

Regulatory Analysis Form		This space for use by IRRC
<p>(1) Agency</p> <p>Environmental Protection</p>		<p>RECEIVED</p> <p>2001 OCT 26 AM 11:21</p> <p>IRRC REVIEW COMMISSION</p> <p>IRRC Number: 2228</p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>7-370</p>		
<p>(3) Short Title</p> <p>Consumer Products</p>		
<p>(4) PA Code Cite</p> <p>25 PA Code Chapter 130</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Sharon Trostle, 783-8727</p> <p>Secondary Contact: Barbara Sexton, 783-8727</p>	
<p>(6) Type of Rulemaking (Check One)</p> <p><input checked="" type="checkbox"/> Proposed Rulemaking</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final Order, Proposed Rulemaking Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The proposed rulemaking adopts volatile organic compound (VOC) standards for approximately 80 consumer products ranging from adhesives to windshield washer solution. Definitions of terms are included in the proposal.</p> <p>The proposed regulation provides for solvent content averaging and for innovative product waivers.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>This action is being taken under the authority of Section 5 of the Air Pollution Control Act (35 P.S § 4005.)</p>		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The proposed regulation is not specifically mandated by law, court order or regulation.

The proposed regulation is part of the Commonwealth's efforts, in conjunction with the other states in the Ozone Transport Region, to achieve additional reductions of volatile organic compound emissions. These reductions are necessary for continued progress toward attainment and maintenance of the health-related ozone standard in Pennsylvania.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Large areas of the Commonwealth continue to exceed the health-based standard for ground-level ozone. Additional reductions of volatile organic compounds are necessary to continue to move toward attainment in those areas where the ozone levels exceed the National Ambient Air Quality Standard (NAAQS). This regulation will help move the Commonwealth toward attainment of the health-based standard for ozone, which is in the best interest of the public.

The proposed requirements will also reduce individual exposure to a variety of volatile solvents, hazardous air pollutants (HAPs), and chemicals commonly found in consumer products.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

When ground-level ozone is present in concentrations in excess of the federal health-based standard, public health is adversely affected. The federal Environmental Protection Agency has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly, and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activity that involves physical exertion. Though such symptoms are often temporary, repeated exposure could result in permanent lung damage.

The implementation of additional measures to address the ozone air quality nonattainment in Pennsylvania is necessary to protect the public health.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The proposed regulations will result in improved air quality for all citizens of the Commonwealth by reducing ozone precursor emissions. The reduction in ozone precursor emissions will result in improved ozone air quality throughout Pennsylvania.

The proposed regulations will result in reduced levels of hazardous air pollutants throughout Pennsylvania. In addition, the proposed regulation will reduce citizen exposure to a variety of solvents, including HAPs that are used in a variety of consumer products.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

The proposed revisions will require that manufacturers modify products to meet the proposed limits. Through the development of the proposed regulation, Pennsylvania and the other OTC jurisdictions have worked closely with the manufacturers to assure that the industry is aware of the proposal. The major trade associations have supported the proposed rulemaking.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Anyone who manufactures, supplies, or sells consumer products after January 1, 2005 will be required to comply with the requirements.

The number of manufacturers is unknown.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The member states of the Ozone Transport Commission have met over the past 18 months with representatives of the national consumer product manufacturers and related industries. In general, the industry supports the proposed regulation. Among those included were S.C. Johnson, The Cosmetics, Toiletries and Fragrances Association and Consumer Product Specialties Association.

The production of the low VOC consumer products will require some new product development, but much of this work has already been undertaken because of similar regulatory efforts in California.

The proposed revisions were discussed with the Air Quality Technical Advisory Committee at the May 24, 2001 meeting. In addition, the revisions have been discussed with the Small Business Compliance Advisory Committee.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

It is estimated that the reduction of VOC content of the affected consumer products will cost approximately \$800 per ton of emissions reduced. On average, it is estimated that the reductions will be approximately 1 pound per person per year. Annual emission reductions are estimated to be approximately 6,000 tons. Total cost to the users is estimated to be approximately \$4.8 million. This is an average of \$0.30 – 0.40 per resident per year.

The proposed regulation includes compliance and averaging options that will allow producers to formulate products in the most efficient and effective manner.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The final regulations are expected to impose no additional direct costs on local governments.

If, however, a local government purchases affected consumer products, additional costs commensurate with those for the private sector may be experienced.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

To the extent that state government purchases consumer products, cost will be commensurate with those the private sector will experience.

Nominal costs will be experienced by the Commonwealth to assist in providing training, outreach and assistance to the regulated community. No new staff resources are anticipated to be necessary.

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(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0.00	0.00	0.00	0.00	0.00	0.00
Local Government	0.00	0.00	0.00	0.00	0.00	0.00
State Government	0.00	0.00	0.00	0.00	0.00	0.00
Total Savings	0.00	0.00	0.00	0.00	0.00	0.00
COSTS:						
Regulated Community	0.00	0.00	0.00	0.00	4.8M	4.8M
Local Government	0.00	0.00	0.00	0.00	0.00	0.00
State Government	0.00	0.00	0.00	0.00	0.00	0.00
Total Costs	0.00	0.00	0.00	0.00	4.8M	4.8M
REVENUE LOSSES:						
Regulated Community	0.00	0.00	0.00	0.00	0.00	0.00
Local Government	0.00	0.00	0.00	0.00	0.00	0.00
State Government	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue Losses	0.00	0.00	0.00	0.00	0.00	0.00

(20a) Explain how the cost estimates listed above were derived.

The costs are based on data developed by the California Air Resources Board (CARB) that indicate for the similar program in California, emission reductions costs are approximately \$800 per ton. E.H. Pechan indicated in its report "Control Measure Development Support Analysis of Ozone Transport Commission Model Rules" indicates that the consumer product regulation will reduce emissions approximately 1 pound per person per year. Assuming there are approximately 12 million people in Pennsylvania, emission reductions of approximately 6,000 tons per year are expected. The total cost is then calculated to be approximately \$4.8 million per year. This cost approximates \$0.30 – 0.40 per consumer in Pennsylvania annually.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Air Quality	28,000,000	28,000,000	26,000,000	24,000,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The final regulation may result in estimated annual cost of approximately \$4.8 million.

These emission reductions are necessary for Pennsylvania to attain and maintain the health-based ozone air quality standard.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Non-regulatory options are not available.

This final rulemaking is part of the Commonwealth's efforts to achieve emission reductions necessary to attain and maintain the health-based ozone air quality standard. In order for the emissions reductions to be included in the state implementation plan (SIP), they must be enforceable. Regulatory requirements are necessary to assure this enforceability.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no other regulatory schemes available that will achieve the level of emission reductions necessary.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There is no federal counterpart for this proposed regulation.

The VOC emission reductions that will result from this regulation will help reduce ozone air quality and protect public health.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The proposed regulations are part of a strategy for Pennsylvania and the other jurisdictions in the OTR to attain and maintain the health related ozone NAAQS. The national trade associations and some manufacturers have endorsed the proposed regulation and support its adoption as proposed throughout the Northeast. This will enable the manufacturers to produce a single product for the region rather than having to deal with a potential "patchwork" of programs.

Pennsylvania industry will not be put at a disadvantage by the proposed regulation. Manufacturers will be able to continue to market existing noncomplying products outside of Pennsylvania, but will be subject to the same requirements as any other manufacturer that markets in Pennsylvania.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Three public hearings will be held during a sixty-day comment period.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

No recordkeeping and reporting requirements are contained in the proposed rulemaking. However, if a manufacturer wants to use an alternative compliance strategy, recordkeeping and reporting will be required.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no special provisions.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective on the date of publication as final rulemaking in the *Pennsylvania Bulletin*. The requirements would become applicable in January 2005.

No special permits or licenses are required.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Cristina J. Caputo

(DEPUTY ATTORNEY GENERAL)

OCT 05 2001

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-370

DATE OF ADOPTION:

BY: *David E. Hess*

TITLE: DAVID E. HESS, CHAIRMAN
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: *[Signature]*

9/20/01

DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF
PROPOSED RULEMAKING
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

CONSUMER PRODUCTS

25 Pa. Code, Chapter 130

**NOTICE OF PROPOSED RULEMAKING
ENVIRONMENTAL QUALITY BOARD
[25 PA CODE CHAPTER 130]
CONSUMER PRODUCTS**

PREAMBLE

The Environmental Quality Board (Board) proposes to establish Subchapter B (relating to consumer products) in new Chapter 130 (relating to standards for products) to read as set forth in Annex A.

The amendments propose to add definitions for terms that are used for the substantive sections of Chapter 130. Section 130.201 (relating to applicability) will apply to any person who sells, supplies, offers for sale, or manufacturers consumer products for use in Pennsylvania. Section 130.202 (relating to definitions) is proposed to be added. Sections 130.211-464 establish, among other things, standards and exemptions for products.

This notice is given under Board order at its meeting of September 18, 2001.

A. Effective Date.

These amendments will be effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons.

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-1663, or Bo Reiley, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

C. Statutory Authority.

This proposed rulemaking is being made under the authority of Section 5 of the Air Pollution Control Act (35 PS § 4005), which grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. Background and Purpose.

When ground-level ozone is present in concentrations in excess of the federal health-based standard, public health is adversely affected. The federal Environmental Protection Agency (EPA) has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly, and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activity that involves physical exertion. Though such symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of additional measures to address the ozone air quality nonattainment in Pennsylvania is necessary to protect the public health.

The purpose of this proposed rulemaking is to reduce the volatile organic compounds (VOCs) emitted from consumer products. This proposed rulemaking is part of the Commonwealth's strategy to achieve and maintain the ozone standard throughout the Commonwealth of Pennsylvania. The proposed rule expands upon the federal consumer products rule, which became effective in December of 1998. The federal rule regulates 24 product categories representing 48% of the consumer products inventory, nationally, and reduces VOC emissions from that inventory by 20%. In order to capture additional emission reductions from these products, Pennsylvania is proposing to adopt this rule. Pennsylvania has used the California Air Resources Board (CARB) regulations and the Ozone Transport Commission (OTC) model rule and background material as a starting point and reviewed those documents, including specific emission reductions, for applicability in Pennsylvania. As a result, the Pennsylvania proposed regulation includes most if not all of the product categories covered in California, with limits effective at a later date than California. To maximize consistency, emission limits for specific product categories are identical to those used in California.

The proposed regulation regulates 45 consumer product categories and approximately 80 different types of products, and requires more stringent VOC content limits than the federal rule. Some of the limits are currently in effect in California and are known to be technologically feasible. Other limits in California have future effective dates. The proposed compliance date for the Pennsylvania limits is January 1, 2005. Manufacturers would ensure compliance with the limits by reformulating products and substituting products with compliant products that are already on the market.

Manufacturers producing consumer products would be responsible for developing and distributing compliant products for sale at the retail and wholesale levels. In addition, any person who sells, supplies or offers for sale consumer products would also be held accountable. Consumers would not be

affected by this rule in that they should not notice any changes in product performance or quality, and costs per consumer for these products will be negligible.

