



# American Coatings ASSOCIATION<sup>SM</sup>

November 16, 2021

Ms. J. Kaye Whitfield  
U.S. Environmental Protection Agency  
Office of Air Quality Planning and Standards  
Research Triangle Park, NC 27711  
Docket ID No. EPA-HQ-OAR-2006-0971

**RE: U.S. Environmental Protection Agency Proposed Amendments to the National Volatile Organic Compound Emission Standards for Aerosol Coatings; ACA Comments**

Dear Ms. Whitfield:

The American Coatings Association (ACA) submits the following comments to the U.S. Environmental Protection Agency (EPA) regarding its proposed amendments to the National Volatile Organic Compound Emission Standards for Aerosol Coatings. 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. ACA appreciates the opportunity to comment on the proposal and looks forward to working with U.S. EPA throughout the rulemaking process.

**Table 1 to Subpart E of Part 59. – Product-Weighted Reactivity Limits by Coatings Category**

ACA supports U.S. EPA's proposal to update the product-weighted reactivity limits by coatings category. The proposed changes will further decrease the contribution of aerosol coatings to ozone formation and promote consistency with the California Air Resources Board's (CARB) Aerosol Coatings Rule.

However, ACA requests that the agency include a compliance date of two years after publication in the *Federal Register* for the updated coatings category limits in Table 1. This would ensure that industry has sufficient time to reformulate their products and adapt their distribution methods to effectively and efficiently implement the amended rule's requirements. When a rule is amended, industry requires a reasonable amount of lead time to adjust formulations and supply chain processes in order to ensure compliance with VOC limits, labeling, and reporting requirements. Additionally, manufacturers will need sufficient time to properly communicate these changes to their distributors and retail customers to ensure compliance with amended VOC limits. A compliance date of two years after publication of a final rule would give industry enough time to reformulate with the updated/added compounds and ensure compliance with the new coatings category limits.

**Table 2 to Subpart E of Part 59. – 2A Reactivity Factors, 2B Aliphatic Hydrocarbon Solvent Mixtures, and 2C Aromatic Hydrocarbon Solvent Mixtures**

ACA supports U.S. EPA's proposal to amend Tables 2A, 2B, and 2C by updating existing reactivity values and adding new compounds and reactivity factors. ACA requested these changes in its petitions for rulemaking and

appreciates the agency's response. The proposed changes will provide uniformity between the national aerosol coatings rule and CARB's aerosol coatings regulation.

Since EPA's initial aerosol coatings rulemaking in the mid-2000s, scientific research has resulted in a more accurate mechanism for calculating the reactivity of specific compounds. As a result of these significant scientific improvements, the MIR values for numerous aerosol coatings compounds have changed substantially from those derived from the previous mechanism. In 2010, CARB updated its MIR values to reflect more scientifically accurate reactivity measurements. In 2013, these updated values were adopted for use with the newly revised aerosol coatings regulation in California. The process to adopt CARB's revised table of MIR values was thorough and included significant peer review within the scientific community. This proposal, when finalized, will align with this sound and accepted scientific research that reflects more accurate mechanisms for calculating the reactivity of specific compounds. In addition, as mentioned in the agency's proposal, these changes are necessary to maintain the internal consistency of the relative reactivity scale and consistency with the changes proposed for the coatings category limits in Table 1.

ACA requests that the agency allow the aerosol coatings industry to use the new and updated MIR values immediately upon publication of the final rule in the *Federal Register*. This would allow industry to use the new and updated MIR values in its formulations so they can come into compliance with the new coatings category limits in Table 1.

### **The Default Reactivity Factor**

ACA appreciates EPA's response to its petition for rulemaking requesting that the agency revise the default value for compounds in aerosol coatings formulations that do not have an established reactivity factor listed in Table 2A. EPA's current default reactivity factor is 22.04 g O<sub>3</sub>/g VOC, which is tremendously outdated and penalizes formulators by forcing them to use an unrealistically high value. The agency is proposing to revise the default reactivity factor to 18.50 g O<sub>3</sub>/g VOC. This is the highest reactivity factor in the proposed rule.

