

Regulatory Analysis Form	This space for use by IRRC
(1) Agency Environmental Protection	<div style="text-align: center;"> <p>RECEIVED</p> <p>2007 AUG 29 PM 3:57</p> <p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> </div>
(2) I.D. Number (Governor's Office Use) #7-416	IRRC Number 2636
(3) Short Title Consumer Products	
(4) Pa. Code Cite 25 Pa. Code Chapter 130, Subchapter B	(5) Agency Contacts & Telephone Numbers : Primary Contact: Michele Tate, 783-8727 Secondary contact: Kelly J. Heffner, 783-8727
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language. <p>The proposed rulemaking will amend Chapter 130, Subchapter B (relating to consumer products). The proposal will amend the Table of Standards to add volatile organic compound (VOC) content limits for an additional 11 categories of consumer products and revise the VOC content limits for one category of consumer products currently regulated. The proposal also includes definitions for approximately 30 new terms, including those that relate to the new product categories that will be regulated, and revised definitions for approximately 110 existing terms to provide clarity.</p> <p>A requirement for applicants for variances to pay for notices in newspapers to advertise public hearings required for variances and alternative compliance plans will be added.</p>	
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>This proposal is authorized under Section 5 of the Air Pollution Control Act (APCA) (35 P.S. § 4005), which grants the Environmental Quality Board (Board, EQB) the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in the Commonwealth. Section 4.2 of the APCA also authorizes the Board to adopt regulations more stringent than federal requirements when the control measures are reasonably necessary to achieve and maintain the ambient air quality standards. (35 P.S. § 4004.2)</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.

Yes No

The proposed regulation is not mandated by law, court order or regulation. While there are Federal VOC content limits found in 40 CFR Part 59, Subpart C, these amendments expand the existing Consumer Product regulation which is based on more stringent control measures recommended by the Ozone Transport Commission in the 2001 Model Rule for Consumer Products. There are no Federal limits for the additional products that will be subject to regulation under this proposed rulemaking.

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

Certain areas of the Commonwealth continue to exceed the health-based eight-hour National Ambient Air Quality Standard (NAAQS) for ozone. Revision of the existing consumer products regulation will provide for additional volatile organic compound (VOC) emission reductions that are necessary as part of the Commonwealth's efforts to achieve and maintain the NAAQS for ozone. The proposed amendments are consistent with regulatory initiatives that will be undertaken by other jurisdictions in the Ozone Transport Region to address regional transport of ozone precursor emissions.

(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 and welfare are adversely affected. The U.S. Environmental Protection Agency has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments, such as asthma. While 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 high levels of ambient ozone while engaged in activities that involve physical exertion. Though such symptoms are often temporary, repeated exposure could result in permanent lung damage. High levels of ground-level ozone also cause damage to crops and vegetation, buildings and synthetic fibers, including nylon, and reduce visibility on roadways and in natural areas.

(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 revisions will assure that the residents of this Commonwealth and the environment will continue to benefit from reduced emissions of VOCs and hazardous air pollutants (HAPs) in consumer products. Although the requirements are designed primarily to reduce ozone precursors, the reformulation of products to meet the VOC content limits will also result in the reduction of HAP emissions. The proposed regulations will result in improved indoor and outdoor air quality for all citizens of the Commonwealth by reducing ozone precursor emissions and HAP compounds. The reduced levels of HAPs will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of HAP compounds in spillage on the ground.

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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 amendments to Chapter 130, Subchapter B, Consumer Products, may slightly increase costs to purchasers of consumer products, but the cost increase is expected to be negligible because much of the reformulation of products has been completed as manufacturers developed products to meet these limits in other areas of the country.

- (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, sells or offers for sale a consumer product in Pennsylvania after the applicable effective date will be required to comply with the requirements.

The number of affected manufacturers, suppliers and sellers 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 staff of the Ozone Transport Commission (OTC) and member states formed a workgroup to discuss additional control measures for consumer products during a series of conference calls and workshops held from the spring of 2004 through the autumn of 2006. Representatives of the major consumer products trade associations, including the Consumer Specialty Products Association, the American Solvents Council and the Cosmetic, Toiletry and Fragrance Association, participated in several of the conference calls and are generally supportive of the initiative. The OTC workgroup collected and evaluated information regarding emission benefits, cost-effectiveness and implementation issues. Based on the analysis by the workgroup, the OTC Commissioners at the OTC Commissioners' meetings of June and November 2006, made recommendations to the OTC Member Jurisdictions to consider additional emission reductions from consumer products.

The production of low-VOC consumer products for these additional categories will require some new product development, but much of this work has already been done because of similar regulatory efforts in California.

The proposed revisions were discussed with the Air Quality Technical Advisory Committee at the March 29, 2007, meeting. The Committee voted unanimously to move the proposal forward to the EQB. In addition, the proposed amendments were discussed with the Citizens' Advisory Council and 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 for the affected consumer products will cost approximately \$4000 per ton of emissions reduced. The VOC emission reduction benefit for the additional regulated consumer products is estimated to be 2.1 tons per day (tpd) and 767 tons annually. It is estimated that the reductions will be approximately 0.13 pound per resident per year. Total cost to the users is estimated to be approximately \$3.1 million. This is an average of \$0.26 per resident per year.

The proposed regulation includes compliance and averaging options that will allow manufacturers 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 proposed regulation is expected to impose no additional direct costs on local governments.

If a local government purchases affected consumer products, however, 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	FFY +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	3.1M	3.1M	3.1M
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	3.1M	3.1M	3.1M
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 cost projections are based on data developed by the California Air Resources Board (CARB) that indicate that emission reduction costs are approximately \$4000 per ton for the similar program in California. The Department anticipates similar costs in Pennsylvania. MACTEC Federal Programs, a consultant to the Ozone Transport Commission, indicated in its report, "Identification and Evaluation of Candidate Control Measures, Final Technical Support Document," that the addition of these categories to the consumer product regulation will reduce emissions of VOC by approximately 2.1 tons per day in Pennsylvania. The tons per day multiplied by 365 days per year equals approximately 767 tons per year. Assuming that there are approximately 12 million people in Pennsylvania, the average reduction per person is calculated to be 0.13 pound of VOC per person per year. The total costs are calculated by multiplying \$4000 per ton times the 767 tons per year, which equals approximately \$3.1 million per year. This cost approximates \$0.26 per resident in Pennsylvania annually.

The increased costs of the affected products will result in an increase in sales tax revenues for the Commonwealth of approximately \$187,000.

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

No programs were affected by the regulation over the last three years.

Program	FY-3 (03/04)	FY-2 (04/05)	FY-1 (05/06)	Current FY (06/07)
233-20084 Clean Air Fund Mobile and Area Facilities	\$8,282,000	\$8,144,000	\$8,231,000	\$13,061,000
161-10382 Environmental Program Management	\$43,679,000	\$37,594,000	\$37,049,000	\$36,868,000

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

These additional emission reductions are necessary for the Commonwealth to achieve and maintain the health-based ozone NAAQS, as is required by Federal law. The proposed amendments will also reduce ambient outdoor and indoor concentrations of a variety of pollutants, including HAPs.

(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 as federally enforceable measures. The proposed rulemaking is part of the Commonwealth's efforts to achieve additional emission reductions of ozone precursors necessary to achieve and maintain the health-based ozone NAAQS. In order for the emission reductions to be included in the State Implementation Plan (SIP), the reductions must be enforceable.

(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.

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(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.

X Yes No

The proposed amendments expand upon the consumer products regulation adopted by the Board at its meeting of July 16, 2002. See 32 Pa. B. 4824 (Oct. 5, 2002). While there are Federal VOC content limits codified at 40 CFR Part 59, Subpart C, for certain consumer products already regulated by Chapter 130, Subchapter B, there are no Federal limits for the additional products that will be regulated by this proposed rulemaking. The Commonwealth's regulation, with these proposed amendments, will regulate 56 consumer product categories and approximately 110 different types of products, and require more stringent VOC content limits than the Federal rule.

The VOC emission reductions that will result from the proposed amendments will help reduce ambient levels of ozone precursors and protect public health and welfare. The proposed revisions are reasonably necessary as part of the Commonwealth's efforts to achieve and maintain the health-based eight-hour NAAQS for ozone.

(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 amendments are part of a strategy for Pennsylvania and other OTC member states to achieve and maintain the health-based ozone NAAQS. This regional strategy will enable 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 amendments. Manufacturers will be able to continue to market existing noncomplying products outside of Pennsylvania, but will be subject to the same requirements as other manufacturers for products that are produced for the Pennsylvania market. In the short-term, manufacturers will be able to market noncomplying products manufactured prior to the applicable compliance date under the proposed "sell-through" provision for consumer products.

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

X Yes No

The proposed rulemaking will amend the existing 25 Pa. Code Chapter 130, Subchapter B, Consumer Products.

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

X Yes No

Three public hearings will be scheduled.

Eastern PA

Central PA

Western PA

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(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.

X Yes

No

The proposed amendments will add requirements for manufacturers to report changes in date coding and provide an explanation of the modified date code to the Department before products displaying the modified code are sold, supplied or offered for sale in this Commonwealth.

An applicant for an alternative control plan or variance will be required to publish notice of the time, place and purpose of the three public hearings for approval of the alternative control plan or variance in newspapers of general circulation not less than 30 days prior to the hearings.

(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.

The existing regulation includes a number of compliance options, including innovative product exemptions, variance provisions and averaging options. These are retained in the amendments.

(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 proposed amendments will become effective on the date of publication as final rulemaking in the *Pennsylvania Bulletin*.

Consumer products sold, supplied, offered for sale or manufactured for sale in Pennsylvania are required to comply with the applicable VOC limit in the Table of Standards in § 130.211 on or after the applicable effective date for the product.

