



August 14, 2009

Arleen Shulman
Bureau of Air Quality
P.O. Box 8468
Harrisburg, PA 17105-8468

Dear Ms. Shulman

I am submitting comments on the OTC Proposed Model Rule for Automotive Refinish Coatings on behalf of the NPCA/FSCT companies that manufacture these coatings. They include the following companies:

- DuPont
- PPG
- Sherwin Williams
- Earl Scheib
- AKZO
- BASF
- Ellis Paint (PCL Automotive Division)
- Valspar

Introduction

For over two decades now, dating back to the adoption of the original Rule 8-45 by the Bay Area Air Quality Management District in 1989, our companies and the NPCA/FSCT have been extensively involved with the development of refinish coatings VOC regulations.

Many of our international companies were involved with the European Union's, adoption of the first low VOC waterborne rule for refinish coatings in 2004.

Subsequently, the EU rule became the basis for the California Air Resources Board's (CARB) Suggested Control Measure (SCM) for Refinish Coatings, and this in turn has become the template for the proposed OTC rule.

The SCM has been adopted by seven air districts, including the SCAQMD and BAAQMD, the two districts that combined have within their borders the largest number of shops in California.

The refinish coatings companies also have worked cooperatively with the Canadian Ministry of the Environment in the development of its regulation which is also based on the California SCM. <http://www.gazette.gc.ca/rp-pr/p2/2009/2009-07-08/html/sor-dors197-eng.html>

(That regulation has an effective date of June 2010 and the industry's implementation effort in Canada will obviously affect its ability to implement any similar standard being made effective in the same time period in the OTR states-both with respect to supplying adequate compliant product and providing adequate training in the use of the water borne systems.)

In working with regulators, we have always been forthcoming with our coatings technology information to help them develop standards that are consistent with advances in our technology. Our efforts for example included arranging for the telephone conference participation in a CARB SCM workshop of one the industry's foremost experts on the EU waterborne coatings – Dr. Hermann Drexler, formerly the head of BASF's waterborne R&D.

We consistently have taken the position that the lower waterborne standards in the EU/SCM rule are well within the standard of “reasonably feasible” technology.

The coatings

- can be manufactured,
- have all the required, and even superior, performance characteristics, and
- can be readily used by shops that are sufficiently equipped and adequately trained to apply them.

It is also important to note the manufacturers have spent millions of dollars and countless hours in developing the coatings. Thus, they have every economic incentive to see them used as quickly and widely as possible.

So for us it is not whether the coatings are technologically feasible.

Instead, we have viewed the issue as being more a matter of adequate supplies and distribution from our and the independent jobbers' ends and adequate equipment and training on our customers' end.

The California experience in handling these issues, though still on-going, nonetheless has imparted some valuable insights that may usefully inform the OTC's adoption and implementation of the proposed rule. But it is important to note here that part of that experience is that the rules provide at least a two year period from adoption to implementation.

So in summary, since the initial consideration of the SCM, NPCA/FSCT and its member companies have taken the position that while the lower VOC coatings technology mandated by the limits for the most part were technologically feasible, a reasonable amount of time had to be afforded the industry to introduce the coatings, train end users, and allow the end users to acquire and familiarize themselves with the new largely waterborne coatings and additional equipment needed to effectively use them.

The specific positions articulated here by NPCA/FSCT are what can be characterized as representing the broad consensus views of its members. As that term implies, there may not be unanimity on each point depending on an individual member's products and the markets it serves. Consequently, individual companies should be contacted for their views which may include proprietary information to which NPCA/FSCT is and should not be privy.

Finally in evaluating the stringency and timing of the regulation, the general economic health of the industry in the Ozone Transport Region should be a forefront consideration- especially in these difficult economic times.

It is no secret that even without being required to undertake a major shift to new coatings technology and acquire additional shop equipment and training, the great majority of the automotive refinish end user community in the OTR over the last several years has been experiencing and will continue to experience an increasingly difficult economic and commercial environment.

The current economic down turn can be expected to increase the impact of these forces. It certainly will not diminish them.