Although this is an improvement, ACA urges EPA to further align with CARB's aerosol coatings rule by revising the default value to 11.97 g O<sub>3</sub>/g VOC. This would not only ensure consistency between the two aerosol coatings rules in the United States, but also promote scientific innovation and modernization. Having such a high default value stifles innovation, as it is not worth it for industry to come up with different formulations using new and environmentally friendly compounds because the trade-off is having to use the high default value. As such, ACA respectfully requests that the agency consider further revising the default reactivity factor to 11.97 g O<sub>3</sub>/g VOC. This would encourage innovation amongst formulators within the regulated community and provide uniformity between the two aerosol coatings rules in the country.

### **VOC Regulated Under the Rule**

ACA supports EPA's proposal to **retain** a provision that excludes from the applicable limits those compounds that contribute less than 0.1 percent of the product weight (regardless of their RF) and **eliminate** a provision that excludes low reactivity compounds that comprise more than 0.1 percent but less than 7.3 percent of the product weight.

### **Electronic Reporting of Notifications and Reports**

ACA does not oppose EPA's proposal to require regulated entities to submit electronic copies of required notifications and reports in template format through the agency's Central Data Exchange (CDX) using the

Compliance and Emissions Data Reporting Interface (CEDRI), instead of the current hard copy submission requirement. ACA's members support a reporting system that allows them to input their data directly into the Excel template file, then upload the file directly into the agency's system. The ability to work in and upload an Excel file is highly preferred over other methods, such as individual entry of datapoints into an online form.

With that said, a few of ACA's members have noticed some issues with the reporting template in the rulemaking docket. The current template can be difficult to use when trying to enter data for a large number of formulations. For example, the filters at the top of the spreadsheet are not functional, making it difficult to search through the data already entered and look at a single product on its own. Unlocking the filters to allow the submitter to use them would be helpful.

Furthermore, in column I (Wtfaction\_VOFC), ACA recommends that the column header specify that the desired input is weight percent. This would eliminate confusion between weight fraction and weight percent. Also in column I, the spreadsheet automatically converts an entry of ".8" into "80.00%." An entry of "0.8" should be "0.80%."

In column U, product PWR calculation does not work properly past Row 500. The formula appears to be set up only to sum Rows 24-500.

Regarding the "Company\_Information" tab, the reporting template does not include a place to enter the name and contact information for the person responsible for the submission of reports and record retention. The Company\_Information tab only includes fields for entry of contact information for the Certifying Company Official. In some cases, the Certifying Company Official is *not* the same person as the contact for submission of aerosol reports and record retention. In the event that EPA had questions about the report, it would make sense for the agency reach out to the report submitter, as opposed to the certifying company official.

ACA will continue to send any other issues it finds to the agency so that the reporting template is available and fit-for-purpose upon publication of the final rule. EPA assured us that they will continue to update the template to fix any issues sent to them. Our members appreciate EPA's willingness to consider comments and make future revisions to the reporting template, even after the close of the formal comment period.

### **Sell-through**

ACA respectfully requests that EPA not include a sell-through provision for any products manufactured before the new reactivity limits come into force. This common practice would reduce waste by allowing for the sale of existing products that meet old aerosol coatings limits produced prior to the new compliance date.

### **Definitions**

ACA requests that the following definitions be updated in the national aerosol coatings rule to ensure appropriate categorization of aerosol coatings products. These proposed changes align with the definitions in CARB's aerosol coatings rule. When CARB amended its rule in 2013, ACA worked diligently with CARB staff to update the definitions so that they correctly captured industry's products. Further alignment with the definitions in CARB's aerosol coatings rule is critical and will assist in industry compliance. It will also clarify and better define the categories and terms used throughout the rule.

**Aerosol Coating Product** means a pressurized coating product containing pigments or resins that is dispensed by means of a propellant and is packaged in a disposable ~~can~~ container for handheld

application, or for use in specialized equipment for ground traffic/marking applications. An “Aerosol Coating Product” may include other “Coating Solid” ingredients. “Aerosol Coating Product” does not include products subject to the National Volatile Organic Compound Emission Standards for Consumer Products (U.S. Code of Federal Regulations, Title 40, Chapter I, Subchapter C, Part 59, Subpart C). For the purpose of this regulation, applicable aerosol coatings categories are listed in Table 1 of this subpart.