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
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(Pursuant to Commonwealth Documents Law)

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REVIEW COMMISSION

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

By: *Anthony M. Elliott*
(Deputy Attorney General)

AUG 16 2007

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

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

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-416

DATE OF ADOPTION June 19, 2007

BY *Kathleen A. McGinty*

TITLE KATHLEEN A. MCGINTY
CHAIRPERSON

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

BY *Andrew C. Clark*

DATE OF APPROVAL JUL 16 2007

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

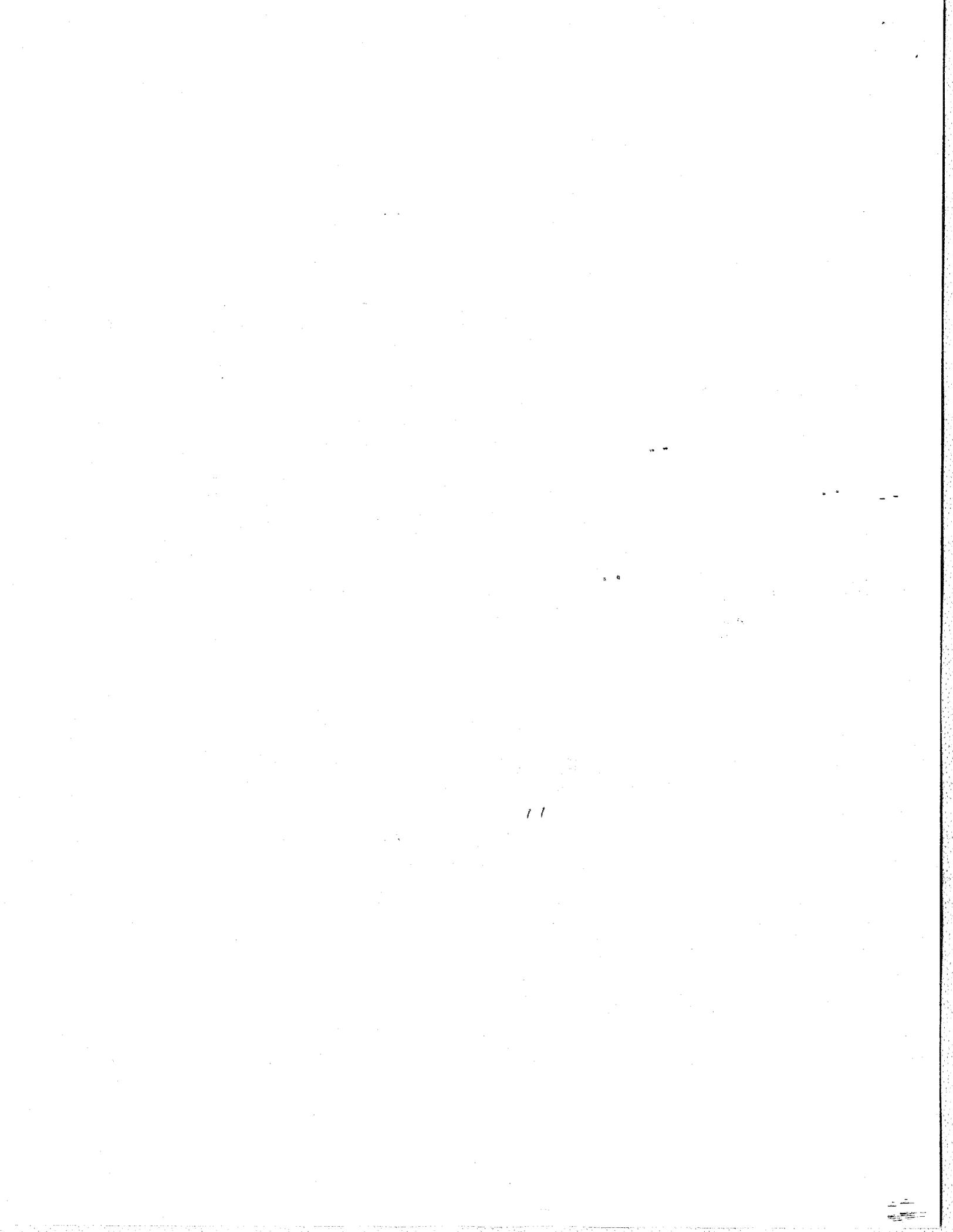
Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

Consumer Products

25 Pa. Code, Chapters 130, Subchapter B



**Notice of Proposed Rulemaking
Department of Environmental Protection
Environmental Quality Board
(25 Pa. Code, Chapter 130, Subchapter B)
Consumer Products**

Preamble

The Environmental Quality Board (Board, EQB) proposes to amend 25 Pa. Code Chapter 130, Subchapter B (relating to consumer products), to read as set forth in Annex A. The proposed amendments will amend the Table of Standards to add volatile organic compound (VOC) content limits for an additional 11 categories of consumer products and revise the VOC content limits for one category of consumer products currently regulated. The proposal also includes definitions for approximately 30 new terms, including those that relate to the new product categories that will be regulated, and revised definitions for approximately 110 existing terms to provide clarity.

This proposal was adopted by the Board at its meeting of June 19, 2007.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information contact Susan Hoyle, Air Quality Program Specialist, Division of Air Resource Management, P.O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 787-9702, or Kristen Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.depweb.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of section 5 of the Air Pollution Control Act (act) (35 P. S. § 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 eight-hour standard, public health and welfare are adversely affected. The Federal Environmental Protection Agency (EPA) has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments, such as asthma. While 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 high levels of ambient ozone while engaged in activities that involve physical exertion. Though such symptoms are often temporary, repeated exposure could result in permanent lung damage. High levels of ground-level ozone also cause damage to crops and vegetation, buildings and synthetic fibers, including nylon, and reduce visibility on roadways and in natural areas.

The purpose of the proposed amendments is to reduce the VOCs emitted from consumer products. Ozone is not directly emitted by consumer products, but is created as a result of the chemical reaction of oxides of nitrogen and VOCs in the presence of light and heat. The proposed amendments are part of the Commonwealth's strategy to achieve and maintain the eight-hour ozone standard throughout this Commonwealth. The proposed amendments expand upon the consumer products regulation adopted by the Board at its meeting of July 16, 2002. *See 32 Pa. B. 4824 (Oct. 5, 2002).*

While there are Federal VOC content limits codified at 40 CFR Part 59, Subpart C, for certain consumer products already regulated by Chapter 130, Subchapter B, there are no Federal limits for the additional products that will be regulated by this proposed rulemaking.

This proposal is consistent with regulatory initiatives that will be undertaken by other jurisdictions in the Ozone Transport Region to address regional transport of ozone precursor emissions. The Ozone Transport Commission (OTC) Member States and the District of Columbia and OTC staff formed a workgroup to discuss additional control measures for consumer products during a series of conference calls and workshops held from the spring of 2004 through the autumn of 2006. Representatives of the major consumer products trade associations, including the Consumer Specialty Products Association, the American Solvents Council and the Cosmetic, Toiletry and Fragrance Association, participated in several of the conference calls or meetings and are generally supportive of the initiative. The OTC workgroup collected and evaluated information regarding emission reduction benefits, cost-effectiveness and implementation issues. Based on the analysis by the workgroup, the OTC Commissioners at the OTC Commissioners' meetings of June and November 2006 made recommendations to the OTC Member Jurisdictions to consider additional emission reductions from consumer products. The resulting 2006 OTC Model Rule for Consumer Products is similar to the California Air Resources Board (CARB) consumer products regulation amended in September 2005. Prior to developing this proposal, the Department used the OTC model rule and background material as a

starting point and reviewed those documents, including specific emission reductions, for applicability in this Commonwealth.

Because the Commonwealth, in conjunction with other OTC Member Jurisdictions, has had discussions with representatives of the various National consumer product manufacturers in related industries, and has gathered their support for the proposed amendments, it is important that the proposed amendments of the consumer product regulation be implemented consistently and uniformly in the Ozone Transport Region.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking on March 29, 2007. The AQTAC concurred with the Department's recommendation to seek EQB approval of the proposed rulemaking. In addition, AQTAC encouraged the Department to continue to work with other states to pursue federal standards for consumer products. The Department also consulted with the Citizens Advisory Council and the Small Business Compliance Advisory Committee.

E. Summary of Regulatory Requirements

This proposed rulemaking amends the definitions in § 130.202 (relating to definitions) of the following terms, for clarity, style and format: "ACP emissions," "ACP limit," "ACP product," "ACP VOC standard," "ASTM," "adhesive," "adhesive remover," "aerosol adhesive," "aerosol cooking spray," "aerosol product," "agricultural use," "air freshener," "all other forms," "antimicrobial hand or body cleaner or soap," "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," "compliance period," "construction, panel and floor covering adhesive," "consumer product," "contact adhesive," "container/packaging," "crawling bug insecticide," "deodorant," "device," "disinfectant," "dry cleaning fluid," "dusting aid," "electronic cleaner," "enforceable sales record," "engine degreaser," "fabric protectant," "facial cleaner or soap," "flea and tick insecticide," "floor polish or wax," "floor seam sealer," "floor wax stripper," "flying bug insecticide," "fragrance," "furniture coating," "furniture maintenance product," "general purpose adhesive," "general purpose cleaner," "general purpose degreaser," "general-use hand or body cleaner or soap," "glass cleaner," "hair mousse," "hair shine," "hair spray," "hair styling gel," "heavy-duty hand cleaner or soap," "herbicide," "household product," "insecticide," "insecticide fogger," "institutional product or industrial and institutional (I&I) product," "LVP content or lower vapor pressure content," "LVP-VOC or lower vapor pressure-VOC," "laundry prewash," "laundry starch product," "lawn and garden insecticide," "liquid," "lubricant," "medicated astringent/medicated toner," "metal polish/cleanser," "multipurpose dry lubricant," "multipurpose lubricant," "multipurpose solvent," "nail polish," "nail polish remover," "nonresilient flooring," "oven cleaner," "paint," "paint remover or stripper," "penetrant," "Pennsylvania

sales," "pesticide," "plasticizer," "pre-ACP VOC content," "principal display panel or panels," "product category," "rubber and vinyl protectant," "sealant and caulking compound," "shaving cream," "shortfall," "silicone-based multipurpose lubricant," "solid," "special purpose spray adhesive," "spot remover," "spray buff product," "structural waterproof adhesive," "surplus reduction," "TMHE-Total maximum historical emissions," "tire sealant and inflation," "type B propellant," "type C propellant," "undercoating," "VOC content," "wasp and hornet insecticide," "waterproofer," "wax" and "wood floor wax."

