

State of Connecticut
Regulation of
Department of Energy and Environmental Protection
Concerning Three Minor Amendments
To the Air Quality Regulations

Section. 1. Subsection (i) of section 22a-174-24 of the Regulations of Connecticut State Agencies is amended by adding subdivision (3) as follows:

(NEW) (3) The level of the Connecticut 8-hour primary and secondary ambient air quality standards for ozone is 0.070 parts per million, daily maximum 8-hr average, as set out in 40 CFR 50.19.

Sec. 2. Subdivision (2) of subsection (p) of section 22a-174-33 of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) [An affirmative defense to an administrative or civil action by the state with respect to a violation of a technology-based emission limitation may be made by the permittee pursuant to 40 CFR 70.6(g), provided that the permittee meets all applicable provisions of 40 CFR 70.6(g)(1) to (5), inclusive.] Reserved.

Sec. 3. Subdivision (2) of subsection (e) of section 22a-174-44 of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) The VOC content (grams per liter and percent by weight) of adhesive, sealant, adhesive primer, sealant primer and solvent products subject to this section, shall be determined according to the following calculations:

(A) For [products] adhesives, sealants, adhesive primers and sealant primers, except for low-solids adhesives, sealants, adhesive primers and sealant primers as set out in subparagraph (C) of this subdivision, that do not contain reactive diluents, grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

$$\text{Grams of VOC per liter of product} = \frac{W_s - W_w - W_e}{V_m - V_w - V_e}$$

Where

W_s = weight of volatile compounds, in grams

W_w = weight of water, in grams

W_e = weight of exempt compounds, in grams

V_m = volume of product, as supplied, in liters

V_w = volume of water, in liters

V_e = volume of exempt compounds, in liters;

(B) For [products] adhesives, sealants, adhesive primers and sealant primers, except for low-solids adhesives, sealants, adhesive primers and sealant primers as set out in subparagraph (C) of this subdivision, that contain reactive diluents, the VOC content of the product is determined after curing. The grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

$$\text{Grams of VOC per liter of product} = \frac{W_{rs} - W_{rw} - W_{re}}{V_{rm} - V_{rw} - V_{re}}$$

Where

W_{rs} = weight of volatile compounds not consumed during curing, in grams

W_{rw} = weight of water not consumed during curing, in grams

W_{re} = weight of exempt compounds not consumed during curing, in grams

V_{rm} = volume of product, as supplied, not consumed during curing, in liters

V_{rw} = volume of water not consumed during curing, in liters

V_{re} = volume of exempt compounds not consumed during curing, in liters;

(C) [Grams] For low-solids adhesives, sealants, adhesive primers and sealant primers, grams of VOC per liter of product thinned to the manufacturer's recommendation shall be calculated according to the following equation:

$$\text{Grams of VOC per liter of product} = \frac{W_s - W_w - W_e}{V_m}$$

Where

W_s = weight of volatile compounds, in grams W_w = weight of water, in grams

W_e = weight of exempt compounds, in grams V_m = volume of product, in liters; and

(D) Percent VOC by weight shall be calculated according to the following equation:

$$\% \text{VOC by weight} = \left[\frac{W_v}{W} \right] \times 100$$

Where

W_v = weight of VOCs in grams

W = weight of product in grams

Statement of Purpose

Purpose of proposal:

This regulatory proposal makes three minor changes to the air quality regulations. Two of these changes are necessary due to recent actions by the United States Environmental Protection Agency (EPA). The third change clarifies one aspect of the Connecticut adhesives and sealants regulation.

Main provisions of the proposal:

The addition of the 0.070 parts per million ozone standard in RCSA section 22a-174-24 maintains consistency between the Connecticut ambient air quality standards and EPA's National Ambient Air Quality Standards (NAAQS) for ozone. DEEP committed to EPA to make this addition in 2018 in the "infrastructure" State Implementation Plan for the 2015 ozone NAAQS to satisfy Clean Air Act section 110(a)(2).

The removal of the "affirmative defense" provision from RCSA section 22a-174-33 maintains consistency with a final rule EPA published on July 21, 2023 removing the emergency affirmative defense provisions from the Clean Air Act (CAA) operating permit program (title V) regulations.¹ These provisions establish an affirmative defense which source owners can assert in enforcement cases brought for noncompliance with technology-based emission limits in operating permits when the exceedances occurred due to emergency circumstances. EPA's final rule is consistent with a 2014 decision in which the U.S. Court of Appeals for the D.C. Circuit vacated a similar affirmative defense provision in EPA's hazardous air pollutant regulations for the Portland Cement industry² and EPA's current interpretation of the CAA's enforcement structure.

The correction to RCSA section 22a-174-44 clarifies the volatile organic compound (VOC) calculation methods available for adhesive and sealant products. This change more precisely states the VOC content determinations for low-solids products. The lack of clarity arose from a minor error made in the development of the OTC Model Rule for Adhesives and Sealants, on which RCSA section 22a-174-44 is based.

Legal effect:

The legal effect of these amendments is minimal. This amendment does not create significant new requirements for the regulated community or add new regulated entities but rather clarifies current obligations and interactions with federal requirements. No fiscal impact on the state is anticipated, and no new requirements on small business are anticipated to result from adoption of this proposal. DEEP will implement the proposal with existing staff and other resources.

¹ Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program, 88 FR 47029 (July 21, 2023).

² *NRDC v. EPA*, 749 F.3d 1055.