

NOTICE OF AMENDMENT OF TITLE 43 OF THE RULES OF THE CITY OF NEW YORK TO CREATE AN ENVIRONMENTALLY PREFERABLE PURCHASING PROGRAM

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Director of Citywide Environmental Purchasing (the “Director”) by §§ 6-304, 6-312, 6-313, and 6-314 of the administrative code of the city of New York, and in accordance with the requirements of § 1043 of the New York City Charter, that the Director hereby promulgates Chapter 11 of Title 43 of the Rules of the City of New York to create an environmentally preferable purchasing program pursuant to chapter 3 of title 6 of the Administrative Code of the City of New York. The amendment was published in the City Record as a proposed rule on November 14, 2006. The required public hearing was held on December 18, 2006. The effective date of this amendment is March 1, 2007.

In the amendment, which immediately follows this notice, new material is underlined and deletions are bracketed.

Section 1. Title 43 of the rules of the city of New York is amended by adding a new chapter 11 to read as follows:

CHAPTER 11: ENVIRONMENTALLY PREFERABLE PURCHASING PROGRAM

SUBCHAPTER 1: GENERAL PROVISIONS

§11-1 Definitions.

§11-2 Applicability, exemptions and waivers.

SUBCHAPTER 2: HAZARDOUS SUBSTANCES

§11-3 Hazardous content of electronic devices.

§11-4 Volatile organic compounds and other airborne hazards.

§11-5 Mercury-added lamps.

§11-1 Definitions. a. For the purposes of this chapter only, the following terms shall have the following meaning:

(1) “Architectural coatings” means any coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. This term shall not include the following:

marine-based paints and coatings; coatings or materials to be applied to metal structures, such as bridges; or coatings or materials labeled and formulated for application in roadway maintenance activities.

(2) “Cadmium plating” means any deposit or coating of metallic cadmium on a metallic surface.

(3) “Carpet” means any fabric used as a floor covering, but such term shall not include artificial turf.

(4) “Carpet adhesive” means any substance used to adhere carpet to a floor by surface attachment, including any latex multi-purpose floor adhesive, pressure-sensitive floor adhesive, vinyl-backed floor adhesive, latex seam adhesive, vinyl-backed seam sealer, cove base adhesive, tackless cushion adhesive and contact adhesive.

(5) “Carpet cushion” means any kind of material placed under carpet to provide softness when it is walked upon.

(6) “Cathode ray tube” means any vacuum tube, typically found in computer monitors, televisions and oscilloscopes, in which a beam of electrons is projected on a phosphorescent screen.

(7) “Clear brushing lacquer” means any clear wood finish, excluding any clear lacquer sanding sealer, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, that is intended exclusively for application by brush.

(8) “Coating” means any material that is applied to a surface in order to beautify, protect, or provide a barrier to such surface.

(9) “Director” means the director of citywide environmental purchasing.

(10) “Emission factor” means the mass of a volatile organic compound emitted from a specific unit area, mass or length, as appropriate, of product surface per unit of time.

(11) “Flat paint” means any coating that registers a gloss of less than 15 on an 85-degree meter or less than 5 on a 60-degree meter.

(12) “Floor coating” means any opaque coating that is formulated for or applied to flooring, including but not limited to decks, porches, gymnasiums, and bowling alleys, but does not include any industrial maintenance coating.

(13) “Homogeneous” means of uniform composition throughout, such as plastics, ceramics, glass, metals, alloys, paper, board, resins and coatings.

(14) “Homogeneous material” means a material that cannot be mechanically disjointed into different materials through actions such as unscrewing, cutting, crushing, grinding and abrasive processes.

(15) “Lacquer” means any clear or pigmented wood finish, including clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

(16) “Lamp” means any glass envelope with a gas, coating, or filament that produces visible light when electricity is applied, but such term shall not include automotive light bulbs.

(17) “Lamp life” means the rated hours of output for a fluorescent tube lamp measured using instant-start ballasts at 3 hours per start, except for T5 lamps, which shall be measured using program start ballasts.

(18) “Maximum mercury” means the total weight of mercury in a lamp.

