

Testimony of National Paint and Coatings Association, Inc
On the
Proposed New 35 Ill. Adm. Code Part 223
Standards and Limitations for Organic Material Emissions
For Area Sources

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Statement of Interest

The National Paint and Coatings Association is a voluntary non-profit industry association, originally organized in 1888 and comprised today of some 400 members who are engaged in the manufacture and distribution of paint, coatings, adhesives, sealants, caulks and related products, including the raw materials suppliers to the industry. NPCA member companies collectively produce some 95% of the total dollar volume of architectural paints and industrial coatings produced in the United States. NPCA represents approximately 95% of the paint and coatings manufacturers who make spray paint for sale and use in the United States.

Since the advent of regulatory activities in California specifically focusing on aerosol spray paint, NPCA's Spray Paint Manufacturers Committee has been a diligent advocate in the South Coast Air Quality Management District; in the Bay Area Air Quality Management District; and in the legislature when the California Clean Air Act was amended to grant the California Air Resources Board with sole authority to regulate aerosols.

The Spray Paint Manufacturers Committee was instrumental in talking with the United States Environmental Protection Agency in the late 1990's and encouraging a postponement of any rulemaking activities relative to spray paints in light of the work being conducted by CARB at the time. Since then, NPCA's Spray Paint Manufacturers Committee diligently worked with the ARB and testified in favor of the California aerosol coatings reactivity regulation, calling it a "win-win" for the industry, the agency and the people of California.

Most recently, the Spray Paint Manufacturers Committee petitioned the US EPA to resume its regulatory focus on spray paint and adopt a national regulation with reactivity standards. US EPA agreed and that proposal was published in the Federal Register on July 16, 2007. The final rule was signed by the Administrator at EPA on November 16, 2007 and published in the Federal Register on March 24, 2008. As you can see, there is now a national regulation for aerosol coatings that will reduce the ozone emitted from these products.

Statement of the Issue

On January 2, 2008, Illinois EPA published a proposed rule for aerosol coatings that contains both reactivity-based standards. In addition, the proposed regulation appears to limit the application of the rule to only the commercial use of aerosol coatings.

Comments

NPCA appreciates this opportunity to submit testimony on the proposed aerosol coatings regulation for the state of Illinois. NPCA and its Spray Paint Manufacturers Committee filed preliminary comments with the Illinois EPA in November 2007 when the proposed regulation for aerosol coatings was initially distributed. NPCA appreciates that IEPA made some significant changes to the proposal, including the elimination of the mass-based standards.

With regard to the current version of the aerosol coatings regulation, NPCA continues to have significant concerns about the state adoption of standards for this product category when the US EPA has already finalized its national rule. The national rule for aerosol coatings, as published in the Federal Register on March 24, 2008, contains the same aerosol coatings categories, definitions and reactivity standards.

There is no additional air quality benefit that will inure to the state of Illinois by continuing with this rulemaking for aerosol coatings. Furthermore, neither the Ozone Transport Commission nor LADCO has adopted a "model regulation" for spray paint, preferring instead to defer to the US EPA's effort.

There are some additional problems for IEPA and aerosol coatings manufacturers which surface if IEPA elects to finalize this rule. As you know, the reactivity-based standards are based upon the relative reactivity of each of the reactive compounds in an aerosol coatings formula. Maintenance of the Table of MIR Values is significant responsibility. Recent scientific research has indicated that these values should be updated and the California Air Resources Board is taking steps to update this Table now. Should IEPA adopt the aerosol coatings regulation, maintenance of this list is one of NPCA's concerns. It is vitally important that the reactivity standards and the reactivity values for individual compounds remains uniform and consistent across the country. ARB last updated the Table of MIR Values in 2003 and, as indicated, is scheduled to do so again this year. NPCA urges IEPA to withdraw this rulemaking in light of the fact that US EPA has finalized its national rule for this product category.

Other concerns with the proposed regulations for aerosol coatings include the time within which companies must respond to a request for product information. The proposed regulation provide companies 30 days to respond to such requests. This is a very short time period and very likely impossible for companies, big and small, to meet. The customary timeframe for a response for product information is 90 days, as reflected in the US EPA National Rule for Aerosol Coatings and the OTC Model Rule for Consumer Products and many state rules.

Aerosol paint manufacturers, just like other consumer products manufacturers, need uniformity in the regulatory landscape in order to conduct an efficient and compliant business enterprise. It is vitally important that interstate commerce is not impaired by the promulgation of different state regulations in the region. For large, medium and small businesses alike, uniform regulations is a practical necessity. The realities of the distribution chain require such uniformity across the states. Large companies find it extremely difficult to track and target shipments from distribution centers and small companies do not have the staff resources to ensure that their products comply with a patchwork of different state-specific regulations.

Consequently, NPCA respectfully asks that the aerosol coatings proposal be withdrawn.

Respectfully submitted,

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