We recognize that these forces would be at work irrespective of the switch to waterborne coatings.

Additionally, there are aspects of the coatings – higher solids that lead to less coating being required for any given job – that can improve shops' profitability.

But this assumes that the shops are given sufficient time to train and to secure needed equipment.

The rule and its implementation should afford a decent chance to every shop that wants to make the effort to master the use of the coatings.

Guiding this should be the fundamental practical recognition that the rule's primary objective -- significant reductions in VOC emissions from the shops – will be achieved by the lower VOC coatings themselves being universally used throughout the OTR. Unnecessarily burdensome provisions that impact shops' productivity without any or little contribution to this objective should be avoided.

The Need for Consistency and Uniformity in OTR State Rules

We have had a long relationship with the Pennsylvania DEP on this regulatory matter, supporting the DEP's development of the first OTC refinish model rule. We also note that Pennsylvania has established an extensive outreach program for refinish shops.

We thus view the Pennsylvania DEP as an excellent forum for again developing an effective uniform model regulation for the OTR as a whole. Consistency and uniformity among the OTR state rules reduces compliance burdens on both the regulated community and regulatory authorities alike. Hence we strongly support uniformity in definitions, terms, and VOC limits that would be brought about by Pennsylvania once again leading the way with a model rule that other OTR states would follow.

Implementation Timing

On our end- from the perspective of ensuring adequate supplies and distribution and also providing the needed training –as a general matter we see the implementation of the rule through out the large area of the OTR as presenting significant challenges. Some members may see them as minor in light of their customer base and existing distribution system. But as a general rule it would be safe to say that the manufacturers as a group believe that assuring adequate supplies and training will be difficult for the vast majority of shops in the OTR -- those on the lower to mid range of shop production and through put. In the OTR, they represent 62% of the shops, with the lowest end shops in terms of revenue representing nearly 20% of the shops. See Attached OTR Shop Demographics.

We also have attached the analysis submitted by the Canadian Paint and Coatings Manufacturers (CPCA) in Canada's proposal of the SCM. The impacts identified there can reasonably be anticipated for OTR shops as well.

Another useful document imparting a sense of the benefits and transition challenges of switching to waterborne coatings is the May 2008 USEPA document Using Waterborne Basecoats in Collision Repair Shops: a Case Study Auto Refinishing Project

[\(http://www.epa.gov/dfe/pubs/auto/bestpractices/waterborneCaseStudy.pdf\)](http://www.epa.gov/dfe/pubs/auto/bestpractices/waterborneCaseStudy.pdf)

The report emphasized the importance of training the painters:

“Training your painter and following the paint manufacturer’s guidelines are keys to success!”

Larry and his painters worked closely with the paint supplier. The supplier came to the shop for two weeks to provide training for his painters and to set up the shop for use of waterborne basecoats. Today, both Larry and his painters are happy with the results and glad that they made the switch.”

The coatings manufacturers do not believe that it will take two weeks to train each painter.

The statement does not indicate this either since the two weeks included other activities of the supplier.

Nonetheless, the USEPA document rightly emphasizes the crucial need for adequate painter training.

The average experience in California is that it takes three to five days per painter at a training facility and a bit longer if the training occurs at the auto body shop.

And as we noted earlier, the implementation of the Canadian refinish rule with an effective date of June 2010 is expected to affect the availability of training resources that can be devoted to training in the OTR.

The document also identifies some of the challenges:

“The Challenges...

Although sold on a switch to waterborne basecoats, Larry still faced several challenges to get the new system up and running, as described below.