(19) “Medical device” means any equipment for fertilization testing, laboratory equipment for in-vitro diagnosis, medical analyzer, medical freezer, pulmonary ventilator, cardiology, dialysis, radiotherapy or nuclear medicine equipment and any other appliance for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

(20) “Monitoring and control instrument” means any heating regulator, smoke detector, thermostat, device for measuring, weighing or adjusting any device for use in a household or laboratory and any other monitoring and control instrument used in industrial installations.

(21) “Multi-function device” means any physically integrated device or a combination of functionally integrated components that performs the function of a copier as well as the functions at least one of the following devices: printer, facsimile machine or scanner.

(22) “Nonflat paint” means any coating that registers a gloss of 5 or greater on a 60 degree meter and a gloss of 15 or greater on an 85 degree meter.

(23) “Primer” means any coating applied to a substrate to provide a firm bond between the substrate and subsequent coats.

(24) “Rust preventative / anti-corrosive paint” means any coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces.

(25) “Sanding sealer” means any clear or semi-transparent wood coating formulated for or applied to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding

sealer that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

(26) “Selected test method” means the American Society for Testing and Materials test method D 5116 (guide for small-scale environmental chamber determinations of organic emissions from indoor materials/products).

(27) “Varnish” means any clear or semi-transparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

(28) “Volatile organic compound” means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions, as specified in part 51.100 of chapter 40 of the United States code of federal regulations.

§11-2 **Applicability, exemptions and waivers.** These rules shall apply to products according to section 6-302 of the administrative code of the city of New York on the applicability of the environmentally preferable purchasing program contained in chapter three of title six of such code. These rules shall be subject to any exemption or waiver contained in section 6-303 of such code or contained in any other provision of such chapter.

SUBCHAPTER 2: HAZARDOUS SUBSTANCES

§11-3 Hazardous content of electronic devices.

§11-4 Volatile organic compounds and other airborne hazards.

§11-5 Mercury-added lamps.

§11-3 **Hazardous content of electronic devices.** a. No new cathode ray tube, product containing a cathode ray tube, liquid crystal display (LCD), plasma screen or

other flat panel television or computer monitor or similar video display product, desktop computer or laptop computer, computer peripheral including, but not limited to, a keyboard, mouse and other pointing device, printer, scanner, facsimile machine and card reader, copier, and multi-function device purchased or leased by any agency shall contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls or polybrominated diphenyl ethers, except that this section shall not apply to:

(1) Any battery, medical device or monitoring and control instrument.

(2) Any display device with a diagonal screen size of four inches or less.

(3) Any electronic device that is functionally or physically a part of any larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, including diagnostic, monitoring or control equipment.

(4) Any remanufactured, refurbished or reused electronic device; any electronic device containing any reused component, assembly or part; and any reused part, component or assembly for the repair of any electronic device.

(5) Any electronic device used in homeland security, police, military or emergency response activities, and/or by personnel engaged in those activities.

(6) Mercury in the following circumstances:

(i) In compact fluorescent lamps not exceeding 5 mg per lamp;

(ii) In straight fluorescent lamps for general purposes not exceeding:

— halophosphate 10 mg

— triphosphate with normal lifetime 5 mg

— triphosphate with long lifetime 8 mg;

(iii) In straight fluorescent lamps for special purposes; and

(iv) In other lamps not specifically mentioned in this section.

- (7) Lead in the following circumstances:
- (i) 0.1% by weight in homogeneous materials;
 - (ii) As a constituent in the glass used in cathode ray tubes, electronic components or fluorescent tubes;
 - (iii) As an alloying element in steel containing up to 0.35% lead by weight, aluminum containing up to 0.4% lead by weight and as a copper alloy containing up to 4% lead by weight;
 - (iv) In high melting temperature type solders (i.e. lead-based alloys containing 85 % by weight or more lead);
 - (v) In solders for servers, storage and storage array systems, network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunications;
 - (vi) In electronic ceramic parts (e.g. piezoelectronic devices);
 - (vii) In lead-bronze bearing shells and bushes;
 - (viii) Used in compliant pin connector systems;
 - (ix) As a coating material for the thermal conduction module c-ring;
 - (x) In solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80% and less than 85% by weight;
 - (xi) In solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit flip chip packages;
 - (xii) In linear incandescent lamps with silicate coated tubes;

