



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

**Bureau of Air Quality**

**CONTROL OF  
VOLATILE ORGANIC COMPOUND EMISSIONS  
FROM  
MISCELLANEOUS METAL PARTS SURFACE COATING  
PROCESSES, MISCELLANEOUS PLASTIC PARTS SURFACE  
COATING PROCESSES  
AND PLEASURE CRAFT SURFACE COATINGS**

*25 Pa. Code Chapter 129*  
*45 Pa. B. 4366 (August 8, 2015)*  
Environmental Quality Board Regulation #7-491  
(Independent Regulatory Review Commission #3109)

**Comment and Response Document**

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

On August 8, 2015, the Environmental Quality Board (Board, EQB) published a *Pennsylvania Bulletin* notice of public hearings and written comment period on the proposed amendments to Chapter 129 (relating to standards for sources) for the control of volatile organic compound (VOC) emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings (45 *Pa.B.* 4366). The proposed rulemaking would primarily add § 129.52d (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings) to adopt VOC emission limitations and other requirements consistent with the reasonably available control technology (RACT) recommendations of the United States Environmental Protection Agency (EPA) 2008 Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG) for these sources in this Commonwealth. See *Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives*, 73 FR 58481, 58483 (October 7, 2008). The EPA's CTG document, *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings*, EPA 453/R-08-003, Office of Air Quality Planning and Standards, EPA, September 2008, is available on the EPA's website at: [www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html](http://www.epa.gov/airquality/ozonepollution/SIPToolkit/ctgs.html).

The comment period opened on August 8, 2015, and closed on October 13, 2015. Three public hearings were held on the proposed rulemaking as follows:

|                               |   |
|-------------------------------|---|
| September 8, 2015<br>10 a.m.  | Department of Environmental Protection<br>Southeast Regional Office<br>Schuylkill Conference Room<br>2 East Main Street<br>Norristown, PA 19401   |
| September 9, 2015<br>10 a.m.  | Department of Environmental Protection<br>Rachel Carson State Office Building<br>Conference Room 105<br>400 Market Street<br>Harrisburg, PA 17105 |
| September 10, 2015<br>10 a.m. | Department of Environmental Protection<br>Southwest Region Office<br>Island Conference Room<br>400 Waterfront Drive<br>Pittsburgh, PA 15222       |

This document summarizes the written comments received from the public during the public comment period. The Board invited each public commentator to prepare a one-page summary of the commentator's comments. No one-page summaries were submitted to the Board for this rulemaking. The Independent Regulatory Review Commission (IRRC) submitted written comments following the public comment period, which are also summarized in this document. No written comments were received from the Senate or House Environmental Committees. No testimony was received during the public hearings. Each comment is listed with the identifying commentator number for each commentator that made the comment. A list of the commentators, including name and affiliation, can be found below.

The final-form regulation will be submitted to the EPA as a revision to the State Implementation Plan (SIP) upon publication in the *Pennsylvania Bulletin* as final-form regulation.

Copies of all comments received are posted on the IRRC web site at <http://www.irrc.state.pa.us>. Search by Regulation # 7-491 or IRRC # 3109.

**Table of Commentators to the Environmental Quality Board**

| <b>ID</b> | <b>Name/Address</b>  | <b>Submitted One-Page Summary for distribution to EQB</b> | <b>Provided Testimony</b> | <b>Requested Copy of Final Rulemaking following EQB Action</b> |
|-----------|--|---|---------------------------|--|
| 1.        | James A. Verderese<br>Environmental Manager<br>GE Transportation<br>General Electric Company<br>2901 East Lake Road<br>Bldg. 9-201<br>Erie, PA 16531 | <b>No</b>   | <b>No</b>                 | <b>No</b>  |
| 2.        | Independent Regulatory Review<br>Commission<br>333 Market Street, 14th Floor<br>Harrisburg, PA 17101   | <b>No</b>   | <b>No</b>                 | <b>No</b>  |