- **Booth Modifications:** Waterborne basecoats need heat and additional airflow to dry properly. Larry retrofitted his two existing spray booths with Junair's QADs™ auxiliary air movement system, which provides additional blowers and heat to existing spray booths that are required for waterborne systems. The estimated cost to retrofit one spray booth is approximately \$25,000. Larry says that spray booth filter maintenance is very important, since clogged filters interfere with booth's airflow and affect the drying process. Occasionally, a shop can also use a portable blower to provide additional air movement for small jobs and cut-ins.
- **Adjustments to Spraying Technique:** Waterborne basecoats cover and dry differently than conventional coatings. Waterborne basecoats also differ in their viscosity, making them particularly sensitive to changes in temperature and humidity. To compensate for these differences, Larry purchased new spray guns with the proper spray tips (1.0-1.3 mm) and his painters adjusted their spraying technique and drying time depending on temperature and humidity. Larry's painters adjusted quickly and felt comfortable with the spraying technique after only one week of training by the paint supplier. Larry also discovered that waterborne basecoats require only one to two coats to provide coverage and the color matching was excellent. However, since fewer coats are needed, it can be more challenging to achieve a proper blend. Because fewer coats also mean that less paint is needed per job, Larry's painters have learned how to adjust the amount of paint to mix for each job.
- **Disposal of Used Cleaning Water and Paint Waste:** Spray guns and other equipment in contact with waterborne basecoats must be cleaned with water between each color change. Used cleaning water must be disposed of as hazardous waste. Larry's shop set up a separate collection drum for this wastewater and contracted with a new hazardous waste hauler to take it away. Larry noted that it was a challenge to determine the proper disposal of this wastewater. However, he found a new hazardous waste hauler that handles both his wastewater and other hazardous waste generated at his shop.

- **Mixing Room Modifications:** Generally, waterborne basecoats must be maintained at a temperature above 55°F, or the shelf life is significantly reduced. This created a significant challenge for Larry because the room gets fairly cold over night and on weekends during the winter months. Keeping potential fire hazards in mind, Larry is considering adding heat to the space or other paint storage options as a long-term fix.”

As indicated by the document, none of these challenges are show stoppers.

But looking at each of these as multiplied by the 62% of the lower end shops in the OTR most likely needing to transition to waterborne --7,360 – the size of the task in the OTR as a whole is very large. Further, this is a conservative estimate since it is likely that at least some of the remaining 38% of the higher end shops will need to transition to waterborne as well.

Also there will be impacts on the jobbers which too will have to deal with large quantities of more temperature sensitive paint and waste handlers and facilities that will have to deal with more waterborne coatings waste which unlike solvent borne cannot be disposed of as a fuel.

It is for these reasons that we request a January 1, 2012 compliance date.

In evaluating this request, some of our California experience is noteworthy. Our worry about training facilities being overwhelmed in a last minute rush because shops would wait to the end to make ready for the rule proved to be less of a concern, at least thus far with respect to some of the higher end shops.

We observed in that some of the higher end shops with the needed capital to invest sought training before the rule became effective or was even passed by their districts. Presumably this too will occur in the OTR with such shops will using the waterborne materials long before they are required.

Another important factor is the Area Source NESHAP becoming effective in 2011 for all of the shops in the OTR. At that time, all spray coating operations will have to be conducted in air filtered spray booths. The movement of all spray paint operations into air filtered spray booths will advance reductions in VOC emissions throughout the OTR for both waterborne and solvent borne coatings. Also for many shops it will help to set the stage for a conversion to waterborne since some will use any required booth changes to meet the NESHAP requirements to incorporate all that is needed for the use of waterborne coatings mandated in 2012.

There also has been discussion of a staggered date, with some states implementing the regulation earlier than others. There are benefits and drawbacks to such an approach and we would like to discuss this with you further. As a practical matter the rule adoption processes of the individual states may create such an implementation process without any planning. But there may be sound reasons from both the perspective of the efficient implementation of the regulation and the least burdensome impact on the industry to take such a staggered implementation process into explicit account.

The following articles touch on some of the subjects addressed in the foregoing.

<http://www.voccompliance.com/faq.asp>

<http://www.autobodypro.com/safety/articles/0029.htm>

The 25 g/l Limit for All Solvents Too Low; Clarify that Standard Applies Only to Cleaning Solvents-Not Reducers

Despite its inclusion in the SCM, there is a consensus that as a matter of technical principle the proposed 25 g/l VOC limit for all cleaning solvents in the shop is too low in many cases to allow for adequate cleaning throughout all steps in the refinish process or on all surfaces.

