

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100 AIR POLLUTION CONTROL RULES  
SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO SUBCHAPTER 37, 39, AND APPENDIX N**

**COMMENTS RECEIVED PRIOR TO AND DURING THE *JUNE 20, 2018*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**American Airlines, Inc.** – Submitted as an attachment to an email received on June 14, 2018 from Ms. Thelma Latimer-Davis, Manager Environmental Engineering at Tulsa.

**Comments specific to Subchapter 37**

1. **COMMENT:** American Airlines, Inc. (hereafter “American”) requested clarification regarding exemptions provided in 252:100-37-27(a)(2) through (4). If a coating operation is exempted from 252:100-37-27 by the provisions listed in 252:100-37-27(a)(2) through (4), are they then subject to 252:100-37-25?

**RESPONSE:** The Department’s intent is not for coating operations exempted from 252:100-37-27 by the given provisions to be “re-subjected” to 252:100-37-25.

2. **COMMENT:** American requested clarification regarding the interpretation of 252:100-37-27(a)(5). Specifically, if a certain coating is exempted from 40 CFR Part 63, Subpart GG, is it also exempted from 252:100-37-27? If a facility is not subject to 40 CFR Part 63, Subpart GG, can it choose to comply with it as an alternative means of compliance for 252:100-37-27?

**RESPONSE:** The Department selected language, specifically the term “compliance,” to reflect that facilities may use 40 CFR Part 63, Subpart GG as an alternative means of compliance with 252:100-37-27 regardless of being subject to 40 CFR Part 63, Subpart GG. The intent of 252:100-37-27(a)(5) is to state that there are no requirements of 252:100-37-27 in excess of what is required in 40 CFR Part 63, Subpart GG. Exemptions granted in 40 CFR Part 63, Subpart GG will be considered in the same manner for compliance with 252:100-37-27. The term “compliance” indicates that a facility must adhere to standards and work practices specified in 40 CFR Part 63, Subpart GG to be considered in compliance with 252:100-37-27, regardless of Subpart GG’s applicability to that facility. This means that a facility cannot claim compliance with 252:100-37-27 by means of 40 CFR Part 63, Subpart GG not being applicable to that facility.

3. **COMMENT:** American requested the addition of language into 252:100-37-27(d), granting a minimum of thirty days to submit requested records.

**RESPONSE:** The Department does not agree that a minimum time frame to produce records is necessary. Records are expected to be available at any reasonable time.

### **Comments specific to Subchapter 39**

4. **COMMENT:** American requested 252:100-39-3 be removed, such that applicability to Subchapter 39, specifically section 47, would exempt a facility from Subchapter 37 requirements, specifically sections 25, 26, and 27.

**RESPONSE:** The Department agrees with the concern American has raised regarding dual regulation between Subchapters 39 and 37. The Department does not think that 252:100-39-3, General applicability, is the appropriate section to address these concerns. A new provision has been added to 252:100-39-47(a)(1) addressing this concern, which states “Coating operations subject to this Section are exempt from the requirements of OAC 252:100-37-25 and 252:100-37-27.”

5. **COMMENT:** American commented that the applicability of 252:100-39-47 should be for operations located in ozone nonattainment and former nonattainment areas, per 252:100-39-1, instead of Tulsa County as stated in 252:100-39-47(a)(1).

**RESPONSE:** 252:100-39-1 states, “This Subchapter contains requirements for the control emissions of VOCs from stationary sources located in areas that are nonattainment or were formerly nonattainment for ozone.” The Department believes 252:100-39-1 does not speak to specific applicability for each section, but instead gives a purpose and general contents of what can be found in Subchapter 39. The Department also believes the intent of 252:100-39-47 has always been to be applicable in Tulsa County only.

6. **COMMENT:** American commented that the date of reference listed in 252:100-39-47(b) is different from the incorporation date used in 252:100-2-3.

**RESPONSE:** The Department selects dates for use in reference to specific Federal Subparts that reflect the latest date of change to that Subpart. The Department updated the date of reference to August 3, 2016, which indicates the most recent date 40 CFR Part 63, Subpart GG was amended.

7. **COMMENT:** American requested the addition of the following language to exemptions for low volume coating usage (addition underlined and italicized):

Primers, topcoats, chemical milling maskants, and specialty coatings exempt under OAC 252:100-39-47(a) *and/or 40 CFR Sections 63.741(f), 63.745(f)(3) and (g)(4), and 63.747(c)(3)* are not included in the 50 and 200 gal limits.

**RESPONSE:** The Department believes that all necessary exemptions have been provided as stated throughout the proposed rule.

### **Comments made on both Subchapter 37 and 39**

8. **COMMENT:** American requested clarification that the emissions amount applicability in 252:100-39-47(a)(1) [also noted at 252:100-37-27(a)(4)] is for individual operations, by suggesting the following change (addition italicized):

(1) Except as noted in OAC 252:100-39-47(a)(2) and (3), this Section applies to existing or new aerospace vehicle and component coating operations at aerospace manufacturing, rework, or repair facilities located in Tulsa County that *individually* have the potential to emit 10 TPY or more or actual emissions of 100 pounds or more per 24-hour day, on a monthly average, of VOC from coating operations.

**RESPONSE:** The Department intends this rule be implemented as a facility wide application, and therefore the potential to emit and actual emissions are considered for the whole facility and not individual operations within a facility.

9. **COMMENT:** American requested a sentence stating that compliance with 40 CFR Part 63, Subpart GG will be considered as compliance with this Section, similar to one already stated in the 252:100-37-27 proposal.

**RESPONSE:** The Department agrees with this and has added in the requested language as 252:100-39-47(a)(4).

10. **COMMENT:** American requested an exemption from 252:100-37-25, 252:100-37-26, and 252:100-37-27, as the requirements are duplicative.

