

The commission adopts new §106.231, concerning the exemption of surface coating facilities located at wood products manufacturing, restoring, or refinishing operations from the preconstruction air permitting requirements of the Texas Health and Safety Code, the Texas Clean Air Act, §382.057 and §382.0518. The new section is adopted with changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7341).

EXPLANATION OF RULE

This rule will provide a new exemption for small wood products manufacturers, refinishers, or restorers that conduct surface coating operations on-site as an alternative to Standard Exemption 75, which covers general coating operations. Wood products manufacturers, restorers, or refinishers that conduct surface coating operations on-site will be subject to the requirements of §106.231; however, those constructed before the effective date of this exemption may be authorized under Standard Exemption (SE) 75 or other applicable exemptions. In addition, surface coating operations not related to manufacturing, restoring, or refinishing of other wood products may use SE 75 or other applicable exemptions.

The agency is also currently offering an amnesty period for small businesses that manufacture, restore, or refinish wood products in order to increase compliance. The agency will begin targeted enforcement on the industry in 1997.

The exemption is intended to simplify the control requirements, recordkeeping requirements, and calculation methods otherwise required under SE 75. The exemption will: provide businesses with

flexibility to use different pollution control devices based upon the volume and type of work performed; allow businesses to minimize detailed records previously needed to calculate emission rates; and allow businesses to quantify volatile organic compound (VOC) emissions with purchase and usage records instead of mathematical equations.

The control strategies and emission limits listed in this exemption are based on business practices found within the industry, which includes consideration of typical chemicals used and standard operating hours and procedures. Background information concerning the agency's review of these businesses is available upon request by contacting the Office of Air Quality or the Small Business Assistance Program.

Future rulemaking action will be undertaken to include woodworking operations at wood products manufacturing, restoring, or refinishing operations in this exemption. This will eliminate the need for multiple exemptions and allow one exemption to cover all operations at these sites. Until that rulemaking takes place, SE 40 is available for businesses using hand-operated tools. SE 105 is available for automated woodworking systems.

TAKINGS IMPACT ASSESSMENT

The agency has conducted a Takings Impact Assessment and determined this rule will not affect private real property.

PUBLIC HEARING AND COMMENTS

A public hearing on the proposal was held September 12, 1996, in Austin. The comment period also closed on September 12, 1996. No oral testimony was presented during the public hearing. Written testimony was received from Air Quality Services, the City of Dallas, the United States Environmental Protection Agency (EPA), Fulbright & Jaworski (Fulbright), and several small businesses through the commission's Small Business Assistance Program (SBAP).

Fulbright and Air Quality Services suggested language to allow an alternative for facility operators who are willing to maintain sufficient records of VOC emissions, based on actual usage and operation, to determine that total annual VOC emissions from the facility are less than 25 tons per year.

The commission agrees with the concept and has added new §106.231(2).

Fulbright and Air Quality Services commented that the proposal does not encourage the use of waste minimization because reclaiming, recycling, and material substitution are not taken into account in the calculation of material usage. The commission's SBAP received a comment from a small business suggesting that without disposal records, usage records are meaningless.

As written, the proposal limits usage to 275 gallons of coatings and stripping agents and 275 gallons of solvents. This exemption was intended to be used by smaller operators who would not be likely to exceed the limits of the exemption without subtracting the amount disposed or taking credit for reclaiming, recycling, and material substitution. However, if the owner or operator of

a facility chooses to maintain records of materials disposed of or recycled or reclaimed, it would be able to take credit for that in its calculations of monthly usage. Material substitution has been addressed by the changes made to the previous comment.

Fulbright and Air Quality Services commented that the language in §106.231(b)(1)(B) includes exempt solvents in counting toward the total of all solvents used in coating and cleanup at a site.

The commission agrees and has made the suggested change in §106.231(5).

Fulbright and Air Quality Services commented that the language “minus water and exempt solvent,” in reference to the calculation of pound of VOC per gallon of material should be deleted from the proposal because it is not a well understood concept for affected businesses.

The commission believes that it is important to retain the phrase “minus water and exempt solvent,” because it is commonly used in regulatory language that applies to these facilities, and it provides consistency in how the determination of compliance with the exemption limits are met.

The City of Dallas commented that the exemption should not be used by major sources of hazardous air pollutants.

This rule is an exemption from the air permitting requirements of Chapter 116 for the wood products industry. This rule does not excuse a business from the requirements of an applicable

standard for Hazardous Air Pollutants (HAPs). If a National Emission Standard for Hazardous Air Pollutants is applicable to an operation subject to this exemption, the operation must meet that standard. However, the commission believes it is unlikely that the type of facilities authorized under this exemption will be a major source for HAPs.

The EPA commented that the rule proposal is not practically enforceable. Specifically, the EPA commented that the rule proposal is unclear as to how purchase receipts tie to monthly usage.

The commission believes the rule is practically enforceable in that it requires receipts of material purchased or used to be kept on a monthly basis as a method to track compliance with this section.

The commission's SBAP received a comment from a small business stating that the rule does not mention adhesives which are commonly used in the wood products industry.

Historically, adhesives have been considered a subset of coatings, and therefore are included in the proposed exemption.