If compliance with the VOC contents becomes problematic, flexibility options are provided for in the proposed regulation. These options include an innovative product exemption, variances, exemptions, and alternative control plan.

The proposed regulation contains requirements for charcoal lighter materials, aerosol adhesives, floor wax strippers, and automotive windshield washer fluids. It also contains administrative requirements for labeling and reporting. There is a reporting requirement, such that manufacturers may be required to submit information to the Commonwealth upon request.

A CARB test method would be primarily used to demonstrate compliance. Enforcement with the product VOC content limits and other requirements would be done by the Commonwealth.

Because the Commonwealth, in conjunction with other northeastern states, have met over the past 18 months with representatives of the national consumer product manufacturers in related industries, and have gathered their support for the regulation, it is important that the regulation be implemented consistently and uniformly as negotiated. Any deviation from the regulation by altering the limits set forth in the proposed rule may hinder the ability of manufacturers to comply with the regulations.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its May 24, 2001 meeting, AQTAC recommended adoption of the proposed rulemaking. In addition, AQTAC recommended that the Department continue aggressive efforts with other states to support national standards for these products.

E. Summary of Regulatory Requirements.

This proposed adoption of Chapter 130, Subchapter B, includes the following definitions of terms that will be used in the substantive provisions of the regulation. The new definitions include: "alternative control plan (ACP)," "ACP agreement," "ACP emissions," "ACP limit," "ACP product," "ACP reformulation or ACP reformulated," "ACP standard," "ACP VOC standard," "ASTM," "adhesive," "adhesive remover," "aerosol adhesive," "aerosol cooking spray," "aerosol product," "agricultural use," "air freshener," "all other carbon-containing compounds," "all other forms," "antimicrobial hand or body cleaner

or soap," "antiperspirant," "architectural coating," "astringent/toner," "automotive brake cleaner," "automotive hard paste wax," "automotive instant detailer," "automotive rubbing or polishing compound," "automotive wax, polish, sealant or glaze," "automotive windshield washer fluid," "bathroom and tile cleaner," "bug and tar remover," "carburetor or fuel-injection air intake cleaners," "carpet and upholstery cleaner," "charcoal lighter material," "colorant," "compliance period," "construction, panel, and floor covering adhesive," "consumer," "consumer product," "contact adhesive," "container/packaging," "contact person," "crawling bug insecticide" "date-code," "deodorant," "device," "disinfectant," "distributor," "double-phase aerosol air freshener," "dry cleaning fluid," "dusting aid," "electronic cleaner," "enforceable sales," "enforceable sales record," "engine degreaser," "fabric protectant," "facial cleaner or soap," "fat wood," "flea and tick insecticide," "flexible flooring material," "floor polish or wax," "floor seam sealer," "floor wax stripper," "flying bug insecticide," "fragrance," "furniture maintenance product," "furniture coating," "gel," "general purpose adhesive," "general purpose cleaner," "general purpose degreaser," "general-use hand or body cleaner or soap," "glass cleaner," "gross Pennsylvania sales," "hair mousse," "hair shine," hair styling gel," "hair spray," "heavy-duty hand cleaner or soap," "herbicide," "high volatility organic compound (HVOC)," "household product," "insecticide," "insecticide fogger," "institutional product or industrial and institutional (I&I) product," "label," "laundry prewash," "laundry starch product," "lawn and garden insecticide," "liquid," "lubricant," "LVP content," "LVP-VOC," "medium volatility organic compound (MVOC)," "manufacturer," "medicated astringent/medicated toner," "metal polish/cleaner," "missing data days," "mist spray adhesive," "multi-purpose dry lubricant," "multi-purpose lubricant," "multi-purpose solvent," "nail polish," "nail polish remover," "non-aerosol product," "non-carbon containing compound," "nonresilient flooring," "non-selective terrestrial herbicide," "one-product business," "oven cleaner," "paint," "paint remover or stripper," "penetrant," "pesticide," "Pennsylvania sales," "plasticizer," "pre-ACP VOC content," "principal display panel or panels," "product brand name," "product category," "product line," "propellant," "pump spray," "reconcile or reconciliation," "reconciliation of shortfalls plan," "responsible party," "responsible ACP party," "restricted materials," "retailer," "retail outlet," "roll-on product," "rubber and vinyl protectant," "rubbing alcohol," "sealant and caulking compound," "semisolid," "shaving cream," "shortfall," "silicone-based multi-purpose lubricant," "single-phase aerosol air freshener," "solid," "special purpose spray adhesive," "spot remover," "spray buff product," "stick product," "structural waterproof adhesive," "surplus reduction," "surplus trading," "Table B compound," "terrestrial," "tire sealant and inflation," "total maximum historical emissions (TMHE)," "Type A propellant," "Type B propellant," "Type C propellant," "undercoating," "usage directions," "VOC content," "wasp and hornet insecticide," "waterproofing," "wax," "web spray adhesive," "wood floor wax," "working day."

The proposed Section 130.211 (relating to table of standards) sets forth the percentage of VOC by weight, which cannot be exceeded for consumer products that are sold, supplied, offered for sale, or manufactured for sale in this Commonwealth. Proposed Sections 130.212-216 (relating to standards) are other regulatory requirements that relate specifically to certain products like charcoal lighter materials, aerosol adhesives, and products containing ozone depleting compounds. Proposed Sections 130.331-337 (relating to exemptions) set forth the general exemption requirements for products for shipment and use outside of this Commonwealth, and also exemptions for specific consumer products like antiperspirants and deodorants, insecticides, fungicides, rodenticides and air fresheners. Proposed Sections 130.351-352 (relating to innovative products) set forth exemptions for products that are considered innovative in order to advance and encourage new technologies. Proposed Sections 130.371-373 (relating to administrative requirements) set forth code-dating and additional labeling requirements for consumer products that are subject to this regulation. Proposed Sections 130.391-392 (relating to reporting requirements) set forth general reporting requirements, special reporting requirements, reporting requirements for ozone depleting compounds, and confidentiality requirements. Proposed Sections 130.411-414 (relating to variances) set forth the procedures that a manufacturer may use in order to apply for and be granted a variance for certain products that would otherwise be subject to regulation. Proposed Section 130.431 (relating to testing for compliance) sets forth the test methods that will be used to ensure that the products are in compliance with the requirements of the regulation. Proposed Sections 130.451-464 (relating to alternative control plans for consumer products) set forth alternative methods of compliance for consumer products and administrative and other applicable requirements.

This regulation, if approved, will be submitted to the EPA as an amendment to the State Implementation Plan (SIP).

F. Benefits and Costs.

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

Benefits.

Overall the citizens of this Commonwealth will benefit from these recommended changes because they will result in improved air quality by reducing ozone precursor emissions and encourages new technologies and practices, which will reduce emissions. The proposed regulations will also result in reduced levels of hazardous air pollutants throughout the Commonwealth. In addition, the proposed regulation will reduce citizen

Under these proposed regulations it is estimated that the reduction of VOC content of the affected consumer products will cost approximately \$800 per ton of emissions reduced based on annual emission reductions of approximately 6,000 tons, or 1 pound per person. This equates to an estimated annual cost of \$4.8 million annually, or \$0.30 – 0.40 per Pennsylvania consumer.

Compliance Assistance Plan.

The Department plans to educate and assist the public and the regulated community with understanding the newly-revised requirements and how to comply with them. This will be accomplished through the Department's ongoing Regional Compliance Assistance Program.

Paperwork Requirements.

The regulatory revisions will not increase the paperwork that is already generated during the normal course of business operations.

G. Sunset Review.

The proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

H. Regulatory Review.

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5 (a)), on October 26, 2001, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days following the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections prior to final publication of the amendments.

I. Public Comments.

Written Comments – Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by January 16, 2002. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by January 16, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments – Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by January 16, 2002.

J. Public Hearings.

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held at ____ p.m. as follows:

December 11, 2001, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA.

December 13, 2001, Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA.

December 17, 2001, Department of Environmental Protection, Southeast Regional Office, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA.

Persons wishing to present testimony at a hearing are requested to contact Debra Failor at the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aide, service or other accommodation in order to participate should contact

Debra Failor at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

By:

David E. Hess
Chairman

Editor's Note: The following text is new and is printed in regular type to enhance readability.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 130. STANDARDS FOR PRODUCTS

Subchapter B. Consumer Products.

GENERAL PROVISIONS

- §130.201. Applicability.**
- §130.202. Definitions.**

STANDARDS

- §130.211. Table of Standards.**
- §130.212. Products diluted prior to use.**
- §130.213. Products registered under FIFRA.**
- §130.214. Requirements for charcoal lighter materials.**
- §130.215. Requirements for aerosol adhesives.**
- §130.216. Requirements for floor wax strippers.**

EXEMPTIONS

- §130.331. Products for shipment and use outside this Commonwealth.**
- §130.332. Antiperspirants and deodorants.**
- §130.333. LVP-VOC**
- §130.334. Insecticides, fungicides and rodenticides.**
- §130.335. Air fresheners.**
- §130.336. Adhesives.**

§130.337. Bait station insecticides.

INNOVATIVE PRODUCTS

§130.351. Innovative products exemption.

§130.352. Request for exemption.

ADMINISTRATIVE REQUIREMENTS

§130.371. Code-dating.

§130.372. Most restrictive limit.

§130.373. Additional labeling requirements for aerosol adhesives.

REPORTING REQUIREMENTS

§130.391. Required reporting of information to Department.

§130.392. Confidentiality.

VARIANCES

§130.411. Application for variance.

§130.412. Variance order.

§130.413. Termination of variance.

§130.414. Modification of variance.

TEST METHODS

§130.431. Testing for compliance.

ACP FOR CONSUMER PRODUCTS

§130.451. Alternative methods of compliance.

§130.452. Exemption.

§130.453. Request for exemption.

§130.454. Recordkeeping and availability of requested information.

§130.455. Surplus reductions and surplus trading.

§130.456. Limited use surplus reduction credits for early reformulations of ACP products.

§130.457. Reconciliation of shortfalls.

§130.458. Notification of modification to an ACP by the responsible ACP party.

§130.459. Modifications that require Department preapproval.

§130.460. Other modifications.

§130.461. Modifications of an ACP by the Department.

§130.462. Cancellation of an ACP.

§130.463. Treatment of information.

§130.464. Other applicable requirements.

GENERAL PROVISIONS

§130.201. Applicability.

Except as provided in §§130.331-130.337 (relating to exemptions), this subchapter applies to a person who sells, supplies, offers for sale, or manufactures consumer products on or after January 1, 2005 for use in this Commonwealth.

§130.202. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

ACP – Alternative Control Plan -- An emissions averaging program approved by the Department under this subchapter.

ACP agreement--The document signed by the Department which includes the conditions and requirements of the ACP, and which allows manufacturers to sell ACP products in the state pursuant to the requirements of this regulation.

