

GOVERNMENT OF THE DISTRICT OF COLUMBIA

District Department of the Environment



Air Quality Division

COMMENT RECONCILIATION MEMORANDUM

TO: File

THROUGH: Stephen S. Ours, P.E. 
Chief, Permitting Branch

FROM: John C. Nwoke 
Environmental Engineer

SUBJECT: Comment Reconciliation Memo – Challenger Cab LLC

DATE: February 21, 2013

BACKGROUND

Challenger Cab LLC (CCL) submitted an application for an operation permit for an existing paint booth in its facility located at 2626 Evarts Street, NE Washington, DC. The application was received on May 7, 2012 for one standard paint booth

The application was submitted in response to an investigation by District Department of the Environment (DDOE) Air Quality Division (AQD) inspectors following a complaint from neighbors regarding the site.

On July 20, 2012, DDOE published a permit action in the DC register for public comment on a proposed permit #6616 to construct and operate the paint spray booth facility. Comments were received and this memo is intended to document and respond to those comments.

Meanwhile, on November 12, 2012 a Notice of Violation was issued to CCL by DDOE for violation of the odor control provision of 20 DCMR 903.1, identified during an inspection in response to an odor complaint received by AQD on October 11, 2012.



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AIR QUALITY DIVISION RESPONSES TO COMMENTS

Challenger Cab LLC – Paint Spray Booth

Comments on Draft Permit (No. 6616) to and Operate a Paint Spray Booth

Commenter	Comment	AQD Response
Helen Zhu: 8-24-12	<p>“Thanks for resending the copies of draft permit, memorandum and public notice to me. Here are my response and comments on the draft permit and the permit process</p> <ul style="list-style-type: none">- From our observation and encounter with them only, the autoshop didn't meet 2 of the 4 Emission requirements (II b and c), and II a is in doubt, can be decided upon inspection from inside)- they didn't meet the operational requirements III b, d(3), and compliance with other requirements under III can only be decided upon inspections from inside. Some of the requirements are very likely not met because the toxic air keeps coming into my house, my back yard and the surrounding air even after when Mr. Oyebade came for inspection and we were promised the autoshop would use a kind of filter when painting.- in the memorandum, it indicates that the 'source is an existing source under 40 CFR63, subpart HHHHHH', and 'compliance date is January 10, 2011. This statement is contradictory with the fact that the Stack was newly put up some time mid of last year; and this can be also testified by the building permit - the structure was filed on Feb 11 2011 under App ID SB1100031 and there are DDOE, Fire and Structure office Review records, and the building permit was issued on Feb 16, 2011	<p>The Air Quality Division (AQD) has reconsidered whether Challenger Cab LLC (CCL) should be considered an “existing source” pursuant to 40 CFR 63, Subpart HHHHHH and 40 CFR 63.11171 specifically. There appears to be disagreement as to whether or not the previous owners performed any auto body painting at the facility prior to the current owners taking ownership of the facility and installing a paint booth. Therefore, painting may or may not have occurred at the facility before September 17, 2007, the date separating existing and new sources in 40 CFR 63.11171(c)(1).</p> <p>It is unlikely, however, that the facility qualifies as an “existing source” because a full new paint booth was installed at the facility. If no painting occurred at the facility prior to September 17, 2007, this installation would make the facility a “new source”. Alternatively, if painting did occur at the facility prior to September 17, 2007, it is</p>

