



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

5 Post Office Square, Suite 100
Boston, MA 02109-3912



June 4, 2019

Karen Slattery
Office of Air Resources
Rhode Island Dept. of Environmental Management
235 Promenade St
Providence, RI 02908

Dear Ms. Slattery:

We are providing comments for the Rhode Island Department of Environmental Management's proposed revisions to 250-RICR-120-05-19, "Control of Volatile Organic Compounds from Surface Coating Operations."

EPA staff reviewed the proposed amendments and found them to be generally consistent with EPA guidance. Our comments are attached.

As you know, since September 6, 2018, Rhode Island has been subject to offset sanctions based on EPA's Finding of Failure to Submit SIP Revisions with respect to the 2008 ozone NAAQS (February 3, 2017; 82 FR 9158). Therefore, once the amended regulations have been adopted by your State, please submit them to EPA as a State Implementation Plan (SIP) revision along with other outstanding requirements. If you have any questions, please contact David Mackintosh at 617-918-1584.

Sincerely,

A handwritten signature in black ink that reads "Alison C. Simcox".

Alison C. Simcox, Acting Manager
Air Quality Branch
Air and Radiation Division

Enclosure

Enclosure

EPA Comments on Rhode Island's Proposed Revisions to 250-RICR-120-05-19, "Control of Volatile Organic Compounds from Surface Coating Operations"

1. The "Application" section in these regulations is problematic for EPA to approve because it states that "this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies." While this provision may be appropriate as a matter of state law, this provision provides Rhode Island with broad discretion, akin to a Director's discretion provision. This language is not sufficiently defined so that EPA or the public will understand the "purposes of state law, goals, and policies" for the regulation in question. Therefore, when Rhode Island submits these rules to EPA, please omit or revise the "Application" section.

2. The draft emission limits for metal furniture coating and miscellaneous metal and plastic parts product coating operations are consistent with EPA's 2008 Control Techniques Guideline (CTG) document for these categories. However, the limits for certain specialty coatings are less stringent than the current SIP-approved rule. Therefore, when you submit your regulation for EPA approval, please show how the regulation meets anti-backsliding provisions of Sections 110(l) of the Clean Air Act (CAA). These provisions might be met, for example, by stating that the revised regulation includes emission limits for some large use categories (i.e., one component and multi-component general use coatings) that are more stringent than the SIP-approved rule provided the more stringent limits offset any relaxation in provisions for specialty coatings. For more information, see the enclosed EPA memorandum, "Approving SIP Revisions Addressing VOC RACT Requirement for Certain Coatings Categories," dated March 17, 2011.

3. The draft limits for Extreme High Gloss Topcoat and Other Substrate Antifoulant Coating are less stringent than the EPA CTG for Miscellaneous Metal and Plastic Part Coatings operations. In addition, the Antifouling Sealer/Tie Coating category has a less stringent limit than the CTG Other Substrate Antifoulant category. Therefore, when the revised rule is submitted to EPA, please include an explanation describing how the regulation is consistent with the CTGs. For more information, see the enclosed EPA memorandum, "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings – Industry Request for Reconsideration," dated June 1, 2010.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RESEARCH TRIANGLE PARK, NC 27711

JUN 01 2010

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings – Industry Request for Reconsideration

FROM: Stephen D. Page, Director 
Office of Air Quality Planning and Standards (C404-04)