ACP emissions--

(i) The sum of the VOC emissions from every ACP product subject to an ACP Agreement approving an ACP, during the compliance period specified in the ACP agreement, expressed to the nearest pound of VOC and calculated according to the following equation:

$$ACP\ Emissions = (Emissions)_1 + (Emissions)_2 + \dots + (Emissions)_N$$

$$Emissions = \frac{(VOC\ Content) \times (Enforceable\ Sales)}{100}$$

where,

(ii) For all products except for charcoal lighter material products:

$$VOC\ Content = \frac{((B - C) \times 100)}{A}$$

A = net weight of unit (excluding container and packaging)

B = total weight of all VOCs per unit, as defined in subsection 130.202 (relating to definitions)

C = total weight of all exempted VOCs per unit, as specified in Section 130.202.

(iii) For charcoal lighter material products only:

$$VOC\ Content = \frac{(Certified\ Emissions\ x\ 100)}{Certified\ Use\ Rate}$$

Certified

Emissions = the emissions level for products approved by the Department under §130.214, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start.

Certified

Use Rate = the usage level for products approved by the Department under §130.214, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

ACP limit--the maximum allowable ACP Emissions during the compliance period specified in an ACP Agreement approving an ACP, expressed to the nearest pound of VOC and calculated according to the following equation:

$$ACP\ Limit = (Limit)_1 + (Limit)_2 + \dots + (Limit)_N$$

where,

$$Limit = \frac{(ACP\ Standard) \times (Enforceable\ Sales)}{100}$$

Enforceable

Sales = the total amount of an ACP product sold for use in the state, during the applicable compliance period specified in the ACP Agreement approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding container and packaging).

ACP

Standard = either the ACP product's Pre-ACP VOC Content, or the applicable VOC standard specified in Section § 130.211, whichever is less.

Pre-ACP VOC

Content = the lowest VOC content which the ACP product had between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Commonwealth, based on either the data on the product obtained from

the March 12, 1991 CARB Consumer Products Survey, or other accurate records available to the Department, whichever yields the lowest VOC content for the product.

1,2,...N = each product in an ACP up to the maximum N.

ACP product—A consumer product subject to the VOC standards specified §130.211 (relating to table of standards), except those products that have been exempted under §§130.331-130.337 (relating to exemptions), or exempted as innovative products under §§130.351-130.352 (relating to innovative products).

ACP reformulation or ACP reformulated-- The process of reducing the VOC content of an ACP product, within the period that an ACP is in effect, to a level which is less than the current VOC content of the product.

ACP standard--The Pre-ACP VOC content of an ACP product or the applicable VOC standard specified in §130.211, whichever is less.

ACP VOC standard--The maximum allowable VOC content for an ACP product, determined as follows:

(i) The applicable VOC Standard specified in §130.211, for all ACP products except for charcoal lighter material.

(ii) For charcoal lighter material products only, the VOC Standard for the purposes of this regulation shall be calculated according to the following equation:

$$\text{VOC Standard} = \frac{(0.020 \text{ pound } CH_2 \text{ per start } \times 100)}{\text{Certified Use Rate}}$$

where,

0.020 = the certification emissions level for the Department-approved product, as specified in §130.214.

Certified

Use Rate = the usage level for products approved by the Department under §130.214, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

ASTM—The American Society for Testing and Materials.

Adhesive--A product that is used to bond one surface to another by attachment.

“Adhesive” does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or other product with an adhesive incorporated onto or in an inert substrate. The term does not include aerosol adhesives or units of product, less packaging, which consist of more than 1 gallon of the following materials:

- (i) Contact Adhesive.
- (ii) Construction, Panel, and Floor Covering Adhesive.
- (iii) General Purpose Adhesive.

Adhesive remover--A product designed exclusively for the removal of adhesives, caulk and other bonding materials from either a specific substrate or a variety of substrates.

Aerosol adhesive-- An aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

Aerosol cooking spray--An aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

Aerosol product--A pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. The term does not include pump sprays.

Agricultural use--The use of a pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of an animal or plant crop. The term does not include the sale or use of pesticides in properly labeled packages or containers which are intended for the following uses:

- (i) *Home use*--Use in a household or its immediate environment.
- (ii) *Structural pest control*--A use requiring a license under the applicable state pesticide licensing requirement.
- (iii) *Industrial use*--Use in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.
- (iv) *Institutional use*--Use within the lines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

Air freshener-- A consumer product, including sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air.

- (i) The term does not include:
 - (A) Products that are used on the human body.
 - (B) Products that function primarily as cleaning products.
 - (C) Disinfectant products claiming to deodorize by killing germs on surfaces.
 - (D) Institutional/industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution.

(ii) The term does include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution.

(iii) To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

All other carbon-containing compounds--Compounds which contain at least one carbon atom and are not a "Table B" compound or a "LVP-VOC."

All other forms--Consumer product forms for which no form-specific VOC standard is specified in §§130.211-130.216. Unless specified otherwise by the applicable VOC standard, the term includes solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

Antimicrobial hand or body cleaner or soap--

- (i) A cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity. The term includes the following:
 - (A) Antimicrobial hand or body washes/cleaners.
 - (B) Foodhandler hand washes.
 - (C) Healthcare personnel hand washes.
 - (D) Pre-operative skin preparations.
 - (E) Surgical scrubs.

- (ii) The term does not include the following:
- (A) Prescription drug products.
 - (B) Antiperspirants.
 - (C) Astringent/toner.
 - (D) Deodorant.
 - (E) Facial cleaner or soap.
 - (F) General-use hand or body cleaner or soap.
 - (G) Hand dishwashing detergent, including antimicrobial.
 - (H) Heavy-duty hand cleaner or soap.
 - (I) Medicated astringent/medicated toner.
 - (J) Rubbing alcohol.

Antiperspirant--A product, including aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

Architectural coating--A coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

Astringent/toner--A product not regulated as a drug by the United States Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate-impregnated products. This category does not include:

- (i) Hand, face, or body cleaner or soap products.
- (ii) Medicated astringent/medicated toner.
- (iii) Cold cream.
- (iv) Lotion.
- (v) Antiperspirant.

Automotive brake cleaner--A cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

Automotive hard paste wax--An automotive wax or polish which is:

- (i) Designed to protect and improve the appearance of automotive paint surfaces.
- (ii) A solid at room temperature.
- (iii) 0% water by formulation.

Automotive instant detailer--A product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

Automotive rubbing or polishing compound--A product designed primarily to remove oxidation, old paint, scratches or swirl marks, and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

Automotive wax, polish, sealant or glaze--A product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces.

- (i) The term includes products designed for:
 - (A) Use in autobody repair shops and drive-through car washes.
 - (B) Use by the general public.
- (ii) The term does not include:
 - (A) Automotive rubbing or polishing compounds.
 - (B) Automotive wash and wax products.
 - (C) Surfactant-containing car wash products.
 - (D) Products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

Automotive windshield washer fluid--A liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield. The term does not include fluids placed by the manufacturer in a new vehicle.

Bathroom and tile cleaner--A product designed to clean tile or surfaces in bathrooms. The term does not include products specifically designed to clean toilet bowls or toilet tanks.

Bug and tar remover--A product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

- (i) Biological-type residues such as insect carcasses and tree sap.
- (ii) Road grime, such as road tar, roadway paint markings, and asphalt.

Carburetor or fuel-injection air intake cleaners-- A product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages. The term does not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

Carpet and upholstery cleaner--A cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles and/or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics. The term includes, but is not limited to, products that make fabric protectant claims. The term does not include general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

Charcoal lighter material--A combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. The term does not include the following:

- (i) Electrical starters and probes.
- (ii) Metallic cylinders using paper tinder.
- (iii) Natural gas.
- (iv) Propane.
- (v) Fat wood.

Colorant--A pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

Compliance period--The period of time, not to exceed one year, for which the ACP Limit and ACP Emissions are calculated and for which compliance with the ACP Limit is determined, as specified in the ACP Agreement approving an ACP.

Construction, panel, and floor covering adhesive--

(i) A one-component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

(A) Structural and building components that include, but are not limited to the following:

(I) Beams.

(II) Trusses.

(III) Studs

(IV) Paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, etc.).

(V) Ceiling and acoustical tile.

(VI) Molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring.

(B) Floor or wall coverings that include, but are not limited to the following:

(I) Wood or simulated wood covering.

(II) Carpet, carpet pad or cushion, vinyl-backed carpet.

(III) Flexible flooring material.

(IV) Nonresilient flooring material.

(V) Mirror tiles and other types of tiles.

(VI) Artificial grass.

(ii) The term does not include floor seam sealer.

*Consumer--*A person who purchases, or acquires a consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not “consumers” for that product.

Consumer product--

(i) A chemically formulated product used by household and institutional consumers including:

- (A) Detergents.
- (B) Cleaning compounds.
- (C) Polishes.
- (D) Floor finishes.
- (E) Cosmetics.
- (F) Personal care products.
- (G) Home, lawn, and garden products.
- (H) Disinfectants.
- (I) Sanitizers.
- (J) Aerosol paints.
- (K) Automotive specialty products.

(ii) The term does not include other paint products, furniture coatings, or architectural coatings.

Contact Adhesive--

(i) An adhesive that:

- (A) Is designed for application to both surfaces to be bonded together.
- (B) Is allowed to dry before the two surfaces are placed in contact with each other.
- (C) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other.
- (D) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(ii) The term does not include rubber cements that are primarily intended for use on paper substrates.

Container/packaging--The part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. The term includes an article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

Contact person--A representative that has been designated by the responsible ACP party for the purpose of reporting or maintaining information specified in the ACP Agreement approving an ACP.

Crawling bug insecticide--An insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including mites, silverfish or spiders. The term does not include products designed to be used exclusively on humans or animals, or house dust mite product. For the purposes of this definition only:

(i) *House dust mite*--Mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

(ii) *House dust mite product*--A product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

Date-code--The day, month and year on which the consumer product was manufactured, filled, or packaged, or a code indicating such a date.

Deodorant--A product, including aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

Device--An instrument or contrivance (other than a firearm) which is designed for trapping, destroying, repelling, or mitigating a pest or other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

Disinfectant--

(i) A product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and

whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.).

(ii) The term does not include the following:

(A) Products designed solely for use on human or animals.

(B) Products designed for agricultural use.

(C) Products designed solely for use in swimming pools, therapeutic tubs, or hot tubs.

(D) Products which, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

Distributor--A person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

Double-phase aerosol air freshener--An aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

Dry cleaning fluid--

(i) A non-aqueous liquid product designed and labeled exclusively for use on:

(A) Fabrics which are labeled "for dry clean only", such as clothing or drapery.

(B) "S-coded" fabrics.

(ii) The term includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place.

(iii) The term does not include "spot remover" or "carpet and upholstery cleaner".

