

Comments of the Independent Regulatory Review Commission



Environmental Quality Board Regulation #7-491 (IRRC #3109)

Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating Processes, Miscellaneous Plastic Parts Surface Coating Processes and Pleasure Craft Surface Coatings

November 12, 2015

We submit for your consideration the following comments on the proposed rulemaking published in the August 8, 2015 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

1. Implementation procedures.

EQB establishes a compliance date of January 1, 2016, in this proposed regulation. However, in the Preamble, EQB notes that it is considering changing the compliance date to May 1, 2016. We recommend that EQB establish a compliance date that allows for the proper development of a final-form regulation and full compliance by the regulated community.

Additionally, § 129.52d (a)(4) provides owners and operators of a miscellaneous metal part surface coating process or a miscellaneous plastic part surface coating process the option of meeting compliance standards by being regulated under § 129.52e (relating to control of volatile organic emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operation). Similar to this proposed regulation, § 129.52e is currently being reviewed as a proposed rulemaking. (See EQB regulation #7-490; IRRC #3110). We ask EQB to ensure that the two rulemakings are adopted on the same date.

2. Section 129.52. Surface coating processes. – Reasonableness; Clarity.

Subsection (g) is being amended to require onsite storage of records. What is the reason for this change? We ask EQB to explain the rationale for this requirement in the Preamble to the final-form regulation.

In addition, we are concerned with the clarity of the last sentence of this subsection. It reads as follows: “The records shall be submitted to the Department in an acceptable format on a schedule reasonably prescribed by the Department.” The term “in an acceptable format” is vague. We suggest that it be clarified to state what formats would be acceptable. In addition, the

term “on a schedule reasonably prescribed” is also vague. We note that this term is in the existing regulation. However, we believe the overall clarity of this section would be improved if a more definitive and binding timeframe or schedule is included in the final-form regulation.

3. Section 129.52d. Control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings. – Possible conflict with or duplication of statutes or existing regulations; Clarity.

Subsection (a)(5)(i) provides an exemption for the use or application of aerosol coatings. A commentator has asked for clarification on whether hand-held aerosol cans would be included in this exemption. In the Preamble to the final-form rulemaking, we ask EQB to explain if hand-held aerosol cans are exempt, and if they are, to clarify that in the regulation.

In addition, the commentator suggests that this rulemaking be amended to state that § 129.52d supersedes the emissions limits and other requirements of § 129.52, relating to surface coating processes. We note that other sections of 25 Pa. Code Chapter 129 include language that supersedes § 129.52. If supersedeas language is appropriate for this rulemaking, while at the same time consistent with Federal requirements on which this rulemaking is based, we suggest that it be included in the final-form regulation.