**RESPONSE:** The Department agrees with the concern American has raised regarding dual regulation between Subchapters 39 and 37. The Department does not think that 252:100-39-3, General applicability, is the appropriate section to address these concerns. A new provision has been added to 252:100-39-47(a)(1) addressing this concern, which states “Coating operations subject to this Section are exempt from the requirements of OAC 252:100-37-25 and 252:100-37-27.” 252:100-37-26 was not addressed in this exemption as it only applies to coating controlled by 252:100-37-25, of which they will no longer be subject to per this exemption.

11. **COMMENT:** American commented that VOC content limits for coatings is only applicable to “uncontrolled” coatings, and should be stated as such.

**RESPONSE:** The Department agrees that the VOC content limits can be met by adhering to control methods as specified in 252:100-39-47(d)(3), where it is stated as such.

**RESPONSE UPDATED DECEMBER 4, 2018:** The Department has updated the rule proposals to further clarify the VOC content limits are for uncontrolled operations and the use of control equipment is an alternative to complying with the content limits.

12. **COMMENT:** American requested clarification that US Department of Defense “classified” coatings are not subject to 252:100-37-25 if they are exempted from 252:100-37-27.

**RESPONSE:** The language is written as such that the VOC content limits “do not apply...” and therefore the “classified” coatings are not necessarily exempted from 252:100-39-47 (or 252:100-37-27, depending on which Subchapter you are subject to) and are therefore still subject to other potentially applicable requirements of that Section. This means “classified” coatings are not “re-subject” to 252:100-37-25 as a result of the VOC content limits not applying to them.

13. **COMMENT:** American stated “What if the coating is not listed as a specialty coating in Appendix N but has special properties (e.g., temperature/fire resistance, substrate compatibility, antireflection, marking, sealing, enhanced corrosion protection, etc.)?” in reference to VOC content limits.

**RESPONSE:** The Department is unaware, and has not been made aware, of any such coating that is not listed in Appendix N.

14. **COMMENT:** American suggested the term “emission” be amended in 252:100-37-27(c)(1)(E)(ii) and 252:100-39-47(d)(1)(E)(ii) to “content,” as follows:

*(ii) For purposes of determining compliance with ~~emission~~ content limits, VOC will be measured by the approved test methods. Where such a method also inadvertently measures compounds that are exempt solvents, an owner or operator may exclude these exempt solvents when determining compliance with an emission standard.*

**RESPONSE:** The Department is taking this under consideration for its next rule proposal.

**RESPONSE UPDATED DECEMBER 4, 2018:** After consideration, the Department has agreed with the proposed change and updated the proposals to reflect such.

- 15. COMMENT:** American requested the following language be added under the heading “Compliance determination,” to offer another compliance option as listed in 40 CFR Part 63, Subpart GG:

*(iii) Instead of complying with the individual coating limits specified in OAC 252:100-39-47(c)(1), a facility may choose to comply with the averaging provisions specified in 40 CFR Section 63.743(d)(1) through (d)(6).*

**RESPONSE:** The Department has made updates to reflect that compliance with 40 CFR Part 63, Subpart GG is enough to be considered in compliance with 252:100-39-47. The Department believes that no further specification regarding alternative compliance measure needs to be stated.

- 16. COMMENT:** American requested that language in 252:100-37-27(c)(3)(A) and 252:100-39-47(d)(3)(A) be updated to reflect language used in 40 CFR Part 63, Subpart GG.

**RESPONSE:** The Department agrees that the language varies between 252:100-39-47(d)(3)(A) and 40 CFR Part 63, Subpart GG, but believes the result is a similar application of the rule.

**RESPONSE UPDATED DECEMBER 4, 2018:** The Department has since updated the rule proposal such that the reference to 252:100-37-27(c)(3)(A) and 252:100-39-47(d)(3)(A) should now refer to the language in 252:100-37-27(c)(3)(A)(i) and 252:100-39-47(d)(3)(A)(i). The original response still stands that the language update American suggested is not necessary to achieve the intended effect of the rule.

- 17. COMMENT:** American requested that housekeeping and solvent cleaning operations subject to 252:100-39-47 be exempted from 252:100-39-42, per a Department Memorandum dated June 1, 2016.

**RESPONSE:** The Department believes any such exemption should be handled elsewhere in Subchapter 39, and accordingly has since made a rule proposal to update 252:100-39-4, Exemptions, to address this particular issue.

**RESPONSE UPDATED DECEMBER 4, 2018:** The exemption from 252:100-39-42 for cleaning operations has been proposed in the aerospace specific rules in 252:100-39-47(d)(4)(C) and 252:100-37-27(c)(4). The proposal to update 252:100-39-4 no longer includes the addition of 252:100-39-42 as an exemption.

### **Oral Comments**

- 18.** **Ms. Thelma Latimer-Davis**, Manager Environmental Engineering at Tulsa, American Airlines, Inc., highlighted points from American Airlines' written comments.

**RESPONSE:** See above.

### **COMMENTS RECEIVED PRIOR TO AND DURING THE *OCTOBER 10, 2018* AIR QUALITY ADVISORY COUNCIL MEETING**

### **Oral Comments**

**Ms. Thelma Latimer-Davis**, Manager Environmental Engineering at Tulsa, American Airlines, Inc.

- 19.** **COMMENT:** American requested clarification regarding whether coating operations that are exempt from 252:100-39-47 due to low volume provisions are then subject to 252:100-37-25.

**RESPONSE:** The Department's intent is not for coating operations exempted from 252:100-39-47 by the given provisions to be "re-subjected" to 252:100-37-25.