

Executive Summary

Amendments to 25 Pa. Code Chapters 121, 129 and 130

Adhesives, Sealants, Primers and Solvents

Purpose of the Final-form Rulemaking

The Department of Environmental Protection recommends final-form amendments to Chapters 121, 129 and 130 (relating to general provisions; standards for sources; and standards for products) for consideration by the Environmental Quality Board (Board). The final-form rulemaking adopts the requirements and volatile organic compound (VOC) emission limits of 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, sealant primers, adhesive or sealant products applied to particular substrates and surface preparation solvents and clean-up solvents. VOCs are precursors to the formation of ground-level ozone.

There are no Federal limits for the adhesive, sealant and primer products that are included in the final-form rulemaking. These final-form amendments will provide approximately 7,957 tons per year of additional VOC emission reductions in Pennsylvania. The final-form rulemaking will assist in reducing VOC emissions locally as well as reducing the transport of VOC emissions and ground-level ozone to downwind states. Adoption of VOC emission requirements for the use and application of adhesive, sealant, primer and solvent products is part of the Commonwealth's strategy, in concert with other Ozone Transport Region (OTR) jurisdictions, to further reduce the transport of VOC ozone precursors and ground-level ozone throughout the OTR in order to attain and maintain the 8-hour ozone National Ambient Air Quality Standard. The final-form rulemaking, if adopted by the Board, will be submitted to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan.

Summary of Final-form Rulemaking

Many of the requirements of this rulemaking are the same for both the owners and operators of facilities subject to final-form new § 129.77 (relating to control of emissions from the use or application of adhesives, sealants, primers and solvents) and for persons subject to final-form new Chapter 130, Subchapter D (relating to adhesives, sealants, primers and solvents). The summary below combines the duplicative requirements where possible.

The final-form rulemaking amends the definitions in § 121.1 (relating to definitions) to add 56 new terms and definitions and revise the definitions of nine existing terms to improve clarity or explain new product categories.

The final-form rulemaking amends § 129.51(a) (relating to general) to add § 129.77 to the list of sections for which compliance may be achieved by alternative methods.

The final-form compliance date for § 129.77 and Chapter 130, Subchapter D, has been revised to January 1, 2012, from the proposed date of April 15, 2010.

Final-form § 129.77(a) establishes that § 129.77 applies to the owner or operator of a facility that uses or applies, on or after January 1, 2012, products subject to the requirements of § 129.77, including adhesive, sealant, adhesive primer or sealant primer products, adhesive or sealant products applied to particular substrates and surface preparation solvent or cleanup solvent products. Final-form § 130.701 (relating to applicability) establishes that, except as provided in § 130.703 (relating to exemptions and exceptions), this subchapter applies to a person who, on or after January 1, 2012, sells, supplies, offers for sale or manufactures for sale for use or application in this Commonwealth, or uses or applies for compensation in this Commonwealth, an adhesive, sealant, adhesive primer or sealant primer subject to the requirements of this subchapter.

Final-form §§ 129.77(b)-(f), (h)-(j) and 130.702 (relating to emission standards) specify requirements for the maximum VOC content, use and application of a regulated product.

Final-form §§ 129.77, Table V, and 130.702, Table I, specify the VOC content limits for the regulated products, as applied.

Final-form §§ 129.77, Table VI and 130.703, Table II, specify the VOC content limits for adhesive and sealant products applied to particular substrates, as applied.

Final-form § 129.77(g) addresses the requirements for an owner or operator that wants to use add-on air pollution control equipment to comply. This subsection is revised at final to add requirements for recording and maintaining daily records of certain information for add-on air pollution control devices. This subsection is also revised to provide an owner or operator of a facility that intends to comply with § 129.77 through the use of add-on air pollution control equipment with the option to request an extension to the compliance date.

Final-form §§ 129.77(k)-(n) and 130.703 provide for certain exemptions. Proposed §§ 129.77(m) and 130.703(c) are deleted at final to remove the proposed phased-in compliance schedule for the use and application of single-ply roof membrane materials. This exemption is deleted because the change in compliance date to January 1, 2012, made this exemption unnecessary.

Final-form §§ 129.77(o)-(q) and 130.704 (relating to recordkeeping requirements) establish recordkeeping and reporting requirements. 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.

Final-form §§ 129.77(r)-(ff) and 130.705 (relating to compliance procedures and test methods) specify the methods for determining the VOC, solids and exempt organic compound content for the regulated products. Subsection 129.77(s) is added and 130.705(a) is revised at final to add a test method for determining the volatile matter and solids content of reactive adhesives.

Final-form § 130.706 (relating to container labeling) specifies certain information that must be displayed on the product container or label.

Final-form new § 130.707 (relating to product dating) establishes requirements for product dating.

Final-form new § 130.708 (relating to sell-through of products) establishes requirements for the sell-through of non-complying product after the compliance date.

Affected Parties

The final-form amendments will affect manufacturers, suppliers, sellers, users and applicators of certain adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent products. The final-form amendments may slightly increase costs to purchasers of these products, but these costs are expected to be negligible.

Advisory Groups

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) about the final-form rulemaking on November 18, 2009, and February 18, 2010. The AQTAC unanimously concurred with the Department's recommendation to seek Board approval of the final-form rulemaking. The Department also consulted with the Citizens Advisory Council on December 16, 2009. The CAC recommended that the final-form amendments be moved to the Board. The Department consulted with the Small Business Compliance Advisory Committee on July 28, 2010.

Public Comments and Board Hearings

The Board approved publication of the proposed rulemaking for public comment at its meeting of December 16, 2008. The proposed rulemaking was published in the *Pennsylvania Bulletin* on April 4, 2009, 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 public comment period closed on June 8, 2009. The Board received public comments from 12 commentators. The Independent Regulatory Review Commission (IRRC) also provided comments.