(xiii) Lead halide as radiant agent in High Intensity Discharge (HID) lamps used for professional reprography applications;

(xiv) As activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi₂O₅:Pb) as well as when used as speciality lamps for diazoprinting reprography, lithography, insect traps, photochemical and curing processes containing phosphors such as SMS ((Sr,Ba)₂MgSi₂O₇:Pb);

(xv) With PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact Energy Saving Lamps (ESL);

(xvi) Lead oxide in glass used for bonding front and rear substances of flat fluorescent lamps used for Liquid Crystal Displays (LCD);

(xvii) As an impurity in RIG (rare earth iron garnet) Faraday rotators used for fiber-optic communications systems;

(xviii) In finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with NiFe lead frames and lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with copper lead frames;

(xix) In solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors;

(xx) Lead oxide in plasma display panels (PDP) and surface conduction electron emitter displays (SED) used in structural elements; notably in the front and rear glass dielectric layer, the bus electrode, the black stripe, the address electrode, the barrier ribs, the seal frit and frit ring as well as in print pastes;

(xxi) Lead oxide in the glass envelope of Black Light Blue (BLB) lamps;

(xxii) Lead alloys as solder for transducers used in high-powered (designated to operate for several hours at acoustic power levels of 125 dB SPL and above) loudspeakers; and

(xxiii) Lead bound in crystal glass as defined in Annex I (Categories 1, 2, 3 and 4) of Council of the European Union Directive 69/493/EEC, as amended.

(8) Cadmium in the following circumstances:

(i) 0.01% by weight in homogeneous materials; and

(ii) Cadmium and its compounds in electrical contacts and cadmium plating.

(9) Lead and cadmium in the following circumstances:

(i) In optical and filter glass; and

(ii) In printing inks for the application of enamels on borosilicate glass.

(10) Hexavalent chromium in the following circumstances:

(i) As an anti-corrosion of the carbon steel cooling system in absorption refrigerators; and

(ii) Until July 1, 2007, in corrosion preventive coatings of unpainted metal sheetings and fasteners used for corrosion protection and Electromagnetic Interference Shielding in equipment falling under category three of European Union Directive 2002/96/EC (IT and telecommunications equipment).

(11) The following materials in the following concentrations:

(i) 0.1% by weight in homogeneous materials for mercury;

(ii) 0.1% by weight in homogeneous materials for hexavalent chromium;

(iii) 0.1% by weight in homogeneous materials for polybrominated biphenyls; and

(iv)0.1% by weight in homogeneous materials for polybrominated diphenyl ethers.

(12) DecaBDE in polymeric applications.

§11-4 Volatile organic compounds and other airborne hazards. a. (1) No carpet or carpet adhesive purchased or leased by any agency shall contain any volatile organic compound in any concentration exceeding that specified below, according to the selected test method.

<u>Product</u>	<u>Volatile Organic Compound</u>	<u>24-Hour Testing Maximum Emission Factor ($\mu\text{g}/\text{m}^2\cdot\text{hr}$)</u>	<u>14-Day Testing Maximum Emission Factor ($\mu\text{g}/\text{m}^2\cdot\text{hr}$)</u>
<u>Carpet</u>	<u>Formaldehyde</u>	<u>50</u>	<u>30</u>
	<u>4-Phenylcyclohexene</u>	<u>50</u>	<u>17</u>
	<u>Styrene</u>	<u>410</u>	<u>410</u>
	<u>Total Volatile Organic Compounds</u>	<u>500</u>	<u>-</u>
<u>Product</u>	<u>Volatile Organic Compound</u>	<u>24-Hour Testing Maximum Emission Factor ($\mu\text{g}/\text{m}^2\cdot\text{hr}$)</u>	<u>14-Day Testing Maximum Emission Factor ($\mu\text{g}/\text{m}^2\cdot\text{hr}$)</u>
<u>Carpet Adhesive</u>	<u>Formaldehyde</u>	<u>50</u>	<u>31</u>
	<u>2-ethyl-1-hexanol</u>	<u>300</u>	<u>300</u>
	<u>Total Volatile Organic Compounds</u>	<u>8000</u>	<u>-</u>

(2) No carpet cushion purchased or leased by any agency shall contain any volatile organic compound in any concentration exceeding that specified below, according to the selected test method.

