



Advisory

to: CONSUMER PRODUCT
MANUFACTURERS, DISTRIBUTORS,
and RETAILERS

Number 94

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CONSUMER PRODUCT DATE CODING

This advisory is to remind the consumer product industry of their regulatory obligations in California. Manufacturers with products regulated by the Antiperspirants/Deodorants and consumer product articles of Subchapter 8.5, California Code of Regulations (CCR), Title 17 are required to display the date of production or a code indicating this date on their product or package. If the alternative code-dating is used, a report explaining the code must be filed with the Air Resources Board (ARB). The Title 17 text describing these requirements and their deadline criteria is reproduced below.

The Consumer Products Standards of Title 17, CCR, Subchapter 8.5, Article 2, Section 94509 (c) states:

Notwithstanding the provisions of Section 94509 (a), a consumer product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale for up to eighteen months after each of the specified effective dates. This subsection (c) does not apply to any product with a specified effective date of 1/1/93 that is sold, supplied, or offered for sale in the Bay Area Air Quality Management District. This subsection (c) also does not apply to any consumer product which does not display on the product container or package the date on which the product was manufactured, or a code indicating such date.

The Consumer Products administrative requirements of Title 17, CCR, Subchapter 8.5, Article 2, Section 94512 are in part:

(b) **Code-Dating.** Each manufacturer of a consumers product subject to section 94509 (a) or 94509 (h) shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date. This date or code shall be displayed on each consumer product container or package no later than twelve months prior to the effective date of the applicable standard specified in section 94509. The requirements of this provision shall not apply to personal fragrance products of 2 milliliters or less, which are offered to consumers free of charge for the purpose of sampling the product.

(c) If a manufacturer uses a code date indicating the date of manufacture, for any consumer product subject to section 94509 (a) or 94509 (h) an explanation of the code must be filed with the Executive Officer of the ARB no latter than twelve months prior to the effective date of the applicable standard specified in section 94509.

The Antiperspirants and Deodorants Standards of Title 17, CCR, Subchapter 8.5, Article 1, Section 94502 (f) states:

Notwithstanding the provisions of Section 94502 (a), an antiperspirant or deodorant product manufactured prior to each of the effective dates specified for that product in the Table of Standards may be sold, supplied, or offered for sale for up to eighteen months after each of the specified effective dates. In addition, an aerosol antiperspirant or deodorant product manufactured prior to any compliance date specified by the Executive Officer pursuant to section 94502 (e) (2) may be sold, supplied, or offered for sale up to eighteen months after the specified compliance date. This subsection (f) does not apply to any antiperspirant or deodorant product which does not display on the product container or package the date on which the product was manufactured, or a code indicating such date.

The Antiperspirants and Deodorants administrative requirements of Title 17, CCR, Subchapter 8.5, Article 1, Section 94504 are in part:

(a) Labeling. No later than three months after the effective date of this article, each manufacturer of an antiperspirant or deodorant subject to this article shall display on each container of antiperspirant or deodorant, the date on which the product was manufactured, or a code indicating such date. If a manufacturer uses a code indicating the date of manufacture, an explanation of the code must be filed with the Executive Officer in advance of the code's use by the manufacturer.

The following categories of products must be dated or have code date reports:

Aerosol Cooking Sprays	Glass Cleaners*
Air Fresheners*	Hair Mousses
Antiperspirants and Deodorants	Hair Styling Gels
Automotive Brake Cleaners	Hairsprays*
Automotive Windshield Washer Fluids*	Household Adhesives
Bathroom and Tile Cleaners	Insecticides
Carburetor-Choke Cleaners	Insect Repellents
Charcoal Lighter Material	Laundry Prewashes
Dusting Aids	Laundry Starch Products
Engine Degreasers*	Nail Polish Removers
Fabric Protectants	Oven Cleaners*
Floor Polishes and Waxes	Personal Fragrance Products
Furniture Maintenance Products	Shaving Creams
General Purpose Products	

All consumer products must have the date or the date code that was reported to the ARB on them one year prior to the effective date of the product category standard. For products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. Section 136-136y) all effective dates are one year later than the non-FIFRA products in the same category. If a product is not dated or coded, it may be in violation of both VOC standards and administrative requirements.