This proposed rulemaking adds definitions in § 130.202 for the following terms to improve clarity or explain new product categories: "aerosol coating product," "antistatic product," "certified emissions," "certified use rate," "contact adhesive-general purpose," "contact adhesive-special purpose," "deodorant body spray," "electrical cleaner," "energized electrical cleaner," "existing product," "fabric refresher," "floor and wall covering adhesive remover," "floor coating," "footwear or leather care product," "gasket adhesive or thread locking adhesive remover," "general purpose adhesive remover," "graffiti remover," "hair styling product," "high pressure laminate," "highest sales," "highest VOC content," "personal fragrance product," "pressurized gas duster," "product form," "shaving gel," "specialty adhesive remover," "toilet/urinal care product," "vinyl/fabric/leather/polycarbonate coating" and "wood cleaner."

The proposal revises § 130.211 (relating to table of standards) by adding VOC content limits for 11 new categories of consumer products and revising the VOC content limits for one category of product currently regulated (contact adhesive). This section sets forth the percentage of VOC by weight that cannot be exceeded for consumer products that are sold, supplied, offered for sale or manufactured for sale in this Commonwealth. The 11 new categories are: adhesive remover (floor and wall covering, gasket or thread locking, general purpose and specialty); antistatic product; electrical cleaner; electronic cleaner; fabric refresher; footwear or leather care product; graffiti remover; hair styling product; shaving gel; toilet/urinal care product; and wood cleaner.

The proposed rulemaking amends §§ 130.213, 130.214 and 130.215 (relating to products registered under FIFRA; requirements for charcoal lighter material products; and requirements for aerosol adhesives) for clarity and format. In addition, the proposal amends § 130.214 to incorporate future changes in test procedures.

The proposed rulemaking adds § 130.217 (relating to sell-through of products) to allow for sell-through of products manufactured prior to applicable effective dates.

The proposed rulemaking amends §§ 130.331, 130.332, 130.334, 130.335 and 130.338 (relating to products for shipment and use outside this Commonwealth; antiperspirants and deodorants; products registered under FIFRA; air fresheners; and fragrances) for clarity and format. In addition, the proposal deletes "air fresheners" from § 130.335 for consistency with the OTC model rule, because these air fresheners would be regulated in the new category "toilet/urinal care product."

The proposal amends § 130.371 (relating to product dating) by updating the product dating requirements and explaining the format and location for the date code. The proposal also requires that a manufacturer must submit an explanation of its modified codes to the Department before products displaying the modified code can be sold.

The proposed rulemaking amends § 130.372 (relating to most restrictive limit) to add new subsections (a) and (b). Subsection 130.372(a) establishes the lowest applicable VOC limit requirements for products manufactured before January 1, 2009, and FIFRA-registered insecticides manufactured before January 1, 2010. Subsection 130.372(b) establishes the lowest applicable VOC limit requirements for products manufactured on or after January 1, 2009, and FIFRA-registered insecticides manufactured on or after January 1, 2010.

The proposal requires additional information on product containers for products in § 130.373 (relating to additional labeling requirements for aerosol adhesive, adhesive remover, electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive products).

The proposal amends §§ 130.411, 130.412 and 130.414 (relating to application for variance; variance orders; and modification of variance) for format.

The proposed rulemaking revises § 130.431 (relating to testing for compliance) to update the reference date for several test protocols and standards and to incorporate future amendments of test protocols and standards.

The proposal amends §§ 130.452 - 130.455 (relating to exemption; request for exemption; application for an ACP; and recordkeeping and availability of requested information), §§ 130.457, 130.458, 130.460, 130.462 and 130.465 (relating to limited-use surplus reduction credits for early reformulations of ACP products; reconciliation of shortfalls; modifications that require Department pre-approval; modification of an ACP by the Department; and other applicable requirements) for clarity.

The proposal amends § 130.471 (relating to public hearings) to require the applicant for a variance or alternative control plan to publish the notice for the three public hearings in newspapers of general circulation not less than 30 days prior to the hearings. The Department will publish notice in the *Pennsylvania Bulletin*.

This proposed rulemaking is necessary to achieve and maintain the eight-hour ozone NAAQS. The proposed regulations, if adopted, will be submitted to the EPA as a revision to the State Implementation Plan.

F. Benefits, Costs and Compliance

Benefits

Overall, the citizens of this Commonwealth will benefit from these proposed amendments because the amendments will result in improved air quality by reducing ozone precursor emissions and will encourage new technologies and practices, which will reduce emissions. The proposed amendments will also result in reduced levels of hazardous air pollutants (HAPs) throughout this Commonwealth. In addition, the proposed amendments will reduce citizen exposure to a variety of solvents, including HAPs that are used in a variety of consumer products.

Compliance Costs

Under these proposed amendments, it is estimated that the reduction of VOC content of the affected consumer products will cost approximately \$4000 per ton of VOC emissions reduced based on annual emission reductions of approximately 767 tons or 0.13 pound per resident per year. This equates to an estimated annual cost increase of \$3.1 million annually, or \$0.26 per Commonwealth resident per year. Applicants for a variance or alternative compliance plan will incur the costs of publishing notice of the time, place and purpose of the three public hearings in newspapers of general circulation.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in 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 proposed regulations will not increase the paperwork that is already generated during the normal course of business operations.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This regulation has incorporated the following pollution prevention incentives:

The proposed amendments will assure that the citizens and the environment of the Commonwealth will continue to experience the benefits of reduced emissions of VOCs and HAPs from low-VOC consumer products. Although the requirements are to address ozone air quality by reducing emissions of ozone precursors, the reformulation of products to meet the VOC content limits will also result in the reduction of HAP emissions. The proposed regulations will result in improved indoor and outdoor air quality for all citizens of the Commonwealth by reducing ozone precursor emissions and HAP compounds. The reduced levels of HAPs will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of HAP compounds in spillage on the ground.

H. Sunset Review

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.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 28, 2007, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate 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, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

J. Public Comments

Written Comments - Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th 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 November 14, 2007. 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 November 14, 2007. 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 and must also be received by the Board by November 14, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

K. Public Hearings

The Environmental Quality Board will hold 3 public hearings for the purpose of accepting comments on this proposal. The hearings will be held as follows:

October 15, 2007 1:00 p.m.	Department of Environmental Protection Rachel Carson State Office Building Room 105 400 Market Street Harrisburg, PA 17105
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October 15, 2007 1:00 p.m.	Department of Environmental Protection Southwest Regional Office Waterfront A and B Conference Room 400 Waterfront Drive Pittsburgh, PA 15222
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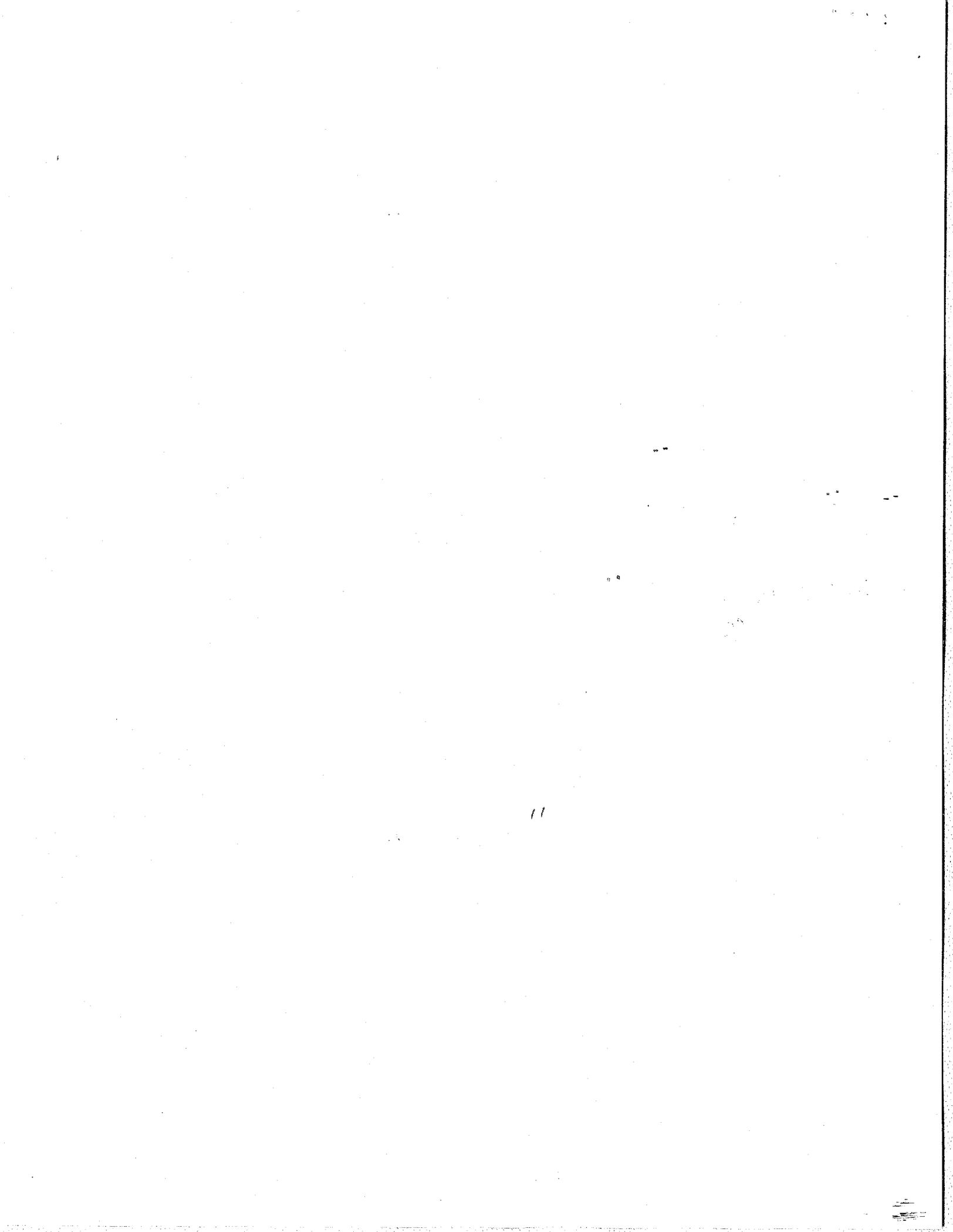
October 15, 2007 1:00 p.m.	Department of Environmental Protection Southeast Regional Office Delaware River Conference Room 2 East Main Street Norristown, PA 19401
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Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to ten 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 in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Environmental Quality Board 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:

KATHLEEN A. MCGINTY
Chairperson
Environmental Quality Board



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.