At the same time we acknowledge that our coating manufacturers make these low VOC cleaning materials and that they can be used, but not cost-effectively for all shop cleaning requirements.

It really is a question of whether the additional effort required in using them and the fact that more of the material may have to be used in such cases, is worth any marginal reduction in VOC emissions they might possibly garner.

No shop has any incentive to use any more of this material than is required by the job. Gun cleaning—one of the former major sources of cleaning solvent emissions—is now minimized by the enclosed gun cleaning requirements of the existing OTC refinish rule.

Also as a practical matter, the focus really should be on the large amount of VOC emissions reductions that will be achieved by the effective implementation of the water borne coatings. This should not be interfered with by forcing on the shops a requirement that even in the best of circumstances of use would at best result in very marginal VOC emissions reductions.

If there is any lingering concern over the excessive usage of this material perhaps a reasonable per year gallon limit could be placed on it. The limit placed on the overall usage—both as a practical matter of shop practice and by way of the provision's gallonage limitation—ensure that this will remain de minimis.

Also this is really a matter that the shops should address with you directly, since it impinges in so many different ways on their productivity, not simply in how much effort is required to use the material, but also for the potential impact of imperfectly removed dirt, grease, etc., that would in the end create more VOC emission resulting from repainting.

Finally, any provision relating to cleaning solvents limitations should clarify that the limitation does not apply to reducers, thinners, etc., which are used in a coating. Their compliance is determined as part of an applied coating, the limit for which is determined on the basis of the total VOC content of the mixed product, not its individual components.

Labeling Requirements

We are concerned that the OTC Draft Rule proposes the term “VOC content” for inclusion on labels instead of “VOC Actual” which has been suggested by the CARB SCM. We hope that as the various regions of the country move to a CARB SCM type rule, they would use consistent language to avoid regional confusion. Significant resources have been spent to revise labels of compliant products in California air districts to show package “Applicable Use Categories” and “VOC Actual” and “VOC Regulatory” data.

We opposed this added requirement in California because we did not understand the rationale. This information is already provided in accompanying product data sheets and MSDSs. We did not see any utility in also requiring it on labels where truly important information already competes for limited space.

That said we ask that the OTC draft rule would require same language and terminology from the California SCM.

“5.2.1 The manufacturer and repackager of automotive coatings or automotive coating components shall include on all containers the applicable use category(ies), and the VOC actual for coatings and VOC regulatory for coatings, as supplied, expressed in grams per liter.

5.2.2 The manufacturer and repackager of solvents subject to this rule shall include on all containers the VOC content for solvents, as supplied, expressed in grams per liter.”

The OTC proposal is not only inconsistent with the SCM by not calling for “actual VOC” on the label but also because it requires on the label mixing instructions and thinning instructions as well as the content of the coating as applied.

The CARB SCM does not require this data on the label, instead requiring it only in Product Bulletins/Technical Data Sheets or similar documents such as wall charts. Traditionally, the industry has relied upon product/technical data sheets and wall charts to convey what can often be very complex instructions.

Revising labels to match this requirement would put a significant strain on our systems to provide something already available in other documents. A number of product packages are so small that their labels do not have enough space to supply this information along with the environmental/regulatory data already required. Additionally, we must keep in mind refinish products are multiple use products that would require significant label space to show all possible variations already available on TDS.

Concern for uniform labeling requirements was on the mind of the Congress when it enacted the 1990 Clean Air Act Amendments. While it allowed states to vary from a national labeling requirement they are to first consult with the US EPA administrator before doing so. This underscores the importance Congress placed on uniform labeling as the preferred approach for products that travel in interstate commerce.

Federal Clean Air Act Section 183(e)

(8) Size, etc.

No regulations regarding the size, shape, or labeling of a product may be promulgated, unless the Administrator determines such regulations to be useful in meeting any national ambient air quality standard.