TO: Chief, Air Branch
Regions I-X

The purpose of this memorandum is to inform EPA Regional Offices that members of the pleasure craft industry have contacted EPA to request changes to the Control Techniques Guidelines (CTG) for Miscellaneous Metal and Plastic Part Coatings (MMPPC) (EPA-453/R-08-0373). This memorandum serves as a reminder to EPA Regional Offices of the role that CTG play in the State Implementation Plans (SIP) process for ozone nonattainment areas. CTG provide information and recommendations for state and local air pollution control agencies to consider when developing rules to meet the Clean Air Act's (CAA) reasonably available control technology (RACT) requirements. Specifically, we reiterate that the information contained in CTG, including the MMPPC CTG, is provided only as guidance. The CTG do not impose any legally binding requirements on any entity. State and local air pollution control agencies are free to implement other technically-sound approaches that are consistent with the CAA and EPA's implementing regulations. Therefore, EPA does not intend to revise the MMPPC CTG. Instead, EPA is recommending that the pleasure craft industry work together with state agencies in the RACT rule development process for MMPPC to assess what is reasonable for the specific sources regulated under each state's rules. EPA will evaluate the state-developed RACT rules and determine through notice and comment rulemaking in the SIP approval process, whether the submitted rules meet the RACT requirements of the CAA and EPA's regulations.

BACKGROUND

The MMPPC CTG were published on October 7, 2008 (73 FR 58486). On September 14, 2009, EPA was contacted by the pleasure craft industry with a request for EPA to reconsider some of the emission limits for volatile organic compounds (VOC) recommended in the MMPPC CTG. In its letter to EPA, industry asserted that three of the emission limits for VOC, recommended in the MMPPC CTG for pleasure craft, were too low considering the performance requirements of pleasure craft coatings, and that overall, the VOC emission limits recommended in the MMPPC

CTG did not represent RACT for the national pleasure craft coatings industry. To get further clarification of the issues, EPA held an industry conference call and spoke with individual industry members on several other occasions. The pleasure craft industry presented what they deemed to be technological and feasibility challenges to meeting the VOC emission limits recommended in the MMPPC CTG.

Table 2 of the MMPPC CTG recommends the following VOC content limits (expressed in terms of mass of VOC per volume of coating, excluding water and exempt compounds, as applied) for surface coating of pleasure craft:

Table 2. Pleasure Craft Surface Coating VOC Content Limits

Coating Category	kg VOC/liter coating	lbs VOC/gal coating
Extreme High Gloss Topcoat	0.49	4.1
High Gloss Topcoat	0.42	3.5
Pretreatment Wash Primers	0.78	6.5
Finish Primer/Surfacer	0.42	3.5
High Build Primer Surfacer	0.34	2.8
Aluminum Substrate Antifoulant Coating	0.56	4.7
Other Substrate Antifoulant Coating	0.33	2.8
All other pleasure craft surface coatings for metal or plastic	0.42	3.5

Also, the MMPPC CTG provide an option to meet alternate emission rate limits based on low-VOC coatings and add-on controls. Table 10 of the MMPPC CTG recommends the following emission rate limits for pleasure craft operations:

Table 10. Pleasure Craft Surface Coating VOC Emission Rate Limits (VOC per Volume Solids)

Coating Category	kg VOC/liter solids	lbs VOC/gal solids
Extreme High Gloss Topcoat	1.10	9.2
High Gloss Topcoat	0.80	6.7
Pretreatment Wash Primers	6.67	55.6
Finish Primer/Surfacer	0.80	6.7
High Build Primer Surfacer	0.55	4.6
Aluminum Substrate Antifoulant Coating	1.53	12.8
Other Substrate Antifoulant Coating	0.53	4.4
All other pleasure craft surface coatings for metal or plastic	0.80	6.7

The three pleasure craft categories that industry requested EPA to reconsider were extreme gloss, high gloss and antifoulant coatings. Industry urged EPA to revise the MMPPC CTG to include an averaging approach as a compliance option to allow pleasure craft coating facilities to use a combination of high and low VOC-containing products as long as the average value was kept

below a level specified by EPA. In summary, the pleasure craft industry suggested that the CTG be revised to include (one or all of) the following measures:

1. Regulate VOC emissions from facilities using pleasure craft coatings by including an averaging approach as a compliance option. If this is not deemed possible, then points 2 and 3 should apply.
2. Amend the MMPPC CTG "Finish Primer/Surfacer" VOC limit from 420g/L to **600g/L** for a four-year interim period to allow coating manufacturers and users sufficient time to develop and implement compliant coatings.
3. Make permanent changes to the MMPPC CTG with immediate and permanent effects, as follows:
 - Add an additional specialty category of "Antifouling Sealer/Tie Coat" with VOC limit of **420g/L** to align the MMPPC CTG with the International Maritime Organization's International Convention on the Control of Harmful Antifouling Systems on Ships;
 - Change the VOC emission limits in the category, "Other Substrate Antifoulant Coating" from 330g/L to **400g/L**;
 - Change the VOC emission limits in the category, "Extreme High Gloss" from 420 g/L to **600 g/L**, reflecting the very specialized nature of the coatings in this category; and
 - Revise the coating category definition of "Extreme High Gloss Topcoat" to read: "*Extreme high gloss coating means any coating which achieves **greater than 90 percent** reflectance on a 60° meter when tested by ASTM Method D 523-89.*"
4. Make the provisions and VOC limits in the pleasure craft categories of the MMPPC CTG consistent with the requirements of the planned revision to the Shipbuilding MACT Standard.

OAQPS RECOMMENDATION

After careful evaluation of the issues raised by the pleasure craft industry, OAQPS is recommending that the pleasure craft industry work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated because the CTG impose no legally binding requirements on any entity, including pleasure craft coating facilities. CAA Section 172(c)(1) provides that SIPs for nonattainment areas must include "reasonably available control measures" (RACT), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. The CTG are intended to provide state and local air pollution control authorities with information to assist them in determining RACT for VOC.

Based on available information and data, EPA has provided recommendations for RACT for MMPPC operations, including pleasure craft coating operations, in the MMPPC CTG. States can use the recommendations from the MMPPC CTG to inform their own determination as to what constitutes RACT for VOC for pleasure craft coating operations in their particular ozone nonattainment areas.

Regardless of whether a state chooses to implement the recommendations contained in the MMPPC CTG through state rules, or to issue state rules that adopt different approaches, states must submit their RACT rules to EPA for review and approval as part of the SIP process. EPA will evaluate the state's RACT rules and determine, through notice and comment rulemaking in the SIP approval process, whether the submitted rules meet the RACT requirements of the CAA and EPA's regulations. If a state proposes to adopt any of the recommendations in the MMPPC CTG into its state RACT rules, interested parties can comment on and raise objections about the application of any specific RACT recommendation in the MMPPC CTG to a particular situation during the development of the state rules and EPA's SIP approval process.

Should you have further questions, please contact Kaye Whitfield of my staff at 919-541-2509 or whitfield.kaye@epa.gov.

OAR-10-000-7927

OAQPS/SPPD/NRCG:KWhitfield/jrogers(x14487):RTP/E143-
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Coordinated with AQP.D.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

MAR 17 2011

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Approving SIP Revisions Addressing VOC RACT Requirements for Certain Coatings Categories

FROM: Scott Mathias, Interim Director *Scott Mathias*
Air Quality Policy Division (E539-01)

TO: Regional Air Division Directors

The Office of Air Quality Planning and Standards has received requests from Regional Offices for guidance on approving State Implementation Plan (SIP) revisions resulting from newly-issued Control Techniques Guidelines (CTGs) documents. These CTGs provide recommendations to inform state determinations as to what constitutes reasonably available control technology (RACT). In some cases, the newly-issued CTGs contain recommended emission limits that are less stringent than limits recommended in older CTGs covering the same industry, and may be less stringent than limits already adopted into SIPs based on the older CTGs. This is the case for industries covered by CTGs pertaining to Large Appliance Coatings, Metal Furniture Coatings, and Miscellaneous Metal and Plastic Parts Coatings.

The U. S. Environmental Protection Agency (EPA) issued new CTGs for these categories in 2007 and 2008, under authority of Clean Air Act (CAA) section 183(e), to address volatile organic compound (VOC) emissions from categories of consumer and commercial products. They replace similar CTGs issued by EPA in 1977 and 1978. The new CTGs recommend more stringent limits for general use coatings, but also include new recommendations for several "specialty use" categories that are less stringent than the general use limits established in the 1970s guidelines.