**Autobody Primer** means an automotive primer or primer surfacer coating designed and labeled exclusively to be applied to a vehicle body substrate for the purposes of corrosion resistance ~~and,~~ **increased intercoat adhesion,** or building a repair area to a condition in which, after drying, it can be sanded to a smooth surface.

**Coating Solids** means ~~a coating which is colorless or transparent, containing resins but no pigments except flattening agents, and is designed and labeled to form a transparent or translucent solid film any~~ **nonvolatile ingredient of an “Aerosol Coating Product.”**

**Flat Paint Products / Flat Coating** means a coating which, when fully dry, registers specular gloss less than or equal to 15 on an 85° gloss meter, or less than or equal to 5 on a 60° gloss meter, or which is labeled as a flat coating. A “Flat Paint Product / Flat Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Flat Paint Product / Flat Coating.”

**High Temperature Coating** means a coating, excluding engine paint, which is designed and labeled exclusively for use on substrates which will, in normal use, be subjected to temperatures in excess of 400 °F. “High Temperature Coating” does not include “Engine Coating.”

**Metallic Coating** means a topcoat which contains at least 0.5 percent by weight ~~elemental~~ metallic pigment in the formulation, including propellant, and is labeled as “metallic,” or with the name of a specific metallic finish such as “gold,” “silver,” or “bronze.” A “Metallic Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Metallic Coating.”

**Non-flat Coating** means a coating which, when fully dry, registers a specular gloss greater than 15 on an 85° gloss meter or greater than five on a 60° gloss meter, **or which is labeled as a non-flat coating.** A “Non-flat Coating” that prominently displays on the “Principal Display Panel” that the product is a dual function paint and primer, and is packaged in a single aerosol container, is a “Non-flat Coating.”

**Polyolefin Adhesion Promoter** means a coating designed and labeled exclusively to be applied to a polyolefin or polyolefin copolymer surface of ~~automotive vehicular~~ body parts, bumpers, or trim parts to provide a bond between the surface and subsequent coats.

**Propellant** means a liquefied or compressed gas that is used in whole or in part, ~~such as a co-solvent,~~ to expel a liquid or any other material from the same self-pressurized container or from a separate container.

**Slip-resistant / Non-slip Grip Coating** means a coating designed and labeled exclusively as such, which is formulated with ~~synthetic~~ grit and used as a safety coating **or labeled exclusively as a non-slip grip coating designed to reduce or prevent slipping.**

**Spatter / Multi-color / Stucco Coating** means a coating labeled exclusively as such, wherein spots, globules, or spatters of contrasting colors appear on or within the surface of a contrasting or similar background; or is labeled exclusively as a multicolor coating; or is labeled exclusively as a stucco coating that is made from a mixture of Portland cement, sand, and lime.

**Vinyl / Fabric / Leather / Plastic Coating** means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate plastic substrates or to coat flexible substrates including rubber or thermoplastic substrates.

**Weight Fraction** means the weight of an ingredient divided by the total net weight of the product, expressed to thousandths of a gram of ingredient per gram of product (excluding container and packaging). The weight fraction is calculated according to the following equation: 
$$\text{Weight Fraction} = \frac{\text{Weight of the Ingredient}}{\text{Total Product Net Weight}}$$
 (excluding container and packaging).

ACA also requests that the following definitions be added to the national aerosol coatings rule to ensure appropriate categorization of aerosol coatings products. These proposed additional definitions align with the definitions in CARB's aerosol coatings rule. When CARB amended its rule in 2013, ACA worked diligently with CARB staff to update the definitions so that they correctly captured industry's products. Further alignment with the definitions in CARB's aerosol coatings rule is critical and will assist in industry compliance. It will also clarify and better define the categories and terms used throughout the rule.

**Anti-Static Product** means a product that is designed and labeled to eliminate, prevent, or inhibit the accumulation of static electricity.

**Belt Dressing** means a product applied to vehicular fan belts, water pump belting, power transmission belting, or industrial and farm machinery belting to prevent slipping, or to extend belt life.

**Cleaner** means a product designed and labeled primarily to remove soil or other contaminants from surfaces.

**Coating** means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes.

**Dye** means a product containing no resins which is used to color a surface or object without building a film.

**Exact Match Finish** means an "Aerosol Coating Product" which meets all of the following criteria:

- (1) the product is labeled with the manufacturer's name for which they were formulated; and
- (2) the product is labeled with one of the following:
  - (i) the original equipment manufacturer's (O.E.M.) color code number;
  - (ii) the color name; or
  - (iii) other designation identifying the specific O.E.M. color to the purchaser.

