



SCRS Talking Points Regarding Regional Interpretation of 3 oz. Exemption in EPA Rule Subpart HHHHHH - National Emissions Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating operations at Area Sources

To be considered by EPA Regional Offices 1-10

The 3 oz. exemption in Rule 6H:

- ✓ Creates "grey area" that has not been uniformly interpreted
- ✓ An interpretation of unlimited refilling of the 3 oz. cup is counter-productive to the rule's expressed purpose
- ✓ An exemption which invalidates pollution control based solely on size of the tool rather than the amount of generated pollution is ineffective
- ✓ Will place compliant repair facilities at an economic disadvantage, while rewarding potential polluters with exemptions that sustain significantly reduced operating costs and thus distinct market advantages
- ✓ Should be interpreted by the regional enforcement agencies as applying to total material used, and clarified that the paint cup cannot be refilled or be able to spray more than a 3.0 fluid ounces of spray-applied coating per vehicle, per day.

Purpose of Rule 6H HAP's Reduction

- The clearly expressed intention of Rule 6H is to reduce the pollution caused by HAP's. The Rule was adopted in response to a Federal Court order and followed emission control procedures to use "... generally available technology.." instead of "...maximum achievable control technology..." to "...reduce emissions of hazardous air pollutants" . 73 FR 1740 January 9, 2008.

Unlimited Refill Equals Unlimited Pollution

- An interpretation of 6H which would allow unlimited refilling of a device spraying HAP's without the compliance with the controls required under the Rule is counter to the Rule's expressed purpose and regulatory scheme and would not be valid.
- An exemption which invalidates pollution controls based solely on the size of tool being used rather than the amount of pollution being generated is ineffective and harmful policy.
- This is the exact result of allowing a 3 oz. spray cup to be refilled without limit, thereby emitting unlimited quantities of HAP's by circumventing the extensive controls required. In contrast, devices containing for example as little as say a 4 oz. cup size are covered. If that one additional



ounce of material cup is not exempt because it creates a pollution problem, certainly exempting refilling the 3 oz.cup to spray 6 ounces of material which creates 50% more pollution lacks sound sense.

6 H Purpose To Increase Regulatory Coverage

- The EPA in adopting Rule 6 H makes it clear that an unlimited refill of 3 oz. cups was not intended. What was intended and was done was to bring more repair operations under the regulatory scheme and the EPA tightened the coverage of the Rule.
- "However, during the development of this rule, the EPA learned that more motor vehicle and mobile equipment surface coating that was formerly done by collision repair shops (and as such, was reflected in the source category listing) is now being done by mobile operators. Since this practice is becoming more common, the EPA has decided that this source of emissions should be regulated on the same basis as motor vehicle and mobile equipment surface coating that takes place at a fixed location." 73 FR 1748.

"Air brush" Uncertainty Leads to 3 Oz.

- The EPA found it was difficult to define an "air brush". The EPA believed that using a 3 oz. cup size would provide an exemption for repairs of "...small stone chips and scratches..", and "...graphic arts painting on vehicles..."; BUT "This cup size is less than the minimum practical amount of coating that could be used to refinish a bumper or fender. Therefore, it helps distinguish those sources that are doing small scratch and spot repairs from those that are doing work that is more typically done at a collision repair shop."73 FR 1748.

Unlimited Refill Rewards Polluters

- An unlimited refill policy turns HAP's regulation into a game of form rather than substance. All the 6H requirements for training, equipment, record keeping and handling could be avoided by unlimited refills, multiple guns or multiple cups.
- Compliant shops and operations would suffer severe economic disadvantages by giving polluters exemptions worth many tens of thousands of dollars in lower operating costs while creating many multiples of that in damage to the quality of air and health in the country.

Summary

From EPA statements as illustrated above, the following conclusions can be drawn:

- The EPA intended to cover all spraying normally done in a fixed location body shop.
- During the course of the development of the final rule, the EPA made certain that all body shop operations and painting taking place outside a normal body shop would be required to comply with 6H.
- The very limited small operations the EPA was attempting to exempt were the application of very small quantities of paint involved in chip and scratch repair or decorative graphics.
- That spraying quantities sufficient to paint a fender or bumper were subject to the regulatory requirements.
- That 3 ounces of spray material per vehicle was the intended limit for the quantity being exempted.



Conclusion

- The exemption could have been better worded within Rule 6H, but a fair reading of the Rule and the expressed intention makes the refill of the 3 oz. spray gun cup an impermissible interpretation of the Rule.
- EPA Regional offices charged with interpreting and enforcing the rule can, and should, endorse an interpretation of the Rule that applies the 3 oz limit to the total material applied during any day to any one vehicle.