

Final-Form Rulemaking
Adhesives, Sealants, Primers and Solvents
25 Pa. Code §§ 121.1 and 129.77 and
Chapter 130, Subchapter D

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Commonwealth of Pennsylvania



Final-form Rulemaking: Adhesives, Sealants, Primers and Solvents

OVERVIEW

- Volatile organic compounds (VOCs) are precursors to the formation of ground-level ozone. Exposure to ground-level ozone is a serious threat to public health and the environment.
- The final-form rulemaking is based the 2006 Ozone Transport Commission Adhesives and Sealants Model Rule for the use and application of 37 categories of products that are currently unregulated in this Commonwealth, including:
 - Adhesives, sealants, adhesive primers and sealant primers.
 - Adhesive or sealant products applied to particular substrates.
 - Surface preparation solvents and clean-up solvents.
- This regional strategy should enable manufacturers to produce complying products for the entire Ozone Transport Region rather than having to deal with a potential “patchwork” of programs across several neighboring states.
- The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking; compliance with the regulation is required by January 1, 2012.



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OVERVIEW

The final-form rulemaking:

- Amends § 121.1 to add new terms and definitions and revise the definitions of existing terms to improve clarity or explain new product categories.
- Amends § 129.51(a) to add § 129.77 to the list of sections for which compliance may be achieved by alternative methods.
- Adds § 129.77 to regulate the owner and operator of a facility or stationary source that uses or applies at the facility, on or after January 1, 2012, a regulated adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product.
- Adds Subchapter D to Chapter 130. The requirements of Subchapter D:
 - Apply to a person who, on or after January 1, 2012, sells, supplies, offers for sale or manufactures for sale a regulated product for industrial or commercial use or application in this Commonwealth.
 - Also apply to a person who uses or applies, for compensation, a regulated product in this Commonwealth.



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SOURCES AFFECTED

- The final-form rulemaking will affect sources under permit by the Department (point sources) as well as operations not subject to permits by the Department (area sources). About 96% of VOC emissions from the industrial and commercial use or application of affected adhesive, sealant and primer products in the OTC states fall into the “area source” category.
- There are approximately 20 existing industrial facilities in this Commonwealth that could potentially be affected by § 129.77 of the final-form rulemaking. These affected facilities have permits that establish limits for the use of products regulated under this rulemaking.
- Industrial users and applicators of the regulated product categories may choose either to use complying products or control emissions from noncomplying products with the use of add-on air pollution control devices or both.
- The requirements of Chapter 130, Subchapter D, will affect sellers, suppliers, manufacturers, users and applicators of regulated products. The total number of affected sellers, suppliers, manufacturers, users and applicators of regulated products is unknown. Commercial users and applicators that are not currently regulated will most likely use complying products and will not be disadvantaged by the final-form rulemaking.



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COMPLIANCE COSTS AND BENEFITS

- Most affected entities will use compliant products, not add-on controls. Cost-effectiveness of using compliant products could range from a savings of \$1,060 per ton to a cost of \$2,320 per ton of VOC reduced.
- Should the use of add-on control equipment be necessary, CARB estimated a cost-effectiveness of \$9,000 to \$110,000 per ton of VOC reduced.
- The compliance cost should be less in the Ozone Transport Region (OTR) because some of the one-time research and development costs have already been incurred to meet similar requirements in California. This rulemaking is already being implemented in the following OTR States: CT, DE, ME, MD, NJ, NY, RI and VA.
- The VOC content limits are expected to reduce emissions by approximately 21.8 tons of VOC per summer day or 7,957 tons per year statewide.



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RULEMAKING TIMETABLE

- The Environmental Quality Board (Board) approved the proposed rulemaking on December 16, 2008.
- On April 4, 2009, the proposed rulemaking was published in the *Pennsylvania Bulletin* with a 66-day public comment period. (39 Pa.B. 1636)
- Three public hearings were held on May 4, 7 and 8, 2009, in Pittsburgh, Norristown and Harrisburg, PA, respectively.
- The written comment period closed on June 8, 2009.
- The Board received comments from 12 commentators plus the Independent Regulatory Review Commission.
- Comments were submitted on certain definitions; implementation of the single-ply roof membrane requirements; consistency of the regulation with the OTC Model Rule; sell-through, use-through and date-coding provisions; the burden of compliance; the VOC test methodology; written and oral contract requirements; and records and recordkeeping requirements.

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CHANGES FROM PROPOSED TO FINAL-FORM RULEMAKING

- The final-form compliance date for § 129.77 and Chapter 130, Subchapter D, has been changed from April 15, 2010, to January 1, 2012.
- Subsection 129.77(g) specifies the requirements for an owner or operator that wants to use add-on air pollution control equipment to comply.
 - Requirements for recording and maintaining daily records of certain information for add-on air pollution control devices are included in the final-form rulemaking.
 - An owner or operator of a facility that elects to comply through the use of add-on air pollution control equipment may request an extension to the compliance date.
- The proposed phase-in compliance schedule for the use and application of single-ply roof membrane materials is no longer necessary; proposed §§ 129.77(m) and 130.703(c) are deleted at final because of the January 1, 2012, compliance date.



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CHANGES FROM PROPOSED TO FINAL-FORM RULEMAKING

- Subsections 129.77(p) and 130.704(c) are amended at final to specify that the records shall be made available to the Department upon receipt of a written request.
- Subsection 129.77(s) is added and subsection 130.705(a) is revised to add a test method for determining the volatile matter and solids content of reactive adhesives.
- New § 130.707 establishes requirements for product dating to allow for sell-through of noncomplying product after the compliance date.
- New § 130.708 allows for the “sell-through” of noncomplying product after the compliance date. Sell-through is made possible by product dating.



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ADVISORY COMMITTEE REVIEW

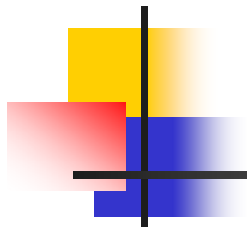
- On February 18, 2010, the Air Quality Technical Advisory Committee (AQTAC) voted 12-0 to concur with the Department's recommendation to present the final-form amendments to the Board for consideration as a final-form rulemaking.
- On December 16, 2009, the Department presented the final-form rulemaking to the Citizens Advisory Council; the Council concurred with the Department's recommendation to proceed to the Board.
- The Department also consulted with the Small Business Compliance Advisory Committee on July 28, 2010; this Committee voted 4-1 to concur with the Department's recommendation to present the final-form amendments to the Board for consideration as a final-form rulemaking.



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FINAL-FORM RULEMAKING RECOMMENDATIONS

- The final-form rulemaking is reasonably necessary to attain and maintain the health- and welfare-based 8-hour ground-level ozone NAAQS in this Commonwealth.
- The Department recommends that the Board approve the final-form rulemaking for adhesives, sealants, primers and solvents.
- The Department will submit the final-form rulemaking, if adopted, to the EPA for approval as a revision to the State Implementation Plan.
- Your consideration of this final-form rulemaking is greatly appreciated.



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



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