Acronyms used in this Comment/Response Document

- CAA – Clean Air Act
- CFR – Code of Federal Regulations
- CTG – Control Techniques Guideline
- DEP – Pennsylvania Department of Environmental Protection
- EPA – United States Environmental Protection Agency
- EQB – Environmental Quality Board
- FR – Federal Register
- IRRC – Independent Regulatory Review Commission
- NESHAP – National Emission Standards for Hazardous Air Pollutants
- RACT – Reasonably Available Control Technology
- SIP – State Implementation Plan
- VOC – Volatile Organic Compound

## **General Support of Proposed Rulemaking**

**1. Comment:** The commentator supported the proposed rulemaking in 25 *Pa. Code* § 129.52d to require reasonably available control technology (RACT) requirements and RACT emissions limitations for stationary sources of VOC emissions from metal parts surface coating operations. (1)

**Response:** The Department thanks the commentator for the support of this rulemaking.

## **Consistency with the EPA 2008 Control Techniques Guidelines**

**2. Comment:** The commentator noted that the proposed RACT requirements and RACT emissions limitations are consistent with the EPA's 2008 Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings (EPA-453/R-08-003). (1)

**Response:** The Department agrees that the proposed RACT requirements and RACT emissions limitations are consistent with the EPA's recommendations for this category provided in the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG.

## **Compliance Date of January 1, 2016**

**3. Comment:** The commentator noted that the proposed rulemaking would establish a compliance date of January 1, 2016, and commented on the Board's request for comments regarding a compliance date of May 1, 2016, or later. The commentator recommended that the compliance date be revised to be no sooner than May 1, 2016, to allow time for manufacturers to switch to complying coatings, order and install new application technology, and train employees to properly apply the new coatings and use the new equipment. Time will also be needed for manufacturers to evaluate coating substitutions to ensure that the coating will meet customer and quality requirements. (1)

**Response:** The Department thanks the commentator for providing the recommendation. DEP has changed the compliance date in the final rulemaking to January 1, 2017, as required under the EPA's final rule pertaining to the *Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements* (80 FR 12279, March 6, 2015). The EPA stated that the RACT measures for the 2008 ozone National Ambient Air Quality Standard (NAAQS) must be implemented "as expeditiously as practicable, but no later than January 1 of the 5<sup>th</sup> year after the effective date of a nonattainment designation." The nonattainment designations across the country were effective for the 2008 ozone NAAQS on July 20, 2012 (77 FR 30088, 30143, May 21, 2012). Consequently, RACT measures for the 2008 8-hour ozone standard must be implemented by January 1, 2017.

**4. Comment:** IRRC recommended that the EQB establish a compliance date that allows for the proper development of a final-form regulation and full compliance by the regulated community. (2)

**Response:** The Department agrees. Please see the response to Comment 3.

#### **Option to Comply with Proposed Automobile and Light-Duty Truck Assembly Coating Operations and Heavier Vehicle Coating Operations Requirements**

**5. Comment:** IRRC noted that § 129.52d(a)(4) provides the owner or operator of a miscellaneous metal part surface coating process or a miscellaneous plastic part surface coating process the option to be regulated under the concurrently proposed rulemaking for the control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations (see EQB #7-490 or IRRC #3110). IRRC requested that the Board ensure that the two rulemakings are adopted on the same date. (2)

**Response:** The Department agrees. The Department intends to process and publish the two final rulemakings concurrently.

#### **Exemption for Aerosol Coatings and Hand-held Aerosol Cans**

**6. Comment:** The commentator noted that § 129.52d(a)(5)(i) of the proposed rulemaking provides an exemption for aerosol coatings from the requirements of § 129.52d. The commentator is supportive of the exemption for aerosol coatings, but sought clarification that aerosol coatings, specifically hand-held aerosol cans, are also exempt from *25 Pa. Code* § 129.52 (relating to surface coating processes).

The commentator indicated that the current exemption for aerosol coatings in § 129.52d(a)(5) is confusing because aerosol coatings are listed with other excluded surface coating categories that have their own separate emissions limits beyond the proposed rulemaking. For example, large appliance and metal furniture coatings are exempt pursuant to §§ 129.52d(a)(5)(x) and (xi) and separately regulated under § 129.52a. Section 129.52a(a)(2) clearly states that the emission limits and other requirements of § 129.52a supersede the emissions limits and other requirements of § 129.52 for large appliance and metal furniture coatings. Section 129.52(i) likewise includes language to state that the requirements and limits of § 129.52a for large appliance and metal furniture surface coating processes supersede the requirements and limits for metal furniture coatings and large appliance coatings in § 129.52.

