New York State Green Procurement Program
Response to Comments on

Proposed Specification on Paint

Background: There have been significant advances in the market for recycled content paint since the original GreenNY specification for paint was created. This includes the recent passage of extended producer responsibility legislation that led to the creation of the PaintCare recycling program. In order to advance the market for recycled content paint and close the loop by turning old paint into new usable products, the specification for paint has been updated. A specification for paint was given tentative approval by the GreenNY Interagency Committee on December 14, 2022.

Commenting Entities: Clean + Healthy New York, Responsible Purchasing Network (RPN), and Healthy Schools Network

Issued Raised by These Organizations During the Comment Period:

1. Include restriction of PFAS in all paint products

Comments:
The commenting entities stated that a requirement should be added such that all paint products may not contain perfluoroalkyl and polyfluoroalkyl substances (PFAS). Health effects noted, as sourced from the US EPA, include: reproductive effects, developmental effects in children, increased risks of some cancers, reduced immune and vaccine response, interference with the body's natural hormones, and increased cholesterol levels, and/or increased risk of obesity. The commenters note that PFAS are added to paints for their various properties including improved flow, spread, and glossiness, and to decrease bubbling and peeling. PFAS are also used for their stain-resistance, graffiti-proofing, and water-repellent properties. The Responsible Purchasing Network specifically adds that vendors must provide documentation that the product does not contain more than 100 ppm total organic fluorine (TOF). Clean+Healthy also adds that according to an OECD study, PFAS-alternatives, such as polyurethane and silica-based ingredients, are comparable in cost and performance and are widely available on the paint market.

Response:
The GreenNY Council appreciates the commenter raising this concern around PFAS in paint products, a "forever chemical", and its contribution of various long-term health effects. Given the widespread availability of paint products with PFAS alternatives, the requirement that virgin and recycled paint products may not include intentionally added PFAS has been added to the specification. A definition of intentionally added has also been added to clarify where this is applicable.

Recommendation:
Include a requirement that virgin and recycled paint products may not include intentionally-added PFAS.

Commenting Entities: Responsible Purchasing Network (RPN)

Issued raised by RPN During the Comment Period:

2. Divide the specification into two categories

Comments:
The paint specification should be divided into two categories: 1) Interior latex wall and ceiling paints and primers, and 2) Specialty paints, primers, and coatings. This recommendation is based on the existence of different third-party environmental and health certifications for these two categories. See proposed revised language below.

A. Interior latex wall and ceiling paints and primers have at least one of the following multi-attribute green certifications:
   - Cradle to Cradle Certified or Material Health Certificate at the Silver level or higher
   - Green Seal
   - Greenwise Gold
   - or Master Painters Institute (MPI) Extreme Green

B. Specialty paints, primers, and coatings shall comply with the applicable South Coast Air Quality Management District (SCAQMD) limit on volatile organic compounds (VOCs); OR have a VOC content that does not exceed 100 grams/liter; OR have at least one of the following environmental and/or health third-party certifications:

   - Multi-attribute green certifications:
     i. Cradle to Cradle Certified or Material Health Certificate Silver level or higher,
     ii. Green Seal,
     iii. MPI Green Performance Standard (Extreme Green, GPS-2 or GPS-1),
     iv. Safer Choice (covers spray paint only) or
     v. ENERGY STAR (covers roof coatings only)

Response:
The GreenNY Council appreciates the commenter's suggestion to separate the third-party certification section into two categories to clarify which certifications apply to these different types of paint products. We strive to improve the clarity of these specifications for all users. The addition of the ENERGY STAR certification for roof coatings will not be included in the specification since the focus of the standard is energy conservation and does not address toxics reduction. Many roof coatings contain PFAS to reflect UV light to keep the interior of the building cool. For this specification, the GreenNY Council is prioritizing standards that focus on limiting toxics and chemicals of concern, like PFAS. However, purchasers are encouraged to select roof coatings that support energy conservation that do not contain intentionally added PFAS. The Council appreciates the commenter adding the US EPA Safer Choice certification for spray paint. This multi-attribute standard restricts the use of toxics and other chemicals of concern, including PFAS. The Safer Choice standard has been included in the specification.

