MORE NORTHEAST STATES ADOPT VOC LIMITS

Maine, New Jersey, Virginia and Washington D.C Are the Latest States to Limit the Volatile Organic Compound Content of Various Products

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New Jersey and Washington D.C. are the latest localities to adopt new regulations aimed at limiting the volatile organic compound (VOC) content of various institutional and consumer cleaning products, while New Jersey, Virginia and Washington D.C. have become the latest localities to finalize VOC content limits for architectural coatings. In addition, Maine has proposed new VOC limits for consumer and institutional products and is expected to finalize the limits in the near future.

VOC Regulations: Consumer and Institutional Products

In effect, the new regulations, adopted in New Jersey and Washington D.C. and proposed in Maine, provide specific VOC content limits for various categories of products. Under the regulations, companies are prohibited from selling, supplying, offering for sale, or manufacturing a regulated product that contains VOCs in excess of the limits specified in the regulations. The new VOC limits become effective on January 1, 2005, although products regulated by EPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) are not required to be in compliance until January 1, 2006. Further, non-compliant products that were manufactured prior to the effective date may continue to be sold after January 1, 2005 as long as they are labeled with the date of manufacture or a date-code.

The new consumer and institutional product limits are virtually identical to those previously adopted in Delaware, Maryland, New York and Pennsylvania. All seven state VOC regulations are modeled after the Ozone Transport Commission's "Model Rule for Consumer Products," which itself was largely modeled after the infamous California "Consumer Products Rule."

Like in California, the new regulations will be referred to as the VOC Consumer Products Rules, although it is important to note that the limits apply to products sold to both consumer and institutional/industrial customers. Further, like in California, the new rulemakings regulate numerous categories of products that are not currently regulated under the federal EPA VOC regulations and often contain limits that are much lower than their federal EPA counterparts.

There are approximately 45 product categories covered by the new regulations. The regulated product categories include:

- Air Fresheners
- Automotive Brake Cleaners
- Bathroom and Tile Cleaners
- Carpet and Upholstery Cleaners
- Engine Degreasers
- General Purpose Cleaners
- General Purpose Degreasers
- Glass Cleaners
- Heavy Duty Hand Cleaners and Soap
• Insecticides
• Metal Polishes and Cleansers
• Over Cleaners
• Spot Removers

Furthermore, consistent with the California Rule, the new regulations require that products be labeled with the date of manufacture or a date-code (as well as containing additional labeling requirements for aerosol adhesives), allow companies to take advantage of an innovative product exemption or an alternative control plan procedure, and allow for variances under certain circumstances.

Finally, although the different state laws are extremely similar, there are some subtle differences that must be recognized. The use of chlorinated solvents in aerosol adhesives is prohibited in all states except Delaware and Pennsylvania and the New Jersey state law includes a notable registration requirement and a detailed civil administrative penalty schedule.

A complete list of the product categories subject to the VOC consumer product regulations and the specific VOC content limits that have been established is attached for your convenience. This list contains the new limits adopted in New Jersey and Washington D.C., the proposed limits in Maine and the previously established limits in Delaware, California, Maryland, New York and Pennsylvania, as well as the limits promulgated on the federal level by EPA.

**VOC Regulations: Architectural Coatings**

The new architectural coating regulations, adopted in New Jersey, Virginia and Washington D.C., specify volatile organic compound limits for various categories of architectural coatings and, fortunately, the new limits mirror previously adopted limits in Delaware, Maryland, New York and Pennsylvania. Of course, California's local air management quality districts also enforce VOC limits, based on the state's "Suggested Control Measure" (SCM).

Besides establishing specific VOC content limits, the architectural coatings regulations also mandate that regulated products comply with various labeling requirements. Specifically, regulated products must be labeled with (1) the date of manufacture or a date-code; (2) the manufacturer's thinning recommendation; (3) the maximum allowable or actual VOC content of the product; and (4) and "industrial or professional use" statement, where required.

**California: Consumer Products Rule -- Recent Developments**

As you are likely aware, the California Air Resources Board (ARB) has proposed new VOC standards for 19 categories of consumer and institutional products. A number of the proposed VOC limits are extremely troublesome and promise to have a significant effect on the formulation of numerous products in the industry. ISSA has worked closely with ARB in an attempt to help the Board understand the consequences of the proposed limits, but, unfortunately, the new limits are expected to be officially adopted soon.

In addition to the new limits, ARB's proposed regulation would completely ban the use of para-dichlorobenzene (PDCB) in toilet/urinal care products and solid air fresheners and would prohibit the use of three toxic air contaminants - methylene chloride, perchloroethylene and trichloroethylene - in seven different product categories, including adhesive removers, general purpose degreasers, electrical cleaners, electronic cleaners, and graffiti removers.