Except as provided in §§ 130.331—130.33[7]§ (relating to exemptions), this subchapter applies to a person who sells, supplies, offers for sale[,] or manufactures a consumer product[s] on or after [January 1, 2005]the applicable effective date in § 130.211 (relating to table of standards), 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 emissions—

[(i)]The sum of the VOC emissions from every ACP product subject to an ACP [A]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:

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

where,

$$(i) \text{ Emissions} = \frac{(VOC [C]_{content}) \times (Enforceable [S]_{sales})}{100}$$

[where,

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

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

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

B = total weight of all VOCs per unit, as defined in this section -

C = total weight of all exempted VOCs per unit, as specified in this section

(iii) For charcoal lighter material products only:

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

Certified Emissions = the emissions level for products approved by the Department under § 130.214 (relating to requirements for charcoal lighter materials), as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 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 under "South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991)," expressed to the nearest 0.001 pound certified product used per start.]

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

ACP limit—The maximum allowable ACP [E]missions during the compliance period specified in an ACP [A]greement[**approving an ACP**], expressed to the nearest pound of VOC and calculated according to the following equation:

$$ACP [L]limit = (Limit)_1 + (Limit)_2 + \dots + (Limit)_N$$

where,

$$(i) \text{ Limit} = \frac{(ACP [S]standard) \times (Enforceable [S]sales)}{100}$$

100

[**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 container and packaging).**

ACP Standard = either the ACP product's Pre-ACP VOC Content, or the applicable VOC standard specified in § 130.211 (relating to table of standards), 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 (expressed as a percentage).]

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

ACP product—A consumer product subject to the VOC standards specified in § 130.211 (**relating to table of standards**), except those products that have been exempted under §§ 130.331—130.33[7]8 (relating to exemptions), or exempted as innovative products under §§ 130.351 and 130.352 (relating to innovative products).

* * * * *

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

(i) The applicable VOC [S]standard specified in § 130.211[,] for all ACP products except [for]charcoal lighter material **products**.

(ii) For charcoal lighter material products only, the VOC [S]standard for the purposes of this [section]subchapter shall be calculated according to the following equation:

$$\text{VOC [S]standard} = \frac{(0.020 \text{ pound CH}_2 \text{ per start} \times 100)}{\text{Certified [U]use [R]rate}}$$

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 under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), expressed to the nearest 0.001 pound certified product used per start.]

ASTM—ASTM International, formerly [T]the American Society for Testing and Materials.

Adhesive—A product that is formulated or labeled to be used to bond one surface to another by attachment.

(i) The term includes caulks, sealants, glues and similar substances used for the purpose of forming a bond.

[(i)](ii) The term does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners[,] or other products with an adhesive incorporated onto or in an inert substrate.

[(ii)] For contact adhesives, the term does not include aerosol adhesives or units of product, less packaging, which consist of more than 1 gallon.

[(iii)] For construction, panel and floor covering adhesive and general purpose adhesive, the term does not include aerosol adhesives or units of product which consist of more than 1 pound or 16 fluid ounces, less packaging.]

Adhesive remover—

(i) A product [designed]formulated or labeled [exclusively for the removal of adhesives, caulk and other bonding materials]to remove adhesive from either a specific substrate or a variety of substrates.

(ii) The term does not include products that remove adhesives intended exclusively for use on humans or animals.

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. The term includes the following:

(i) Special purpose spray adhesive.

(ii) Mist spray adhesive.

(iii) Web spray adhesive.

Aerosol coating product—A pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant and is packaged in a disposable can designed for hand-held application or for use in specialized equipment for ground traffic marking applications.

Aerosol cooking spray—An aerosol product [designed]formulated or labeled 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 contained in the product or the product's container or by means of a 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:

* * * * *

(iii) *Industrial use.* Use for or in a manufacturing, mining or chemical process or use in the operation of factories, processing plants and similar sites.

* * * * *

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

(i) The term does not include the following:

* * * * *

(B) Products that function primarily as cleaning products, as indicated on a product label.

* * * * *

(E) Toilet/urinal care products.

* * * * *

All other forms—Consumer product forms for which no form-specific VOC standard is specified in §§ 130.211—130.21[6]7 (relating to standards). 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]formulated or labeled** to reduce the level of microorganisms on the skin through germicidal activity. The term includes the following:

* * * * *

Antistatic product—A product that is formulated or labeled to eliminate, prevent or inhibit the accumulation of static electricity. The term does not include the following:

(i) Electronic cleaner.

(ii) Floor polish or wax.

(iii) Floor coating.

(iv) Aerosol coating product.

(v) Architectural coating.

* * * * *

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 **the following**:

* * * * *

Automotive brake cleaner—A cleaning product **[designed]formulated or labeled** 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]Formulated or labeled** to protect and improve the appearance of automotive paint surfaces.

* * * * *

Automotive instant detailer—A product **[designed]formulated or labeled** 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]formulated or labeled** 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]formulated or labeled** to seal out moisture, increase gloss or otherwise enhance a motor vehicle's painted surfaces.

(i) The term includes products **[designed]formulated or labeled** for:

* * * * *

(ii) The term does not include **the following**:

* * * * *

(D) Products **[designed]formulated or labeled** for use on unpainted surfaces such as bare metal, chrome, glass or plastic.

Automotive windshield washer fluid—A liquid **[designed]formulated or labeled** 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]formulated or labeled** to clean tile or surfaces in bathrooms. The term does not include products **[specifically designed] formulated or labeled** to clean toilet bowls, [or] toilet tanks **or urinals**.

Bug and tar remover—A product **[designed]formulated or labeled** to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

* * * * *

Carburetor or fuel-injection air intake cleaners—

(i) A product **[designed]formulated or labeled** to remove fuel deposits, dirt or other contaminants from a carburetor, choke, throttle body of a fuel-injection system or associated linkages.

(ii) The term does not include products **[designed]formulated or labeled** 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]formulated or labeled** for the purpose of eliminating dirt and stains on rugs, carpeting and the interior of motor vehicles or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics.

(i) The term includes[, **but is not limited to,**] products that make fabric protectant claims.

(ii) The term does not include **the following**:

(A) General purpose cleaner[s,].

___(B) [s]Spot remover [s,].

___(C) [v]Vinyl or leather cleaner[s or].

___(D) [d]Dry cleaning fluids.

[(B)](E) Products **[designed]formulated or labeled** exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

Certified emissions—**The emissions level for products approved by the Department under § 130.214 (relating to requirements for charcoal lighter material products), as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), including subsequent amendments, 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 under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), including subsequent amendments, expressed to the nearest 0.001 pound certified product used per start.**

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

* * * * *

Compliance period—The period of time, not to exceed 1 year, for which the ACP **[L]**limit and ACP **[E]**emissions are calculated and for which compliance with the ACP **[L]**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]formulated or labeled** exclusively for the installation, remodeling, maintenance or repair of:

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

* * * * *

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

* * * * *

(ii) The term does not include [floor seam sealer.] the following:

(A) Floor seam sealer.

(B) Units of product that weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging.

* * * * *

Consumer product—

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

* * * * *

(L) Aerosol adhesives, including aerosol adhesives used for consumer, industrial or commercial uses.

* * * * *

Contact adhesive—

(i) An adhesive that:

(A) Is [~~designed~~]formulated or labeled for application to both surfaces to be bonded together.

* * * * *

(ii) The term does not include the following:

(A) [r]Rubber cements that are primarily intended for use on paper substrates.

(B) Vulcanizing fluids that are formulated or labeled for tire repair only.

(C) Units of product, less packaging, that consist of more than 1 gallon.

Contact adhesive-general purpose--A contact adhesive that is not a "contact adhesive - special purpose."

Contact adhesive-special purpose--A contact adhesive that is formulated or labeled to be used for either of the following:

(i) To bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, high pressure laminate or wood veneer 1/16 inch or less in thickness to a porous or nonporous surface, and is sold in units of product, less packaging, that contain more than eight fluid ounces.

(ii) In automotive applications that are either of the following:

(A) Automotive under-the-hood applications requiring heat, oil or gasoline resistance.

(B) Attachment of body-side molding, automotive weatherstrip or decorative trim.

Container/packaging—The 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]formulated** 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.

* * * * *

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

* * * * *

Deodorant—**For products manufactured as follows:**

(i) Before January 1, 2009, [A]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.

(ii) On or after January 1, 2009, a product, including aerosols, roll-ons, sticks, pumps, pads, creams and squeeze-bottles, that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that the product can be used on or applied to the human axilla to provide a scent or minimize odor. The term includes a deodorant body spray product that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla.

Deodorant body spray—For products manufactured as follows:

(i) Before January 1, 2009, a personal fragrance product with 20% or less fragrance.

(ii) On or after January 1, 2009, a personal fragrance product with 20% or less fragrance, that is formulated or labeled for application all over the human body to provide a scent. The term includes a deodorant product that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla.

Device—

(i) 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]humans and other than bacteria, viruses or other microorganisms on or in living [man]humans or [other]living animals).

(ii) The term does not include equipment used for the application of pesticides when sold separately.

Disinfectant—

* * * * *

(ii) The term does not include the following:

(A) Products [designed]formulated or labeled solely for use on humans or animals.