There are 18 month sell-through periods for products manufactured before their effective dates. In order to use the sell-through period, manufacturers are required to display the date of production or a code date indicating this date on each consumer product or package. There is no sell-through in the Bay Area Air Quality Management District (BAAQMD) for the six consumer product categories effective January 6, 1993 and marked with an * above.

As the regulations are now written, new consumer product standards and date/code-dating requirements will occur periodically until 2000. The prospect of having a non-complying product on the shelf in California (especially if that product is not dated) needs to be watched carefully. Compliance is your responsibility. This is even more critical given recent changes in the penalties structure of the California Health and Safety Code in Sections 39674, 42400-42400.3, and 42402-42402.3 increasing the dollar amounts of civil and criminal liabilities and adding a strict liability clause.

The following is a list of frequently asked questions and the ARB's reply.

Q: If I am manufacturing a reformulated product to comply with the new California VOC standard do I need to date my product?

A: Yes. The date/code-dating requirements apply to all consumer products.

Q: May I use the batch codes printed on the container for the purpose of code-dating products?

A: If the batch code is for a specific day, month, and year we will accept a report listing the batch code key for code-dating purposes.

Q: If I have not submitted code-dating information to the ARB in the one year prior to the effective date of the standard deadline will it be accepted late?

A: If the report is not submitted one year prior to the effective date of the applicable standard you are clearly in violation of the regulation. We will accept late reports but consider this a less serious offence than discovering a non-dated/non-code reported product on the shelf.

Q: Who is responsible for product code dating compliance?

A: The party named on the label is responsible for product dating. However, if a product is not dated it does not qualify for the sell-through provision and must meet the applicable VOC standards. Section 94509 (a) of the Consumer Products regulation states: "... no person shall sell, supply, offer for sell, or manufacture for sale in California any consumer product which, at the time of sale or manufacture, contains volatile organic compounds in excess of the limits specified ..." This section places responsibility on the party named on the label, but if the manufacturer has taken "reasonable prudent precautions to assure that the consumer product is not distributed to California" as per Title 17, CCR, Subchapter 8.5, Article 2, Section 94510, compliance obligations may apply to distributors, and or retailers.

Q: May my distributor or a retailer label a product or package with a date or date code?

A: No. Not only should the date or date-code be a permanent part of the product container or package created at the time of production, but a distributor or retailer cannot determine accurate production dates.

Q: Will the information we give the ARB be kept confidential?

A: A request for confidential status should accompany information reported to the ARB if you would like this distinction.

Q: Should FIFRA products have a date or code date?

A: CCR, Title 17, Section 94510 (e) states that the code dating administrative requirements do not apply to FIFRA products. However, if a FIFRA product is using the sell-through period it must comply with the date/code-dating obligation.

Q: May I report sequential batch codes as code keys?

A: Sequential batch codes satisfy the date code key requirements if we can determine the month and year of manufacture using the key while looking at the code on the product package or container and you are able to give us the exact day of manufacture for all batch numbers.

The following manufacturers/contract fillers have submitted date code key reports:

