

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: May 3, 2013

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2013-0413-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 115, Control of Air Pollution from Volatile Organic Compounds
Surface Coating Application Systems Revision
Rule Project No. 2013-012-115-AI

Background and reason(s) for the rulemaking:

For nonattainment areas classified as moderate and above, Federal Clean Air Act (FCAA), §182(b)(2) requires the state to submit a state implementation plan (SIP) revision that implements reasonably available control technology (RACT) for sources of volatile organic compounds (VOC) addressed in a control techniques guidelines (CTG) document issued by the United States Environmental Protection Agency (EPA) between November 15, 1990 and the area's attainment date. Under the 1997 eight-hour ozone National Ambient Air Quality Standard, the Dallas-Fort Worth (DFW) eight-hour ozone nonattainment area (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties) is currently classified as a serious nonattainment area and the Houston-Galveston-Brazoria (HGB) eight-hour ozone nonattainment area (Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties) is currently classified as a severe nonattainment area. In December 2011, the commission adopted rules (Rule Project No. 2010-016-115-EN) to implement the EPA's RACT recommendations in the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG (EPA 453/R-08-003) in the DFW and HGB 1997 eight-hour ozone nonattainment areas.

Adopted §115.453(c) requires the use of one of the approved coating application systems listed or another application system capable of achieving a transfer efficiency equivalent to or better than the transfer efficiency of high-volume, low-pressure (HVLP) spray, which is assumed to be 65% for the purpose of this rule. Although the EPA's 2008 CTG recommended airless spray and air-assisted airless spray application systems as RACT, the 2011 rulemaking omitted these two types of systems from the list of approved application systems under the consideration that companies using these systems could demonstrate equivalency to HVLP systems. However, demonstrating equivalency to HVLP systems may be more difficult for airless spray and air-assisted airless spray application systems than anticipated in the 2011 rulemaking.

This proposed rulemaking revises the list of approved coating application systems in §115.453(c) to include airless spray and air-assisted airless spray coating application systems. The proposed rulemaking is consistent with the EPA's 2008 Miscellaneous Metal and Plastic Parts Coatings CTG recommendations and implements RACT as intended by

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the December 2011 rulemaking. The proposed revision eliminates the unnecessary testing of airless spray and air-assisted airless spray systems or purchase of new application equipment in order to demonstrate compliance with the rule. If adopted, staff will submit the amended rule to the EPA as a SIP revision.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do:

The proposed rulemaking revises the list of approved coating application systems in §115.453(c) to include airless and air-assisted airless spray application systems for the coating of miscellaneous metal parts and products, miscellaneous plastic parts and products, automotive/transportation and business machine plastic parts, and motor vehicle materials in the DFW and HGB 1997 eight-hour ozone nonattainment areas.

B.) Scope required by federal regulations or state statutes:

For nonattainment areas classified as moderate and above, FCAA, §182(b)(2) requires the state to submit a SIP revision that implements RACT for VOC emission sources addressed in a CTG document issued by the EPA between November 15, 1990 and the area's attainment date.

C.) Additional staff recommendations that are not required by federal rule or state statute:

None.

Statutory authority:

The rule amendment would be proposed under Texas Water Code (TWC), §5.102, concerning General Powers, §5.103, concerning Rules, and §5.105, concerning General Policy, that authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, that authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The rules would also be proposed under THSC, §382.002, concerning Policy and Purpose, that establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, that authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, that authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.014, Emissions Inventory, which authorizes the commission to require a person whose activities cause air contaminant emissions to submit information to enable the commission to develop an emissions inventory; §382.016, concerning Monitoring Requirements; Examination of Records, that authorizes the commission to prescribe requirements for owners or operators of sources to make and maintain records of emissions measurements; and §382.021, concerning Sampling Methods and Procedures, that authorizes the commission to prescribe the sampling methods and procedures to determine compliance with its rules. The rule amendment would also be proposed under 42 United States Code, §§7420 *et seq.*, which

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requires states to submit SIP revisions that specify the manner in which the National Ambient Air Quality Standard will be achieved and maintained within each air quality control region of the state.

Effect on the:

A.) Regulated community:

The proposed rulemaking eliminates the need for affected owners and operators to perform testing or purchase a new application system in order to demonstrate compliance with the coating application system requirements in §115.453(c).

B.) Public:

The proposed rulemaking benefits the public through continued protection of air quality.

C.) Agency programs:

The proposed rulemaking will not affect agency programs.

Stakeholder meetings:

No stakeholder meetings were held for this proposed rulemaking.

Potential controversial concerns and legislative interest:

Staff does not expect the EPA will object to the rulemaking because airless and air-assisted airless spray coating application systems are included in its 2008 Miscellaneous Metal and Plastic Parts Coating CTG RACT recommendations. Because the rule was not revised prior to the March 1, 2013 compliance date, staff issued a memo to provide interim guidance on the requirements for airless spray and air-assisted airless spray application systems.

Will this rulemaking affect any current policies or require development of new policies?

No.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

The commission could decide to not proceed with rulemaking. The existing rule allows the use of airless spray and air-assisted airless spray application systems if testing demonstrates the transfer efficiency of these systems is equivalent to that of an HVLP system.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: May 22, 2013

Anticipated *Texas Register* publication date: June 07, 2013

Public hearing date (if any): June 25, 2013 in Austin; June 27, 2013 in Fort Worth; and July 02, 2013 in Houston

Public comment period: June 07, 2013 through July 08, 2013

Anticipated adoption date: October 23, 2013

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Attachments

None.

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