(B) Products [designed]formulated or labeled for agricultural use.

(C) Products [designed]formulated or labeled 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]formulated or labeled primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners or metal polishes.

* * * * *

Dry cleaning fluid—

(i) A nonaqueous liquid product [designed and]formulated or labeled exclusively for use on:

* * * * *

(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.

* * * * *

Dusting aid—A product [**designed**] **formulated or labeled** 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**] **pressurized gas duster**.

Electrical cleaner—**A product formulated or labeled to remove heavy soils like grease, grime or oil from electrical equipment, including electric motors, armatures, relays, electric panels and generators. The term does not include the following:**

- (i) General purpose cleaner.
- (ii) General purpose degreaser.
- (iii) Dusting aid.
- (iv) Electronic cleaner.
- (v) Energized electrical cleaner.
- (vi) Pressurized gas duster.
- (vii) Engine degreaser.
- (viii) Antistatic product.
- (ix) Products designed to clean the casings or housings of electrical equipment.

Electronic cleaner—

(i) A product [**designed specifically**] **formulated or labeled** for the removal of dirt, [**grease or grime**] **moisture, dust, flux or oxides** from [**electrical**] **the internal components of electronic or precision** equipment [**such as electric motors**], **including** circuit boards[, **electricity panels and generators.**] **and the internal components of electronic devices, including the following:**

- (A) Radios.
- (B) Compact disc (CD) players.
- (C) Digital video disc (DVD) players.

(D) Computers.

(ii) The term does not include the following:

(A) General purpose cleaner.

(B) General purpose degreaser.

(C) Dusting aid.

(D) Pressurized gas duster.

(E) Engine degreaser.

(F) Electrical cleaner.

(G) Energized electrical cleaner.

(H) Antistatic product.

(I) Products designed to clean the casings or housings of electronic equipment.

Energized electrical cleaner—

(i) A product that meets both of the following:

(A) The product is formulated or labeled to clean or degrease electrical equipment, where cleaning or degreasing is accomplished when electrical current exists, or when there is a residual electrical potential from a component, such as a capacitor.

(B) The product label clearly states that the product is for energized equipment use only and is not to be used for motorized vehicle maintenance or maintenance of motorized vehicle parts.

(ii) The term does not include electronic cleaner.

* * * * *

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 this Commonwealth during the applicable compliance period can be accurately documented. For the purposes of this subchapter, the term includes[, but is not limited to,] the following types of records:

* * * * *

Engine degreaser—A cleaning product **[designed]formulated or labeled** to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

Existing product—A formulation of the same product category and form sold, supplied, manufactured or offered for sale in this Commonwealth prior to January 1, 2005, or a subsequently introduced identical formulation.

Fabric protectant—A product **[designed]formulated or labeled** to be applied to fabric substrates to protect the surface from soiling by dirt and other impurities or to reduce absorption of liquid into the fabric's fibers. The term does not include **the following**:

(i) [waterproofers,]Waterproofers.

(ii) [p]Products designed for use solely on leather[or].

(iii) [p]Products designed for use solely on fabrics which are labeled "dry clean only" and sold in containers of 10 fluid ounces or less.

Fabric refresher—

(i) A product formulated or labeled to neutralize or eliminate odors on non-laundered fabric, including the following fabrics:

(A) Soft household surfaces.

(B) Rugs.

(C) Carpeting.

(D) Draperies.

(E) Bedding.

(F) Automotive interiors.

(G) Footwear.

(H) Athletic equipment.

(I) Clothing.

(J) Household furniture or objects upholstered or covered with fabrics including wool, cotton or nylon.

(ii) The term does not include the following:

- (A) Antistatic product.
- (B) Carpet and upholstery cleaner.
- (C) Soft household surface sanitizers.
- (D) Footwear or leather care product.
- (E) Spot remover.
- (F) Disinfectant.
- (G) Products labeled for application to both fabric and human skin.

(iii) For the purposes of this definition, "soft household surface sanitizer" means a product formulated or labeled to neutralize or eliminate odors on surfaces listed in subparagraph (i) and the label for which is registered as a sanitizer under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y).

Facial cleaner or soap—A cleaner or soap ~~designed~~ formulated or labeled primarily to clean the face.

(i) The term includes, but is not limited to, the following:

- (A) [f]Facial cleansing cream[s].
- (B) [gels,]Semisolid.
- (C) [liquids,]Liquid.
- (D) [lotions and]Lotion.
- (E) [s]Substrate-impregnated forms.

(ii) The term does not include the following:

- [(i)](A) Prescription drug products.
- [(ii)](B) Antimicrobial hand or body cleaner or soap.
- [(iii)](C) Astringent/toner.
- [(iv)](D) General-use hand or body cleaner or soap.
- [(v)](E) Medicated astringent/medicated toner.

[(vi)](F) Rubbing alcohol.

* * * * *

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

* * * * *

Floor and wall covering adhesive remover --A product formulated or labeled to remove floor or wall covering and associated adhesive from the underlying substrate.

Floor coating--An opaque coating that is formulated or labeled for application to flooring, including the following:

(i) Decks.

(ii) Porches.

(iii) Steps.

(iv) Other horizontal surfaces which may be subject to foot traffic.

Floor polish or wax—A wax, polish or other product **[designed]formulated or labeled** to polish, protect or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. The term does not include **the following**:

* * * * *

(ii) Products **[designed]formulated or labeled** solely for the purpose of cleaning floors.

* * * * *

(iv) Products **[designed]formulated or labeled** for unfinished wood floors.

* * * * *

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

Floor wax stripper—A product **[designed]formulated or labeled** 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 **the following**:

(i) [a]Aerosol floor wax stripper[s or].

(ii) [p]Products [designed]formulated or labeled to remove floor wax solely through abrasion.

Flying bug insecticide—An insecticide product that is **[designed]formulated or labeled** for use against flying insects or other flying arthropods, including mosquitoes, moths or gnats.

(i) The term does not include **the following**:

[(i)](A) Wasp and hornet insecticide.

[(ii)](B) Products that are [designed]formulated or labeled to be used exclusively on humans or animals.

[(iii)](C) A moth-proofing product.

(ii) 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]formulated or labeled 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.

Footwear or leather care product—

(i) A product formulated or labeled to be applied to footwear or to other leather articles or components, to maintain, enhance, clean, protect or modify the appearance, durability, fit or flexibility of the footwear or leather article or component. Footwear includes both leather and non-leather foot apparel.

(ii) The term does not include the following:

(A) Fabric protectant.

(B) General purpose adhesive.

(C) Contact adhesive.

(D) Vinyl/fabric/leather/polycarbonate coating.

(E) Rubber and vinyl protectant.

(F) Fabric refresher

(G) Products formulated or labeled solely for deodorizing.

(H) Sealant products with adhesive properties used to create external protective layers greater than 2 millimeters thick.

Fragrance—A substance or complex mixture of aroma chemicals, natural essential oils and other functional components with a combined vapor pressure not in excess of 2 mm of Mercury at 20°C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

Furniture coating—A paint formulated or labeled for application to room furnishings, including cabinets (kitchen, bath and vanity), tables, chairs, beds and sofas.

Furniture maintenance product—

(i) A wax, polish, conditioner or other product [designed]formulated or labeled for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors.

(ii) The term does not include the following:

(A) [dusting aids,]Dusting aid.

(B) Wood cleaner.

(C) [p]Products [designed]formulated or labeled solely for the purpose of cleaning [and].

(D) [p]Products [designed]formulated or labeled to leave a permanent finish [such as], including 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.]

Gasket adhesive or thread locking adhesive remover—

(i) A product formulated or labeled to remove gasket or thread locking adhesives.

(ii) The term includes products formulated or labeled for dual use as a paint stripper and gasket adhesive remover or thread locking adhesive remover.

* * * * *

General purpose adhesive—A nonaerosol adhesive [designed]formulated or labeled for use on a variety of substrates. The term does not include the following:

(i) Contact adhesive[s].

(ii) Construction, panel and floor covering adhesive[s].

(iii) Adhesives **[designed]formulated or labeled** exclusively for application on one specific category of substrates (that is, substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers or vinyls).

(iv) Adhesives **[designed]formulated or labeled** exclusively for use on one specific category of articles (that is, articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping or carpets).

(v) Units of product that weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging.

General purpose adhesive remover—A product formulated or labeled to remove cyanoacrylate adhesives as well as nonreactive adhesives or residue from a variety of substrates.

(i) The term includes products that are formulated or labeled to remove the following:

(A) Thermoplastic adhesives.

(B) Pressure sensitive adhesives.

(C) Dextrine or starchbased adhesives.

(D) Casein glues.

(E) Rubber or latex-based adhesives.

(F) Stickers, decals, stencils or similar materials.

(ii) The term does not include floor and wall covering adhesive remover.

General purpose cleaner—A product **[designed]formulated or labeled** for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations.

(i) The term includes products **[designed]formulated or labeled** for general floor cleaning[,] **or** kitchen or countertop cleaning and cleaners designed to be used on a variety of hard surfaces[**and**].

(ii) **The term** does not include general purpose degreaser[s] and electronic cleaner[s].

[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 including, 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 purpose degreaser—A product formulated or labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(i) The term does not include the following:

(A) Engine degreaser.

(B) General purpose cleaner.

(C) Adhesive remover.

(D) Electrical cleaner.

(E) Electronic cleaner.

(F) Energized electrical cleaner.

(G) Metal polish/cleanser.

(H) Products used exclusively in solvent cleaning tanks or related equipment.

(I) Products that are labeled “not for retail sale” and are sold exclusively to establishments that manufacture or construct goods or commodities.

(ii) For the purposes of this definition, the term “solvent cleaning tanks or related equipment” includes the following:

(A) Cold cleaners.

(B) Vapor degreasers.

(C) ConveyORIZED degreasers.

(D) Film cleaning machines.

(E) Products formulated or labeled to clean miscellaneous metallic parts by immersion in a container.

