

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		This space for use by IRRC <b>RECEIVED</b> 1999 OCT -5 PM 1:17 INDEPENDENT REGULATORY REVIEW COMMISSION	
(1) Agency  Environmental Protection		Harbison  IRRC Number: 1980	
(2) I.D. Number (Governor's Office Use) 7-334			
(3) Short Title Mobile Equipment Repair and Refinishing			
(4) PA Code Cite  25 PA Code Sections 121.1 and 129.75		(5) Agency Contacts & Telephone Numbers  Primary Contact: Sharon Freeman, 717-783-1303 Secondary Contact: Barbara Sexton, 717-783-8727	
(6) Type of Rulemaking (Check One)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  <p>The final regulation establishes volatile organic compound (VOC) limitations and work practice standards for mobile equipment repair and refinishing. The final regulation adds definitions for "airless spray", "antique motor vehicle", "automotive elastomeric coating", "automotive pretreatment", "automotive impact resistant coating", "automotive jamming clearcoat", "automotive lacquer", "automotive low gloss coating", "automotive multi-colored topcoat," "automotive pretreatment," "automotive primer-sealer, "automotive primer-surfacer", "automotive specialty coating", "automotive topcoat", "automotive touch-up repair", "classic motor vehicle", and "mobile equipment". The regulation also establishes VOC limits for certain finish materials used in the aftermarket finishing and refinishing of mobile equipment at limits established at the national level by EPA. In addition, the regulation establishes pollution prevention practices relating to coating application technology requirements and work practice standards for the mobile equipment refinish industry.</p>			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  <p>This action is being taken under the authority of Section 5(a)(1) of the Air Pollution Control Act (35 P.S. § 4005 (a)(1)).</p>			

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

This final regulation is based on recommendations of the Southwest and Southeast Pennsylvania Ozone Stakeholders Working Groups which recommended that the Department implement regulations to reduce VOC emissions for the repair and refinishing of mobile equipment. This recommendation is part of the Commonwealth's ongoing efforts to develop and implement strategies to address the continuing health-related ozone air quality problem in Pennsylvania. The final VOC limitations for finish materials are consistent with the federal limits.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Large areas of the Commonwealth continue to exceed the health-based standard for ground-level ozone. In April of 1996, Southwestern and Southeastern Pennsylvania Ozone Stakeholder Working Groups were formed to address the problem in the major urban areas and to make recommendations to the Secretary regarding the implementation of measures necessary to attain and maintain the health-based standard. Both Stakeholders Groups recommended that the Commonwealth develop VOC reduction measures to address emissions from the repair and refinishing of mobile equipment in order to reduce emissions of ozone precursors. This regulation will help move the area toward attainment of the health-based standard for ozone, which is in the best interest of the public.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

When ground-level ozone is present in concentrations in excess of the federal health-based standard, public health is adversely affected. The federal Environmental Protection Agency has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly, and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activities that involve physical exertion. Though such symptoms are often temporary, repeated exposure could result in permanent lung damage.

The implementation of additional measures to address the ozone air quality nonattainment in Pennsylvania is necessary to protect the public health. The reduction of VOC emissions from automobile repair and refinishing is one of the strategies recommended by both the Southeast and Southwest Pennsylvania Ozone Stakeholder Working Groups.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The regulations will result in improved air quality for all citizens of the Commonwealth by reducing ozone precursor emissions. The reduction in ozone precursor emissions will result in improved ozone air quality throughout Pennsylvania. In addition, the regulations will result in reduced levels of hazardous air pollutants throughout Pennsylvania.

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

The regulations will require that some individuals involved in the repair and refinish of automobiles and other mobile equipment purchase new spray guns for the application of the finish materials. Typically, the industry has used high volume-low pressure (HVLP) spray guns to meet improved spray application technology requirements. HVLP spray guns are estimated to cost approximately \$ 200.00 more than comparable air atomized spray guns. However, the improved coating solids transfer efficiency achieved through the use of these guns results in reduced coating use and coating purchase cost savings. The pay back period for HVLP guns is typically estimated at two years or less.

The regulation contains training requirements for those involved in coating material and solvent handling and application. The training will result in decreased material waste and will, therefore, reduce costs. The training is typically offered by manufacturers of automotive finish equipment and supplies. In addition, outreach will be provided by the Office of Pollution Prevention and Compliance Assistance.

Coating costs will not increase. The manufacture and import of coatings that exceed the VOC content limits in the final regulation is prohibited by federal law.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Information developed by PRC Environmental Management, Inc. for The Pennsylvania Small Business Assistance Program indicates that there are approximately 4,400 automobile body shops in Pennsylvania. Each of these will be required to comply with the regulation.

(16) Describe the communications with and inputs from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Ozone Stakeholder Working Groups met for approximately 8 months deliberating ozone reduction strategies for Pennsylvania. Implementation of a program to reduce VOC emissions from automobile refinishing was one of the recommendations of the Ozone Stakeholder Working Groups.

A technical stakeholder group, including representatives of the automobile repair and refinishing industry, coating manufacturers, coating and coating equipment suppliers, environmental groups, and regulatory agencies met for approximately ten weeks to discuss regulatory strategies.

The Department held 12 public meetings and 6 public hearings to solicit input on the regulation. Comments were received during a 73-day comment period. In addition, at the May 21, 1999 meeting of the Air Quality Technical Advisory Committee, The Committee concurred with the Department's recommendation for final rulemaking.

(17) Provide a specific estimate of the cost and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

If a facility is required to replace existing air atomized spray equipment with improved technology application equipment, costs of approximately \$ 600.00 per spray gun will be imposed. Typical air-atomized spray guns cost approximately \$400.00. These costs for HVLP spray guns will be offset by reduced paint use and reduced paint purchase costs. The payback period for an HVLP spray gun is estimated by the industry to be approximately 1 to 2 years.

### Regulatory Analysis Form

(18) Provide a specific estimate of the cost and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The final regulations are expected to impose no additional direct costs on local governments. No cost savings are anticipated.

If, however, a local government is involved in the repair and refinishing of its vehicles, additional costs commensurate with those for the private sector would be experienced.

(19) Provide a specific estimate of the cost and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

The regulations may impose additional costs on state government. The Department of Transportation (DOT) conducts maintenance painting of equipment. Additional cost may be incurred for the purchase of HVLP or other acceptable spray equipment. However, the additional cost for the spray guns will be offset by the reduced coating use.

Costs to comply will be commensurate with those experienced by the private sector.

Nominal costs may be incurred by the Commonwealth to assist in providing training and assistance to the regulated community. No new staff resources are anticipated to be necessary.

### Combined Regulations

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Regulated Community</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Local Government</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>State Governments</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Total Savings</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>COSTS:</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Regulated Community</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Local Government</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>State Governments</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Total Cost</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>REVENUE LOSSES:</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Regulated Community</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Local Government</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>State Governments</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00
<b>Total Revenue Losses</b>	\$00.00	00.00	\$00.00	00.00	\$00.00	00.00

(20a) Explain how the cost estimates listed above were derived.