**Extender** means an ingredient added to an "Aerosol Coating Product" to increase coating solids.

**Flexible Coating** means a coating including, but not limited to, rubberized, mastic, or asphaltic products designed and labeled exclusively to protect surfaces. “Flexible Coating” does not include “Undercoating.”

**Fragrance** means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of 2 mm of Hg at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

**General Coating** means the following aerosol coating products: “Clear Coating,” “Flat Coating,” “Fluorescent Coating,” “Metallic Coating,” “Non-flat Coating,” or “Primer.”

**Ink** means a fluid or viscous substance used in the printing industry to produce letters, symbols or illustrations, but not to coat an entire surface.

**Label** means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

**Layout Fluid** (or toolmaker’s ink) means an aerosol coating product designed and labeled exclusively to be sprayed on metal, glass or plastic, to provide a glare-free surface on which to scribe designs, patterns or engineering guidelines prior to shaping the piece.

**Maskant** means a product applied directly to a component to protect surface areas from damage during fabrication, inspection, or shipment and must not leave a residue when removed.

**Maximum Incremental Reactivity (MIR)** means the maximum change in weight of ozone formed by adding a compound to the “Base ROG Mixture” per weight of compound added, expressed to hundredths of a gram (g O<sub>3</sub>/g ROC). MIR values for individual compounds and hydrocarbon solvents are specified in Tables 2A, 2B, and 2C to Subpart E of Part 59.

**Pigment** means a “Coating Solid” of either natural or synthetic insoluble material added to a coating to provide color, opacity, or corrosion inhibition to a coating film.

**Plasticizer** means an ingredient added to an aerosol coating product to aid in flexibility.

**Principal Display Panel or Panels** means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the “Principal Display Panel” shall pertain to all such “Principal Display Panels.”

**Reactivity Limit** means the maximum ozone forming potential of ingredients (excluding container and packaging) allowed in an aerosol coating product, expressed as the PWMIR.

**Reactive Organic Compound (ROC)** means any compound containing at least one atom of carbon and that has the potential, once emitted, to contribute to ozone formation in the troposphere.

**Resin** means a “Coating Solid” that comprises the film-forming ingredients in an aerosol coating product. Examples of resin ingredients include acrylic, alkyd, enamel, epoxy, lacquer, polyurethane, polyvinyl chloride, shellac, silicone, and polystyrene.

**Responsible Party or Regulated Entity** means the company, firm, or establishment which is listed on the product's label. If the label lists two companies, firms or establishments, the responsible party or regulated entity is the party which the product was “manufactured for” or “distributed by”, as noted on the label.

**Specialty Coating** means any aerosol coating product that is not a “General Coating” unless specifically exempted. An aerosol coating that does not meet all the criteria for a specific “Specialty Coating” or an aerosol coating that is not defined in this section is a “General Coating.”

#### **40 CFR § 59.511(j) should be revised to allow for regulated entities to petition to change the value of existing compounds, in addition to the ability to add new compounds**

The current regulation in 40 CFR § 59.511(j) allows regulated entities to petition EPA to add a compound to Tables 2A, 2B, and 2C. However, the regulation does not allow regulated entities to petition EPA to change the value of existing compounds. Adding language that provides regulated entities with a mechanism to change the value of existing compounds would allow for more consistency and accuracy within industry as scientific research continues to be updated, developed, and improved. Therefore, ACA respectfully requests that 40 CFR § 59.511(j) be revised to allow for regulated entities to petition to change the value of existing compounds.

#### **Triennial Reporting Requirements**

U.S. EPA’s current aerosol coatings regulation requires regulated entities to report certain information to the agency every three years (see 40 CFR § 59.511(i)). In these triennial reports, aerosol coatings manufacturers must report VOC formulation data, VOC amounts, individual product codes, and other identification information.

