

250-RICR-40-15-3

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 40 - AGRICULTURE AND RESOURCE MARKETING

SUBCHAPTER 15 - PESTICIDES

PART 3 - Rules and Regulations Relating to Marine Antifoulant Paints Containing Tributyltin

3.1 Authority

These regulations are promulgated pursuant to R.I. Gen. Laws Chapter 23-25, and in accordance with the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws § 42-35.

3.2 Definitions

- A. As used in these regulations, the following terms, shall, where the context permits, be construed as follows:
1. "Acceptable release rate" means a measured release rate not to exceed 4.0 micrograms per square centimeter per day for weeks 3 to 5, and a cumulative release rate of 168 micrograms per square centimeter for the first 14 days as determined in accordance with a U.S. Environmental Protection Agency (EPA) testing procedure as outlined in the EPA data call-in notice of July 29, 1986, on tributyltin in antifoulant paints under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. §136. If a lower release rate is determined by the department to be necessary to protect health or the environment, then such rate, if duly adopted by regulatory action of the Department, shall be the acceptable release rate as herein defined.
 2. "Commercial boat yard" means any facility, which engages for hire in the construction, storage, maintenance, repair, of refurbishing of vessels (other than sea-planes) or any licensed independent marine maintenance contractor who engages in such activities.

3. "Department" means the Department of Environmental Management.
4. "Marine antifoulant paint" means any compound, coating paint, or treatment applied or used for the purpose of controlling freshwater or marine fouling organisms on vessels.
5. "Tributyltin compounds" means any compound having three normal butyl groups attached to a tin atom and with or without an anion such as chloride, fluoride, or oxide.
6. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as means of transportation on the water, whether self-propelled or otherwise, and includes barges and tugs.

3.3 Rule A - Restricted Use and State Limited Use Restricted

3.3.1 State Limited Use Pesticide

- A. The registration of marine antifoulant paints containing tributyltin shall be classified for State Limited Use effective July 1, 1988. The following conditions of sale and use shall be included in this State Limited Use Registration:
 1. Except as otherwise provided in this chapter, a person may not distribute, possess, sell, or offer for sale, or apply, or offer for use of application any marine antifoulant paint containing tributyltin compounds. Authorized personnel of the Department of Environmental Management, Department of the Attorney General, and the Division of State Police may seize any antifoulant paint held in violation of this chapter and any seized substances shall be considered forfeited.
 2. A person may distribute or sell a marine antifoulant paint containing tributyltin with an acceptable release rate to the owner or agent of a commercial boat yard. The owner or agent of a commercial boat yard may possess and apply, or purchase for application, an antifoulant paint containing tributyltin with an acceptable release rate; however such paint may be applied only within a commercial boat yard and only to vessels which exceed sixty-five feet in length or which have aluminum hulls, or to vessels less than sixty-five feet in length if it is applied only to the outboard or lower drive unit of such vessels.

- B. A person may distribute, sell, or apply a marine antifoulant paint containing tributyltin having an acceptable release rate if the paint is distributed or sold in a spray can in a quantity of sixteen ounces avoirdupois or less and is commonly referred to as outboard or lower unit paint.

- C. During and after paint removal and/or application of new antifouling paint containing tributyltin methods must be employed designed to prevent introduction of tributyltin paints into the aquatic environment; and following removal of tributyltin paint and/or application of new tributyltin paint, all paint chips and spent abrasives, paint containers, unused paint, and any other waste products from paint removal or application must be disposed of in a sanitary landfill.

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