (see 26.11.32.01D(2)) for those cleaners. We are not requesting LVPs be excluded from the VOC content of coating products, just from the solvent cleaner products.

RESPONSE: The VOC content limit for cleaning solvents (excluding solvents used for bug and tar removal) of 25 g/L in the proposed regulation are consistent with the limit found in the 2005 SCM Staff Report by CARB. In addition, cleaning solvents are not listed among the product categories in Table 1. in COMAR 26.11.32.04B, and are not subject to the provisions of COMAR 26.11.32 - Control of Emissions of Volatile Organic Compounds from Consumer Products. However, according to COMAR 26.11.32.01(D)(2), the VOC limits listed in COMAR 26.11.32.04B do not apply to low-vapor pressure (LVP)-VOC cleaning solvents used in bug and tar removal.

COMMENT: We believe there is a typo in Section (5)(b). ‘COMAR 26.1.32.04B’ should read ‘COMAR 26.11.32.04B’

RESPONSE: The Department agrees with the commenter and will replace the typo “COMAR 26.1.32.04B” in §E(5)(b) with the corrected citation “COMAR 26.11.32.04B”.

COMMENT: Sell Through Dates Language: Section K (3) discusses the sell through of products. However, the wording, while allowing the sale of a product manufactured prior to 7/1/2013, does not seem to allow the users to use such products. Therefore we suggest Section K(3) read as follows, “An automotive coating, coating component or cleaning solvent subject to this regulation manufactured before July 1, 2013 may be used or applied, supplied, sold, offered for sale, or distributed in the State if the product meets the following...”

RESPONSE: The Department disagrees with the commenter. The purpose of the sell-through provision is to allow non-compliant products such as coatings, coating components, and cleaning solvents that may have been manufactured prior to the rule’s effective date to be supplied and sold in Maryland provided it meets the product dating requirements in the proposed regulation. It is implied that non-compliant products that are “*supplied, sold, offered for sale, or distributed*” may be used or applied to any associated parts or components of an automobile.