General-use hand or body cleaner or soap—A cleaner or soap [designed] formulated or labeled to be used routinely on the skin to clean or remove typical or common dirt and soils.

(i) The term includes[, but is not limited to,] the following:

(A) [h]Hand or body washes[.].

(B) [d]Dual-purpose shampoo-body cleaners[.].

(C) [s]Shower or bath gels[and].

(D) [m]Moisturizing cleaners or soaps.

(ii) The term does not include the following:

* * * * *

Glass cleaner—A cleaning product [designed] formulated or labeled 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.

Graffiti remover-A product formulated or labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish or shoe polish from a variety of noncloth or nonfabric substrates.

(i) The term does not include the following:

(A) Paint remover or stripper.

(B) Nail polish remover.

(C) Spot remover.

(ii) Products labeled for dual use as both a paint stripper and graffiti remover are considered "graffiti removers."

* * * * *

Hair mousse—A hairstyling foam [designed]formulated or labeled to facilitate styling of a coiffure and provide limited holding power.

Hair shine—A product [designed]formulated or labeled for the primary purpose of creating a shine when applied to the hair.

(i) The term includes, but is not limited to, dual-use products [designed] formulated or labeled primarily to impart a sheen to the hair.

(ii) The term does not include the following:

[(i)](A) Hair spray.

[(ii)](B) Hair mousse.

(C) Hair styling product.

[(iii)](D) Hair styling gel[or spray gel].

[(iv)](E) 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—

(i) For products manufactured before January 1, 2009, [A]a consumer product [designed]formulated or labeled 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.

(ii) For products manufactured on or after January 1, 2009, a consumer product that is applied to styled hair, and is formulated or labeled to provide sufficient rigidity, to hold, retain or finish the style of the hair for a period of time.

(iii) The term includes the following:

(A) Aerosol hair spray.

(B) Pump hair spray.

(C) Spray waxes.

(D) Color, glitter or sparkle hair sprays that make finishing claims.

(E) Products that are both a styling and finishing product.

(iv) The term does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle.

(v) For the purposes of this subchapter, the terms:

(A) "Finish" and "finishing" mean the maintaining or holding of previously styled hair for a period of time.

(B) "Style" and "styling" mean the forming, sculpting or manipulating of the hair to temporarily alter the hair's shape.

Hair styling gel—A consumer product manufactured before January 1, 2009, that is a high viscosity, often gelatinous, product that contains a resin and is formulated or labeled for the application to hair to aid in styling and sculpting of the hair coiffure.

Hair styling product—A consumer product manufactured on or after January 1, 2009, that is formulated or labeled for the application to wet, damp or dry hair to aid in defining, shaping, lifting, styling or sculpting of the hair.

(i) The term includes the following:

(A) Hair balm.

(B) Clay.

(C) Cream.

(D) Crème.

(E) Curl straightener.

(F) Gel.

(G) Liquid.

(H) Lotion.

(I) Paste.

(J) Pomade.

(K) Putty.

(L) Root lifter.

(M) Serum.

(N) Spray gel.

(O) Stick.

(P) Temporary hair straightener.

(Q) Wax.

(R) Spray products that aid in styling but do not provide finishing of a hairstyle.

(S) Leave-in volumizers, detanglers or conditioners that make styling claims.

(ii) The term does not include the following:

(A) Hair mousse.

(B) Hair shine.

(C) Hair spray.

(D) Shampoos or conditioners that are rinsed from the hair prior to styling.

(iii) For the purposes of this subchapter, the terms:

(A) "Finish" and "finishing" mean the maintaining or holding of previously styled hair for a period of time.

(B) "Style" and "styling" mean the forming, sculpting or manipulating of the hair to temporarily alter the hair's shape.

Heavy-duty hand cleaner or soap—A product **[designed]formulated or labeled** to clean or remove difficult dirt and soils, **[such as]including** 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 **the following**:

* * * * *

Herbicide—A pesticide product **[designed]formulated or labeled** to kill or retard a plant's growth, but excludes products that are:

* * * * *

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

Highest sales--The maximum 1-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, or the current actual 1-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.

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, 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, expressed as a percentage by weight.

Household product—A consumer product that is **formulated or labeled** 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]formulated or labeled** for use against insects or other arthropods, but excluding products that are:

* * * * *

Insecticide fogger—An insecticide product **[designed]formulated or labeled** 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]formulated or labeled** for use in the maintenance or operation of an establishment that:

* * * * *

(ii) 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.

(iii) For the purposes of this definition, the term [E]“establishment[s]” includes[, but are not limited to,] the following:

* * * * *

[(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 or [L]lower vapor pressure[(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 as a percentage to the nearest 0.1.

LVP-VOC or [L]lower vapor pressure[(LVP)]-VOC—

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

* * * * *

(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 **as verified by formulation data**, and the vapor pressure **[is]and boiling point are unknown**.

* * * * *

*Laundry prewash—*A product that is **[designed]formulated or labeled** for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance, or both.

*Laundry starch product—*A product that is **[designed]formulated or labeled** for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and which 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]formulated or labeled** primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods. **Notwithstanding the requirements of § 130.372 (relating**

to most restrictive limit), aerosol lawn and garden insecticides may claim to kill 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(2000)e1, **including subsequent amendments.** The term does not include powders or other materials that are composed entirely of solid particles.

Lubricant—A product **[designed]formulated or labeled** to reduce friction, heat, noise or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. The term does not include **the following:**

* * * * *

(ii) Products **formulated or labeled** for use inside power generating motors, engines and turbines, and their associated power-transfer gearboxes.

(iii) Two cycle oils or other products **[designed]formulated or labeled** to be added to fuels.

(iv) Products **formulated or labeled** for use on the human body or animals.

* * * * *

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.

(i) The term includes[, but is not limited to,] the following:

(A) [clarifiers and]Clarifiers.

(B) [s]Substrate-impregnated products.

(ii) The term does not include the following:

[(i)](A) Hand, face or body cleaner or soap products.

[(ii)](B) Astringent/toner.

[(iii)](C) Cold cream.

[(iv)](D) Lotion.

[(v)](E) Antiperspirants.

[(vi)](F) Products that must be purchased with a doctor's prescription.

Metal polish/cleanser—A product [**designed**] **formulated or labeled** 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 by making surfaces smooth and shiny.

(i) The term includes[, **but is not limited to,**] metal polishes used on:

(A) [**brass,**] **Brass.**

(B) [**silver,**] **Silver.**

(C) [**chrome,**] **Chrome.**

(D) [**copper,**] **Copper.**

(E) [**stainless steel and**] **Stainless steel.**

(F) [**o**] **Other ornamental metals.**

(ii) The term does not include **the following**:

_[(i)](A) Automotive wax, polish, sealant or glaze.

_[(ii)](B) Wheel cleaner.

_[(iii)](C) Paint remover or stripper.

_[(iv)](D) Products [**designed and**] **formulated or** labeled exclusively for automotive and marine detailing.

_[(v)](E) Products [**designed**] **formulated or labeled** for use in degreasing tanks.

* * * * *

Multipurpose dry lubricant—A lubricant which is:

(i) [**Designed and**] **Formulated or** 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**] **Formulated or labeled** for general purpose lubrication or for use in a wide variety of applications.

Multipurpose lubricant—A lubricant [**designed**] **formulated or labeled** for general purpose lubrication or for use in a wide variety of applications. The term does not include **the following**:

- (i) Multipurpose dry lubricant[s].
- (ii) Penetrant[s].
- (iii) Silicone-based multipurpose lubricant[s].

Multipurpose solvent—An organic liquid **[designed]formulated or labeled** 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.

(i) The term includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories.

(ii) The term does not include **the following**:

(A) [s]Solvents used in:

[(i)](I) Cold cleaners.

[(ii)](II) Vapor degreasers.

[(iii)](III) ConveyORIZED degreasers.

[(iv)](IV) Film cleaning machines.

[(v)](B) 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]formulated or labeled** for application to the fingernails or toenails and including lacquers, enamels, acrylics, base coats and top coats.

Nail polish remover—A product **[designed]formulated or labeled** to remove nail polish and coatings from fingernails or toenails.

* * * * *

Nonresilient flooring—Flooring of a mineral content that is not flexible, including **the following**:

* * * * *

Oven cleaner—A cleaning product **[designed]formulated or labeled** to clean and to remove dried food deposits from oven walls.

Paint—A pigmented liquid or liquefiable or mastic composition **[designed]formulated or labeled** 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]formulated or labeled** 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 **the following**:

(i) Multipurpose solvent[s].

* * * * *

(iii) Products **[designed and]formulated or** labeled exclusively **[to remove]as** graffiti **removers**.

* * * * *

Penetrant—A lubricant **[designed and]formulated or** 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 **formulated or** labeled primarily to loosen bonded parts.

Pennsylvania sales—The sales (net pounds of product, less packaging and container, per year) in this Commonwealth 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 are not available, sales may be estimated by prorating National or regional sales data by population.

Personal fragrance product—A product which is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor.

(i) The term includes the following:

(A) Cologne.

(B) Perfume.

(C) Aftershave.

(D) Toilet water.

(ii) The term does not include the following:

(A) Deodorant.

(B) Medicated products formulated or labeled primarily to alleviate fungal or bacterial growth on feet or other areas of the body.

(C) Mouthwashes, breath fresheners or deodorizers.

(D) Lotions, moisturizers, powders or other skin care products used primarily to alleviate skin conditions such as dryness and irritations.

(E) Products formulated or labeled exclusively for use on human genitalia.

(F) Soaps, shampoos and products formulated or labeled primarily to be used to clean the human body.

(G) Fragrance products formulated or labeled to be used exclusively on animals.

Pesticide—A substance or mixture of substances **formulated or labeled**[, **designed or intended**] for use in preventing, destroying, repelling or mitigating a pest, or a substance or mixture of substances **formulated or labeled**[, **designed or intended**] for use as a defoliant, desiccant or plant regulator. The term does not include a substance, mixture of substances or device which the EPA does not consider to be a pesticide.