Aerosol Services Company Inc.	CD-2 Products	Compar
Aerosol Systems Inc.	CRC Industries Inc.	Conair Corp.
Alberto Culver	California Concept Corporation	Conair Packaging Company
Alemite CD-2 Company	Calvin Klein	Contentinential Hair Products
Alexandra De Markoff Limited	Carme	Cook
Almay Inc.	Carter Products	Cosmair Inc.
Alleghany Pharmacal Corporation	Carroll Company	Creative Products of Rossville Inc.
Amway	Castrol	Cumberland-Swan Inc.
Armstrong	Chanel	Cyclo Industries Inc.
Atlas	Chemisico	Dana Perfumes Corp.
Atochem North America	Chem-pak Inc.	Davis, E. Inc.
Attractions Inc.	Chesebrough Ponds USA Co.	Davis and Gilbert
Aura	Christian Doir Products	Demert and Doughtry Inc.
Avon	Charles Revson Inc.	Design Master Color Tool Inc.
Aware Products Company	Charles of the Ritz Group Ltd.	Dep Corporation
Barcolene Pennchamp	Chuckles Inc.	Designers Research Labs
Bell Chemical Company	Claire	Dial Company
Block Drug Company	Clorox	Del Chemical
Bristol Myers Products	Colonia	Dow Brands
Buckeye International Inc.	Command Performances	Drackett

E.T. Brown Drug Co.
 Ecara International
 Eagle One
 Elizabeth Arden
 Estee Lauder Inc.
 Fel-Pro Chemical Products L.P.
 Fantistic Sam's
 First Brands Corporation
 Flare
 Framesi USA Inc.
 Formula Corporation
 Focus 21 International
 Focus 21 International
 Fuller, H.B. Company
 Gelle' International Ltd.
 Georgette Klinger Inc.
 Gillette Medical Evaluation Lab.
 Graham Webb
 Griffin Bros. Inc.
 H & H Laboratories
 HOC Home Oil Company
 Hair Specifics
 Hako Group
 Hayashi for Hair Inc.
 Helene Curtis
 Hoffman Beauty Supply
 Henkel KGaA
 Houbigant
 Hydrosol Inc.
 ISO
 Image Laboratories
 Institute of Trichology
 J.I. Holcomb Mfg. Company
 Jheri Redding Products Company
 John Paul Mitchell Systems
 K Mart
 Kenra Laboratories
 Kent Industries
 Key Distributors
 Knight Oil Company
 L and F
 L'Anza Research International
 Loctite Corporation

Liz Claborne Cosmetics
 Luster Products Inc.
 3M Personal Care Products Lab.
 MQ
 Malco Products Inc.
 Mary Kay Cosmetics
 Matrix Essentials Inc.
 Maxim's
 MEM Company Inc.
 Mennen Company
 Micro-gen Equipment Corporation
 Milles Laboratories
 Mobile Carburetor & Choke Cleaner
 Multi Clean
 Munichem
 National Brands
 Naturelle Inc.
 Neutrogena Corp.
 Nexxus Products Company
 Northern Labs Inc.
 Noxell
 Nu Skin International
 Old World Automotive Products
 Orange Mate
 Pantresse
 Parfumes Parquet
 Pennzoil Products Company
 Pfitzer
 Pierre Fabre
 Platex Family Products
 Premier Autoware
 Premier Industrial Products Corp.
 Prestige Fragrances Ltd.
 Procter and Gamble
 Professional Products Division
 Quaker State
 Qualis Inc.
 Quintessence
 Radiator Specialty
 Redken Laboratories
 Redmond Products
 Regis
 Revlon

Realistic Professional Products
 Rickett & Coleman
 Rite Off
 Riva International
 Roberts
 Rotanium
 Roux Laboratories Inc.
 Rusk
 SC Johnson & Son
 Safeway
 Scruples Professional Salon Products
 Scotts Liquid Gold
 Sears
 Sebastian International
 Sebring Products
 Seymour of Sycamore Inc.
 Shear Talent
 Shirlo Inc.
 Shiseldo
 Smith Kline Beecham
 Specialty Beauty Products
 Sprayon Products
 St. Ives Laboratories
 Stainsafe
 Stanhome Inc.
 Stanhome Industrial Division Products
 Stanley Home Products
 Sunrise Industries/Environmental Scientific
 Surco Products Inc.
 Target
 Thymes Ltd.
 Trak
 Trigon Corporation
 Tru-Test Manufacturing Company
 Tsumura International
 Unocal
 Vital Care North America
 Wickes
 Williamsville Products
 Woolworth's, F.W.
 Wella USA
 Whink
 Zotos International

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