UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Aaron Clark, Chairman
Society of Collision Repair Specialists (SCRS)
P.O. Box 909
Prosser, Washington 99350

Dear Mr. Clark:

Thank you for your April 4, 2011 letter to the U.S. Environmental Protection Agency (EPA) Regional Offices seeking clarification on the applicability of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for area sources engaged in paint stripping and miscellaneous surface coating operations (40 CFR Part 63, Subpart HHHHHH (6H)). The Office of Compliance has received a copy of your request, and is responding on behalf of the EPA Regional Offices.

On January 9, 2008 (73 FR 1747), EPA promulgated standards for sources of hazardous air pollution (HAP) emissions, including autobody refinishing paint shops (i.e., 6H rule). The 6H rule includes emissions standards that reflect generally available control technologies and management practices that reduce HAP emissions. Motor vehicle refinishing operations, including mobile operations and conventional collision repair shops, are subject to the rule requirements for training, spray equipment, and the use of a spray booth or other ventilated and filtered enclosures if they perform spray-applied coating operations. The Agency has defined *spray-applied coating operations,* at 40 CFR §63.11180, to mean coatings that are applied using a hand-held device that create an atomized mist of coating and deposits the coating on a substrate, excluding coatings applied from a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces (89 cubic centimeters (cc)).

The 6H rule states the Agency's intent to not include operations that perform vehicle repairs of small stone chips and scratches. Since the Agency could not identify a single characteristic or group of characteristics to clearly differentiate the use of a larger spray gun from an air brush used for small touch up and spot repair, rule applicability was established based on the cup size of the spray equipment. Mobile motor vehicle refinishing operations that bring the coating equipment and supplies to the vehicle, as well as those in which the vehicle is brought to a conventional collision repair shop, 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. Therefore, EPA does not consider the use of a 3.0 fluid ounces cup size as an exemption to the 6H rule, but a threshold by which rule applicability for potentially regulated sources may be determined.

While the applicability of the 6H rule does not extend to spray-applied coatings applied from a hand-held device with a paint cup capacity that is equal to or less than 3.0 fluid ounces, the Agency may find that persons who repeatedly refill and use a three ounce cup, as a means of avoiding rule applicability, are attempting to circumvent the 6H rule. As such, EPA reserves the right to bring enforcement actions against any person whose action equates to rule circumvention. EPA's reasoning is laid out in the General Provisions section of 40 CFR §63.4(b), "….No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard." EPA may find that persons who refill 3.0 ounce cups in an effort to avoid regulation are not "acting in a manner consistent with safety and good air pollution control practices for minimizing emissions." Rather, their actions may be considered as circumvention of the 6H rule by purposely dividing or fragmenting paint jobs into smaller tasks requiring less than 3.0 fluid ounces of paint in order to avoid regulatory applicability.

In addition, the 6H rule does not negate other regulatory requirements (such as federal or local occupational health and safety requirements, local zoning codes, or fire ordinances) that may prohibit or restrict the spraying of flammable solvents or coatings containing HAPs within or outside of a contained environment.

Thank you once again for your interest. We appreciate your concern for the environment and the proper interpretation of the 6H Rule. Should you have any additional questions or comments, feel free to contact me at (202) 564-0957 or at banks.julius@epa.gov.

Sincerely,

Julius Banks, Chief
Air Branch
Monitoring, Assistance and Media Programs Div.

cc: Regional Air Managers, Regions 1 – 10

Regional Air Enforcement Counsel, Regions 1 - 10