(iv) For the purposes of this definition, S-coded fabric means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee."

Dusting aid--A product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. The term does

not include products that consist entirely of compressed gases for use in electronic or other specialty areas.

Electronic cleaner--A product designed specifically for the removal of dirt, grease or grime from electrical equipment such as electric motors, circuit boards, electricity panels, and generators.

Enforceable sales--The total amount of an ACP product sold for use in this Commonwealth during the applicable compliance period specified in the ACP Agreement approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding product container and packaging).

Enforceable sales record--A written, point-of-sale record or other Department-approved system of documentation from which the mass, in pounds (less product container and packaging), of an ACP product sold to the end user in Pennsylvania the applicable compliance period can be accurately documented. For the purposes of this regulation, the term includes, but is not limited to, the following types of records:

- (i) Accurate records of direct retail or other outlet sales to the end user during the applicable compliance period.
- (ii) Accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period, provided that a detailed method which can be used to verify data comprising such summaries is submitted by the responsible ACP party and approved by the Department.
- (iii) Other accurate product sales records approved by the Department as meeting the criteria specified in this subsection.

Engine degreaser--A cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

Fabric protectant--A product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of liquid into the fabric's fibers. The term does not include waterproofers, products designed for use solely on leather, or products designed for use solely on fabrics which are labeled "for dry clean only" and sold in containers of 10 fluid ounces or less.

Facial cleaner or soap--A cleaner or soap designed primarily to clean the face. The term includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms. The term does not include:

- (i) Prescription drug products.
- (ii) Antimicrobial hand or body cleaner or soap.

- (iii) Astringent/toner.
- (iv) General-use hand or body cleaner or soap.
- (v) Medicated astringent/medicated toner.
- (vi) Rubbing alcohol.

Fat wood--Pieces of wood kindling with high naturally-occurring levels of sap or resin which enhance ignition of the kindling. The term does not include kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

Flea and tick insecticide--An insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs. The term does not include products that are designed to be used exclusively on humans or animals and their bedding.

Flexible flooring material--Asphalt, cork, linoleum, no-wax, rubber, seamless vinyl and vinyl composite flooring.

Floor polish or wax--A wax, polish, or other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. The term does not include:

- (i) Spray buff products.
- (ii) Products designed solely for the purpose of cleaning floors.
- (iii) Floor finish strippers.
- (iv) Products designed for unfinished wood floors.
- (v) Coatings subject to architectural coatings regulations.

Floor seam sealer--A product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

Floor wax stripper--A product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax. The term does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

Flying bug insecticide--An insecticide product that is designed for use against flying insects or other flying arthropods, including mosquitoes, moths, or gnats. The term does not include

- (i) Wasp and hornet insecticide.
- (ii) Products that are designed to be used exclusively on humans or animals.

(iii) A moth-proofing product. For the purposes of this definition only, “moth-proofing product” means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

Fragrance--A substance or complex mixture of aroma chemicals, natural essential oils, and other functional components, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

Furniture maintenance product--A wax, polish, conditioner, or other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. “Furniture Maintenance Product” does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

Furniture coating--A paint designed for application to room furnishings, including cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

Gel--A colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

General purpose adhesive--A non-aerosol adhesive designed for use on a variety of substrates. “General purpose adhesive” does not include:

- (i) Contact adhesives.
- (ii) Construction, panel, and floor covering adhesives.
- (iii) Adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls).
- (iv) Adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

General purpose cleaner--A product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. The term includes products designed for general floor cleaning, kitchen or countertop

cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

General purpose degreaser--

(i) A product designed to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(ii) The term does not include “engine degreaser”, “general purpose cleaner”, “adhesive remover”, “electronic cleaner”, “metal polish/cleanser”, products used exclusively in “solvent cleaning tanks or related equipment,” or products that are:

(A) Sold exclusively to establishments that manufacture or construct goods or commodities.

(B) Labeled “not for retail sale”.

(iii) Solvent cleaning tanks or related equipment includes, but is not limited to:

(A) Cold cleaners.

(B) Vapor degreasers.

(C) Conveyorized degreasers.

(D) Film cleaning machines.

(E) Products designed to clean miscellaneous metallic parts by immersion in a container.

*General-use hand or body cleaner or soap--*A cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils. The term includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. The term does not include:

(i) Prescription drug products.

(ii) Antimicrobial hand or body cleaner or soap.

(iii) Astringent/toner.

(iv) Facial cleaner or soap.

(v) Hand dishwashing detergent, including antimicrobial.

- (vi) Heavy-duty hand cleaner or soap.
- (vii) Medicated astringent/medicated toner.
- (viii) Rubbing alcohol.

Glass cleaner--A cleaning product designed primarily for cleaning surfaces made of glass. The term does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

Gross Pennsylvania sales--The estimated total sales in this Commonwealth of an ACP product during a specific compliance period (expressed to the nearest pound), based on either of the following methods, whichever the responsible ACP party demonstrates to the satisfaction of the Department will provide an accurate Pennsylvania sales estimate:

(i) Apportionment of national or regional sales of the ACP product to Pennsylvania sales, determined by multiplying the average national or regional sales of the product by the fraction of the national or regional population, respectively, that is represented by this Commonwealth's current population.

(ii) Another other documented method which provides an accurate estimate of the total current Pennsylvania sales of the ACP product.

HVOC -- High volatility organic compound --A volatile organic compound that exerts a vapor pressure greater than 80 millimeters of Mercury (mm Hg) when measured at 20°C.

Hair mousse--A hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

Hair shine--A product designed for the primary purpose of creating a shine when applied to the hair. The term includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. The term does not include:

- (i) Hair spray.
- (ii) Hair mousse.
- (iii) Hair styling gel or spray gel.
- (iv) Products whose primary purpose is to condition or hold the hair.

Hair styling gel--A high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

Hair spray--A consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

Heavy-duty hand cleaner or soap--A product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water. The term does not include:

- (i) Prescription drug products.
- (ii) Antimicrobial hand or body cleaner or soap.
- (iii) Astringent/toner.
- (iv) Facial cleaner or soap.
- (v) General-use hand or body cleaner or soap.
- (vi) Medicated astringent/medicated toner.
- (vii) Rubbing alcohol.

Herbicide--A pesticide product designed to kill or retard a plant's growth, but excludes products that are:

- (i) For agricultural use.
- (ii) Restricted materials that require a permit for use and possession.

Household product--A consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

Insecticide--A pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

- (i) For agricultural use.
- (ii) For a use which requires a structural pest control license under applicable laws or regulations of the Commonwealth.
- (iii) Restricted materials that require a permit for use and possession.

Insecticide fogger--An insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

Institutional product or industrial and institutional (I&I) product--

(i) A consumer product that is designed for use in the maintenance or operation of an establishment that:

(A) Manufactures, transports, or sells goods or commodities, or provides services for profit.

(B) Is engaged in the nonprofit promotion of a particular public, educational, or charitable cause.

(ii) Establishments include, but are not limited to, the following:

(A) Government agencies.

(B) Factories.

(C) Schools.

(D) Hospitals.

(E) Sanitariums.

(F) Prisons

(G) Restaurants.

(H) Hotels.

(I) Stores.

(J) Automobile service and parts centers.

(K) Health clubs.

(L) Theaters.

(M) Transportation companies.

(iii) The term does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

LVP content--The total weight, in pounds, of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

LVP-VOC--

(i) A chemical "compound" or "mixture" that contains at least one carbon atom and meets one of the following:

(A) Has a vapor pressure less than 0.1 mm Hg at 20°C, as determined by CARB Method 310.

(B) Is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms, and the vapor pressure is unknown.

(C) Is a chemical compound with a boiling point greater than 216°C, as determined by CARB Method 310.

(D) Is the weight percent of a chemical mixture that boils above 216°C, as determined by CARB Method 310.

(ii) For the purposes of the definition of LVP-VOC, chemical compound means a molecule of definite chemical formula and isomeric structure, and chemical mixture means a substrate comprised of two or more chemical compounds.

Label--A written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon a consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

Laundry prewash--A product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents and/or provides specialized performance.

Laundry starch product-- A product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. The term includes, but is not limited to, fabric finish, sizing, and starch.

Lawn and garden insecticide--An insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

Liquid--A substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D-4359-90. The term does not include powders or other materials that are composed entirely of solid particles.

Lubricant-- A product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. The term does not include:

- (i) Automotive power steering fluids.
- (ii) Products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes.
- (iii) Two cycle oils or other products designed to be added to fuels.
- (iv) Products for use on the human body.
- (v) Animals or products that are sold exclusively to establishments which manufacture or construct goods or commodities, and are labeled "not for retail sale".

MVOC -- Medium volatility organic compound--A volatile organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20°C.

Manufacturer--A person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.

Medicated astringent /medicated toner--A product regulated as a drug by the FDA which is applied to the skin for the purpose of cleaning or tightening pores. The term includes, but is not limited to, clarifiers and substrate-impregnated products. The term does not include:

- (i) Hand, face, or body cleaner or soap products.
- (ii) Astringent/toner.
- (iii) Cold cream.
- (iv) Lotion.
- (v) Antiperspirants.
- (vi) Products that must be purchased with a doctor's prescription.

Metal polish /cleanser--A product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action by removing or reducing stains, impurities, or oxidation from surfaces or to making surfaces smooth and shiny. The term includes, but is not limited to, metal polishes used on brass,

silver, chrome, copper, stainless steel and other ornamental metals. The term does not include:

- (i) Automotive wax.
- (ii) Polish, sealant or glaze.
- (iii) Wheel cleaner.
- (iv) Paint remover or stripper.
- (v) Products designed and labeled exclusively for automotive and marine detailing.
- (vi) Products designed for use in degreasing tanks.

Missing data days--The number of days in a compliance period for which the responsible ACP party has failed to provide the required Enforceable Sales or VOC Content data to the Department, as specified in the ACP Agreement approving an ACP.

Mist spray adhesive--An aerosol which is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

Multi-purpose dry lubricant--A lubricant which is:

- (i) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide ("moly"), or polytetrafluoroethylene or closely related fluoropolymer ("teflon") on surfaces.
- (ii) Designed for general purpose lubrication, or for use in a wide variety of applications.

Multi-purpose lubricant--A lubricant designed for general purpose lubrication, or for use in a wide variety of applications. The term does not include:

- (i) Multi-purpose dry lubricants.
- (ii) Penetrants.
- (iii) Silicone-based multi-purpose lubricants.

Multi-purpose solvent--An organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials. The term includes solvents used in

institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. The term does not include solvents used in:

- (i) Cold cleaners.
- (ii) Vapor degreasers.
- (iii) Conveyorized degreasers.
- (iv) Film cleaning machines.
- (v) Solvents that are incorporated into, or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

Nail polish--A clear or colored coating designed for application to the fingernails or toenails and including lacquers, enamels, acrylics, base coats and top coats.