States are required to submit a SIP revision in response to any newly-issued CTGs.¹ If an existing SIP contains requirements that are not less stringent than the applicability thresholds and/or coating operations limits recommended in new CTGs, the state may choose to submit as a SIP revision a certification that the existing SIP meets RACT requirements.

¹ CAA section 182(b)(2) requires Moderate and above ozone nonattainment areas to revise SIPs when a new CTG is issued by EPA after 1990. EPA is required to set a SIP submission deadline with the issuance of each CTG. For CTGs we have issued in the past several years, we have specified a submission deadline of one year after the CTG was issued (See 72 FR 57215 Oct 9, 2007 and 73 FR 5848 Oct 7, 2008).

We anticipate that EPA Regional Offices would be able to approve the RACT determinations in these circumstances. We note that EPA's recommendations in CTGs are generally treated as "presumptive" RACT and states may demonstrate that other limits are RACT for one or more sources within the source category addressed by the CTG. Where a state has previously determined that more stringent applicability thresholds and/or control levels are RACT for one or more sources in a source category and the sources have complied with those requirements, then those existing controls should be considered RACT for such sources.

If a state chooses to revise more stringent rules that are already in the approved SIP, so that those rules reflect the less-stringent recommended limits in the new CTGs, there are additional considerations that must be factored into any EPA decision to approve the SIP revision. The state would need to first demonstrate that the SIP-approved control requirements are not reasonably available considering technological and economic feasibility, consistent with EPA's definition of RACT. *See* 44 FR 53762 (September 17, 1979). In addition, in order to comply with the SIP approval conditions of CAA section 110(l), the state would need to demonstrate that the revision to the SIP would not interfere with attainment of, or reasonable further progress toward attainment of, the National Ambient Air Quality Standards, nor interfere with any other applicable requirement of the CAA. This would be demonstrated if the stricter limits on general use coatings provide sufficient emission reductions to entirely offset any emission increase caused by adopting the less stringent limits for specialty coatings. Alternatively, the state could adopt supplemental measures that achieve additional emission reductions from another source category in another industry to offset the increased emissions from the specialty coatings. In general, if a proposed SIP revision achieves the same or greater emission reductions as the approved SIP within the same timeframe as provided under the existing plan, the Regional Office should be able to determine that the SIP revision is consistent with the approval conditions of CAA section 110(l).

The public dockets for the Large Appliance Coatings and the Metal Furniture Coatings CTGs contain information that states may find helpful in determining the reductions that can be achieved by adopting the new general use category CTG limits for these industries. According to the docketed information, the estimated reductions from the new CTGs are 30 to 35 percent greater than from the older CTGs. *See* documents EPA-HQ-OAR-2007-0329-0009 and EPA-HQ-OAR-2007-0334-0010 in dockets EPA-HQ-OAR-2007-0329 and EPA-HQ-OAR-2007-0334, respectively. The increase in emissions reductions in any specific nonattainment area may vary depending on the volume usage distribution among the general and specialty categories in that area. The dockets for the new CTGs do not contain area-specific analyses of potential emissions reductions. Generally, if a state believes the volume usage distribution among the general and specialty categories in the docket is representative of the distribution in the nonattainment area, we believe that if a state undertakes wholesale adoption of the new categorical limits in a specific CTG, the state may rely on the assessments in the docket to demonstrate that the range of new limits will result in an overall reduction in emissions from the collection of covered coatings. However, if a state adopts some specialty category limits, but not all of the new categorical limits, or determines that it has a different volume usage distribution among categories, the state may need to do an area-specific assessment of whether tighter restrictions for some coatings, coupled with

less stringent restrictions on other coatings would provide overall equal or greater emissions reductions than the set of rules based on the recommendations in the 1970s guidelines.

If you have further questions on SIP-related issues you should contact Butch Stackhouse at (919) 541-5208. If you have further technical questions on the topics covered in this memorandum you should contact Kaye Whitfield at (919) 541-2509.

cc: Robin Dunkins, SPPD
Kimber Scavo, AQP
David Orlin, OGC
Sara Schneeberg, OGC