[Pennsylvania sales—The sales (net pounds of product, less packaging and container, per year) in this Commonwealth 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 by using ASTM Method E260-91, **including subsequent amendments**, or from product formulation data.

Pre-ACP VOC [C]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, **expressed as a percentage**.

Pressurized gas duster—A **pressurized product formulated or labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces like photographs, photographic film negatives, computer keyboards and other types of surfaces that cannot be cleaned with solvents. The term does not include dusting aid.**

Principal display panel or panels—The parts of a label that **[is]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 of the principal display panels.

* * * * *

Product category—The applicable category that best describes the product as listed in this section **and in § 130.211 (relating to table of standards).**

Product form—For the purposes of complying with § 130.391 (relating to required reporting of information to the Department), the applicable form which most accurately describes the product's dispensing form, as follows:

(i) A = Aerosol product.

(ii) S = Solid.

(iii) P = Pump spray.

(iv) L = Liquid.

(v) SS = Semisolid.

(vi) O = Other.

* * * * *

Rubber and vinyl protectant—

(i) A product **[designed]formulated or labeled** to protect, preserve or renew vinyl, rubber and plastic on vehicles, tires, luggage, furniture and household products such as vinyl covers, clothing and accessories.

(ii) The term does not include products **formulated or labeled** 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.

* * * * *

Sealant and caulking compound—A product with adhesive properties that is **[designed] formulated or labeled** to fill, seal, waterproof or weatherproof gaps or joints between two surfaces.

(i) The term does not include **the following**:

* * * * *

(E) Floor seam sealer[s].

(F) Products **[designed]formulated or labeled** exclusively for automotive uses.

* * * * *

[(ii)] **The term also does not include u](H) Units of product, less packaging, which weigh more than 1 pound and consist of more than 16 fluid ounces.**

[(iii)](ii) For the purposes of this definition only:

* * * * *

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. **The term does not include shaving gel.**

Shaving gel—An aerosol product which dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor or other shaving system in the removal of facial or other bodily hair. **The term does not include shaving cream.**

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 multipurpose lubricant—

(i) A lubricant which is:

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

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

(ii) The term does not include products **[designed and]formulated or** labeled exclusively to release manufactured products from molds.

* * * * *

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**(2000)e1, including subsequent amendments.**

Special purpose spray adhesive—

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

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

(B) *Flexible vinyl adhesive*. An aerosol adhesive **[designed]formulated or labeled** to bond flexible vinyl to substrates. Flexible vinyl means a nonrigid polyvinyl chloride plastic with at least 5%, by weight, of plasticizer content.

(C) *Polystyrene foam adhesive*. An aerosol adhesive **[designed]formulated or labeled** to bond polystyrene foam to substrates.

(D) *Automobile headliner adhesive*. An aerosol adhesive **[designed]formulated or labeled** to bond together layers in motor vehicle headliners.

(E) *Polyolefin adhesive*. An aerosol adhesive **[designed]formulated or labeled** to bond polyolefins to substrates.

(F) *Laminate repair/edgebanding adhesive*. An aerosol adhesive **[designed] formulated or labeled** for:

* * * * *

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

~~(H)~~(G) *Automotive engine compartment adhesive*. An aerosol adhesive **[designed]formulated or labeled** 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°F.

Specialty adhesive remover--A product formulated or labeled to remove reactive adhesives from a variety of substrates.

(i) Reactive adhesives include adhesives that require a hardener or catalyst in order for the bond to occur. Reactive adhesives include the following:

(A) Epoxies.

(B) Urethanes.

(C) Silicones.

(ii) The term does not include gasket adhesive remover or thread locking adhesive remover.

Spot remover--A product **[designed]formulated or labeled** 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 the following:

* * * * *

[(iii) Carpet and upholstery cleaner.]

[(iv)](iii) Multipurpose solvent.

Spray buff product—A product [designed]formulated or labeled to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

* * * * *

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-181D (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 in 40 CFR 59 Subpart C].

Surplus reduction—The ACP limit minus the ACP emissions when the ACP [L]limit was greater than the ACP emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in § 130.457 (relating to limited-use surplus reduction credits for early reformulations of ACP products), the term does not include emissions occurring prior to the date that the ACP agreement is signed by the Department.

* * * * *

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:

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

where,

$$(i) \ MHE = \left(\frac{\text{Highest VOC [C]content} \times \text{Highest [S]sales}}{100 \times 365} \right) \times \text{Missing [D]data [D]days}$$

[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 expressed as a percentage.

Highest Sales = the maximum 1-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 1-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 ACP party has failed to provide the required enforceable sales or VOC content data as specified in the ACP agreement approving an ACP.]

(ii) 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].

* * * * *

Tire sealant and inflation—A pressurized product that is [designed]formulated or labeled to temporarily inflate and seal a leaking tire.

Toilet/urinal care product - A product formulated or labeled to clean or to deodorize toilet bowls, toilet tanks or urinals.

(i) The term "toilet/urinal care product" does not include the following:

(A) Bathroom and tile cleaner.

(B) General purpose cleaner.

(ii) For the purposes of this definition, the term "toilet bowls, toilet tanks or urinals" includes toilets or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary or remote locations and toilets or urinals in vehicles such as buses, recreational motor homes, boats, ships and aircraft.

* * * * *

Type B propellant—A halocarbon which is used as a propellant, including the following:

* * * * *

Type C propellant—A propellant which is not a Type A or Type B propellant, including the following:

(i) [propane,]Propane.

(ii) [isobutane,]Isobutane.

(iii) [n-butane and]N-butane.

(iv) [d]Dimethyl ether (also known as dimethyl oxide).

Undercoating—An aerosol product **[designed]formulated or labeled** to impart a protective, nonpaint layer to the undercarriage, trunk interior 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.

* * * * *

Vinyl/fabric/leather/polycarbonate coating—A coating formulated or labeled exclusively to coat vinyl, fabric, leather or polycarbonate substrates.

VOC content—

(i) Except for charcoal lighter **material** 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).

(ii) For charcoal lighter material products only,

$$\text{VOC [C]content (percent)} = \frac{\text{Certified [E]emissions} \times 100}{\text{Certified [U]use [R]rate}}$$

Certified [U]use [R]rate

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

Wasp and hornet insecticide—An insecticide product that is **[designed]formulated or labeled** 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.

Waterproofer—A product **[designed and]formulated or** labeled exclusively to repel water from fabric or leather substrates. The term does not include fabric protectant[s].

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 molecular weight polymers (plastics). The term includes **the following**:

- * * * * *
- (ii) Substances of a mineral origin such as ozocerite and paraffin[, and s].
- (iii)** Synthetic polymers such as polyethylene.

Wood cleaner—

(i) A product labeled to clean wooden materials including the following:

- (A) Decking.
- (B) Fences.
- (C) Flooring.
- (D) Logs.
- (E) Cabinetry.
- (F) Furniture.

(ii) The term does not include the following:

- (A) Dusting aid.
- (B) General purpose cleaner.
- (C) Furniture maintenance product.
- (D) Floor wax stripper.
- (E) Floor polish or wax.
- (F) Products designed and formulated or labeled exclusively to preserve or color wood.

Wood floor wax—Wax-based products formulated or labeled for use solely on wood floors.

* * * * *

STANDARDS

§ 130.211. Table of standards.

Except as provided in §§ 130.331—130.33[7]8, 130.351, 130.352, 130.411—130.414 and 130.451—130.464, 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,] the applicable effective date in the following table of standards which contains VOCs in excess of the limits specified in the following table of standards:

Table of Standards (percent VOC by weight)

<i>Product Category</i>	<i>Effective Date</i>	<i>Effective Date</i>
	1/1/2005	<u>1/1/2009</u>
Adhesive[s]		
Aerosol:		
Mist Spray	65	
Web Spray	55	
Special Purpose Spray Adhesive[s]:		
Mounting, Automotive Engine		
Compartment[,] and Flexible Vinyl	/ 70	
Polystyrene Foam and Automotive Headliner	65	
Polyolefin and Laminate Repair / Edgebanding	60	
<u>Construction, Panel and Floor Covering</u>	<u>15</u>	
Contact	80	<u>NA</u>
[Construction, Panel and Floor Covering	15]	
<u>Contact Adhesive-General Purpose</u>		<u>55</u>
<u>Contact Adhesive-Special Purpose</u>		<u>80</u>
General Purpose	10	
Structural Waterproof	15	
<u>Adhesive Remover</u>		

<u>Floor and Wall Covering</u>		<u>5</u>
<u>Gasket or Thread Locking</u>		<u>50</u>
<u>General Purpose</u>		<u>20</u>
<u>Specialty</u>		<u>70</u>
<u>Aerosol Cooking Spray</u>	<u>18</u>	
Air Freshener[s]		
Single-Phase Aerosol[s]	30	
Double-Phase Aerosol[s]	25	
Liquid[s] / Pump Spray[s]	18	
Solids / [Gels] <u>Semisolid</u>	3	
Antiperspirant[s]		
Aerosol	40 HVOC	
	10 MVOC	
Nonaerosol	0 HVOC	
	0 MVOC	
<u>Antistatic Product</u>		
<u>Nonaerosol</u>		<u>11</u>
Automotive Brake Cleaner[s]	45	
Automotive Rubbing or Polishing Compound	17	
Automotive Wax, Polish, Sealant or Glaze		
Hard Paste Wax[es]	45	
Instant Detailer[s]	3	
All Other Forms	15	
Automotive Windshield Washer Fluids[s]	35	
Bathroom and Tile Cleaner[s]		
Aerosol[s]	7	
All Other Forms	5	
Bug and Tar Remover	40	
Carburetor or Fuel-Injection Air Intake Cleaner[s]	45	
Carpet and Upholstery Cleaner[s]		
Aerosol[s]	7	
Nonaerosol[s] (Dilutables)	0.1	
Nonaerosol[s] (Ready-to-Use)	3.0	
Charcoal Lighter Material	See § 130.214	
[Cooking Spray Aerosols	18]	