Nail polish remover--A product designed to remove nail polish and coatings from fingernails or toenails.

Non-aerosol product--A consumer product that is not dispensed by a pressurized spray system.

Non-carbon containing compound--A compound that does not contain carbon atoms.

Nonresilient flooring--Flooring of a mineral content that is not flexible, including:

- (i) Terrazzo.
- (ii) Marble.
- (iii) Slate.
- (iv) Granite.
- (v) Brick.
- (vi) Stone.
- (vii) Ceramic tile.
- (vii) Concrete.

Non-selective terrestrial herbicide--A terrestrial herbicide product that is toxic to plants without regard to species.

One-product business--A responsible ACP party which sells, supplies, offers for sale, or manufactures for use in this Commonwealth:

(i) Only one distinct ACP product, sold under one product brand name, which is subject to the requirements of §§130.211-130.216 (relating to standards).

(ii) Only one distinct ACP product line subject to the requirements of §§130.211-130.216, in which all the ACP products belong to the same product category(ies) and the VOC contents in the products are within 98.0% and 102.0% of the arithmetic mean of the VOC contents over the entire product line.

Oven cleaner--A cleaning product designed to clean and to remove dried food deposits from oven walls.

Paint--A pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

Paint remover or stripper--A product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. The term does not include:

- (i) Multi-purpose solvents.
- (ii) Paint brush cleaners.
- (iii) Products designed and labeled exclusively to remove graffiti.
- (iv) Hand cleaner products that claim to remove paints and other related coatings from skin.

Penetrant--A lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. The term does not include "multi-purpose lubricants" that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

Pesticide--A substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating a pest, or a substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" will not include a substance, mixture of substances, or device which the United States Environmental Protection Agency does not consider to be a pesticide.

Pennsylvania sales--The sales (net pounds of product, less packaging and container, per year) in Pennsylvania for either the calendar year immediately prior to the year that the registration is due or, if that data is not available, a consecutive 12 month period commencing no earlier than 2 years prior to the due date of the registration. If direct sales data for this Commonwealth is not available, sales may be estimated by prorating national or regional sales data by population.

Plasticizer--A material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 or from product formulation data.

Pre-ACP VOC Content--The lowest VOC content of an ACP product between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Department based on either the data on the product obtained from the March 12, 1991 CARB Consumer Products Survey, or other accurate records available to the Department, whichever yields the lowest VOC content for the product.

Principal display panel or panels--The part of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."

Product brand name--The name of the product exactly as it appears on the principal display panel of the product.

Product category--The applicable category that best describes the product as listed in this section.

Product line--A group of products of identical form and function belonging to the same product category(ies).

Propellant--A liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from the same self-pressurized container or from a separate container.

Pump spray--A packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.

Reconcile or reconciliation--Providing sufficient VOC emission reductions to completely offset shortfalls generated under the ACP during an applicable compliance period.

Reconciliation of shortfalls plan--The plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the Department pursuant to

§130.458 (relating to notification of modification to an ACP by the responsible ACP party).

Responsible party--The company, firm or establishment which is listed on the product's label. If the label lists two companies, firms or establishments, the responsible party is the party which the product was "manufactured for" or "distributed by," as noted on the label.

Responsible ACP party--The company, firm or establishment which is listed on the ACP product's label. If the label lists two or more companies, firms, or establishments, the "responsible ACP party" is the party which the ACP product was "manufactured for" or "distributed by," as noted on the label.

Restricted materials--Pesticides established as restricted materials under applicable laws or regulations of the Commonwealth.

Retailer--A person who sells, supplies, or offers consumer products for sale directly to consumers.

Retail outlet--An establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

Roll-on product--An antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

Rubber and vinyl protectant--A product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, and household products such as vinyl covers, clothing, and accessories. The term does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

Rubbing alcohol--A product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

Sealant and caulking compound--A product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. The term does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear/paintable/water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings.

(i) The term also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces.

(ii) For the purposes of this definition only, “removable caulking compounds” means a compound which temporarily seals windows or doors for 3 to 6 month time intervals, and “clear/paintable/water resistant caulking compounds” means a compound which contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application.

Semisolid--A product that, at room temperature, will not pour, but will spread or deform easily, including gels, pastes, and greases.

Shaving cream--An aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor, or other wet-shaving system, in the removal of facial or other bodily hair.

Shortfall--The ACP Emissions minus the ACP Limit when the ACP Emissions were greater than the ACP Limit during a specified compliance period, expressed to the nearest pound of VOC. The term does not include emissions occurring prior to the date that the ACP Agreement approving an ACP is signed by the Department.

Silicone-based multi-purpose lubricant--

(i) A lubricant which is:

(A) Designed and labeled to provide lubricity primarily through the use of silicone compounds, including polydimethylsiloxane.

(B) Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

(ii) The term does not include products designed and labeled exclusively to release manufactured products from molds.

Single-phase aerosol air freshener--An aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

Solid--A substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90.

Special purpose spray adhesive--

(i) An aerosol adhesive that meets one or more of the following definitions:

(A) *Mounting adhesive*--An aerosol adhesive designed to permanently mount photographs, artwork, and other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.

(B) *Flexible vinyl adhesive*--An aerosol adhesive designed to bond flexible vinyl to substrates. Flexible vinyl means a nonrigid polyvinyl chloride plastic with at least five percent, by weight, of plasticizer content.

(C) *Polystyrene Foam Adhesive*--An aerosol adhesive designed to bond polystyrene foam to substrates.

(D) *Automobile Headliner Adhesive*--Means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

(E) *Polyolefin Adhesive*--An aerosol adhesive designed to bond polyolefins to substrates.

(F) *Laminate Repair/Edgebanding Adhesive*--An aerosol adhesive designed for:

(I) The touch-up or repair of items laminated with high pressure laminates (for example - lifted edges, delaminates, etc.).

(II) The touch-up, repair, or attachment of edgebonding materials, including other laminates, synthetic marble, veneers, wood molding, and decorative metals.

(G) *High pressure laminate* --Sheet materials which consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265 degrees F, and at pressures between 1,000 and 1,400 psi.

(H) *Automotive engine compartment adhesive*--An aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200 - 275 degrees F.

Spot remover--A product designed to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal. The term does not include:

- (i) Dry cleaning fluid.
- (ii) Laundry prewash.
- (iii) Carpet and upholstery cleaner.
- (iv) Multi-purpose solvent.

Spray buff product--A product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

Stick product--An antiperspirant or deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

Structural waterproof adhesive--An adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181 (Type 1, Grade A), and MIL-A-4605 (Type A, Grade A and Grade C). This definition is as per the Federal Consumer Products Regulation 40 CFR59 Subpart C.

Surplus reduction--The ACP Limit minus the ACP Emissions when the ACP Limit was greater than the ACP Emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in Section 130.456 (relating to alternative control plan (ACP) for consumer products), the term does not include emissions occurring prior to the date that the ACP Agreement approving an ACP is signed by the Department.

Surplus trading--The buying, selling, or transfer of Surplus Reductions between responsible ACP parties.

TMHE -- Total maximum historical emissions -- The total VOC emissions from all ACP products for which the responsible ACP party has failed to submit the required VOC Content or Enforceable Sales records. The TMHE shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP has failed to provide the required VOC Content or Enforceable Sales records. The TMHE shall be expressed to the nearest pound and calculated according to the following calculation:

$$TMHE = (MHE)_1 + (MHE)_2 + \dots + (MHE)_N$$

$$MHE = \left(\frac{\text{Highest VOC Content} \times \text{Highest Sales}}{100 \times 365} \right) \times \text{Missing Data Days}$$

where,

Highest
VOC Content = the maximum VOC content which the ACP product has contained in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting VOC Content data (for a portion of the compliance period), as specified in the ACP

Agreement approving the ACP, or the current actual VOC Content, if the responsible ACP party has provided all required VOC Content data (for the entire compliance period), as specified in the ACP Agreement.

Highest Sales = the maximum one-year Gross Pennsylvania Sales of the ACP product in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting Enforceable Sales records (for a portion of the compliance period), as specified in the ACP Agreement approving the ACP, or the current actual one-year Enforceable Sales for the product, if the responsible ACP party has provided all required Enforceable Sales records (for the entire compliance period), as specified in the ACP Agreement approving the ACP.

Missing Data = the number of days in a compliance period for which the responsible Days ACP party has failed to provide the required Enforceable Sales or VOC Content data as specified in the ACP Agreement approving an ACP.

1, 2, ..., N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required Enforceable Sales or VOC Content data as specified in the ACP Agreement approving an ACP.

Table B compound--A carbon-containing compound listed as an exception to the definition of VOC.

Terrestrial--To live on or grow from land.

Tire sealant and inflation--A pressurized product that is designed to temporarily inflate and seal a leaking tire.

Type A propellant--A compressed gas such as CO₂, N₂, N₂O, or compressed air which is used as a propellant, and is either incorporated with the product or contained in a separate chamber within the product's packaging.

Type B propellant--A halocarbon which is used as a propellant, including:

- (i) Chlorofluorocarbons (CFCs).
- (ii) Hydrochlorofluorocarbons (HCFCs).
- (iii) Hydrofluorocarbons (HFCs).

Type C propellant--A propellant which is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).

Undercoating--An aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound. The term includes, but is not limited to, rubberized, mastic, or asphaltic products.

Usage directions--The text or graphics on the product's principal display panel, label, or accompanying literature that describes to the end user how and in what quantity the product is to be used.

VOC content--Except for charcoal lighter products, the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined under §130.431 (relating to testing for compliance).

For charcoal lighter material products only,

$$VOC\ Content = \frac{(Certified\ Emissions\ x\ 100)}{Certified\ Use\ Rate}$$

Certified

Emissions = the emissions level for products approved by the Department under §130.214, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start.

Certified

Use Rate = the usage level for products approved by the Department under §130.214, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

Wasp and hornet insecticide--An insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or their hiding place.

Waterproofers--A product designed and labeled exclusively to repel water from fabric or leather substrates. The term does not include "fabric protectants."

Wax--A material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). The term includes:

- (i) Substances derived from the secretions of plants and animals such as carnuba wax and beeswax.
- (ii) Substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

Web spray adhesive--An aerosol adhesive which is not a mist spray or special purpose spray adhesive.

Wood floor wax--Wax-based products for use solely on wood floors.

Working day--A day between Monday through Friday, inclusive, except for days that are Federal holidays.

STANDARDS

§130.211. Table of standards.