<u>Product</u>	<u>Volatile Organic Compound</u>	<u>24-Hour Testing Maximum Emission Factor (EF)</u>

		($\mu\text{g}/\text{m}^2\cdot\text{hr}$)
<u>Carpet Cushion</u>	<u>Butylated Hydroxytoluene</u>	<u>300</u>
	<u>Formaldehyde</u>	<u>50</u>
	<u>4-Phenylcyclohexene (4PCH)</u>	<u>50</u>
	<u>Total Volatile Organic Compounds</u>	<u>1000</u>

b. (1) No architectural coating regulated under part 205 of title six of the New York codes, rules and regulations and purchased or leased by any agency shall contain any volatile organic compound in any concentration exceeding that permitted under such part.

(2) None of the following architectural coatings purchased or leased by any agency shall contain any volatile organic compound in any concentration exceeding that specified below, according to the selected test method.

<u>Product</u>	<u>Maximum Concentration of Volatile Organic Compounds in Grams per Liter</u>
<u>Sanding Sealers</u>	<u>275</u>
<u>Varnish</u>	<u>275</u>
<u>Floor Coatings</u>	<u>100</u>
<u>Clear Brushing Lacquer</u>	<u>275</u>
<u>Pigmented Lacquers</u>	<u>275</u>
<u>Rust-Preventative / Anti-Corrosive Paint</u>	<u>250</u>
<u>Primer For Flat Paint</u>	<u>100</u>
<u>Primer For Non-Flat Paint</u>	<u>150</u>

Any other architectural coating not listed above but regulated under part 205 of title six of the New York codes, rules and regulations shall not contain any volatile organic compound in any concentration exceeding that permitted under such part.

§11-5 Mercury-added lamps. Any of the following mercury-added lamps

purchased or leased by any agency shall comply with the standards specified below:

