

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 3, 2013

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

From: Ramiro Garcia, Jr., Deputy Director
Office of Compliance and Enforcement

Subject: Consideration of a Petition for Rulemaking

Docket No.: 2013-0700-RUL

Project No.: 2013-028-PET-NR

Who Submitted the Petition:

On April 1, 2013, the Texas Commission on Environmental Quality (TCEQ) received a petition for rulemaking from 3M Company (Petitioner).

What the Petitioner Requests:

The Petitioner requests that its fire protection fluid: 3-Pentanone, 1,1,1,2,2,4,5,5,5-nonafluoro-4-(trifluoromethyl)-, CAS No. 756-13-8 (hereafter C6 fluoroketone), be listed in 30 Texas Administrative Code (TAC) §101.1 (88), which would establish a reportable quantity of 5,000 pounds instead of the default reportable quantity of 100 pounds. The chemical is sold as 3M™ Novec™ 1230 Fire Protection Fluid. According to the petition, the fluid is “used to extinguish fires in high valued assets” that cannot be protected with water.

Recommended Action and Justification:

The executive director recommends the initiation of rulemaking and state implementation plan revision to increase the reporting threshold for C6 fluoroketone. In considering reportable quantities, the TCEQ considers toxicological effects, photochemical reactivity for producing ozone, and its intent of limiting upset reports to the most significant events. C6 fluoroketone is neither a criteria pollutant nor precursor of ozone, and therefore the 100-pound default for nonattainment and maintenance areas should not apply.

No signs of acute toxicity were observed in rats exposed to 100,000 parts per million (ppm) C6 fluoroketone for up to four hours. The “no observed adverse effect” level for acute toxicity in rats was 100,000 ppm or 10%. Other toxicity studies have concluded that C6 fluoroketone is only minimally irritating to the eye, non-irritating to the skin, and does not cause sensitization. There have been no complaints of adverse health effects from human experience with exposures to C6 fluoroketone. C6 fluoroketone is safe to the public when discharged in the event of a fire. C6 fluoroketone was approved by the United States Environmental Protection Agency in 2002 (67 Federal Register 77931) as an acceptable substitute for ozone-depleting substances, such as halon 1301, for use in fire suppression.

Commissioners

Page 2

May 3, 2013

Re: Docket No. 2013-0700-RUL

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule
- 30 TAC, §20.15, which provides such procedures specific to the commission
- 30 TAC, §101.1(88) Texas Clean Air Act, Texas Health and Safety Code, §§382.011, 382.012, 382.016, 382.017, 382.021, and 382.0215

Agency contacts:

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Amy Browning, Staff Attorney, 512-239-0891

Bruce McAnally, Texas Register Coordinator, 512-239-2141

Attachment

Petition

Commissioners

Page 3

May 3, 2013

Re: Docket No. 2013-0700-RUL

**cc: Chief Clerk, 2 copies
Executive Director's Office
Anne Idsal
Curtis Seaton
Tucker Royall
Office of General Counsel
Candice Garrett
Bruce McAnally**