Except as provided in §§130.331-130.337 (relating to exemptions), §§130.351-130.352 (relating to innovative products), §§130.411-414 (relating to variances) and §§130.451-464 (relating to ACP for consumer products), a person may not sell, supply, offer for sale, or manufacture for sale in this Commonwealth a consumer product manufactured on or after January 1, 2005 which contains volatile organic compounds in excess of the limits specified in the following Table of Standards:

**Table of Standards
(percent VOC by weight)**

PRODUCT CATEGORY	Effective Date 1/1/2005
Adhesives	
Aerosol:	
Mist Spray	65
Web Spray	55
Special Purpose Spray Adhesives:	
Mounting, Automotive Engine Compartment, and Flexible Vinyl Polystyrene Foam and Automotive Headliner	70
Polyolefin and Laminate Repair	65
	60

Egdebanding	80
Contact	15
Construction, Panel, and Floor Covering	10
General Purpose	15
Structural Waterproof	
Air Fresheners	
Single-Phase Aerosols	30
Double-Phase Aerosols	25
Liquids / Pump Sprays Solids / Gels	18
Antiperspirants	
Aerosol	40 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
Automotive Brake Cleaners	45
Automotive Rubbing or Polishing Compound	17
Automotive Wax, Polish, Sealant or Glaze	
Hard Paste Waxes	45
Instant Detailers	3
All Other Forms	15
Automotive Windshield Washer Fluids	35
Bathroom and Tile Cleaners	
Aerosols	7
All Other Forms	5
Bug and Tar Remover	40
Carburetor or Fuel-Injection Air Intake Cleaners	45
Carpet and Upholstery Cleaners	
Aerosols	7
Non-Aerosols (Dilutables)	0.1
Non-Aerosols (Ready-to-Use)	3.0
Charcoal Lighter Material	See §130.214
Cooking SprayAerosols	18
Deodorants	
Aerosol	0 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
Dusting Aids	
Aerosols	25
All Other Forms	7
Engine Degreasers	
Aerosol	5
Non-Aerosol	5

Fabric Protectants	60
Floor Polishes / Waxes	
Products for Flexible Flooring Materials	7
Products for Nonresilient Flooring	10
Wood Floor Wax	90
Floor Wax Strippers	
Non-Aerosol	see §130.216
Furniture Maintenance Products	
Aerosols	17
All Other Forms Except Solid or Paste	7
General Purpose Cleaners	
Aerosols	10
Non-Aerosols	4
General Purpose Degreasers	
Aerosols and Non-Aerosols	50
Glass Cleaners	
Aerosols	12
Non-Aerosols	4
Hair Mousses	6
Hairshines	55
Hairsprays	55
Hair Styling Gels	6
Heavy-Duty Hand Cleaner or Soap	8
Insecticides	
Crawling Bug (Aerosol)	15
Crawling Bug (all other forms)	20
Flea and Tick	25
Flying Bug (Aerosol)	25
Flying Bug (all other forms)	35
Foggers	45
Lawn and Garden (all other forms)	20
Lawn and Garden (Non-Aerosol)	3
Wasp and Hornet	40
Laundry Prewash	
Aerosols / Solids	22
All Other Forms	5
Laundry Starch Products	5
Metal Polishes / Cleansers	30
Multi-Purpose Lubricant (Excluding Solid or Semi-Solid Products)	50
Nail Polish Remover	75
Non-Selective Terrestrial Herbicide	
Non-Aerosols	3

Oven Cleaners	
Aerosols / Pump Sprays	8
Liquids	5
Paint Remover or Strippers	50
Penetrants	50
Rubber and Vinyl Protectants	
Non-Aerosols	3
Aerosols	10
Sealants and Caulking Compounds	4
Shaving Creams	5
Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products)	60
Spot Removers	
Aerosols	25
Non-Aerosols	8
Tire Sealants and Inflators	20
Undercoatings	
Aerosols	40

§130.212. Products diluted prior to use.

(a) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in the Table of Standards shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection minimum recommended dilution shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

(b) For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with a VOC solvent prior to use, the limits specified in the Table of Standards shall apply to the product only after the maximum recommended dilution has taken place.

§130.213. Products registered under FIFRA.

For those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. Section 136-136y), the effective date of the VOC standards specified in the Table of Standards is one year after the date specified in the Table of Standards.

§130.214. Requirements for charcoal lighter materials.

The following requirements shall apply to all charcoal lighter material products as defined in §130.202 (relating to definitions).

(1) *Regulatory standards.* A person may not sell, supply, or offer for sale after January 1, 2005 a charcoal lighter material product unless at the time of the transaction:

(i) The manufacturer can demonstrate that the manufacturer has been issued a currently effective certification by the CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, Section 94509(h), of Title 17 of the CCR. This certification remains in effect for as long as the CARB certification remains in effect. A manufacturer claiming such a certification on this basis must submit to the Department a copy of the certification decision (i.e., the Executive Order), including all conditions established by CARB applicable to the certification.

(ii) The manufacturer or distributor of the charcoal lighter material has been issued a currently effective certification pursuant to paragraph (2).

(iii) The charcoal lighter material meets the formulation criteria and other conditions specified in the applicable ACP Agreement issued pursuant to paragraph (2).

(iv) The product usage directions for the charcoal lighter material are the same as those provided to the Commonwealth pursuant to subparagraph (2)(iii).

(2) *Certification requirements.*

(i) No charcoal lighter material formulation shall be certified under this subsection unless the applicant for certification demonstrates to the Department's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.020 pounds of VOC per start, using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol, dated February 27, 1991 (the "South Coast Air Quality Management District Rule 1174 Testing Protocol"). The provisions relating to LVP-VOC in §130.333 (relating to LVP-VOCs) shall not apply to a charcoal lighter material subject to the requirements of §§130.211 and 130.214.

(ii) The Department may approve alternative test procedures which are shown to provide equivalent results to those obtained using the South Coast Air Quality Management District Rule 1174 Test Protocol.

(iii) A manufacturer or distributor of charcoal lighter material may apply to the Department for certification of a charcoal lighter material formulation.

(3) *Notice of modifications.* For a charcoal lighter material for which certification has been granted the applicant for certification shall notify the Department in writing within 30 days of:

(i) A change in the usage directions.

(ii) A change in product formulation, test results, or other information submitted pursuant to subsection 130.214(2) which may result in VOC emissions greater than 0.020 pounds of VOC per start.

(4) *Revocation of certification.* If the Department determines that a certified charcoal lighter material formulation results in VOC emissions from the ignition of charcoal which are greater than 0.020 pounds of VOC per start, as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol and the statistical analysis procedures contained therein, the Department shall revoke or modify the certification as is necessary to assure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.020 pounds of VOC per start.

§130.215. Requirements for aerosol adhesives.

(a) As specified in CCR Section 41712(h)(2), the standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in §§130.331-130.337 (relating to exemptions); 130.351-130.352 (relating to innovative products); and 130.411-130.414 (relating to variances), a person may not sell, supply, offer for sale, use or manufacture for sale in this Commonwealth an aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of the specified standard.

(b) For a special purpose spray adhesive:

(1) In order to qualify as a “special purpose spray adhesive” the product must meet one or more of the definitions specified in §130.202, but if the product label indicates that the product is suitable for use on a substrate or application not listed in §130.202, then the product shall be classified as either a “web spray adhesive” or a “mist spray adhesive.”

(2) If a product meets more than one of the definitions specified in §130.202 for “special purpose spray adhesive,” and is not classified as a “web spray adhesive” or “mist spray adhesive,” then the VOC limit for the product shall be the lowest applicable VOC limit specified in §130.211 (relating to table of standards).

(c) All aerosol adhesives must comply with the labeling requirements specified in Section 130.373 (relating to additional labeling requirements for aerosol adhesives).

§130.216. Requirements for floor wax strippers.

A person may not sell, supply, offer for sale, or manufacture for use in Pennsylvania a floor wax stripper unless the following requirements are met:

(1) The label of each non-aerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3 percent by weight or less.

(2) If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper must specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of 12 percent by weight or less.

EXEMPTIONS

§130.331. Products for shipment and use outside this Commonwealth.

(a) This subchapter does not apply to a consumer product manufactured in this Commonwealth for shipment and use outside of this Commonwealth.

(b) This subchapter does not apply to a manufacturer or distributor who sells, supplies, or offers for sale in this Commonwealth a consumer product that does not comply with the VOC standards specified in §130.211 (relating to table of standards), as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of this Commonwealth, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed in this Commonwealth. This subsection does not apply to consumer products that are sold, supplied, or offered for sale by a person to retail outlets in this Commonwealth.

§130.332. Antiperspirants and deodorants.

(a) The medium volatility organic compound (MVOC) content standards specified in §130.211 (relating to table of standards) for antiperspirants and deodorants shall not apply to ethanol.

(b) The VOC limits specified in §130.211 do not apply to fragrances up to a combined level of 2 percent by weight contained in a consumer product and do not apply to colorants up to a combined level of 2 percent by weight contained in an antiperspirant or deodorant.

(c) The requirements of §130.211 for antiperspirants and deodorants do not apply to those VOCs that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of 2 mm Hg or less at 20°C.

§130.333. LVP-VOC.

The VOC limits specified in §130.211 (relating to table of standards) do not apply to an LVP-VOC.

§130.334. Insecticides, fungicides and rodenticides.

The requirements of §130.371 (relating to code-dating) do not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. Section 136/136y).

§130.335. Air fresheners.

(a) The VOC limits specified in §130.211 (relating to table of standards) do not apply to air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs under Section 130.202 (relating to definitions) or exempted under subsection 130.335 (relating to air fresheners).

(b) The VOC limits specified in §130.211 do not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.

§130.336. Adhesives.

The VOC limits specified in §130.211 (relating to table of standards) do not apply to adhesives sold in containers of 1 fluid ounce or less.

§130.337. Bait station insecticides.

The VOC limits specified in Section §130.211 (relating to table of standards) do not apply to bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5 percent (%) active ingredients.

INNOVATIVE PRODUCTS

§130.351. Innovative products exemption.

A manufacturer of consumer products that have been granted an Innovative Products exemption by the CARB under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the CCR shall be exempt from §130.211 (relating to table of standards) for the period of time that the CARB Innovative Products exemption remains in effect provided that all consumer products within the CARB Innovative Products exemption are contained in the Table of Standards of this regulation. A manufacturer claiming such an exemption on this basis must submit to the Department a copy of the CARB Innovative Products exemption decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption.

§130.352. Request for exemption.

A manufacturer of consumer products that has been granted an Innovative Products exemption under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the CCR based on California-specific data, or that has not been granted an exemption by the CARB may seek an Innovative Products exemption in accordance with the following criteria:

(1) The Department may exempt a consumer product from the VOC limits specified in §130.211 (relating to table of standards) if a manufacturer demonstrates that, due to some characteristic of the product formulation, design, delivery systems or other factors, the use of the product will result in less VOC emissions.

(2) A manufacturer shall apply in writing to the Department for an exemption claimed under subsection 130.331 (b) (relating to products for shipment and use outside this Commonwealth). The application shall include the supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage. In addition, the applicant must provide information necessary to enable the Department to establish enforceable conditions for granting the exemption including the VOC content for the innovative product and test methods for determining the VOC content.