<u>Fluorescent Tube Lamps</u>					
<u>Lamp Characteristics</u>			<u>Standard</u>		
<u>Lamp Type</u>	<u>Length (Inches)</u>	<u>Watts</u>	<u>Minimum Mean Lumens</u>	<u>Minimum Lamp Life (Rated Hours)</u>	<u>Maximum Mercury (mg.)</u>
<u>T5</u>	<u>46-48</u>	<u>28</u>	<u>2700</u>	<u>20,000</u>	<u>5</u>
<u>T5 High Output</u>	<u>45-46</u>	<u>54</u>	<u>4600</u>	<u>20,000</u>	<u>5</u>
<u>T8</u>	<u>24</u>	<u>17</u>	<u>1300</u>	<u>24,000</u>	<u>6</u>
<u>T8</u>	<u>36</u>	<u>25</u>	<u>2000</u>	<u>24,000</u>	<u>6</u>
<u>T8</u>	<u>48</u>	<u>32</u>	<u>2800</u>	<u>24,000</u>	<u>6</u>
<u>T8 Instant Start</u>	<u>96</u>	<u>59</u>	<u>5400</u>	<u>18,000</u>	<u>10</u>
<u>T8 High Output</u>	<u>96</u>	<u>86</u>	<u>7300</u>	<u>18,000</u>	<u>10</u>
<u>U-Bent, 6" Spacing</u>	<u>Any</u>	<u>32</u>	<u>2325</u>	<u>18,000</u>	<u>8</u>
<u>T8 Rapid Start</u>	<u>60</u>	<u>40</u>	<u>3200</u>	<u>18,000</u>	<u>8</u>
<u>T8 Preheat</u>	<u>18</u>	<u>15</u>	<u>740</u>	<u>7,500</u>	<u>6</u>
<u>T8 Preheat</u>	<u>36</u>	<u>30</u>	<u>1800</u>	<u>7,500</u>	<u>6</u>
<u>T12</u>	<u>24</u>	<u>30</u>	<u>1870</u>	<u>18,000</u>	<u>10</u>
<u>T12</u>	<u>48</u>	<u>34</u>	<u>2520</u>	<u>20,000</u>	<u>10</u>
<u>T12</u>	<u>48</u>	<u>40</u>	<u>2660</u>	<u>20,000</u>	<u>10</u>
<u>T12 Instant Start</u>	<u>48</u>	<u>39</u>	<u>2400</u>	<u>9,000</u>	<u>10</u>
<u>T12 Instant Start</u>	<u>72</u>	<u>56</u>	<u>3900</u>	<u>12,000</u>	<u>10</u>
<u>T12 Instant Start</u>	<u>96</u>	<u>60</u>	<u>4950</u>	<u>12,000</u>	<u>10</u>
<u>T12 Instant Start</u>	<u>96</u>	<u>75</u>	<u>5900</u>	<u>12,000</u>	<u>10</u>
<u>T12 High Output</u>	<u>48</u>	<u>60</u>	<u>3200</u>	<u>15,000</u>	<u>15</u>
<u>T12 High Output</u>	<u>72</u>	<u>85</u>	<u>5500</u>	<u>12,000</u>	<u>25</u>
<u>T12 High Output</u>	<u>96</u>	<u>95</u>	<u>6900</u>	<u>12,000</u>	<u>15</u>
<u>T12 High Output</u>	<u>96</u>	<u>110</u>	<u>8100</u>	<u>12,000</u>	<u>15</u>
<u>T12 U-Bent, 6" Spacing</u>	<u>Any</u>	<u>31-32/34</u>	<u>2000</u>	<u>18,000</u>	<u>8</u>
<u>T12 U-Bent, 6" Spacing</u>	<u>Any</u>	<u>40</u>	<u>2700</u>	<u>18,000</u>	<u>8</u>
<u>T12 Preheat</u>	<u>18</u>	<u>15</u>	<u>650</u>	<u>9,000</u>	<u>16</u>
<u>T12 Preheat</u>	<u>24</u>	<u>20</u>	<u>1040</u>	<u>9,000</u>	<u>9.5</u>

<u>T9 Circline</u>	<u>Any</u>	<u>22</u>	<u>675</u>	<u>12,000</u>	<u>20</u>
<u>T9 Circline</u>	<u>Any</u>	<u>32</u>	<u>1300</u>	<u>12,000</u>	<u>20</u>
<u>T9 Circline</u>	<u>Any</u>	<u>40</u>	<u>1975</u>	<u>12,000</u>	<u>20</u>

<u>Compact Fluorescent Lamps</u>		
<u>Lamp Type</u>	<u>Minimum Lamp Life (Rated Hours)</u>	<u>Maximum Mercury (mg.)</u>
<u>4-Pin</u>	<u>12,000</u>	<u>5</u>
<u>2-Pin</u>	<u>10,000</u>	<u>5</u>
<u>Twist/Spiral or Loop (Self-Ballasted)</u>	<u>8,000</u>	<u>5</u>
<u>Other Self-Ballasted</u>	<u>6,000</u>	<u>5</u>

Statement of Basis and Purpose.

The Director of Citywide Environmental Purchasing is authorized by section 6-304 of the Administrative Code of the City Of New York to promulgate rules on environmentally preferable purchasing standards.

These rules add a new Chapter 11 of Title 43 of the Rules of the City of New York which provides:

- Standards on the maximum volatile organic compounds in carpeting products and architectural coatings, as required under section 6-313 of the Administrative Code;
- Standards on the minimum energy efficiency of and maximum amount of mercury in mercury-added light bulbs, as required under section 6-314 of the Administrative Code; and
- Exceptions to section 6-312 of the Administrative Code on restrictions to hazardous materials in electronic devices in order to harmonize this section with European standards and to take into account the availability of compliant products in the United States.