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<p>My questions are below and I would like to hear explanations on what lie behind your considerations regarding the permit processing?</p> <ul style="list-style-type: none">- Our complaints about the air quality started some time in March, 2012, and the Challenger Cab LLC has already been operating without a proper permit and submitted their application for the permit on May 7, 2012. It is clearly enough that a lot of the essential requirements on air quality control are not met. So what are the reasons that your office has started the process in issuing the permit?- As for the building permit issued on Feb 16,2011 for the new painting stack, what was your consideration for the prove of it?- how would you prevent pollutants from releasing into the air while so many residential houses surround if they fail in compliance for any reasons (because their paint stack is next to my back yard, I'm the first to 'taste the poisons' passively)? We believe we as neighbors don't have any reasons to take the consequences of their actions. Why should? <p>Apart from compliance of the emission requirements and operational requirements, the compliance with zoning issues we believe are the main contributor for the pollutants to be released directly into my back yard, coming into my house - they didn't meet the building requirement of 12 feet in the rear to its lot boundary.</p> <p>I believe a permit for any business operation should not be issued until all concerned requirements are met.</p> <p>I strongly request that</p> <ul style="list-style-type: none">- the auto shop stop painting immediately.	<p>highly probable that the affected source qualifies as “reconstructed” pursuant to 40 CFR 63.11171(d) and the definition of “reconstruction” in 40 CFR 63.2. As such, it would not be considered an “existing source” pursuant to 40 CFR 63.11171(e).</p> <p>However, with all of this in mind, since the compliance deadline is past for all types of sources (existing, new, and reconstructed), and the compliance requirements after the compliance deadline are the same for all sources after their respective deadlines, this issue has little effect on the permit requirements. In response to this comment, however, some slight modifications were made to the “Notification and Reporting Requirements” section of the permit to reflect slightly different requirements in this area for new or reconstructed sources. All of the relevant compliance requirements of the federal regulation have been included in the final permit to be issued.</p> <p>With regard to the assertions that the facility was not in compliance with several conditions of the proposed permit, the AQD anticipated that the physical changes authorized by the permit would facilitate compliance with the emission and operational requirements of the</p>
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	<p>- your office stop the process of issuing the permit - the auto shop relocate the paint booth to meet the requirement of 12 feet at rear to the lot boundary aside from meeting all other requirements to operate if a satisfactory solution to prevent toxic air and other pollutants releasing are submitted to all us neighbors for review if you still consider issuing the permit.</p> <p>I'll definitely sue the office for your actions out of Matter of Right If my voice has not been listened while the permit is issued!"</p>	<p>permit. The proposed permit was a combined construction and operation permit that would have allowed the facility to make modifications to the equipment to facilitate compliance with the requirements of the operating permit. However, to address concerns raised by the community, as well as issues observed by AQD inspectors, AQD is modifying its approach and will issue a separate permit-to-construct so that the facility can make modifications to the facility to come into compliance with the permit conditions. A permit-to-operate will only be issued after AQD has confirmed that the proper modifications to the facility have been made. At that time, a temporary permit-to-operate will be issued, during the duration of which AQD will perform enhanced monitoring of the facility to ensure that the modifications are ensuring compliance with permit and regulatory requirements. A full term operating permit will only be issued once the facility has demonstrated that it can operate in compliance with District and federal regulations and the terms of the operating permit.</p> <p>AQD is committed to ensuring that CCL abides by the terms of any final construction and operation permits issued to the facility.</p>
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<p>Glennis Mitchiner 8-15-12</p>	<p>“My name is Glennis Mitchiner and I reside in the 2800 block of Evarts St N.E.. I am aware of the potential awarding of a permit to the Challenger Cab LLC auto shop to operate a paint booth less than one block from my home. This is not something I could be satisfied with as there are children as well as elderly couples and pets that could be affected by the poor air quality this paint booth will emit into the area. I'm not sure if any of our complaints will hold off this permit as part of this community is commercial as well as residential, but our concerns should be well addressed as we do have legitimate complaints in regards to our air quality and the potential health hazards. Thank you for taking the time to hear me out Mr. Ours.”</p>	<p>The issue of business zoning is outside the jurisdiction of DDOE, such a matter should be referred to the Department of Consumer and Regulatory Affairs’ (DCRA) Office of the Zoning Administrator or the Office of Zoning.</p> <p>With regard to the concerns about air quality and health effects, DDOE requires compliance with District and federal air quality regulations and the revised permit will require, among other things, high levels of control of particulate matter overspray as well as the use of low VOC paints, in order to protect public health from the air quality effects of the painting operation.</p>
<p>Sarah Fraser 8-21-12</p>	<p>“I am writing to contest the permit application #6616 to Challenger Cab LLC to construct and operate an auto body paint booth. The paint spray booth is located at 2626 Evarts Street NE, Washington DC.</p> <p>My house is located at 2724 28th Street NE. Since March of 2012, we have been experiencing multiple releases of VOCs from auto body painting at the Challenger Cab LLC (CCLLC). CCLLC’s vent stack exhausts directly into our backyards. The improper release of VOCs into our environment has made me very dizzy, and my children (ages 1 and 5) have felt nauseated and dizzy. I cannot garden to raise food, nor can my children play outside during business hours weekdays or on Saturdays. The VOCs are also taken up by our HVAC system, which brings them into our house.</p> <p>CCLLC has met with me in the person of Mr. Asmorom George,</p>	<p>AQD has incorporated a requirement to increase the stack height to 23 feet, 4 inches from the inside floor slab into the revised permit. This solution was proposed by the applicant in response to a Notice of Violation from DDOE. The permit-to-construct for these modifications will be valid for a 60 day period.</p> <p>AQD inspectors will monitor the work and ensure that the modification is made properly. Subsequently, a temporary permit-to-operate will be issued, during which time, the facility will be subject to enhanced monitoring by DDOE inspectors to ensure that the</p>