It is not anticipated that the revisions will impose either significant cost increases or cost savings. Some additional costs may be involved if the DOT maintenance operations are required to purchase new spray equipment. However, these increased costs will be offset by reduced paint material costs. In the long run, the program will result in cost savings to the regulated community. These cost savings will be dependent on the quantity of paint and other materials purchased by a facility because costs savings are a function of material use.

Similarly, local government may experience costs to purchase new spray equipment, but the costs of the equipment will be offset by reduced paint purchase costs.

Neither cost nor cost savings values are presented for the changes related to cost and benefits of HVLP guns. The actual costs/cost savings are dependent upon whether a facility has already purchased HVLP spray guns, the quantity of paint sprayed, the cost of the paint and other variables. Data are not available to ascertain these costs. Recent industry estimates from facilities that are using complying application equipment indicate paint material savings of 10-50%. The industry also estimates that the use of enclosed spray gun cleaning and improved solvent management practices have reduced evaporative solvent loss by up to 70%.

Nominal costs may be incurred by the Commonwealth in assisting in training and public information activities for the industry. No new staff resources are expected to be required.

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Air Quality	26,000,000	29,000,000	27,000,000	27,000,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and cost.

The regulations will impose additional costs on the regulated industry if facilities need to purchase additional improved transfer efficiency spray equipment. However, this cost will be recovered in one to two years due to reduced coating purchase costs. Operator training and improved housekeeping and waste minimization will also reduce costs.

(22) Describe the nonregulatory alternative considered and the cost associated with those alternatives. Provide the reasons for their dismissal.

The stakeholder group that was instrumental in the development of the proposed regulation did not consider non-regulatory alternatives.

Non-regulatory approaches would not have been responsive to the matter. They would not have assured that affected facilities utilize high transfer application technology, waste minimization and pollution prevention practices, or that employees receive training.

(23) Describe alternative regulatory schemes considered and the cost associated with those schemes. Provide the reasons for their dismissal.

Southeast and Southwest Ozone Stakeholder Working Group recommendations included a "point of sale" requirement that would limit the sale of automobile refinish materials to certified refinish operators and a requirement for limiting the industry to the use of automobile refinish materials which meet the limits which were in existence for the South Coast Air Quality Management District (SCAQMD) in California.

The stakeholders group established to assist the development of this proposal determined that "point of sale" requirements were impractical because: they would require paint wholesalers and retailers to "police" the program; automobile refinish materials are used for uses other than refinishing automobiles; refinish materials are routinely supplied in Pennsylvania from out-of-state vendors; and Pennsylvania's large number of counties bordering on other states could encourage "bootlegging" of refinish materials. Requirements imposing the SCAQMD limits were dismissed because they were deemed unworkable because of technical problems. SCAQMD is presently revising the limits to levels more appropriate to current coating technology.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

The application technology, spray gun cleaning, housekeeping, training and permitting requirements are not included in the federal program regulating automobile refinishes. The solvent limitations for the refinish materials are consistent with the federal limitations.

The regulations are based on recommendations of the Southeast and Southwest Pennsylvania Ozone Stakeholder Working Groups. The Stakeholders evaluated available strategies for attaining the health based ozone standard in Pennsylvania and determined that the reduction of VOC emissions from automobile refinishing was an important component of the attainment strategy.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulations are consistent with the federal limits on VOCs in automobile refinish materials. The federal limits apply to all coating automotive refinish materials manufactured, imported, and distributed in the United States. Other states have already adopted automobile refinish requirements similar to the regulation

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Twelve public meetings were held. Six public hearings were held during a 73-day public comment period.

### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Operators will be required to maintain records demonstrating employee training. It is anticipated that these are now maintained as a general business practice.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Compliance assistance is available if it is needed by the affected facilities. Low interest loans are available through the Office of Pollution Prevention and Compliance Assistance.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The effective date for the revisions is anticipated to be late-1999. The regulations will become effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

(31) Provide the schedule for continual review of the regulation.

The regulations will be reviewed in accordance with the sunset review schedule published by the Department.



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

# 1980

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\_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

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DATE OF APPROVAL

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Copy below is hereby certified to be a true and correct copy  
of a document issued, prescribed or promulgated by:

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-334

DATE OF ADOPTION: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: JAMES M. SEIF, CHAIRMAN  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to  
form and legality. Executive or Independent  
Agency

R. E. Grimaldi

9/21/99

DATE OF APPROVAL

(Deputy General Counsel)  
(Chief Counsel, Independent Agency)  
(Strike inapplicable title)

☐ Check if applicable. No Attorney General  
approval or objection within 30  
days after submission.

ORDER ADOPTING REGULATIONS

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL QUALITY BOARD

Mobile Equipment Repair and Refinishing

25 PA Code Sections 121.1 and 129.75

**Notice of Final Rulemaking  
Department of Environmental Protection  
Environmental Quality Board  
(25 Pa. Code Chapters 121 and 129)  
Mobile Equipment Repair and Refinishing**

**Order**

The Environmental Quality Board (Board) amends 25 Pa. Code Chapters 121 and 129 (relating to definitions and standards for sources) as set forth in Annex A. The changes to Chapter 121 add definitions of terms used in the substantive provisions of Chapter 129. A new Section 129.75 establishes requirements to control volatile organic compound (VOC) emissions at mobile equipment repair and refinishing facilities. This notice is given under Board order at its meeting of September 21, 1999.

**A. Effective Date**

These amendments will be effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**B. Contact Persons**

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality, 12<sup>th</sup> Floor, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, telephone (717) 787-2030, or R. A. Reiley, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, 9<sup>th</sup> Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, telephone (717) 787-7060.

**C. Statutory Authority**

This action is being taken under the authority of Section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. §4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction, and abatement of air pollution.

#### **D. Background of the Amendment**

This final rulemaking establishes controls on the VOC emissions from mobile equipment repair and refinishing facilities. These regulations implement the recommendations of the Southeast and Southwest Pennsylvania Ozone Stakeholder Working Groups. The Southwest Ozone Stakeholders recommended a "point of sale" regulation that would preclude the sale of non-compliant finishes. The Southeast Ozone Stakeholders recommended limiting the VOC content of automobile refinish material to the levels imposed by California's South Coast Air Quality Management District (SCAQMD).

Subsequent to the recommendations of the Ozone Stakeholders, a separate stakeholder group was formed and was composed of representatives of the mobile equipment repair and refinishing community, equipment suppliers and members of the public. This stakeholder group identified a number of problems with a "point of sale" regulation and the SCAQMD limits and instead recommended establishing limitations on the VOC content of finishes, along with equipment specifications and work practice recommendations. The final regulations incorporate the recommendations of this stakeholder group.

The final rulemaking has deleted the proposed permitting requirement. Such a requirement was determined to not be a cost effective way to implement these regulations. Instead, these regulations will be implemented through an outreach education campaign and traditional enforcement methods.

The Department also consulted with the Air Quality Technical Advisory Committee (AQTAC) in the development of these final regulations. At its May 21, 1999 meeting, AQTAC recommended adoption of the final regulations.