(9) State consultation

Any State which proposes regulations other than those adopted under this subsection shall consult with the Administrator regarding whether any other State or local subdivision has promulgated or is promulgating regulations on any products covered under this part. The Administrator shall establish a clearinghouse of information, studies, and regulations proposed and promulgated regarding products covered under this subsection and disseminate such information collected as requested by State or local subdivisions.

Clarification of the Compliance Statement Provision

In reading the compliance statement provisions we are cognizant of the objective behind them- that sufficient information be provided to the end user so that it can mix and use the materials in a compliant manner. As proposed, the requirements may be read to require specific individual compliance statements with all of the information set out in the provision be supplied for all of the tens of thousands of ready to spray mixtures that are part of a refinish coatings line. Interpreting the provision this way would inundate the regulatory system with tens of thousands of statements of no real compliance utility and would disclose proprietary formulation information. Instead, we believe that the intent behind the requirement could be met with information being provided for the highest VOC coating in a coating category that demonstrates that it is at or below the authorized limit, thereby assuring the coatings below that limit are in fact compliant.

Finish Blenders Should Have a Higher Limit and for Technical Accuracy Should Not Be Classified as Coatings

As noted in the USEPA discussion quoted above, waterborne color coats can be more difficult to blend:

“...[S]ince fewer coats are needed, it can be more challenging to achieve a proper blend.”

Our experience in California has confirmed this. The 7 lb/gal VOC limit for uniform finish blenders in the current OTC rules will be helpful in early transitioning of shops, which as we stated, we believe will occur for a large number. However, once effective, the rule will impose a limit of 4.5 lb/gal for this crucial material. This is a provision that imposes an unnecessarily strict requirement that results in little or no benefit and may in the end result in more rather than less VOC emissions. The painter has no incentive to use more of this material than is required by the job-in fact he tries to use none of it. Thus hampering effective transitioning with a lower limit serves no purpose. We suggest that the existing 7 lb/gal limit be extended for a year following the effective date of the rule.

Also, as a matter of technical accuracy these materials should not be classified as “coatings”. While they are used in conjunction with coatings they are not coatings themselves but are in fact solvent blends that are added to compliantly mixed color coatings or clear coatings to affect the blend. In this sense, they are similar to spot repair operations where a limited amount of higher VOC material is used to make the finish uniform and they should be treated similarly.

Definition for a Cleaning Solvent

Section 3.32 definition for cleaning solvent could be improved by stating the term as such, i.e., 3.32 Cleaning Solvent-A VOC-containing fluid used to perform cleaning operations.

Clear Coatings Can Contain Talc to Reduce Shine or for a Matte Finish

The definition of “Clear Coatings” should recognize that these coatings may contain talc to reduce shine or create a matte finish. There is concern that the talc might be seen as a pigment.

Metallic/Iridescent Coating Appears to Have Lost Any Regulatory Import

This coating category appears to have lost any regulatory import under the terms of the proposed regulation, i.e., no separate VOC limit or exemption is specified for it. So it might be removed from the regulation.

Not All Refinish Coatings are Thinned

Not all refinish coatings are thinned. Many are simply mixed with just a catalyst or a reducer and catalyst. For the sake technical accuracy, all of the means by which the coating is prepared –not just thinning- should be taken into account. Consequently Section 4.1.1. might be improved to read as follows:

“A person may not supply, sell, offer for sale, manufacture or distribute an automotive coating for use in the OTC State which, when mixed (prepared) to the manufacturer's recommended maximum, does not meet the VOC content requirements of this section, except as provided in subsection 4.4.”

Prohibition of Possession

These provisions should be clarified to ensure that they are not applicable to shops operating under an approved alternative compliance program.

Product Dating Should be Limited to Month and Year

Product batch date information is kept and maintained only in terms the month and year in which the product was manufactured. Requiring the actual date serves no purpose in that the compliance date can be expressed in terms of the first day of a month making products made in that month and there after subject to the regulatory requirements and those made before it eligible for the sell through until it expires.

We would welcome the opportunity to meet with you and your staff to discuss this further in anticipation of what you develop being submitted to the entire OTC at its upcoming September meeting.

Sincerely,

Jim Sell
NPCA/FSCT Senior Counsel