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	<p>Operations Manager; Mr. Robert Oyebade of the DDOE’s Air Quality Division was able to attend as well. At that meeting, Mr. George stated that he had asked the company who had installed the vent stack to make it higher. Nothing has happened to change the stack height in the months since then. I have no confidence that CCLLC will take appropriate steps to mitigate the damage they are causing to the environment in my neighborhood and ask that the permit be denied.”</p>	<p>modifications have addressed any outstanding issues. Only after the facility has shown that their proposed remedy will correct any odor problems will AQD issue a full-term operating permit to the facility.</p>
<p>Ewan Plant 8-21-12</p>	<p>“I am writing to contest the permit application #6616 to Challenger Cab LLC to construct and operate an auto body paint booth. The paint spray booth is located at 2626 Evarts Street NE, Washington DC.</p> <p>During the fall of 2011 Challenger Cab LLC installed a vent stack so that they could operate an auto body paint booth. The vent stack was installed just a few feet from the property line. This was done while the adjacent property (2720 28th St.) was in foreclosure. To install the vent stack so close to the neighboring property the contractors spent several days removing a large Catalpa tree from the neighbor’s property. I presume this was done without a permit.</p> <p>My house is located at 2724 28th Street NE. The vent stack installed by Challenger Cab LLC is approximately 30 feet from our property and on several occasions this year I noticed the VOC fumes. The vent stack is only 5 feet high and, with the slope of the properties, does not vent above neighboring residential properties.</p> <p>Given the inadequate efforts by Challenger Cab LLC to establish and operate an auto body paint booth I request that the permit be denied.</p> <p>Also, as latex based auto paints are readily available, more easily applied [sic] and equivalently priced, I would ask that future permit</p>	<p>AQD has determined that the paint booth needs modifications from the originally installed equipment, as discussed in the above response. Challenger Cab is required as a condition of the short term permit-to-construct, to raise the stack above the current height.</p> <p>All auto body shops in the District are required to comply with District regulations to use paints containing low levels of volatile organic compounds (VOCs). See 20 DCMR 718, Mobile Equipment Repair and Refinishing. These requirements are contained in the proposed and final permit and will be enforced.</p> <p>AQD has no regulation in its purview to respond to the tree removal comment.</p>

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	applications to operate a auto boty [sic] paint booth be limited to paints without VOCs.”	
Helen Zhu and Simon Buckland 8-15-12	<p>Ms. Zhu and Mr. Buckland updated the previous comments submitted to AQD by Ms. Zhu on August 14, 2012 by email. Specifically, they identified concerns with the zoning of the facility. They also indicated that they believe that Challenger Cab did not start as a paint booth, and that it was a normal auto repair facility. They believe the paint came afterwards. Therefore, they not believe the facility is an existing source under the federal regulation. They also indicated that on August 16, 2012, although the facility used a 98% efficient filter, there was still no improvement in the ambient air quality/ because they smelled the paint from Challenger Cab.</p>	<p>AQD does not have jurisdiction over zoning allocation and approval. AQD is aware that Ms. Zhu brought her concerns to DCRA, which is the appropriate action to take in this instance.</p> <p>As previously noted, AQD identified one instance of an odor violation, following various site inspections of the facility. In response to a Notice of Violation from DDOE, the facility has proposed to modify their stack height as discussed above. Once the modification has been made pursuant to a permit-to-construct, to be issued promptly, AQD will issue a temporary permit-to-operate and perform enhanced monitoring of the facility for a period of time before issuance of a full term permit to operate to ensure that the equipment is meeting federal and District requirements.</p> <p>With respect to the status of the paint booth (existing or new), please refer to AQD’s first response above.</p>
Home owners Petition (signed)	<p>“We are home owners surrounding Challenger Cab LLC (described as the autoshop below). Early this year we noticed the paint smell coming into the air surrounding us, and from March 2012, we started to complain about it to US EPA and DDOE.</p>	<p>AQD reiterates that issues of zoning and land use are outside its jurisdiction and should be brought to the attention of DCRA or the Office of Zoning. AQD discussed zoning</p>

