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**Background Information And Technical Support Document
For Proposed Amendments To**

**310 CMR 7.25(12)
Consumer Products**

**310 CMR 7.00
Definition of VOC**

**310 CMR 7.03(16)
Paint Spray Booths**

Regulatory Authority:
M.G.L. Chapter 111, §§ 142A through 142N

October 17, 2008

I. INTRODUCTION

The Massachusetts Department of Environmental Protection (MassDEP) proposes to amend its regulations for Consumer Products, 310 CMR 7.25(12), to include provisions for Alternative Compliance Plans (ACPs). MassDEP also proposes to add the compound HFE-7300 to the list of exempt compounds in the current definition of Volatile Organic Compound (VOC) in 310 CMR 7.00, and to make a technical correction to Paint Spray Booth regulations, 310 CMR 7.03(16)(g).

II. SUMMARY OF PROPOSED REGULATIONS

Consumer Products Alternative Compliance Plan

In 2007, MassDEP promulgated final revisions to 310 CMR 7.25(12) to adopt more stringent VOC emission limitations for consumer products.¹ These revisions are based on a model rule developed by the Ozone Transport Commission (OTC), which in turn is based on rules developed by the California Air Resources Board (CARB). When MassDEP proposed the draft consumer products regulations, it did not include an ACP provision although such a provision was contained in the OTC model rule and has been adopted by all other OTC states as well as CARB. An ACP allows manufacturers of consumer products to average VOC emissions among products to meet a VOC limit cap (i.e., some products in the ACP would not have to meet their applicable VOC limits provided that other products in the plan are below their applicable VOC limits and the total VOC emissions for all products in the plan remain below a VOC cap calculated based on the applicable VOC standards and the sales volume of the products in the plan).

During the public comment process, MassDEP received comments from industry groups requesting inclusion of the ACP model rule provisions. In its Response to Comments, MassDEP agreed with the benefits that an ACP provision would provide and committed to proposing draft ACP provisions. MassDEP now is proposing to include an ACP provision as part of 310 CMR 7.25(12).

In preparing the proposed ACP provisions, MassDEP reviewed the ACP provisions adopted by other OTC states and spoke with staff at CARB regarding their experience in implementing ACPs. CARB confirmed that ACPs approved in California have resulted in an overall net decrease in VOC emissions from consumer products covered by approved ACPs. Based on this review, MassDEP believes that the best approach to maintain consistency is to accept in Massachusetts ACPs approved by CARB. This is the approach several other OTC states have taken.

Because an ACP is an averaging program, its use by a manufacturer to meet the consumer product VOC content limits will not lead to a net increase in VOC emissions, and likely will lead to a net decrease in VOC emissions (based on the experience in California). Without such an averaging provision, MassDEP's current regulations would prohibit the sale of consumer

¹ See January 2007 *Background Information and Technical Support Document for Proposed Amendments to 310 CMR 7.25* and October 2007 *Response to Comments* at www.mass.gov/dep/service/regulations/regsarch.htm#aimcp

products for which a compliant alternative is not currently available, even though all other states allow their sale. Therefore, MassDEP is proposing an ACP provision consistent with other OTC state rules.

Exempt HFE-7300 from definition of VOC

MassDEP proposes to add the compound HFE-7300 to the list of exempt compounds in the current definition of VOC in 310 CMR 7.00 in order to be consistent with EPA's definition of VOC.

On January 18, 2007, EPA added 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane (also known as HFE-7300) to the list of those compounds that are exempt from the definition of VOC at 40 CFR Part 51.100(s) for ozone SIP and ozone control purposes, on the basis that HFE-7300 makes a negligible contribution to the formation of ground-level ozone. Due to this change, states may no longer take credit for controlling HFE-7300 in their ozone control strategies.

According to EPA, scientific evidence shows that HFE-7300 is negligibly reactive, meaning it contributes little or nothing to the formation of ground-level ozone. HFE-7300 is used as a heat transfer fluid and for other heat transfer applications. It also may be used as an alternative to chlorofluorocarbons (CFCs), perfluorocarbons, hydrofluorocarbons, and perfluoropolyethers, which are being phased out of production because of their detrimental ability to deplete stratospheric ozone. This change could benefit businesses by making it easier to use HFE-7300 in place of substances that deplete the earth's protective ozone layer and substances with high global warming potentials.

MassDEP proposes to provide this same exemption in 310 CMR 7.00. The effect of this exemption would be that facilities that use or produce HFE-7300 and that are subject to MassDEP regulations limiting the use of VOC in products and/or facility emissions for purposes related to attaining the ozone National Ambient Air Quality Standards would no longer be required to count HFE-7300 as a VOC in determining whether the facility meets its regulatory obligations.

Technical Correction to Paint Spray Booths

MassDEP proposes to amend 310 CMR 7.03(16)(g) by deleting a sentence to clarify the regulation's intent. In a previous regulatory revision, 310 CMR 7.03(16)(g) was corrected by deleting "cleanup solution" from the materials whose VOC content was required to be less than 1.67 pounds per gallon. The second sentence in section (g) also should have been deleted at that time, but was not. MassDEP proposes to delete the second sentence in this paragraph to avoid possible confusion and to clarify the intent of the regulation.

III. IMPACT OF REGULATIONS

Including an ACP provision in MassDEP's consumer products regulations [310 CMR 7.25(12)] will make it easier and less costly for businesses to comply with the VOC emissions limits,

reducing costs while still achieving (and potentially exceeding) the VOC emission reductions required by the rule.

Exempting HFE-7300 from the definition of VOC and the technical correction to 310 CMR 7.03(16)(g) will have no environmental impact, but will make Massachusetts rules clearer and consistent with federal rules.

The proposed rules will have no impact on local governments. In addition, the proposed revisions are categorically exempt from the “Regulations Governing the Preparation of Environmental Impact Reports,” 301 CMR 11.00, because the proposed amendments will not result in any increase in emissions.

IV. PUBLIC HEARINGS AND COMMENT

MassDEP plans to submit the final regulation revisions to EPA as part of its 8-hour ozone State Implementation Plan (SIP). Public hearings on the proposed revisions will be conducted under the provisions of M.G.L. Chapter 3