#### **E. Summary of Regulatory Revisions**

The final changes to Chapter 121 add definitions of terms used in the substantive provisions in Chapter 129. The definitions include "automotive pretreatment", "automotive primer surfacer", "automobile primer-sealer", "automotive specialty coating", "automotive top coat", "antique motor vehicle", "classic motor vehicle", "mobile equipment", "automotive touch-up repair." "Airless spray" was added at final rulemaking for clarification and "automotive elastomeric coating", "automotive impact-resistant coating", "automotive jamming clearcoat", "automotive lacquer", "automotive low-gloss coating", and "automotive multi-colored topcoat" were added to make the final rule consistent with the federal regulation.

Section 129.75 (mobile equipment repair and refinishing) establishes allowable VOC content requirements for coatings used in this source category. Section 129.75(b) establishes exceptions to the general applicability of the rules

where the coating is done in an automobile assembly plant or by an individual who does not receive compensation for application of the coatings. Subsection (c) establishes the VOC content of automobile refinished coatings and subsection (d) provides the methodology for calculating VOC emissions. In the final regulations, the Board modified the formula in subsection (c) because it was incorrect since the units were not in agreement. Subsections (g) and (h), which established application techniques and timeframes for existing and new facilities, were deleted and consolidated under Subsection (e). Subsections (f) and (g) establish the requirements for cleaning spray guns associated with this source category and housekeeping, pollution prevention and training requirements for individuals applying mobile equipment repair and refinishing coatings. Finally, subsection (l) in the proposed rule, which required owners/operators of a facility to obtain a permit, was deleted from the final regulation.

Under these requirements, a person who applies mobile equipment repair and refinishing coatings will have to comply with applicable VOC content requirements for coatings. In addition to specifying application technique and cleaning requirements, the proposed regulations establish training, pollution prevention, and permitting requirements that are phased in under a schedule set forth in the final regulations.

These final regulations will be submitted to the Environmental Protection Agency as an amendment to the State Implementation Plan.

#### **F. Summary of Comments and Responses on the Proposed Regulations**

One commentator indicated that the equation in the proposed Section 129.75(f)(1) is incorrect and suggested a correct equation for calculating the VOC content of coatings. The Board agrees, and the equation in the final regulation has been changed to be consistent with the equation published in the final EPA rule for automotive finishes.

A commentator supported requiring a permit to purchase and spray automotive finish materials. The final rulemaking will not require a permit for the purchase of automotive refinish materials or for any other component of this final rulemaking. The Board believes that a permitting program is not a cost effective way to implement these regulations. Such a program would be too costly and burdensome for both the Department and industry. Instead, the Department will embark on a public outreach education campaign and will enforce these regulations through traditional methods.

Another commentator indicated support for tighter requirements for paint booths and the emissions from spray booths. The final regulations do not require that spray booths be used to apply automotive refinish materials.

The regulations do impose VOC limits consistent with the federal limits on automotive refinish materials. In addition, the regulations specify paint and solvent management practices and other pollution prevention practices that will reduce emissions from automobile refinishing operations.

Another commentator suggested that no permits be issued to the facility unless the facility first passes certain VOC test limits. The final regulations specify VOC content limitations for coatings used by mobile equipment and repair facilities, and establish work practice standards related to paint and solvent use and storage. The Department does not plan to conduct emission tests at affected facilities, but will rely on coating manufacturers' certification and VOC testing of coatings, as appropriate, to determine compliance.

Several commentators indicated that if the Department requires permits for automotive refinishing facilities, the requirement should apply statewide. As previously stated, the Board has determined that permits will not be required for effective automotive repair and refinish facilities under this regulation.

One commentator opposed the broad scope of the proposed regulation that would regulate any type of mobile equipment painting statewide. The Board believes that application technology, gun cleaning, and paint and solvent management practices are appropriate pollution prevention practices and that they should be applied statewide. The finish material VOC limits are the limits specified by the federal government for automotive refinish manufacture and import.

The same commentator indicated that it is unduly burdensome to require small painting operations to purchase specially formulated paints, to keep records documenting those purchases and to perform training. The final regulations do not require the purchase of specially formulated paints. The paint VOC content levels specified in the regulation are consistent with the VOC content limits in the federal mobile equipment refinish and repair finish material regulations. The final regulations do not require recordkeeping to document paint purchases. In addition, the training requirements in the regulations can be met by participation in coating and equipment supplier demonstrations and meetings onsite. They do not require special classes or other training.

This same commentator recommended that the touch-up and minor repairs be exempted from all requirements in the regulations especially if those are the only surface coating activities conducted onsite. The Board disagrees. Touch-up and

repair operations will be subject to the regulations because these operations can result in significant emissions if appropriate work practices and pollution prevention practices are not implemented.

Additionally, this commentator suggested that the language in the definition and the regulation related to touch-up and repair is confusing. The Board has revised the regulation to clarify the provisions related to touch-up repairs. The regulation allows the use of brush and roller application, and other application technologies listed in Sections 129.75(e) for any finish operations, including touch-up and repair. Any other application technologies may be used for touch-up repair if the area is equal to or less than one inch in diameter.

Finally, this commentator indicated that small operations and facilities in rural areas should be exempted from the requirements because they have little impact on air quality. This commentator suggests that applicability could be determined based on paint through put or location. The Board does not believe that applicability based on through put is appropriate. Such a requirement would require additional recordkeeping and monitoring for all facilities. Because applicability based on location could impose competitive inequities, the regulations will be applied statewide. In addition, the VOC standards in the regulation for coatings and other finishing materials are consistent with federal requirements for the materials and impose no additional requirements. Materials that do not meet the standards will not be available or used after the effective date of the regulation. The finished material and solvent management practices specified in the regulation are consistent with good operating practices and should result in cost savings to the facilities. Finally, as previously stated, permits will not be required for affected facilities under the final regulations.

One commentator strongly supported a statewide requirement that all facilities that provide automobile refinishing services for compensation meet all permitting regulations. The Board has determined that requiring permits for affected facilities is not a cost effective manner to implement the program. Consequently, permits will not be required under the final regulations for automotive repair and refinishing facilities.

One commentator objected to the permitting of vehicle dealerships that perform refinishing because of high costs of the permits. The Board has determined that permits will not be required. The final regulations do not contain either notification or permitting requirements for refinish facilities.

This same commentator suggested that the Department establish a confidential "whistle blower" program through which its non-compliant facilities could be reported. Under current procedures, individuals may file complaints with

the Department regarding suspected noncompliance. The identity of the complainant is maintained as confidential information by the Department. Consequently, there is no need for a separate procedure under these regulations.

In addition, this commentator suggested that the Department revise the regulations to allow the use of inventories of non-compliant finish materials. The Board disagrees. Allowing such an exemption could reward operators who purchased significant "stockpiles" of non-compliant materials. In situations where the quantity of material is small and it is clear that there was no intent on the part of the operator to circumvent the regulations, the Department can exercise enforcement discretion.

One commentator indicated that the Board should assure that the coating VOC limits in the regulations are consistent with the federal rule published in the *Federal Register* on September 11, 1998. The Board has revised the Table of Allowable VOC Limits to make it consistent with the federal rule.