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<p>by 36 residents)</p> <p>8-15-12</p>	<p>Two issues we are facing:</p> <p>Issue #1 – the autoshop without a proper permit operates painting stack and releases VOCs (toxic substance) and other pollutants that drift into our yards and homes. Homeowners (including children and pets as well as adults and the elderly) are subject to VOC releases at varying times during business hours throughout and on Saturdays.</p> <p>Issue #2 – the auto shop’s zoning violation significantly contributes to our first concern, releasing contaminated air into our urban neighborhood and our houses.</p> <p>Through our observations and our encounters with autoshop, we found that the painting operation does not meet the conditions as in the propositions of the draft permit.</p> <ul style="list-style-type: none">- they didn’t meet 2 of the 4 emission requirements (II b and c), and II a is in doubt, can be decided upon inspection from inside)- they didn’t meet the operational requirements III b, d(3), and compliance with other requirements under III can only be decided upon inspections from inside. Some of the requirements are very likely not met because the toxic air keeps coming into our houses, our back yard and the surrounding air even after when Mr. Oyebade came for inspection and we were promised the autoshop would use a kind of 98% filter when painting.- they very likely didn’t meet the 11-824.4 requirements in Chapter 11 of the DCMR 1938, D. C. Official Code §§6-641.01 to 6-641.15 (2001), minimum 12 feet of rear yard.	<p>issues with DCRA prior to issuing the final permit and has no reason to believe that CCL is in violation of any zoning regulations.</p> <p>With respect to VOC releases, AQD is requiring that Challenger Cab operate an adequate filtration system for particulate matter, use paints with low VOC contents, as required by District regulation, and raise the stack height to ensure better dispersion of any VOC and odor releases from the operation.</p> <p>As stated above, the facility will be subject to enhanced monitoring by DDOE inspectors for a period of time after initial operating permit issuance, before a full term operating permit is issued to ensure that these actions will bring the facility fully into compliance.</p>
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	<p>We strongly request that:</p> <ul style="list-style-type: none">- the auto shop stop painting immediately without a proper permit.- your office stop the process of issuing the permit- the auto shop relocate the paint booth to meet the requirements of 12 feet at rear to the lot boundary aside from meeting all other requirements to operate if satisfactory solutions to prevent toxic air and other pollutants from releasing are submitted for all us neighbors to review if you still consider issuing the permit.”	
Roseann Schwartz 8-10-12	<p>“To Whom it may concern:</p> <p>I would like to voice my stringent <u>opposition</u> to the issuance of the permit #6616 to Challenger Cab LLC to construct and operate an auto body paint booth at 2626 Evarts Street NE. This is a densely populated residential neighborhood and the operation of a paint booth would severely negatively impact the health of DC residents. The noxious fumes already negatively impact the neighborhood and our health. Please deny the permit to Challenger Cab.”</p>	<p>AQD is committed to ensuring that any permit issued to Challenger Cab will have adequate provisions that safeguard the health and well-being of DC residents. AQD is finalizing a construction permit that will allow Challenger Cab to make modifications to the equipment to correct identified deficiencies of the paint spray booth.</p> <p>As stated above, the facility will be subject to enhanced monitoring by DDOE inspectors for a period of time after initial operating permit issuance, before a full term operating permit is issued to ensure that these actions bring the facility fully into compliance.</p>

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CONCLUSIONS

The permit-to-construct should be issued promptly with the modifications discussed in this comment reconciliation memorandum. The facility should also be subject to enhanced monitoring during construction and following issuance of any subsequent operating permit.

JCN/SSO