



AmericanCoatings

ASSOCIATIONSM

August 11, 2025

Julia Segura
Stationary Source Programs Team Work Leader
Texas Commission on Environmental Quality
12100 Park 35 Circle, Building F
Austin, TX 78752

Rule Project Number 2025-006-115-AI

RE: Comments in Response to Texas Commission on Environmental Quality's (TCEQ) Proposal to Add Architectural and Industrial Maintenance (AIM) Coatings to the List of Applicable Surface Coating Processes in 30 Tex. Admin. Code § 115.450 – § 115.459

Dear Julia Segura:

The American Coatings Association (ACA) submits the following comments to TCEQ regarding its proposal to add AIM coatings to the list of applicable surface coating processes and requirements in 30 Tex. Admin. Code § 115.450 – § 115.459. 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 and coatings science. ACA appreciates the opportunity to comment and looks forward to working with TCEQ throughout the rule development process.

ACA opposes TCEQ's proposal to add AIM coatings to the list of applicable surface coatings processes for the Bexar County area.

1. Applicability, Enforcement, and Liability Concerns

TCEQ's proposal is intended to capture all surface coating processes, operations, facilities, companies, and individuals applying AIM coatings "for compensation" in the Bexar County area. The agency's proposal would apply only to AIM coatings in a commercial context in the Bexar County area and would explicitly exclude consumer use from the rule's applicability. In short, TCEQ's proposal would regulate anyone applying AIM coatings in the Bexar County area, rather than restrict the sale, supply, or manufacture of AIM coatings in the Bexar County area.

While ACA appreciates TCEQ's intent to limit the scope of the proposal, it is not a practical approach. Industry would still be permitted to manufacture and sell noncompliant AIM coatings in the Bexar County area, but would have no way of knowing how their products are being applied by end users. For example, industry's product could be purchased and used by an individual consumer to paint their home in the Bexar County area. In this scenario, industry's product would not have to comply with the proposed surface coatings requirements in 30 Tex. Admin. Code § 115.450 - § 115.459. In contrast, the very same paint product could also be purchased and used by a professional contractor and/or company that is

being paid to apply it at a construction site in the Bexar County area. In this scenario, the professional contractor or company would have to comply with the proposed surface coating requirements in 30 Tex. Admin. Code § 115.450 - § 115.459. Both scenarios are equally plausible, but have very different requirements and consequences.

The close connection between end users and coatings manufacturers raises serious enforcement and liability concerns. While it appears that compliance and liability rests on the end user/applicator, there is an undeniable and unreasonable risk to coatings manufacturers selling paint products that do not meet TCEQ's proposed standards in the Bexar County area. In addition, there is not an easily identifiable or logical enforcement mechanism that would safeguard compliance with the new rule's standards and requirements. Furthermore, placing compliance and liability responsibilities on the end user/applicator puts retailers and distributors at risk since these parties may not know the exact situation of when a coatings application will occur.

2. Stringency of the Proposed VOC Limits

TCEQ is proposing to impose VOC limits for AIM coatings that align with the standards in the South Coast Air Quality Management District's (SCAQMD) Rule 1113.¹ SCAQMD is responsible for regulating air quality in southern California, including Los Angeles. This area experiences some of the worst air quality in the United States, particularly for ozone and particulate matter. As such, SCAQMD has developed the most stringent regulatory regime for air emissions from a wide variety of sources. The coatings industry has worked diligently with SCAQMD to develop reasonable approaches to the regulation of VOCs that are narrowly tailored to assist the District with its air quality goals. Notably, SCAQMD Rule 1113 is the most stringent rule for architectural coatings in the U.S. and has not been adopted by any other jurisdiction to date.

Texas does not have a separate architectural coatings rule that imposes VOC restrictions beyond U.S. EPA's National Rule for Architectural Coatings.² Therefore, coatings manufacturers must sell AIM coatings in Texas that are compliant with U.S. EPA's VOC limits and requirements. The proposed escalation from U.S. EPA's National Rule to SCAQMD Rule 1113 is extreme and poses potential risks when it comes to implementation.