(3) If the VOC limits specified in §130.211 are lowered for a product category through a subsequent rulemaking, all innovative product exemptions granted for products in the product category, except as provided in this subsection, shall have no force and effect as of the effective date of the modified VOC standard. This subsection shall not apply to those innovative products which have VOC emissions less than the applicable lowered VOC limit and for which a written notification of the product's emissions status versus the lowered VOC limit has been submitted to and approved by the Department at least 60 days before the effective date of such limits.

(4) If the Department believes that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in paragraph (1), the Department may modify or revoke the exemption as necessary to assure that the product will meet these criteria.

ADMINISTRATIVE REQUIREMENTS

§130.371. Code-dating.

(a) *Code-Dating.* Each manufacturer of a consumer product subject to §§130.211-130.216 (relating to standards) 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. The date or date-code information shall be located on the container

or inside the cover/cap so that it is readily observable or obtainable (by simply removing the cap/cover) without disassembling a part of the container or packaging. This date or code shall be displayed on each consumer product container or package no later than 12 months prior to the effective date of the applicable standard specified in §130.211. The requirements of this provision do not apply to products containing no VOCs as defined in §130.202 (relating to definitions), or containing VOCs at 0.10% by weight or less.

(b) If a manufacturer uses a code indicating the date of manufacture, for a consumer product subject to §§130.211-130.216, an explanation of the code must be filed with the Department no later than 12 months prior to the effective date of the applicable standard specified in §130.211.

§130.372. Most restrictive limit.

Notwithstanding the definition of “product category” in §130.202 (relating to definitions), if on the principal display panel of a consumer product, a representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC limit is specified in §130.211 (relating to table of standards), the lowest VOC limit applies. This requirement does not apply to general purpose cleaners and antiperspirant/deodorant products.

§130.373. Additional labeling requirements for aerosol adhesives.

(a) In addition to the requirements specified in §§130.371 and 130.372 (relating to administrative requirements), and §§130.391-130.392 (relating to reporting requirements), both the manufacturer and responsible party for each aerosol adhesive product subject to this regulation shall ensure that all products clearly display the following information on each product container which is manufactured on or after January 1, 2005:

(1) The aerosol adhesive category as specified in §130.211 (relating to table of standards) or an abbreviation of the category shall be displayed.

(2) The applicable VOC standard for the product that is specified in §130.211 (relating to table of standards), expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the Department, as provided in §§130.451-130.464 (relating to ACP for consumer products).

(3) If the product is included in an alternative control plan approved by the Department, and the product exceeds the applicable VOC standard specified in §130.211 (relating to table of standards), the product shall be labeled with the term “ACP” or “ACP product.”

(4) If the product is classified as a special purpose spray adhesive, the applicable substrate or application or an abbreviation of the substrate or application that qualifies the product as special purpose shall be displayed.

(5) If the manufacturer or responsible party uses an abbreviation as allowed by this section, an explanation of the abbreviation must be filed with the Department before the abbreviation is used.

(b) The information required in §130.371(a) (related to code-dating) shall be displayed on the product container so that it is readily observable without removing or disassembling a portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing product packaging.

REPORTING REQUIREMENTS

§130.391. Required reporting of information to Department.

Upon 90 days written notice, the Department may require a responsible party to report information for a consumer product or products the Department may specify.

§130.392. Confidentiality.

All information submitted by a responsible party pursuant to §130.391 (relating to required reporting of information) shall be handled in accordance with the procedures specified in applicable Pennsylvania confidentiality requirements upon request by the responsible party.

VARIANCES

§130.411. Application for variance.

A person who cannot comply with the requirements set forth in §§130.211-130.216 (relating to standards), because of extraordinary reasons beyond the person's control, may apply in writing to the Department for a variance. The variance application shall set forth:

- (1) The specific grounds upon which the variance is sought.
- (2) The proposed date(s) by which compliance with the provisions of §130.211 will be achieved.
- (3) A compliance report reasonably detailing the method(s) by which compliance will be achieved.

§130.412. Variance orders.

A variance order shall specify a final compliance date by which the requirements of §§130.211-130.216 (relating to standards) will be achieved. A variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Department, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of applicable Commonwealth laws and regulations.

§130.413. Termination of variance.

A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with a term or condition of the variance.

§130.414. Modification of variance.

Upon the application of a person, the Department may review, and for good cause, modify or revoke a variance from requirements of §§130.211-130.216 (relating to standards) after holding a public hearing in accordance with the provisions of applicable Commonwealth regulations.

TEST METHODS

§130.431. Testing for compliance.

(a) Testing to determine compliance with the requirements of this regulation, shall be performed by one of the following:

(1) Using CARB Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, and as last amended on September 3, 1999.

(2) Alternative methods which are shown to accurately determine the concentration of VOCs in a subject product or its emissions may be used upon approval of the Department.

(3) Calculation of the VOC content from records of the amounts of constituents used to make the product pursuant to the following criteria:

(i) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records must be kept for at least 3 years.

(ii) For the purposes of this section, the VOC content shall be calculated according to the following equation:

$$\text{VOC Content} = \frac{\text{B} - \text{C}}{\text{A}} \times 100$$

where,

A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs, as defined in section 2 (159), per unit

C = total weight of VOCs exempted under section 4, per unit

(iii) If product records appear to demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this regulation.

(b) Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90 (May 25, 1990).

(c) Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

(d) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-90 (Sept. 28, 1990).

(e) No person shall create, alter, falsify, or otherwise modify records in such a way that the records do not accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and other test, processes, or records used in connection with product manufacture.

ACP FOR CONSUMER PRODUCTS

§130.451. Alternative methods of compliance.

The purpose of this section is to provide an alternative method to comply with the Table of Standards specified in §130.211. This alternative is provided by allowing responsible ACP parties the option of voluntarily entering into separate “alternative control plans” for consumer products, as specified in this regulation. Only responsible ACP parties for consumer products may enter into an ACP.

§130.452. Exemption.

A manufacturer of consumer products which has been granted an ACP Agreement by the CARB under the provisions in Subchapter 8.5, Article 4, Sections 94540-94555, of

Title 17 of the CCR shall be exempt from the Table of Standards in §130.211 for the period of time that the CARB ACP Agreement remains in effect provided that all ACP Products within the CARB ACP Agreement are contained in the Table of Standards in §130.211. A manufacturer claiming such an ACP Agreement on this basis must submit to the Department a copy of the CARB ACP decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption.

§130.453. Request for exemption.

(a) Manufacturers of consumer products that have been granted an ACP Agreement under the ACP provision in Subchapter 8.5, Article 4, sections 94540-94555, of Title 17 of the CCR based on California specific data, or that have not been granted an exemption by the CARB may seek an ACP Agreement with the Department.

(b) The Department shall not approve an ACP submitted by a responsible ACP party if the Department determines, upon review of the responsible ACP party's compliance history with past or current ACPs or the requirements for consumer products in this subchapter, that the responsible ACP party has a recurring pattern of violations and has consistently refused to take the necessary steps to correct those violations.

§130.454. Recordkeeping and availability of requested information.

(a) Information specified in the ACP Agreement approving an ACP shall be maintained by the responsible ACP party for a minimum of three years after such records are generated. Such records shall be clearly legible and maintained in good condition during this period.

(b) The records specified in this section shall be made available to the Department:

- (1) Immediately upon request, during an onsite visit to a responsible ACP party.
- (2) Within five working days after receipt of a written request from the Department.
- (3) Within a time period mutually agreed upon by both the Department and the responsible ACP party.

§130.455. Surplus reductions and surplus trading.

(a) The Department shall issue surplus reduction certificates which establish and quantify, to the nearest pound of VOC reduced, surplus reductions achieved by a responsible ACP party operating under an ACP. The surplus reductions can be bought from, sold to, or transferred to a responsible ACP party operating under an ACP, as provided in this section. All surplus reductions shall be calculated by the Department at the end of each compliance period within the time specified in the approved ACP.

Surplus reduction certificates shall not constitute instruments, securities, or other form of property.

(b) The issuance, use, and trading of all surplus reductions shall be subject to the following provisions:

(1) For the purposes of this regulation, VOC reductions from sources of VOCs other than consumer products subject to the VOC standards specified in §130.211 (relating to table of standards) may not be used to generate surplus reductions.

(2) Surplus reductions are valid only when generated by a responsible ACP party, and only while that responsible ACP party is operating under an approved ACP.

(3) Surplus reductions are valid only after the Department has issued an ACP Agreement pursuant to this section.

(4) Surplus reductions issued by the Department may be used by the responsible ACP party who generated the surplus until the reductions expire or, are traded, or until the ACP is canceled pursuant to this section.

(5) Surplus reductions cannot be applied retroactively to a compliance period prior to the compliance period in which the reductions were generated.

(6) Except as provided in this section, only small or one-product businesses selling products under an approved ACP may purchase surplus reductions. An increase in the size of a small business or one-product business shall have no effect on surplus reductions purchased by that business prior to the date of the increase.

(7) While valid, surplus reductions can be used only for one of the following purposes:

(i) To adjust the ACP emissions of either the responsible ACP party who generated the reductions or the responsible ACP party to which the reductions were traded, provided the surplus reductions are not to be used by a responsible ACP party to further lower its ACP emissions when its ACP emissions are equal to or less than the ACP limit during the applicable compliance period.

(ii) To be traded for the purpose of reconciling another responsible ACP party's shortfalls, provided such reconciliation is part of the reconciliation of shortfalls plan approved by the Department pursuant to this section.

(8) A valid surplus reduction shall be in effect starting 5 days after the date of issuance by the Department, for a continuous period equal to the number of days in the compliance period during which the surplus reduction was generated. The surplus reduction shall then expire at the end of its effective period.

(9) At least 5 working days prior to the effective date of transfer of surplus reductions, both the responsible ACP party which is selling surplus reductions and the responsible ACP party which is buying the surplus reductions shall, either together or separately, notify the Department in writing of the transfer. The notification shall include the following:

- (i) The date the transfer is to become effective.
- (ii) The date the surplus reductions being traded are due to expire.
- (iii) The amount (in pounds of VOCs) of surplus reductions that are being transferred.
- (iv) The total purchase price paid by the buyer for the surplus reductions.
- (v) The contact persons, names of the companies, street and mail addresses, and phone numbers of the responsible ACP parties involved in the trading of the surplus reductions.

(vi) A copy of the Department-issued surplus reductions certificate, signed by both the seller and buyer of the certificate, showing transfer of all or a specified portion of the surplus reductions. The copy shall show the amount of remaining non-traded surplus reductions, if applicable, and shall show their expiration date. The copy shall indicate that both the buyer and seller of the surplus reductions fully understand the conditions and limitations placed upon the transfer of the surplus reductions and accept full responsibility for the appropriate use of such surplus reductions as provided in this section.

(10) Surplus reduction credits shall only be traded between ACP product(s) for consumer products.