In order to clarify the exemption for aerosol coatings, the commentator recommended that the Board revise § 129.52 to include a specific exemption for aerosol coatings or include a provision similar to § 129.52(i) stating that the requirements and limits for miscellaneous metal parts coatings in § 129.52 are superseded by § 129.52d. Additionally, the commentator recommended that the Board include a provision in § 129.52d - like § 129.52a(a)(2) - that clearly states that § 129.52d supersedes the emissions limits and other requirements of § 129.52. (1)

**Response:** The Department thanks the commentator for the support of the exemption for aerosol coatings in proposed § 129.52d(a)(5)(i). This exemption is consistent with the recommendations of the EPA provided in the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG, which states on page 30 that the EPA recommends that aerosol coatings be excluded from the VOC limitations and application methods addressed by the CTG. The EPA further notes in the CTG that aerosol coatings are a separate category under Section 183(e) of the Clean Air Act (CAA). The Department amends § 129.52d(a)(5)(i) in the final rulemaking to clarify that aerosol coatings are exempt from this section when the aerosol coatings meet the requirements of 40 CFR Part 59, Subpart E (relating to national volatile organic compound emission standards for aerosol coatings).

The Department amends § 129.52 in the final rulemaking by adding § 129.52(k) to provide clarity on the applicability of the requirements of § 129.52, Table I, Category 10, Miscellaneous Metal Parts and Products, to the use of aerosol coatings including hand-held aerosol cans. Section 129.52(k) states: “The provision of § 129.52d(a)(5)(i) (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings) applies to surface coating processes regulated under Table I, Category 10, Miscellaneous Metal Parts and Products. Aerosol coatings shall meet the requirements of 40 CFR Part 59, Subpart E (relating to national volatile organic compound emission standards for aerosol coatings).”

The Department considered the commentator’s suggestion to add superseding language to § 129.52d. The Department did not add a provision to supersede the emission limits and other requirements of § 129.52 for miscellaneous metal parts and products with the requirements of § 129.52d due to the differences between the two regulations with respect to the applicability threshold. In making this decision, the Department was mindful of Section 110(l) of the CAA, which specifies, in part, that the Administrator of the EPA shall not approve a revision of a plan [State Implementation Plan] if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress. This provision of the CAA is an ‘anti-backsliding’ provision. The Department intends to submit the final-form regulation to the EPA as a State Implementation Plan revision upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**7. Comment:** The commentator provided additional information to support the recommendation for exempting aerosol coatings from § 129.52 by stating that, in its Clean Air Act Section 183(e) listing for aerosol coatings, the EPA explained the technical basis for treating aerosol coatings differently than miscellaneous metal products coatings. The EPA noted that the most effective means of preventing ozone formation from aerosol coatings is not the traditional mass-based approach focusing on the amount of VOC per unit product, but rather to address the reactivity of the coating to form ground-level ozone. With Federal regulations governing aerosol coatings already in effect on the National level (40 CFR Part 59, Subpart E), there is no need or basis for separate regulation of this source category at the state level. The aerosol coatings currently in use have been formulated to minimize the total reactivity of their volatile organic components (with technological and economic feasibility limits taken into consideration). The Federal National Emission Standards for Hazardous Air Pollutants for Miscellaneous Metal Parts and Products and the CTGs provide further support for not applying sector-specific VOC

limitations to aerosol coatings. Accordingly, the Board should revise proposed § 129.52d and § 129.52 to clarify that aerosol coatings are exempt from regulation under both provisions. (1)

**Response:** The Department thanks the commentator for providing this additional information to support the recommendation for clarity regarding the exemption of aerosol coatings. Please see the response to Comment 6.