The commentator indicated that the Department should clarify the actions that an operator should take to minimize spills. The Board has specified that spouts should be on larger containers of materials during transfer operations.

The commentator indicated that the Board should specify standards for the quality and content of training and validation of the training. The Board does not intend the training activities to be formalized to the extent that operators are required to attend formal training with testing and certification requirements. Training requirements are intended to assure that operators are advised of the proper finish material and equipment handling techniques and other required practices. Typically, this type of instruction is provided by finish and equipment suppliers as part of their customer service activities. Notation and employee records or other documentation of attendance at these sessions would be adequate to indicate the training. Employers may choose to send employees to formalized training programs if they desire. However, specific standards for the training have not been included in the final regulations.

One commentator indicated that the Board should clarify application technology exemptions related to brush coating and touch-up and repair by brush. The Board has revised the final regulations to clarify that all "mobile equipment touch-up repair" activities are exempt from the application technology requirements. In addition, refinish of larger areas by use of a brush and other listed application technology are accepted for larger areas. Additionally, the commentator indicates that the Board should consider a number of factors in establishing fees for permits including whether fees should be different based on facility size or emissions and whether the fee cost

is consistent with the cost of implementing the program. The final regulations do not contain new requirements for permits for affected facilities. As previously stated, no permits will be required unless a facility is subject to other permitting requirements under the provisions of Chapter 127 of the regulations.

Finally, the commentator indicated that the proposed regulation does not specify the manner of enforcement or the penalties for noncompliance. The commentator recommends that the Board reference applicable provisions in the regulations. The Board disagrees that the regulations should specify the manner of enforcement and penalties for noncompliance. Enforcement will be handled consistent with existing policies and procedures. Additionally, penalties for noncompliance are set forth in the Pennsylvania Air Pollution Control Act.

#### **G. Benefits, Costs and Compliance**

Executive Order 1996-1 requires a cost-benefit analysis of the final regulation.

##### ***Benefits***

Overall, the citizens of the Commonwealth will benefit from these recommended changes because they provide appropriate controls on VOC emissions and automobile equipment and repair refinishing facilities.

##### ***Compliance Costs***

These regulations will increase compliance costs. Equipment costs will be slightly higher, but the increase in equipment costs will be recovered by savings and operating costs. There may be some increases in costs associated with the training requirement.

##### ***Compliance Assistance Plan***

The Department plans to educate and assist the public and the regulated community with understanding the newly revised regulations. The final regulations require that persons applying mobile equipment repair and refinishing coatings receive training in proper use in handling of coatings, solvents, and related products. This will be accomplished through Department-sponsored training.

Low interest funding is available through the Department's Office of Pollution Prevention and Compliance Assistance for the purchase of spray guns and spray gun cleaners.



### ***Paperwork Requirements***

The regulatory revisions will not increase the paperwork related to this class of facilities. The only required records are to demonstrate employee training. These should be maintained as a normal business practice.

### **H. Sunset Review**

This final regulation will be reviewed in accordance with the Sunset Review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

### **I. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §745.5(a)), the Department submitted a copy of the proposed rulemaking on September 8, 1998, to the Independent Regulatory Review Commission (IRRC) and the Chairmen of the Senate and House Environmental Resources and Energy Committees. In compliance with Section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments as well as other documentation.

In preparing these final form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the Comment and Response Document and Section E of this Order. The Committees did not provide comments on the proposed rulemaking.

These final form regulations were (deemed) approved by the House Environmental Resources and Energy Committee on \_\_\_\_\_ and was (deemed) approved by the Senate Environmental Resources and Energy Committee on \_\_\_\_\_. The Commission met on \_\_\_\_\_ and (deemed) approved the regulation in accordance with Section 5.1(e) of the Act.

### **J. Findings of the Board**

The Board finds that:

(1) Public notice of proposed rulemaking was given under Sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§1201 and 1202) and regulations promulgated thereunder in 1 *Pa. Code* §§7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) These final form regulations do not enlarge the purpose of the proposal published at 28 *Pa. B.* 4792 (September 26, 1998).

(4) These final form regulations are necessary and appropriate for administration and enforcement of authorizing acts defined in Section C of this Preamble and are reasonably necessary to achieve and maintain the NAAQS for ozone.

**K. Order of the Board**

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department of Environmental Protection, 25 *Pa. Code*, Chapters 121 and 129, are amended by amending this chapter to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairman of the Board shall submit this Order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairman shall submit this Order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairman of the Board shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This Order shall take effect immediately.

BY:

James M. Seif  
Chairman  
Environmental Quality Board



ANNEX A

Title 25. Environmental Protection  
Part I. Department of Environmental Protection  
Subpart C. Protection of Natural Resources

Article III. Air Resources

Chapter 121. General Provisions

Chapter 121. General Provisions

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P.S. §4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**AIRLESS SPRAY—A SPRAY COATING METHOD IN WHICH THE COATING IS ATOMIZED BY FORCING IT THROUGH A SMALL NOZZLE OPENING AT HIGH PRESSURE. THE COATING IS NOT MIXED WITH AIR BEFORE EXITING FROM THE NOZZLE OPENING.**

\* \* \* \* \*

**ANTIQUE MOTOR VEHICLE—A MOTOR VEHICLE, BUT NOT A REPRODUCTION THEREOF, MANUFACTURED MORE THAN 25 YEARS PRIOR TO THE CURRENT**

YEAR WHICH HAS BEEN MAINTAINED IN OR RESTORED TO A CONDITION WHICH IS SUBSTANTIALLY IN CONFORMANCE WITH MANUFACTURER SPECIFICATIONS.

\* \* \* \* \*

**AUTOMOTIVE ELASTOMERIC COATING—A COATING DESIGNED FOR APPLICATION OVER SURFACES OF FLEXIBLE MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS, SUCH AS ELASTOMERIC BUMPERS.**

**AUTOMOTIVE IMPACT-RESISTANT COATING— A COATING DESIGNED TO RESIST CHIPPING CAUSED BY ROAD DEBRIS.**

**AUTOMOTIVE JAMMING CLEARCOAT—A FAST-DRYING, READY-TO-SPRAY CLEARCOAT APPLIED TO SURFACES SUCH AS DOOR JAMBS AND TRUNK AND HOOD EDGES TO ALLOW FOR QUICK CLOSURE.**

**AUTOMOTIVE LACQUER—A THERMOPLASTIC COATING APPLIED DIRECTLY TO BARE METAL SURFACES OF MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS WHICH DRIES PRIMARILY BY SOLVENT EVAPORATION, AND WHICH IS RESOLUBLE IN ITS ORIGINAL SOLVENT.**

**AUTOMOTIVE LOW-GLOSS COATING—A COATING WHICH EXHIBITS A GLOSS READING LESS THAN OR EQUAL TO 25 ON A 60° GLOSSMETER.**

**AUTOMOTIVE MULTI-COLORED TOPCOAT— A TOPCOAT THAT EXHIBITS MORE THAN ONE COLOR, IS PACKAGED IN A SINGLE CONTAINER, AND**

CAMOUFLAGES SURFACE DEFECTS ON AREAS OF HEAVY USE, SUCH AS CARGO BEDS AND OTHER SURFACES OF TRUCKS AND OTHER UTILITY VEHICLES.