§130.456. Limited-use surplus reduction credits for early reformulations of ACP products

(a) For the purposes of this subsection, “early reformulation” means an ACP product which is reformulated to result in a reduction in the product's VOC content, and which is sold, supplied, or offered for sale in Pennsylvania for the first time during the 1 year (365-day) period immediately prior to the date on which the application for a proposed ACP is submitted to the Department. “Early reformulation” does not include reformulated ACP products which are sold, supplied, or offered for sale in Pennsylvania more than 1 year prior to the date on which the ACP application is submitted to the Department.

(b) If requested in the application for a proposed ACP, the Department shall, upon approval of the ACP, issue surplus reduction credits for early reformulation(s) of ACP

product(s), provided that the following documentation has been provided by the responsible ACP party to the satisfaction of the Department:

(1) Accurate documentation showing that the early reformulation reduced the VOC content of the ACP product to a level which is below the pre-ACP VOC content of the product, or below the applicable VOC standard(s) specified in §130.211, whichever is the lesser of the two.

(2) Accurate documentation demonstrating that the early reformulated ACP product was sold in retail outlets in this Commonwealth within the time period specified in this section.

(3) Accurate sales records for the early reformulated ACP product which meets the definition of “enforceable sales records” in §130.202, and which demonstrate that the enforceable sales for the ACP product are at least 75.0% of the gross Pennsylvania sales for the product.

(4) Accurate documentation for the early reformulated ACP product which meets the requirements specified in this section, and which identifies the specific test methods for verifying the claimed early reformulation and the statistical accuracy and precision of the test methods as specified in this section.

(c) Surplus reduction credits issued pursuant to this section shall be calculated separately for each early reformulated ACP product by the Department according to the following equation:

$$SR = \text{Enforceable Sales} \times \frac{((VOC\ Content)_{initial} - (VOC\ Content)_{final})}{100}$$

where,

SR = Surplus reductions for the ACP product, expressed to the nearest pound

Enforceable Sales = The enforceable sales for the early reformulated ACP product, expressed to the nearest pound of ACP product,

VOC Content_{initial} = The Pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in 3 (a), whichever is the lesser of the two, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product,

VOC Content_{final} = The VOC Content of the early reformulated ACP product after the early reformulation is achieved, expressed

to the nearest 0.1 pounds of VOC per 100 pounds of ACP product.

(d) The use of surplus reduction credits issued pursuant to this section shall be subject to the following provisions:

(1) Surplus reduction credits shall be used solely to reconcile the responsible ACP party's shortfalls generated during the first compliance period occurring immediately after the issuance of the ACP Agreement approving an ACP, and shall not be used for another purpose.

(2) Surplus reduction credits shall not be transferred to, or used by, another responsible ACP party.

(3) Except as provided in this section, surplus reduction credits shall be subject to all requirements applicable to surplus reductions and surplus trading, as specified in this section.

§130.457. Reconciliation of shortfalls.

(a) At the end of each compliance period, the responsible ACP party shall make an initial calculation of shortfalls occurring in that compliance period, as specified in the ACP Agreement approving the ACP. Upon receipt of this information, the Department shall determine the amount of a shortfall that has occurred during the compliance period, and shall notify the responsible ACP party of this determination.

(b) The responsible ACP party shall implement the reconciliation of shortfalls plan as specified in the ACP Agreement approving the ACP, within 30 working days from the date of written notification of a shortfall by the Department.

(c) Shortfalls shall be completely reconciled within 90 working days from the date of written notification of a shortfall by the Department, by implementing the reconciliation of shortfalls plan specified in the ACP Agreement approving the ACP.

(d) All requirements specified in the ACP Agreement approving an ACP, including all applicable ACP Limits, shall remain in effect while shortfalls are in the process of being reconciled.

§130.458. Notification of modifications to an ACP by the responsible ACP party.

(a) *Modifications that do not require Department pre-approval.* The responsible ACP party shall notify the Department, in writing, of a change in the following with respect to an ACP product:

(1) Product name.

- (2) Product formulation.
- (3) Product form.
- (4) Product function
- (5) Applicable product category(ies).
- (6) VOC content.
- (7) LVP content.
- (8) Date-codes.
- (9) Recommended product usage directions.

(b) *Notification.* The notification shall be submitted no later than 15 working days from the date such a change occurs. For each modification, the notification shall fully explain the following:

- (1) The nature of the modification.
- (2) The extent to which the ACP product formulation, VOC Content, LVP Content, or recommended usage directions will be changed.
- (3) The extent to which the ACP Emissions and ACP Limit specified in the ACP Agreement will be changed for the applicable compliance period.
- (4) The effective date and corresponding date-codes for the modification.

§130.459. Modifications that require Department pre-approval.

The responsible ACP party may propose modifications to the enforceable sales records or reconciliation of shortfalls plan specified in the ACP Agreement approving the ACP. Proposed modifications shall be fully described in writing and forwarded to the Department. The responsible ACP party shall clearly demonstrate that the proposed modifications will meet the requirements of this regulation. The responsible ACP party shall meet all applicable requirements of the existing ACP until such time as a proposed modification is approved in writing by the Department.

§130.460. Other Modifications.

Except as otherwise provided in this section, the responsible ACP party shall notify the Department, in writing, of information that the responsible ACP party may have which may alter the information submitted. The responsible ACP party shall provide

such notification to the Department no later than 15 working days from the date such information is known to the responsible ACP party.

§130.461. Modification of an ACP by the Department.

(a) If the Department determines that the enforceable sales for an ACP product are no longer at least 75.0% of the gross Pennsylvania sales for that product, or the information submitted pursuant to the approval process set forth in this section is no longer valid, or the ACP emissions are exceeding the ACP limit specified in the ACP Agreement approving an ACP, then the Department shall modify the ACP as necessary to ensure that the ACP meets all requirements of this regulation and that the ACP Emissions will not exceed the ACP limit.

(b) The Department shall not modify the ACP without first affording the responsible ACP party an opportunity for a public hearing in accordance with the procedures specified in applicable Pennsylvania laws and regulations, to determine if the ACP should be modified.

(c) If an applicable VOC standard specified in §130.211 (relating to table of standards) is modified by the CARB in a future rulemaking, the Department shall modify the ACP limit specified in the ACP Agreement approving an ACP to reflect the modified ACP VOC standards as of its effective date.

§130.462. Cancellation of an ACP.

An ACP shall remain in effect until:

- (1) The ACP reaches the expiration date specified in the ACP Agreement.
- (2) The ACP is modified by the responsible ACP party and approved by the Department.
- (3) The ACP is modified by the Department.
- (4) The ACP includes a product for which the VOC standard specified in §130.211 (relating to table of standards) is modified by the Department in a future rule making, and the responsible ACP party informs the Department in writing that the ACP will terminate on the effective date(s) of the modified standard.
- (5) The ACP is cancelled by the Department.

§130.463. Treatment of information.

The information required by §§130.451-130.464 (relating to ACP for consumer products) is public information which may not be claimed as confidential. All other information submitted to the Department to meet the requirements of this regulation shall

be handled in accordance with the procedures specified in applicable Pennsylvania laws and regulations.

§130.464. Other applicable requirements.

A responsible ACP party may transfer an ACP to another responsible ACP party, provided that the following conditions are met:

(1) The Department shall be notified, in writing, by both responsible ACP parties participating in the transfer of the ACP and its associated ACP Agreement. The written notifications shall be postmarked at least five (5) working days prior to the effective date of the transfer and shall be signed and submitted separately by both responsible parties. The written notifications shall clearly identify the contact persons, business names, mail and street addresses, and phone numbers of the responsible parties involved in the transfer.

(2) The responsible ACP party to which the ACP is being transferred shall provide a written declaration stating that the transferee shall fully comply with all requirements of the ACP Agreement approving the ACP and this regulation.

**WEB LINKS TO MATERIAL INCORPORATED BY REFERENCE IN
THE CONSUMER PRODUCTS PROPOSED RULEMAKING**

The basic test methods and standard operating procedures (SOPs) that are incorporated by reference in the proposed regulations are those developed by the California Air Resources Board (CARB). These methods and SOPs are available on CARB's web site at the following links:

www.arb.ca.gov/testmeth/cptm/cptm.htm
(first page has links to Method 310 and SOPs)

www.arb.ca.gov/testmeth/cptm/Method310.pdf
(Method 310 in pdf format)

www.arb.ca.gov/testmeth/cptm/sops.htm
(Table of 7 SOPs with links to pdf and Word documents)

Paper copies of ASTM methods referenced in the SOPs are available upon request from Debra Failor, DEP Policy Office, at 783-8727 (e-mail dfailor@state.pa.us).



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
October 26, 2001

The Secretary

Phone: 717-787-2814
E-Mail: DavidHess@state.pa.us

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
14th Floor, Harristown #2
333 Market Street
Harrisburg, PA 17120

RE: Proposed Rulemaking: Consumer Products (#7-370)

Dear Bob:

Enclosed is a copy of a proposed regulation for review and comment by the Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on November 10, 2001, with a 67-day public comment period. Three public hearings have been scheduled as indicated on the enclosed public notice. This proposal was approved by the Environmental Quality Board (EQB) on September 18, 2001.

This proposal is part of the Commonwealth's strategy to attain and maintain the one-hour National Ambient Air Quality Standard (NAAQS) for ozone, and it is based on the Ozone Transport Commission (OTC) model rule and the California Air Resources Board (CARB) program. Other Ozone Transport Region (OTR) states have committed to adopting similar regulations. The proposal addresses emission reduction "shortfalls" by reducing volatile organic compound (VOC) emissions from 45 categories of consumer products. The proposal expands upon the Federal consumer products rule, promulgated in 1998, which regulates 24 product categories and achieves about a 20% reduction in emissions on a national basis. Pennsylvania's proposal has been developed to capture additional reductions from these products. The proposed compliance date is January 1, 2005.

The Air Quality Technical Advisory Committee (AQTAC) endorsed a draft of the proposal on May 24, 2001, and supports continued efforts with other states toward national standards for these products. In addition, this proposal is supported by the four Pennsylvania Ozone Stakeholders Working Groups.

The Department will provide the Commission with any assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Act provides that the Commission may,

Mr. Robert E. Nyce

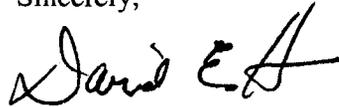
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October 26, 2001

within ten days after the expiration of the Committee review period, notify the agency of any objections to the proposed regulation. The Department will consider any comments or suggestions received by the Commission, together with Committee and other public comments prior to final adoption.

For additional information, please contact Sharon Trostle, Regulatory Coordinator, at 787-4526.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Hess". The signature is written in a cursive style with a large, sweeping "D" and "H".

David E. Hess
Secretary

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 7-370
 SUBJECT: Consumer Products
 AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10-26	<u>Cindy Zimin</u>	HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10-26	<u>John A. Castelli</u>	SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
10/26/01	<u>Elena Pagan</u>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL
10/26/01	<u>C. Lee Brown</u>	LEGISLATIVE REFERENCE BUREAU

October 15, 2001