These triennial reporting requirements are not only burdensome and costly for aerosol coatings manufacturers, but they also provide little, if any, useful value or information to the agency. This additional reporting requirement costs the industry in time, money, and resources every three years. Furthermore, if there are compliance issues, EPA can request this same information and manufacturers would then be required to provide it. The additional triennial reporting requirement in 40 CFR § 59.511(i) is unnecessary. As such, ACA urges EPA to eliminate the triennial reporting requirements for aerosol coatings manufacturers. This same information can be requested by EPA at any time should compliance issues arise.

Alternatively, if EPA decides to retain the reporting requirement, ACA requests that the agency amend it to every 5 or 10 years.

#### **EPA should establish a clear process with a set timeline for review and approval of petitions to add new compounds to Tables 2A, 2B, and 2C**

Pursuant to 40 CFR § 59.511(j), a regulated entity may petition EPA to add an aerosol coatings compound to Tables 2A, 2B, or 2C. Petitions must include the “chemical name, CAS number, a statement certifying the intent to use the compound in an aerosol coatings product, and adequate information for the Administrator to

evaluate the reactivity of the compound and assign a RF value consistent with the values for the other compounds listed in Table 2A.”

Since promulgation of the national aerosol coatings rule, ACA and its member companies have found that this petition process can be tremendously difficult and take a very long time without any acknowledgement or response. As a result, ACA encourages the agency to establish a clear process with a set timeline for review and approval of petitions to add new compounds to Tables 2A, 2B, and 2C. The aerosol coatings industry would appreciate more transparency into the review process and a quicker timeframe for approval (e.g., a 90-day review and response period).

#### **Additional clarity is needed regarding the requirement to notify EPA of *new* aerosol coating formulations**

40 CFR § 59.511(c) of the proposal states:

*“If you change any information included in the initial notification required by paragraph (b) of this section, including the list of aerosol categories, contact information, records location, the category or date coding system, you must notify the Administrator of such changes within 30 days following the change. You are not required to notify the Administrator within 30 days of changes to the information provided as required by paragraph (b)(9) of this section. Changes in formulation are to be reported in the triennial reporting required by paragraph (i) of this section”.*

Since new coating formulations are not mentioned in the list of changes that require 30-day notification, there is some ambiguity as to whether EPA expects such notification every time a *new* aerosol coating formulation is introduced (assuming they fall into an already reported coating category), or whether these new formulations should be captured only in the triennial report. Due to this uncertainty, ACA requests that the agency clarify the intent of the proposed changes to 40 CFR § 59.511(c).

#### **ACA encourages EPA to remove the requirement to report the trade name and solvent mixture manufacturer for hydrocarbon solvents**

40 CFR § 59.511(b)(9)(ii) currently requires manufacturers/distributors to report the trade name, solvent mixture manufacturer, bin number, and applicable reactivity factor for hydrocarbon solvents. Industry understands that the bin number is needed to determine the applicable reactivity factor, and therefore the product-weighted reactivity value; however, the trade name and manufacturer name should not be required. The trade names of raw materials and suppliers are often considered proprietary to the formulation manufacturer.

Furthermore, some hydrocarbon solvents are not directly added to the formulation by the manufacturer and are instead introduced into the formulation as a component of a third-party raw material. This means that raw material suppliers are also effectively required to share their proprietary supplier name/trade name information with the manufacturer so it can meet its reporting requirement, resulting in burdens throughout the supply chain. Limiting the requirement to report only the bin number for hydrocarbon solvents would allow industry to determine the appropriate reactivity factor without requiring formulators or their suppliers to disclose their proprietary information.

#### **Labels**

ACA requests that EPA allow industry to start converting labels prior to the new compliance deadline (i.e., during the transition period between rule publication and the compliance date with the new VOC limits). This



is needed so new categories and limits can be printed on labels without industry having to relabel existing stock. This is common industry practice and reduces waste.

### **Summary**

ACA thanks U.S. EPA for responding to its petitions for rulemaking, which, in part, resulted in this proposed action. ACA supports the proposal overall, but urges the agency to consider making additional changes as noted in the comments above. Thank you for your consideration of our comments. Please do not hesitate to contact me if you have any questions or require additional clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Rhett Cash". The signature is fluid and cursive, with the first name "Rhett" and last name "Cash" clearly distinguishable.

Rhett Cash  
Counsel, Government Affairs

*\*\*Submitted via Regulations.gov\*\**