AUTOMOTIVE PRETREATMENT—A PRIMER THAT CONTAINS A MINIMUM OF 0.5% ACID, BY WEIGHT, THAT IS APPLIED DIRECTLY TO BARE METAL SURFACES OF MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS TO PROVIDE CORROSION RESISTANCE AND TO PROMOTE ADHESION OF SUBSEQUENT COATINGS.

AUTOMOBILE]TIVE PRIMER-SEALER—A COATING APPLIED TO MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS PRIOR TO THE APPLICATION OF A TOPCOAT FOR THE PURPOSE OF PROVIDING CORROSION RESISTANCE, PROMOTING THE FOLLOWING:

- (i) ADHESION OF SUBSEQUENT COATINGS.
- (ii) COLOR UNIFORMITY.
- (iii) THE ABILITY OF THE UNDERCOAT TO RESIST PENETRATION BY THE TOPCOAT.

AUTOMOTIVE PRIMER-SURFACER—A COATING APPLIED TO MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS PRIOR TO THE APPLICATION OF TOPCOAT FOR THE PURPOSE OF:

- (i) FILLING SURFACE IMPERFECTIONS IN THE SUBSTRATE.
- (ii) PROVIDING CORROSION RESISTANCE.

(iii) PROMOTING ADHESION OF SUBSEQUENT COATINGS.

AUTOMOTIVE SPECIALTY COATING—COATINGS, INCLUDING, BUT NOT LIMITED TO ELASTOMERIC COATINGS, [AND] ADHESION PROMOTERS [FOR PLASTIC PARTS], LOW GLOSS [ANTI-GLARE/SAFETY] COATINGS, BRIGHT METAL TRIM REPAIR COATINGS, AUTOMOTIVE JAMMING CLEARCOATS, IMPACT RESISTANT COATINGS, RUBBERIZED ASPHALTIC UNDERBODY COATINGS, UNIFORM FINISH BLENDERS, WELD-THROUGH PRIMERS APPLIED TO AUTOMOTIVE SURFACES AND LACQUER TOPCOATS APPLIED TO A CLASSIC MOTOR VEHICLE OR TO AN ANTIQUE MOTOR VEHICLE.

AUTOMOTIVE TOPCOAT—A COATING OR SERIES OF COATINGS APPLIED OVER AN AUTOMOTIVE PRIMER-SURFACER, AUTOMOTIVE PRIMER-SEALER OR EXISTING FINISH ON THE SURFACE OF MOBILE EQUIPMENT AND MOBILE EQUIPMENT COMPONENTS FOR THE PURPOSE OF PROTECTION OR BEAUTIFICATION.

AUTOMOTIVE TOUCH UP REPAIR—THE APPLICATION OF AUTOMOTIVE TOPCOAT FINISH MATERIALS TO COVER MINOR FINISHING IMPERFECTIONS EQUAL TO OR LESS THAN 1 INCH IN DIAMETER.

\* \* \* \* \*

CLASSIC MOTOR VEHICLE—A MOTOR VEHICLE, BUT NOT A REPRODUCTION THEREOF, MANUFACTURED AT LEAST 15 YEARS PRIOR TO THE CURRENT YEAR WHICH HAS BEEN MAINTAINED IN OR RESTORED TO A CONDITION WHICH IS SUBSTANTIALLY IN CONFORMITY WITH MANUFACTURER SPECIFICATIONS AND APPEARANCE.

\* \* \* \* \*

MOBILE EQUIPMENT--EQUIPMENT WHICH MAY BE DRIVEN OR IS CAPABLE OF  
BEING DRIVEN ON A ROADWAY INCLUDING, BUT NOT LIMITED TO:

(I) AUTOMOBILES.

(II) TRUCKS, TRUCK CABS, TRUCK BODIES AND TRUCK TRAILERS.

(III) BUSES.

(IV) MOTORCYCLES.

(V) UTILITY BODIES.

(VI) CAMPER SHELLS.

(VII) MOBILE CRANES.

(VIII) BULLDOZERS.

(IX) STREET CLEANERS.

(X) GOLF CARTS.

(XI) GROUND SUPPORT VEHICLES, USED IN SUPPORT OF AIRCRAFT  
ACTIVITIES AT AIRPORTS.

(XII) FARM EQUIPMENT.



## CHAPTER 129. STANDARDS FOR SOURCES

\* \* \* \* \*

### SOURCES OF VOCs

\* \* \* \* \*

Editors Note: Section 129.75 is new and is printed in regular type to enhance readability.

#### **§ 129.75. Mobile equipment repair and refinishing.**

(a) Except as provided in subsection (b) the requirements of this section apply to a person who applies mobile equipment repair and refinishing or color matched coatings to mobile equipment or mobile equipment components.

(b) This section does not apply to a person who applies surface coatings to mobile equipment or mobile equipment components under one of the following circumstances:

(1) The surface coating process is subject to the miscellaneous metal parts finishing requirements of § 129.52 (relating to surface coating processes).

(2) The surface coating process is at an automobile assembly plant.

(3) The person applying the coatings does not receive compensation for the application of the coatings.

[(c) The owner and the operator of an existing facility shall provide the Department with an identification of each facility to which this section applies on or before \_\_\_\_\_  
\_\_\_\_\_ (*Editor's Note: The blank refers to a date 120 days from the effective date of adoption of this proposal*), including:

- (1) The name of the facility;**
- (2) The responsible official at the facility;**
- (3) Telephone number of the facility; and**
- (4) Number of employees at the facility.**

**(d) After \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposal*) the owner and operator of a new facility subject to this section shall provide notification to the Department immediately upon start-up of the facility which stars operation.]**

**[(e)] (c) Beginning \_\_\_\_\_ (*Editor's Note: The blank refers to a date 12 months after the date of adoption of this proposal*) a person shall not apply to mobile equipment or mobile equipment components any automotive pretreatment, automotive primer-surfacer, automotive primer-sealer, automotive topcoat, and automotive specialty coatings including any VOC-containing materials added to the original coating supplied by the manufacturer, that contain VOC's in excess of the limits specified in Table III.**

Table III  
Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings

*Allowable VOC Content*  
(as applied)

Weight of VOC per Volume of Coating (minus water and non-VOC solvents)

<i>Coating Type</i>	<i>Limit Pounds per Gallon</i>	<i>Grams per Liter</i>
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat		
single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
<b><u>AUTOMOTIVE MULTI-COLORED TOPCOAT</u></b>	<b><u>5.7</u></b>	<b><u>680</u></b>
Automotive specialty	7.0	840

[(f)] (d) A person who provides mobile equipment repair and refinishing coatings subject to this section shall provide documentation concerning the VOC content of the coatings calculated in accordance with the following:

