



October 27, 2018

Karen Slattery  
Department of Environmental Management  
Office of Air Resources  
235 Promenade Street  
Providence, RI 02908

**RE: Rhode Island Department of Environmental Management's (RI DEM) Proposed Amendments to 250-RICR-120-05-31 – Control of Volatile Organic Compounds from Consumer Products and 250-RICR-120-05-33 – Control of Volatile Organic Compounds from Architectural and Industrial Maintenance Coatings; ACA Comments**

Dear Ms. Slattery:

The American Coatings Association<sup>1</sup> (ACA) submits the following comments regarding Rhode Island Department of the Environmental Management's (RI DEM) proposed amendments to its consumer products and architectural and industrial maintenance (AIM) coatings regulations. ACA continues to work with many Ozone Transport Commission (OTC) states to develop reasonable coatings rules that provide economically efficient emissions reductions to help jurisdictions meet air quality standards and goals. ACA appreciates the opportunity to provide comments on RI DEM's proposed amendments and looks forward to assisting throughout the rulemaking process.

ACA supports the long-standing commitment by RI DEM to adopt regulatory provisions that are consistent with other OTC states in the Mid-Atlantic and Northeast region. The OTC has worked diligently to develop a workable regional regulatory framework for states to achieve technologically and commercially feasible reductions that are necessary to demonstrate compliance with state implementation plan commitments. ACA supports these efforts because they allow for consistency in regulations throughout the OTC region, promote significant improvements in air quality, and subsequently reduce the burden on industry. As a result, ACA appreciates the overall consistency between RI DEM's proposed consumer products rule amendments and the 2012/2013 OTC Model Rule for Consumer Products, as well as the consistency between RI DEM's proposed AIM rule amendments and the 2014 OTC Model Rule for AIM Coatings.

With that said, though, ACA has serious concerns about the unreasonable and impractical compliance date proposed under both rules. As currently proposed, RI DEM intends to impose a January 1, 2019 compliance date for both rules, which is merely two months away. This would not provide enough time for industry to come into compliance with the amended rules' new/revised VOC limits and other requirements. Therefore, ACA requests that RI DEM adopt a January 1, 2020 effective compliance date for both the consumer products and AIM coatings rule amendments.

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<sup>1</sup> The American Coatings Association (ACA) is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

As a general matter, ACA members require a reasonable amount of lead time to adjust formulations and supply chain processes in order to ensure compliance with amended VOC limits, labeling, and reporting requirements. As such, the proposed January 1, 2019 compliance date would not give the paint and coatings industry sufficient time to adjust production, labeling, and distribution networks to efficiently and effectively implement the amendments.

Furthermore, 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. Manufacturing and labeling costs are generally expensive, as well, and consumer products and AIM 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.

Moreover, most companies wait until a rule is finalized (i.e. its requirements are certain) before implementing changes to ensure compliance because it helps minimize costs. However, this also means that companies will not implement changes during the rulemaking process and will need adequate time after finalization and adoption of the amendments to make appropriate changes. Thus, industry typically needs a reasonable amount of lead time of several months to a year to properly implement necessary changes to comply with new requirements.

Finally, a delayed effective compliance date would give the state of Rhode Island enough time to fully and completely adopt final amended rules. The rulemaking process that RI DEM must follow in the state is thorough and extensive. ACA acknowledges that the extensive nature of Rhode Island's rulemaking process is meant to ensure that the rules are properly written and complete before finalization and implementation. A January 1, 2020 effective compliance date would allow the state of Rhode Island to completely go through the official rulemaking and adoption process before each of the rules are fully applicable to industry. Frankly, it's impractical for stakeholders to have to comply with a new rule that has not actually gone through the complete adoption process of the state.

Thus, given RI DEM's proposed compliance date of January 1, 2019 and the need for industry to have adequate lead time for implementation and compliance, ACA respectfully requests that RI DEM change the effective compliance date to January 1, 2020 for both its consumer products and AIM coatings rule amendments.

Please let us know if you have any questions or concerns.

Sincerely,

/s/

Rhett Cash  
Counsel, Government Affairs

/s/

David Darling  
Vice President, Health, Safety & Environmental Affairs

Raleigh Davis  
Assistant Director, Environmental Health and Safety

Tim Wieroniey  
Specialist, Environmental Health and Safety

*\*\*Sent via email\*\**