For VOC content limits, the specification currently requires paints and primers to not exceed the limits set by 6 NYCRR § 205.3. Affected entities are also encouraged to comply with SCAQMD limit of VOCs of 50 g/L for all paint products other than interior flat paints. The VOC content limits set by the SCAQMD standards are generally lower (i.e., more restrictive) than those established by 6 NYCRR § 205.3. Therefore, the specification has been amended in response to this comment such that affected entities will be required to comply with the VOC content limits set for specialty, paints, primers, and coatings.

Recommendation:
Separate the third-party certification section by product category: 1) Interior latex wall and ceiling paints and primers, 2) Specialty paints, primers, and coatings. VOC content limits shall not exceed the applicable SCAQMD standard, then for all other coating types, VOC contents shall not exceed those established by 6 NYCRR § 205.3.

Commenting Entities: Responsible Purchasing Network (RPN)

Issued raised by RPN During the Comment Period:

3. Remove UL EcoLogo Certification - UL 2768: Architectural Surface Coatings

Comments:
The commenter noted that the UL EcoLogo Certification, UL 2768: Architectural Surface Coatings, is no longer listed as an active standard and there are no longer any paint products certified under the standard. As such, it should be removed from the specification.

Response:
The GreenNY Council appreciates the commenter bringing this to our attention. The specification has been amended in response to this comment.

Recommendation:
Remove the UL 2768: Architectural Surface Coatings certification from the paint specification

Commenting Entities: Responsible Purchasing Network (RPN)

Issued raised by RPN During the Comment Period:

4. Include restriction of chemicals on the CA Prop 65 List for paint thinners and removers

Comments:
The commenter stated that a requirement should be added such that paint thinners and removers may not contain chemicals on the CA Prop 65 List. Chemicals included in this list are known to the State of California to cause cancer, birth defects, or other reproductive harm.

Response:
The GreenNY Council appreciates the commenter raising this concern about chemicals on the CA Prop 65 List and their health effects. The specification does not cover paint thinners and removers, but these products are covered by the approved Coating Removal Products specification. This comment has been noted for future consideration.

Recommendation:
No change required for paint specification. Comment will be considered for an amendment to the coating removal products specification.

Commenting Entities: Healthy Schools Network

Issued raised by Healthy Schools Network During the Comment Period:

5. NY State should require a warning on the product label that VOC content of the final tinted paint may exceed specified levels

Comments:
The commenter stated that New York State should require product labels on base paints with zero/low VOC (volatile organic compounds) declarations or certifications to include a warning that VOC content may exceed this specified level if rich colors are added.

Response:
The GreenNY Council appreciates the commenter raising this concern about VOCs and proposing a labeling requirement for zero and low VOC paints. This recommendation is beyond the scope of the GreenNY specification process. This comment has been noted for future consideration.

Recommendation:
No change required.

Commenting Entities: Healthy Schools Network

Issued raised by Healthy Schools Network During the Comment Period:

6. NY State should require paint manufacturers to take back all paint products

Comments:
The commenter stated that New York State should phase in a specific requirement for paint manufacturers to take back all paint products.

Response:

The GreenNY Council appreciates the commenter proposing a requirement for paint manufacturers to take back all paint products. This recommendation is beyond the scope of the GreenNY specification process. This comment has been noted for future consideration.

Additional information about New York State's paint take back program is provided below –

> Currently in (NYS), all producers of architectural paint sold in the state must participate in the NYS postconsumer paint collection program. "Architectural paint" includes interior and exterior architectural coatings sold in containers of five gallons or less, including house paint and primers, stains, deck and concrete sealers, and clear finishes. Producers or paint manufacturers are prohibited from selling or offering for sale, architectural pain in New York State unless the producer and their brands are registered with the NYS Department of Environmental Conservation (DEC) as participating in an approved program.
>
> In May 2022, the PaintCare program was launched as the state's approved paint recycling program. This program is funded by a consumer PaintCare Fee applied to the sale of all new paint sold in New York. To date, there are more than 270 year-round paint collection sites in New York.

Recommendation:
No change required.