(1) The mass of VOC per combined volume of VOC and coating solids, less water and exempt compounds, shall be calculated by the following equation:

$$[VOC = \frac{(W_v - W_w - W_{ex})(D_c)}{100\% - (W_w)(D_c/D_w) - (W_{ex})(D_c/D_{ex})}]$$

$$VOC = \frac{(W_v - W_w - W_{ec})}{(V - V_w - V_{ec})}$$

where:

VOC = VOC content in grams per liter (g/l) of coating less water and non-VOC solvents,

[W<sub>v</sub> = weight of total volatiles, % (100% - weight % nonvolatiles),

W<sub>w</sub> = weight of water, %,

W<sub>ex</sub> = weight of non-VOC solvents, %,

D<sub>c</sub> = density of coating, g/l at 25° c,

D<sub>w</sub> = density of water, g/l at 25° c (0.997 x 10<sup>3</sup>), and

D<sub>ex</sub> = density of exempt solvent, g/l, at 25° c ]

W<sub>v</sub> = MASS OF TOTAL VOLATILES, IN GRAMS;

W<sub>w</sub> = MASS OF WATER, IN GRAMS;

W<sub>ec</sub> = MASS OF EXEMPT COMPOUNDS, IN GRAMS;

V = VOLUME OF COATING, IN LITERS;

V<sub>w</sub> = VOLUME OF WATER, IN LITERS; AND

V<sub>ec</sub> = VOLUME OF EXEMPT COMPOUNDS, IN LITERS.

To convert from grams per liter to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345 x 10<sup>-3</sup> (lb/gal/g/l).

(2) The VOC content of a multi-stage topcoat shall be calculated by the following equation:

$$VOC_{multi} = \frac{VOC_{bc} + \sum_{i=0}^M VOC_{mci} + 2(VOC_{cc})}{M + 3}$$

where:

VOC<sub>multi</sub> = VOC content of multistage topcoat, g/l  
VOC<sub>bc</sub> = VOC content of basecoat, g/l  
VOC<sub>mci</sub> = VOC content of the midcoat(s), g/l  
VOC<sub>cc</sub> = VOC content of the clear coat, g/l  
M = number of midcoats

**[g] (e)** Beginning \_\_\_\_\_ (*Editor's Note: The blank refers to a date 12 months from the date of publication of the effective date of adoption of this proposal*) a person at a[n existing] facility subject to the provisions of this section shall use one or more of the following application techniques to apply any finish material listed in Table III.:

- (1) Flow/curtain coating.
- (2) Dip coating.
- (3) Roller coating.
- (4) Brush coating.
- (5) Cotton-tipped swab application.
- (6) Electrodeposition coating.
- (7) High volume low pressure (HVLP) spraying.
- (8) Electrostatic spray.
- (9) Airless spray.**

**(10)** Other coating application method that the person demonstrates and the Department determines achieves emission reductions equivalent to HVLP or electrostatic spray application methods.

**[(h)** Any new facility which starts operation after \_\_\_\_\_ (*Editor's Note: The blank refers to a date 12 months from the effective date of adoption of this proposal*) shall use one or more of the following application techniques to apply to mobile equipment and mobile equipment components any finish material listed in Table III:

- (1) Flow/curtain coating.
- (2) Dip coating.
- (3) Roller coating.
- (4) Brush coating.
- (5) Cotton-tipped swab application.
- (6) Electrodeposition coating.
- (7) High volume low pressure (HVLP) spraying.
- (8) Electrostatic spray.
- (9) Airless spray.

**(10) Other coating application methods that the person has demonstrated and the Department has determined achieve emission reductions equivalent to HVLP or electrostatic spray application methods.]**

**[(i)] (f)** The following situations are exempt from the application equipment requirements listed in paragraphs (g) and (h):

- (1) The use of airbrush application methods for stenciling, lettering, and other identification markings;
- (2) The application of coatings sold in nonrefillable aerosol containers;
- (3) **[The application of ]AUTOMOTIVE touch-up [and] repair, [finish materials, by brush.]**

**[(j)] (g)** Spray guns used to apply mobile equipment repair and refinishing coatings shall be cleaned by one of the following:

- (1) An enclosed spray gun cleaning system that is kept closed when not in use.
- (2) Unatomized discharge of solvent into a paint waste container that is kept closed when not in use.
- (3) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use.
- (4) Atomized spray into a paint waste container that is fitted with a device designed to capture atomized solvent emissions.

**[k] (h)** The owner and operator of a facility subject to the provisions of this section shall implement the following housekeeping and pollution prevention and training measures:

(1) Fresh and used coatings, solvent, and cleaning solvents, shall be stored in nonabsorbent, nonleaking containers. The containers shall be kept closed at all times except when filling or emptying.

(2) Cloth and paper, or other absorbent applicators, moistened with coatings, solvents, or cleaning solvents, shall be stored in closed, nonabsorbent, nonleaking containers.

(3) Handling and transfer procedures shall minimize spills during the transfer of coatings, solvents, and cleaning solvents **THROUGH THE USE OF DEVICES INCLUDING PUMPS OR SPOUTS ON LARGER CONTAINERS.**

(4) Ensure that a person who applies mobile equipment repair and refinishing coatings has completed training in the proper use and handling of the mobile equipment repair and refinishing coatings, solvents and waste products in order to minimize the emission of air contaminants and to comply with this section.

**[(l) On or before \_\_\_\_\_ (*Editor's Note: The blank refers to a date 15 months after the effective date of adoption of this proposal*) the owner and operator of a facility subject to this section shall apply for a permit in accordance with the provisions of Chapter 127 (relating to construction, modification, reactivation and operation of sources).]**

*Amendments to 25 Pa. Code*  
Chapters 121 and 129  
**Mobile Equipment Repair and Refinishing**  
**Summary of Comments and Responses**

**Bureau of Air Quality**  
**Department of Environmental Protection**





The Environmental Quality Board published a notice of public hearing and comment period on September 26, 1998, in the *Pennsylvania Bulletin* (28 Pa. B. 4867). The public comment period closed on December 10, 1998. Six public hearings were held to receive comments on the proposed rulemaking as follows:

October 29, 1998	November 2, 1998	November 4, 1998
Southcentral Regional Office 909 Elmerton Avenue Harrisburg, PA	Southwest Regional Office 400 Waterfront Drive Pittsburgh, PA	Northwest Regional Office 230 Chestnut Street Meadville, PA
November 5, 1998	November 9, 1998	November 10, 1998
Northcentral Regional Office 208 North Third Street Williamsport, PA	Northeast Regional Office Two Public Square Wilkes-Barre, PA	Southeast Regional Office Lee Park, 550 North Lane Conshohocken, PA

This document summarizes the comments received during the public comment period and at the public hearings.