**8. Comment:** IRRC commented that § 129.52d(a)(5)(i) provides an exemption for the use or application of aerosol coatings and that a commentator asked for clarification on whether hand-held aerosol cans would be included in this exemption. IRRC requested that the Board explain in the Preamble to the final rulemaking whether hand-held aerosol cans are exempt, and if they are, to clarify that in the regulation. (2)

**Response:** The Department agrees that the exemption for aerosol coatings set forth in § 129.52d(a)(5)(i) includes hand-held aerosol cans. The definition for aerosol coatings set forth in 25 Pa. Code § 121.1 (relating to definitions) states that an aerosol coating is, “A coating expelled from a hand-held pressurized, nonrefillable container in a finely divided spray when a valve on the container is depressed.” Therefore, the exemption for aerosol coatings set forth in § 129.52d(a)(5)(i) includes hand-held aerosol cans and the Department believes that no further clarification is necessary in the regulation. The Board has explained this in the preamble to the final rulemaking.

**9. Comment:** IRRC commented that the commentator suggested 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. IRRC noted that other sections of 25 Pa. Code Chapter 129 include language that supersedes § 129.52. If language superseding § 129.52 is appropriate for this rulemaking, while at the same time consistent with Federal requirements on which this rulemaking is based, IRRC suggested that it be included in the final-form regulation. (2)

**Response:** Please see the response to Comment 6.

### **Section 129.52. Surface coating processes. — Reasonableness; Clarity.**

**10. Comment:** IRRC noted that § 129.52(g) is being amended to require *onsite* [emphasis added] storage of records. IRRC asked what the reason is for this change and for the EQB to explain the rationale for this requirement in the Preamble to the final rulemaking. (2)

**Response:** The Board added ‘onsite’ to § 129.52(g) to clarify that records should be maintained at the site for 2 years, unless a longer period is required by an order, plan approval, or operating permit and should be made available to a Department inspector during a site visit. In addition, adding ‘onsite’ to § 129.52(g) establishes consistency with § 129.51(d), as revised in the final rulemaking for flexible packaging printing presses, offset lithographic printing presses, letterpress printing presses, and adhesives, sealants, primers and solvents, published at 44 Pa. B. 3929 (June 28, 2014). The EPA has SIP-approved similar onsite recordkeeping requirements for

States in the Ozone Transport Region including Delaware (77 FR 58953, September 25, 2012), Massachusetts (79 FR 30737, May 29, 2014), and New York (79 FR 12082, March 4, 2014).

**11. Comment:** IRRC expressed concern regarding the clarity of the last sentence of § 129.52(g). This sentence reads as follows: “The records shall be submitted to the Department in an acceptable format on a schedule reasonably prescribed by the Department.” IRRC stated that the term “in an acceptable format” is vague. IRRC suggested that it be clarified to state what formats would be acceptable. (2)

**Response:** The Board carefully considered the suggestion but did not revise the requirement. The conditions of applicable permits include recordkeeping and reporting requirements, including the format. The regulatory language “in an acceptable format” provides flexibility for these conditions to be made specific to individual sources by inclusion in the applicable permit. Similarly, the Department specifies the format in its request for records from those owners and operators of subject sources that do not have permits, tailoring the request for each individual source. Providing more prescriptive language in the regulation would limit the opportunities for the owner and operator of the source to have flexibility in recordkeeping and reporting. The Board has explained this in the preamble to the final rulemaking.

**12. Comment:** IRRC expressed concern regarding the clarity of the last sentence of § 129.52(g). This sentence 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 “on a schedule reasonably prescribed” is vague. IRRC noted that this term is in the existing regulation. IRRC believed that 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. (2)

**Response:** The Board carefully considered the suggestion but did not revise the requirement. The conditions of applicable permits include recordkeeping and reporting requirements, as well as the schedule for the submittal of the records to the Department. The regulatory language “on a schedule reasonably prescribed” provides flexibility for these conditions to be made specific to individual sources by inclusion in the applicable permit. Similarly, the Department specifies the schedule in its request for records from those owners and operators of subject sources that do not have permits, tailoring the schedule to each individual source. Providing more prescriptive language in the regulation would limit the opportunities for the owner and operator of the source to have flexibility in recordkeeping and reporting. The Board has explained this in the preamble to the final rulemaking.