



SOCIETY OF COLLISION REPAIR SPECIALISTS

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April 4, 2011

O-1197

EPA Regions 1-10 Administrators (each addressed individually)

RE: Request for expanded interpretation of 3 oz. exemption in NESHAP 6H Rule

Dear EPA Region Administrator,

The Society of Collision Repair Specialists (SCRS) is the largest national trade association solely representing collision repair professionals across the United States. Through our direct members and nearly 40 state and regional affiliate associations, SCRS represents over 6000 business who work to repair collision damaged vehicles.

The SCRS and our membership respectfully requests clarification from your office relative to your interpretation and enforcement of the EPA rule Subpart HHHHHH – National Emissions Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources (6H). Specifically, we are interested in:

1. A documented response regarding the exemption for coatings applied with a paint cup equal to or less than 3 fluid oz., and clarification that the rule applies to the type of work being performed.
2. A documented response that a 3 fluid oz. cup cannot be used and repeatedly filled to circumvent the rule.
3. Clarification that while a business applying coatings may be exempt from Rule 6H by meeting certain stated requirements, the exemption does not negate other additional regulatory requirements (such as OSHA, local zoning codes or fire ordinances) that may prohibit spraying flammable solvent or coatings with Hazardous Air Pollutants (HAPs) outside of a contained environment.

The rule allows auto body shops and mobile refinishers to be exempted if the facility uses 3.0 ounce cups or less. The general intent behind this exemption was to establish a defined threshold at which the material held in the cup would be less than the minimum practical amount of coating that could be used to refinish a bumper or fender and to distinguish a source doing a small scratch or spot repair from one that does conventional paint repairs. In fact the federal register for the final rule includes comments that specifically indicate the exemption was considered for “stone chips and scratches, and graphic artists” doing small airbrush work. The comments continue to point out that even “mobile refinishers are subject to the rule requirements for training, spray equipment, and the use of a spray booth or other ventilated and filtered enclosure if they spray apply coatings from a spray gun with a cup size greater than 3.0 fluid ounces (89 cc).” It is an important to note that at the time this rule was established, there were no companies producing or marketing 3 oz. paint cups for HVLP spray guns; a market that has only developed since the passing of this rule.

-Continued-

Unfortunately, the application of the rule has created a practice where some businesses are claiming to be exempt, by filling 3 oz. cups multiple times while doing traditional collision repair operations, in an attempt to continue to perform the work in an uncontained or mobile environment. It is our belief that this exemption of 3.0 fluid ounces (89 cubic centimeters (cc)) or less should be changed to read that a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces (89 cc) cannot be refilled or be able to spray more than a 3.0 fluid ounces of spray-applied coating per vehicle repair.

It is our position that 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; because the rule is silent on refilling of the 3 oz cups, there exists a continued potential to circumvent the rule. This can result in auto body shops and mobile refinishers spraying without controls and working outside, resulting in hazardous particles discharged to the air, ground and subsequent transport to surface water. As it exists, the variation in interpretation can also establish conditions under which professional, modern equipped collision repair facilities who have invested in the necessary advancements to meet or exceed the minimum requirements of the rule may receive greater oversight, potential for penalty and diminished return on their investment, while mobile businesses or others operating “around” the rule perceptually benefit from lack of enforcement and the ability to compete in the marketplace without meeting and investing in the same minimum standards of care under the rule through exemptions that promote poor environmental stewardship.

Additionally, beyond clarifying the “gray area” created by this particular 3 oz. exemption, we believe it is necessary for your region to reiterate that this is not an overall exemption from other mandatory requirements issued by both your office and other regulatory bodies, but specifically an exemption from this rule. As an example, there are additional requirements enforced by entities such as OSHA and the local fire marshal that may apply to the spraying of flammable solvents or coatings materials in non-controlled environments. While businesses that apply coatings may be legitimately exempt from enforcement under the 6H ruling, we request clarity that the exemption is not a circumvention of other regulations, rules or requirements on other areas which may still prohibit the spraying of coatings in a mobile, or non-controlled, environment.

We appreciate the time that your office has spent working on this issue and in collecting feedback from affected industries, and we understand the challenge presented through regulation of this nature. We would like to thank you in advance for answering our questions, and offer that if you have any questions or comments you are welcome to direct them to SCRS Executive Director Aaron Schulenburg at aaron@scrs.com or (302) 423-3537.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Clark', written in a cursive style.

Aaron Clark, Chairman
Society of Collision Repair Specialists (SCRS)

Attachment

Letter endorsed by:

Society of Collision Repair Specialists Missouri / Kansas Chapter (SCRS MO/KAN)
Indiana Auto Body Association (IABA)
Alliance of Automotive Service Providers of New Jersey (AASP/NJ)
California Autobody Association (CAA)
South Dakota Auto Body Association (SDABA)
Independent Garage Owners of North Carolina (IGONC)
Long Island Auto Body Repair Association (LIABRA)
New York State Auto Collision Technicians Association (NYSACTA)
Westchester-Putnam-Rockland Auto Body Association (WPRABA)
Oregon Collision Repair Specialists (OCRS)
Houston Auto Body Association (HABA)
Iowa Collision Repair Association (ICRA)
Montana Collision Repair Specialists (MCRS)
Automotive Service Council of Kentucky (ASCKY)
Washington Metropolitan Auto Body Association (WMABA)
Choice Autobody Repair Association (CARA)
Nebraska Auto Body Association (NABA)
Auto Body Association of Connecticut (ABAC)
Florida Auto Collision Alliance (FACA)
Auto Body & Painting Association of Hawaii (ABPAH)
Alliance of Automotive Service Providers of Missouri (AASP/MO)
Georgia Collision Industry Association (GCIA)
Automotive Service Association of Michigan (ASA-MI)
U.S. Alliance of Collision Professionals (USACP)
Alliance of Automotive Service Providers of Massachusetts (AASP/MA)
Alliance of Automotive Service Providers of Pennsylvania (AASP/PA)

See attachment “Talking Points” as additional file.