List of Commentators

		<u>Provided Testimony</u>	<u>Requested Final Rulemaking</u>
1.	Robert J. Yarbrough Attorney at Law 5 Rose Hill Road Media, Pennsylvania 19063		
2.	John Eby, II President Precision Autobody, Inc. Yeagertown, PA 17099		
3.	Scott Wicker Regional Plant Engineering Manager United Parcel Service International Plaza Two, Suite 240 Philadelphia, PA 19113		
4.	William A Barger 1743 Princeton Road Altoona, PA 16602-7438		
5.	Dan F. Frohlich Collision Division Director Automotive Service Association 405 Davidson Road Pittsburgh, PA 15239	X	
6.	Peter K Bauer, General Counsel Pennsylvania Automotive Association P.O. Box 2955 1925 North Front Street Harrisburg, PA 17105-2955		
7.	David Casher Casher's, Inc. 1700 Bobali Drive Harrisburg, PA 17104	X	

8. Roger Sipe X  
BASF Corporation  
1584 Vesta Drive  
Harrisburg, PA 17112-1136
9. Mr. Robert Nyce, Executive Director  
Independent Regulatory Review Commission  
333 Market Street  
14<sup>th</sup> Floor  
Harrisburg, PA 17101

## Summary of Comments and Responses

### Mobile Equipment Repair and Refinishing

1. Comment:

One commentator indicated that the equation in the proposed Section 129.75 (f)(1) is incorrect and suggested a correct equation for calculating the VOC content of coatings. (1)

*Response:*

*The equation in the final regulation has been changed to be consistent with the equation published in the final EPA rule for automotive finishes.*

2. Comment:

One commentator supports requiring a permit to purchase and spray automotive finish materials. (2)

Another commentator indicates that if requirements for permits are retained the commentator recommends general permits. In addition, the commentator asked how the cost of permitting would be determined.

*Response:*

*The final rulemaking will not require a permit for the purchase of automotive refinish materials or for any other component of this final rulemaking. The Board believes that a permitting program is not a cost-effective way to implement these regulations. Such a program would be too costly and burdensome for both the Department and industry. Instead, the Department will embark on a public outreach education campaign and will enforce these regulations through traditional methods.*

3. Comment:

One commentator indicated support for tighter requirements for paint booths and the emissions from spray booths. (3)

*Response:*

*The final regulations do not require that spray booths be used to apply automotive refinish materials. The regulations do impose volatile organic compound (VOC) limits consistent with*

*the federal limits on automotive refinish materials. In addition, the regulations specify paint and solvent management practices and other pollution prevention practices that will reduce emissions from automobile refinishing operations.*

4. Comment:

One commentator suggests that no permit should be issued to a facility unless the facility first passes certain VOC test limits. (4)

*Response:*

*The final regulation specifies VOC content limits for coatings used by mobile equipment and repair facilities and establishes work practice standards related to paint and solvent use and storage. The Department does not plan to conduct emission tests at affected facilities, but will rely on coating manufacturer certification and VOC testing of coatings, as appropriate, to determine compliance.*

5. Comment:

Several commentators indicated that if the Department requires permits for automobile refinishing facilities, the requirement should apply statewide. (4, 5, and 7)

Another commentator questions whether it is reasonable to require statewide permitting. This commentator recommends the Board allow permit by rule for smaller facilities. In addition, the commentator questions how the cost of a permit will be determined. (9)

*Response:*

*The Department has determined that permits will not be required for affected automotive repair and refinish facilities under this regulation.*

6. Comment:

One commentator opposes the broad scope of the proposed regulation that would regulate any type of mobile equipment painting statewide. (3)

*Response:*

*The Department believes that the application technology, gun cleaning, and paint and solvent management practices are appropriate pollution prevention practices and that they should be*

*applied statewide. The finish material VOC limits are the limits specified by the federal government for automotive refinish manufacture and import.*

7. Comment:

A commentator indicated that it is unduly burdensome to require small painting operations such as those associated with fleet operations to purchase specially formulated paints, to keep records documenting those purchases and to perform training. (3)

*Response:*

*The proposed regulations do not require the purchase of specially formulated paints. The paint VOC content levels specified in the regulation are consistent with the VOC content limits in the federal mobile equipment refinish and repair finish material regulations. The proposed regulation does not require record keeping to document paint purchases.*

*The training requirements in the regulation can be met by participation in coating and equipment supplier demonstrations and meetings on site. They do not require special classes or other training.*

8. Comment:

The commentator recommends that touch up and minor repairs be exempted from all requirements in the regulation especially if those are the only surface coating activities conducted onsite. (3)

*Response:*

*The Department disagrees. Touch-up and repair operations will be subject to the regulation. Touch-up and repair operations will be subject to the regulations because these operations can result in significant emissions if appropriate work practices and pollution prevention practices are not implemented.*

9. Comment:

The commentator suggests that the language in the definition and the regulation related to touch up and repair is confusing. (3)

*Response:*

*The Department has revised the regulation to clarify the provisions related to touch up repairs. The regulation allows the use of brush and roller application, and other application technologies*



*listed in §§ 129.75(g) and (h) for any finish operations, including touch up and repair. Any other application technologies may be used for touch up repair if the area is equal to or less than 1 inch in diameter.*

10. Comment:

The commentator indicated that small operations and facilities in rural areas should be exempted from the requirements because they have little impact on air quality. Applicability could be determined based on paint throughput or location. (3)

*Response:*

*The Department does not believe that applicability based on throughput is appropriate. Such a requirement would require additional recordkeeping and monitoring for all facilities. Because applicability based on location could impose competitive inequities, the regulation will be applied statewide.*

*The VOC content standards in the regulation for coatings and other finishing materials are consistent with the federal requirements for the materials and impose no additional requirements. Materials that do not meet the standards will not be available or used after the effective date of the regulation. The finish material and solvent management practices specified in the regulation are consistent with good operating practices and should result in cost savings to the facilities.*

*Permits will not be required for affected facilities under the final regulation.*

11. Comment:

One commentator strongly supports a statewide requirement that all facilities that provide automobile refinishing services for compensation must meet all permitting regulations. (5)

*The Department has determined that requiring permits for affected facilities is not a cost-effective manner to implement the program. Permits will not be required under the final regulation for automotive repair and refinishing facilities.*

12. Comment:

One commentator objects to the permitting of vehicle dealerships that perform refinishing because of the high costs of the permits. (6)

*Response:*

*The Department has determined that permits will not be required. The final rule does not contain either notification or permitting requirements for refinish facilities.*

13. Comment:

The commentator suggested that the Department establish a confidential "whistleblower" program through which noncomplying facilities could be reported. (6)

*Response:*

*Under current procedures, individuals may file complaints with the Department regarding suspected noncompliance. The identity of the complainant is maintained as confidential information by the Department.*

14. Comment:

The commentator suggested that the Department revise the regulation to allow the use of inventories of noncomplying finish materials. (6)

*Response:*

*The Department disagrees. Allowing such an exemption could reward operators who purchased significant "stockpiles" of noncomplying materials. In situations where the quantity of material is small and it is clear that there was no intent on the part of the operator to circumvent the regulation, the Department can exercise prosecutorial discretion.*

15. Comment:

One commentator indicated that the Department should assure that the coating volatile organic compound (VOC) limits in the regulation are consistent with the federal rule published in September 11, 1998 *Federal Register*. (9)

*Response:*

*The Department has revised the table of allowable VOC levels to make it consistent with the federal rule.*

16. Comment:

The commentator indicated that the Department should clarify the actions that an operator should take to minimize spills. (9)