Specifically, the VOC limits in SCAQMD Rule 1113 were technology-forcing limits that compelled industry to utilize exempt solvents such as PCBTF.³ However, SCAQMD is currently in the process of prohibiting the use of PCBTF due to health/toxicity concerns and will be considering increasing the current VOC limits to account for the loss of this exempt solvent. Given U.S. EPA's anti-backsliding provisions, it is challenging for jurisdictions to revert back to higher VOC limits after a rule has been implemented.

ACA does not support TCEQ's proposal to impose VOC limits in the Bexar County area that mirror SCAQMD Rule 1113 — the most stringent standards in the U.S. — and strongly urges the agency to reconsider its proposal. ACA recommends that TCEQ implement more sensible and incremental steps toward air pollution control in lieu of imposing the most stringent standards in the U.S.

¹ See South Coast Air Quality Management District Rule 1113 (Architectural Coatings): <https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1113.pdf>.

² See 40 CFR Part 59, Subpart D: <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-59#subpart-D>.

³ P-Chlorobenzotrifluoride.

3. Precedent-Setting Rulemaking

TCEQ's proposal is extremely unique and a nontraditional way to regulate VOCs in coatings. ACA has worked with air quality regulators throughout the U.S. that are tasked with reducing VOC emissions from coatings. A common approach to regulate VOC emissions is the development of an AIM coatings rule that aligns with a model rule developed by the Ozone Transport Commission (OTC).⁴ The OTC developed two model rules for AIM coatings – Phase I and Phase II. Both model rules are more stringent than U.S. EPA's National Rule for Architectural Coatings and apply to the sale, supply, manufacture, and application of AIM coatings in the applicable jurisdiction.

ACA and industry worked closely with the OTC in its development of the model rules to ensure that they were reasonable for industry and achieved air quality goals. The OTC model rules have been adopted by air quality regulators in the following states or local jurisdictions: Utah, Colorado, Maricopa County (AZ), Clark County (NV), Illinois, Indiana, Michigan, Ohio, Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, Virginia, and the District of Columbia.

ACA recognizes that the applicability of an OTC model rule is broader than TCEQ's proposal, which is limited to the application of AIM coatings. However, the coatings industry has worked tirelessly over many years negotiating the framework of the OTC model rules, including the scope of the rule, definitions, standards, and other administrative provisions. ACA is confident that a rule modeled on this framework will be approved by U.S. EPA as part of a state implementation plan (SIP). Just as importantly, adopting an OTC model rule will provide clarity to industry and retailers concerning their obligations, which will result in effective implementation and tangible VOC emissions reductions. Again, ACA appreciates TCEQ's intent to limit the scope of its proposal to commercial applicators, but it is not practical and differs from the approach taken by 20 other jurisdictions. For the reasons stated above, ACA opposes TCEQ's proposal to add AIM coatings to the list of applicable surface coatings processes and requirements for the Bexar County area.

In lieu of adopting the proposal as written, ACA recommends an alternative approach to reducing VOC emissions from coatings in the Bexar County area that is more practical and reasonable for all interested parties.

Through the stakeholder engagement process, ACA appreciates TCEQ's transparency and willingness to consider alternative approaches. ACA understands that TCEQ must record VOC emissions reductions in the Bexar County area to meet its SIP requirements, which presents certain challenges given the limited number of point sources. As such, ACA recognizes the agency's focus on VOC reductions in coatings and other specific sources in this rulemaking effort. However, ACA recommends an alternative approach for AIM coatings that is more practical and reasonable for all interested parties.

First, ACA urges TCEQ to forgo adding AIM coatings to its list of applicable surface coatings processes for the Bexar County area as proposed in this rulemaking. Instead, ACA encourages TCEQ to consider adopting a separate AIM coatings rule for the Bexar County area that aligns with an OTC model rule. This approach is consistent with actions taken by air quality regulators in other jurisdictions, including more localized regulations in Maricopa County and Clark County. This approach would also ensure that TCEQ

⁴ See Ozone Transport Commission (OTC) Model Rules: <https://otcair.org/materials/model-rules-and-guidelines?fview=modelrules>.

records necessary VOC emissions reductions and allow industry to navigate within a familiar regulatory framework. This alternative option is better suited for all interested parties. If TCEQ decides to pursue this alternative approach, ACA is ready and willing to assist.

Thank you for your consideration of ACA's comments. Please do not hesitate to contact us if you have any questions or require additional clarification.

Sincerely,



Rhett Cash
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Submitted via email