Comments were received from small businesses through the commission's SBAP regarding the following: that purchase records be kept on an annual basis rather than a monthly basis; that the commission provide flexibility to use other than Material Safety Data Sheets (MSDS) to determine VOC

content of materials; and suggested language to clarify ventilation requirements and to clarify language to improve readability.

The exemption provides that purchase records be kept on a monthly basis as a method to determine compliance with the annual emission limitation for those who do not want to keep detailed records of usage; therefore, it is important to be able to verify monthly usage rates. The commission agrees that there are informational materials other than MSDSs available from the supplier or manufacturer to obtain information on VOC content of materials and has modified the rule to reflect the use of these other materials by adding language to §106.231(1)(C). The commission agrees that the language regarding ventilation in the proposed version of §106.231(2)(A) was confusing, and has made the suggested change to what has now been renumbered §106.231(6).

The new section is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

SUBCHAPTER I : MANUFACTURING

§106.231

§106.231. Manufacturing, Refinishing, and Restoration of Wood Products.

Coating facilities. Facilities at wood products manufacturing, refinishing, and restoring plants used to perform surface coating that meet the requirements of this section are exempt.

(1) General emission and recordkeeping requirements. The emission reduction and recordkeeping requirements in this section are to control emissions of volatile organic compounds (VOCs) from the following materials: coatings, stripping agents, solvents, and other compounds containing VOCs used in dipping, brush, spray, wipe, and/or roll-on applications.

(A) The total of all coatings and stripping agents containing VOCs used on the property may not exceed 275 gallons per month; and the total of all solvents containing VOCs used in coating and cleanup on the property may not exceed 275 gallons per month.

(B) Purchase receipts for all materials for the two most recent years must be kept on-site. If the total materials purchased in any month exceed the levels specified in subparagraph

(A) of this paragraph, records of the amount of materials used for the month must be kept on-site in order to demonstrate compliance with subparagraph (A) of this paragraph.

(C) The VOC content of all materials must not exceed the limits in clauses (i)-(xiii) of this subparagraph. A daily weighted average may be used to determine compliance with this subsection. VOC content must be determined as pounds of VOC per gallon of coating (minus water and exempt solvents)(lb/gal). Material Safety Data Sheets (MSDS), technical data sheets, or other technical documentation from the manufacturer must be used to determine the VOC content of all coatings, stripping agents, and solvents. VOC content limits are as follows:

(i) clear topcoats-5.9 lb/gal;

(ii) wash coats-6.5 lb/gal;

(iii) final repair coats-6.0 lb/gal;

(iv) semitransparent wiping and glazing stains-6.6 lb/gal;

(v) opaque ground coats and enamels-5.5 lb/gal;

(vi) clear sealers-6.2 lb/gal;

(vii) varnish-5.0 lb/gal;

(viii) semitransparent spray stains and toners-6.9 lb/gal;

(ix) all other coatings-7.0 lb/gal;

(x) shellac (clear)-5.4 lb/gal;

(xi) shellac (opaque)-5.0 lb/gal;

(xii) solvents used in coating or cleanup-8.0 lb/gal;

(xiii) stripping agents-7.0 lb/gal;

(2) Alternate emission and recordkeeping requirements. Instead of the requirements of paragraph (1)(A)-(D) of this section, a facility may choose to maintain sufficient records of usage and VOC content of all coatings, stripping agents, solvents, or other compounds containing VOCs to determine emissions on a monthly basis and to calculate an annual VOC emission rate. The facility's annual VOC emission rate shall not exceed 25 tons per year.

(3) Containers. All containers with coatings, stripping agents, solvents, or other compounds containing VOCs must be closed or covered when not in use to minimize VOC emissions.

(4) Special emission requirements. The following emission requirements apply if the combined use on the property of coatings, stripping agents, and solvents or other compounds containing VOCs exceeds one gallon per day.

(A) Any application area must be exhausted by a fan through a stack as provided in paragraph (6) of this section. If application is made by spraying, the application area must be vented by a fan through a filter and stack as provided in paragraph (6) of this section.

(B) If application is made by spraying, an enclosed spray gun washer must be used to clean spray guns. An equivalent system may be used in lieu of the enclosed washer if the system results in VOC emissions equal to or less than an enclosed spray gun washer.

(5) Special compound limitations. Coatings, stripping agents, solvents, or other compounds containing methylene chloride or lead chromate may not be used unless the application area is exhausted through a stack which meets the requirements of paragraph (6) of this section. Methylene chloride usage may not exceed one gallon per hour. Usage of exempt solvents, such as methylene chloride, do not count toward the monthly limits specified in paragraph (1)(A) of this section.

(6) Ventilation. If a stack, filter, or fan is required, the following specifications must be met.

(A) Fan(s) must discharge a minimum of 100 cubic feet of air per minute for each square foot of intake air opening to the application area (e.g., doors, air inlet vents, windows), and must discharge not less than 5,000 cubic feet of air per minute.

(B) The stack must discharge vertically with no obstruction to air flow and the stack height shall be a minimum of six feet above the highest point of the building.

(C) Filter systems required for spray operations must remove particulate matter with an efficiency of 95% or greater.

This agency hereby certifies that the section as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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