*Response:*

*The Department has specified that spouts or pumps should be used on larger containers of materials during transfer operations.*

17. Comment:

The commentator indicated that the Department should specify standards for the quality and content of training and validation of the training. (9)

*Response:*

*The Department does not intend for the training activities to be formalized to the extent that operators are required to attend formal training with testing and certification requirements. The training requirements are intended to assure that operators are advised of the proper finish material and equipment handling techniques and other required practices. Typically, this type of instruction and training is provided by finish and equipment suppliers as part of their customer service activities. Notation in employee records or other documentation of attendance at these sessions would be adequate to indicate training. Employers may choose to send employees to formalized training programs if they desire. Specific standards for the training have not been included in the final regulation.*

18. Comment:

The commentator indicated that the Department should clarify application technology exemptions related to brush coating and touch up and repair by brush. (9)

*Response:*

*The Department has revised the final regulation to clarify that all "automotive equipment touch-up repair" activities are exempt from the application technology requirements. In addition, refinishing of larger areas by use of a brush and other listed application technologies are acceptable for larger areas.*

19. Comment:

The commentator indicated that the Department should consider a number of factors in establishing fees for permits, including whether fees should be different based on facility size or emissions and whether the fee cost is consistent with the cost of implementing the program. (9)

*Response:*

*The final regulation does not contain new requirements for permits for affected facilities. No permits will be required unless a facility is subject to other permitting requirements under the provisions of Chapter 127 of the regulations.*

20. Comment:

The commentator indicated that the proposed regulation does not specify the manner of enforcement or the penalties for noncompliance. The commentator recommended that the Department reference applicable provisions in the regulation. (9)

*Response:*

*The Department disagrees that the regulation should specify the manner of enforcement and penalties for noncompliance. Enforcement will be handled consistent with existing policies and procedures. Penalties for noncompliance are set forth in the Pennsylvania Air Pollution Control Act.*

21. Comment:

The commentator asked how the statewide permitting requirement would be beneficial to the Commonwealth in attaining the ambient ozone air quality standard. (9)

*Response:*

*The final rulemaking will not require a permit for the purchase of automotive refinish materials or for any other component of this final rulemaking.*

22. Comment:

The commentator questioned how the Department would assure that an individual or facility operator would not circumvent the regulation by claiming that the operator did not receive compensation for the refinishing activity. (8)

*Response:*

*If the operator conducts refinishing activities for business purposes and is compensated for the refinishing, the operator will be subject to the requirements.*



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**AS REQUESTED BY ENVIRONMENTAL QUALITY BOARD, THE  
FOLLOWING ARE ASA-PA COMMENTS ON THREE ISSUES:**

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**FIRST**, the proposed amendments apply to all mobile equipment repair and refinishing facilities regardless of their size or the amount of material used.

ASA-PA strongly supports the requirement that all repair and refinishing facilities that provide service for compensation, within the Commonwealth, no matter what their geographic location or size, must meet all permitting regulations.

**SECOND**, the department is proposing to implement the permit program through the use of a general permit. The department is also considering establishing a permit by rule for smaller facilities having less impact on air quality. The department is also requesting comments on alternative permitting or approval methods that will simplify compliance.

ASA-PA suggests to the Board that all repair and refinishing facilities that provide a service for compensation meet the same requirements no matter the size. Although the larger repair facilities may generate a larger amount of VOC pollution, the smaller shops collectively can generate the same amount. We also feel that the equipment requirements, over a period of time, can be a cost savings to the shop in less material used and less clean-up time. Most of the refinishing work done by a repair facility is done as part of a repair involving an insurance company. A method of compliance would be to require or suggest that all Insurance Companies in the Commonwealth only recognize those repair facilities that have the required permits. Also, a list of all permitted repair facilities must be sent to all that have received a permit, all insurance companies writing business in the Commonwealth, all mobile refinishing suppliers, and any other interested parties.

**THIRD**, application techniques, housekeeping, pollution prevention and training measures to rural areas.

ASA-PA has found that most refinishing suppliers and paint companies have some type of training in-house. If the supplier is close enough to the repair facility to supply them with product, they in turn are close enough to supply proper training of the equipment or products.



Automotive Service Association®  
Member of the Board

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Pennsylvania Department of Environmental Protection

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**Rachel Carson State Office Building**

**P.O. Box 2063**

**Harrisburg, PA 17105-2063**

**October 5, 1999**

**The Secretary**

**717-787-2814**

Mr. Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission  
14th Floor, Harrisburg II  
Harrisburg, PA 17101

**RE: Final Rulemaking – Mobile Equipment Repair and Refinishing (#7-334)**

Dear Bob:

Pursuant to Section 5.1(a) of the Regulatory Review Act, enclosed is a copy of a final-form regulation for review by the Commission. This rulemaking was approved by the Environmental Quality Board (EQB) for final rulemaking on September 21, 1999.

This final rulemaking establishes volatile organic compound (VOC) limits on automotive refinish materials and specifies pollution prevention practices and finish application technologies. The VOC limits specified for automotive refinish products reflect those contained in a federal EPA rule relating to the manufacture, import, and sale of automotive refinish materials. The pollution prevention practices include requirements for the use of high transfer efficiency finish application equipment and specify solvent management practices. The regulation will apply to all individuals who apply automotive refinish materials for compensation, or an estimated 4,400 facilities.

The regulation is based on recommendations of the Southwest and Southeast Pennsylvania Stakeholder Working Groups to reduce VOC emissions from automotive repair and refinishing as part of the Commonwealth's effort to develop and implement strategies to address ozone. The proposed rulemaking was published on September 26, 1998, with a 73-day public comment period, twelve public meetings and six public hearings. There were nine commentators to the proposal. Most of the comments supported the proposal, with the exception of the proposed requirement for owners/operators to obtain a permit. DEP has deleted this permit requirement in the final rule on the basis that it is not a cost effective way to implement the regulations. Alternatively, the regulations will be implemented through an outreach education campaign and through traditional enforcement methods.

The Air Quality Technical Advisory Committee supported the final amendments at its May 21, 1999, meeting.

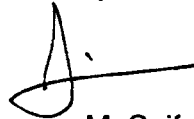




The Department will provide the Commission with any assistance required to facilitate a thorough review of this final-form regulation. Section 5.1(e) of the Act provides that the Commission shall, within ten days after the expiration of the committee review period, approve or disapprove the final-form regulation.

For additional information, please contact Sharon Freeman, Regulatory Coordinator, at 783-1303.

Sincerely,

A handwritten signature in black ink, appearing to be 'James M. Seif', with a long horizontal stroke extending to the right.

James M. Seif  
Secretary

Enclosure

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 7-334  
SUBJECT: Mobile Equipment Repair and Refinishing  
AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

**TYPE OF REGULATION**

Proposed Regulation  
X Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions b. Without Revisions

**RECEIVED**  
1999 OCT -5 PM 1:17  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
10-5-99	<i>[Signature]</i>	HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10-5-99	<i>[Signature]</i>	SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10/5/99	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

September 21, 1999