Deodorant[s]		
Aerosol	0 HVOC 10 MVOC	
Nonaerosol	0 HVOC 0 MVOC	
Dusting Aid[s]		
Aerosol[s]	25	
All Other Forms	7	
<u>Electrical Cleaner</u>		<u>45</u>
<u>Electronic Cleaner</u>		<u>75</u>
Engine Degreaser[s]		
Aerosol	35	
Nonaerosol	4	
Fabric Protectant[s]	60	
<u>Fabric Refresher</u>		
<u>Aerosol</u>		<u>15</u>
<u>Nonaerosol</u>		<u>6</u>
Floor Polish[es/] or Wax[es]		
Products for Flexible Flooring Material[s]	7	
Products for Nonresilient Flooring	10	
Wood Floor Wax	90	
Floor Wax Stripper[s]		
Nonaerosol	See § 130.216	
<u>Footwear or Leather Care Product</u>		
<u>Aerosol</u>		<u>75</u>
<u>All Other Forms</u>		<u>15</u>
<u>Solid</u>		<u>55</u>
Furniture Maintenance Product[s]		
Aerosol[s]	17	
All Other Forms Except Solid or Paste	7	
General Purpose Cleaner[s]		
Aerosol[s]	10	
Nonaerosol[s]	4	
General Purpose Degreaser[s]		
Aerosol[s]	50	

Nonaerosol[s]	4	
Glass Cleaner[s]		
Aerosol[s]	12	
Nonaerosol[s]	4	
<u>Graffiti Remover</u>		
<u>Aerosol</u>		<u>50</u>
<u>Nonaerosol</u>		<u>30</u>
Hair Mousse[s]	6	
<u>Hair [s]Shine[s]</u>	55	
<u>Hair [s]Spray[s]</u>	55	
Hair Styling Gel[s]	6	
<u>Hair Styling Product</u>		
<u>Aerosol and Pump Spray</u>		<u>6</u>
<u>All Other Forms</u>		<u>2</u>
Heavy-Duty Hand Cleaner or Soap	8	
Insecticide[s]		
Crawling Bug (Aerosol)	15	
Crawling Bug ([a]All [o]Other [f]Forms)	20	
Flea and Tick	25	
Flying Bug (Aerosol)	25	
Flying Bug ([a]All [o]Other [f]Forms)	35	
Fogger[s]	45	
Lawn and Garden ([a]All [o]Other [f]Forms)	20	
Lawn and Garden (Nonaerosol)	3	
Wasp and Hornet	40	
Laundry Prewash		
Aerosol[s] / Solid[s]	22	
All Other Forms	5	
Laundry Starch Product[s]	5	
Metal Polish[es] / Cleanser[s]	30	
Multipurpose Lubricant (Excluding Solid or Semisolid Products)	50	
Nail Polish Remover	75	
Nonselective Terrestrial Herbicide		
Nonaerosol[s]	3	

Oven Cleaner[s]		
Aerosol[s] / Pump Spray[s]	8	
Liquid[s]	5	
Paint Remover or Stripper[s]	50	
Penetrant[s]	50	
Rubber and Vinyl Protectant[s]		
<u>Aerosol</u>	<u>10</u>	
Nonaerosol[s]	3	
[Aerosols	10]	
Sealant[s] and Caulking Compound[s]	4	
Shaving Cream[s]	5	
<u>Shaving Gel</u>		<u>7</u>
Silicone-Based Multipurpose Lubricant[s] (Excluding Solid or Semisolid Products)	60	
Spot Remover[s]		
Aerosol[s]	25	
Nonaerosol[s]	8	
Tire Sealant[s] and Inflat[ors]ion	20	
<u>Toilet / Urinal Care</u>		
<u>Aerosol</u>		<u>10</u>
<u>Nonaerosol</u>		<u>3</u>
Undercoating[s]		
Aerosol[s]	40	
<u>Wood Cleaner</u>		
<u>Aerosol</u>		<u>17</u>
<u>Nonaerosol</u>		<u>4</u>

Notes: NA = Not applicable on or after January 1, 2009.

* * * * *

§ 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.A. §§ 136—136y), the **applicable** effective date of the VOC standards specified in the Table of Standards is 1 year after the date specified in § 130.211 (relating to table of standards).

§ 130.214. Requirements for charcoal lighter material products.

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

* * * * *

(2) *Certification requirements.*

(i) A charcoal lighter material **product** formulation will not 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 **product** are less than or equal to 0.020 pound 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 (South Coast Air Quality Management District Rule 1174 Testing Protocol), **including subsequent amendments**. The provisions relating to LVP-VOC in § 130.333 (relating to LVP-VOC) do not apply to a charcoal lighter material **product** subject to the requirements of this section and § 130.211 (relating to table of standards).

* * * * *

§ 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, 130.351 and 130.352 and 130.411—130.414, 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) To qualify as a special purpose spray adhesive, the product shall meet **[one or more of] the definition[s] of the term "special purpose spray adhesive" [specified] in § 130.202 (relating to definitions), but if the product label indicates that the product is suitable for use on a substrate or application not listed in [§ 130.202] the definition of the term "special purpose spray adhesive," the product will be classified as either a "web spray adhesive" or a "mist spray adhesive."**

* * * * *

§ 130.217. Sell-through of products.

(a) Sell-through period. Notwithstanding the provisions of § 130.211 (relating to table of standards) or § 130.215 (relating to requirements for aerosol adhesives), a consumer product manufactured prior to the applicable effective date in § 130.211 may be sold, supplied or offered for sale after the applicable effective date.

(b) This subsection does not apply to a consumer product that does not display on the product container or package the date on which the product was manufactured, or a code indicating such date, in accordance with § 130.371 (relating to product dating requirements).

EXEMPTIONS

§ 130.331. Products for shipment and use outside 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 **of the noncomplying consumer product** can demonstrate both that the **noncomplying** 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 **noncomplying** consumer product is not distributed in this Commonwealth.

§ 130.332. Antiperspirants and deodorants.

* * * * *

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

* * * * *

§ 130.334. Products registered under FIFRA.

The requirements of § 130.371 (relating to **[code-dating]product dating requirements**) do not apply to consumer products registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 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 § 130.202 (relating to definitions)]** or exempted under **[this section] § 130.333 (relating to LVP-VOC).**

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

* * * * *

§ 130.338. Fragrances.

The VOC limits specified in § 130.211 (relating to table of standards) do not apply to fragrances up to a combined level of 2% by weight contained in a consumer product.

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ADMINISTRATIVE REQUIREMENTS

§ 130.371. [Code-dating]Product dating.

(a) [Code-dating]Product dating requirements.

(1) Each manufacturer of a consumer product subject to §§ 130.211—130.21[6]7 (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 that date.

(2) A manufacturer who uses the following code to indicate the date of manufacture will not be subject to the requirements of subsection (b)(1), if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day

where,

YY = two digits representing the year in which the product was manufactured

DDD = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (that is, the "Julian date")

(3) The product date or code required by this section must 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 (relating to table of standards).

(4) The date or date-code information [shall]must 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 irreversibly 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 January 1, 2004.]

(5) 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 any product packaging.

(6) The requirements of this subsection do not apply to products containing either of the following:

(i) [no]No VOCs[as defined in § 130.202 (relating to definitions), or containing].

(ii) VOCs at 0.10% by weight or less.

(b) [Explanation of code]Additional product dating requirements.

(1) If a manufacturer uses a code indicating the date of manufacture for a consumer product subject to §§ 130.211—130.21[6]7, an explanation of the **date portion of the code [shall]must be filed with the Department no later than 12 months prior to the effective date of the applicable standard specified in § 130.211.**

(2) If a manufacturer changes a code indicating the date of manufacture for a consumer product subject to paragraph (1), an explanation of the modified code must be submitted to the Department before products displaying the modified code are sold, supplied or offered for sale in this Commonwealth.

(3) A person may not erase, alter, deface or otherwise remove or make illegible a date or code indicating the date of manufacture from a regulated product container without the express authorization of the manufacturer.

(4) Date code explanations for codes indicating the date of manufacture are public information and may not be claimed as confidential.

§ 130.372. Most restrictive limit.

(a) Products manufactured before January 1, 2009, and FIFRA-registered insecticides manufactured before January 1, 2010.

(1) Notwithstanding the definition of “product category” in § 130.202 (relating to definitions), if on the principal display panel of a consumer product **manufactured before January 1, 2009, or a FIFRA-registered insecticide manufactured before January 1, 2010, 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.**

(2) ~~[This]~~The requirement of **paragraph (1)** does not apply to general purpose cleaners~~[and]~~, antiperspirant/deodorant products or insecticide foggers.

(b) Products manufactured on or after January 1, 2009, and FIFRA-registered insecticides manufactured on or after January 1, 2010.

(1) Notwithstanding the definition of “product category” in § 130.202, if on the container or packaging of a consumer product manufactured on or after January 1, 2009, or a FIFRA-registered insecticide manufactured on or after January 1, 2010, or on a sticker or label affixed to the container or packaging, a representation is made that the product may be used, or is suitable for use, as a consumer product for which a lower VOC limit is specified in § 130.211, the lowest VOC limit applies.

(2) The requirement of paragraph (1) does not apply to general purpose cleaners, antiperspirant/deodorant products or insecticide foggers.

§ 130.373. Additional labeling requirements for aerosol adhesive[s], adhesive remover, electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive products.

(a) In addition to the requirements specified in §§ 130.371, 130.372, 130.391 and 130.392, both the manufacturer and responsible party for each aerosol adhesive, **electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive** product subject to this subchapter shall ensure that all products clearly display the following information on each product container which is manufactured on or after **[January 1, 2005]the applicable effective date for the category specified in § 130.211 (relating to table of standards):**

(1) The **[aerosol adhesive]product** 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, **except for energized electrical cleaner products**, expressed as *a/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—130.465 (relating to ACP for consumer products).

* * * * *

(b) The information required in § 130.371(a) (relating to **[code-dating]product dating requirements**) 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.

* * * * *

VARIANCES

§ 130.411. Application for variance.

(a) A person who cannot comply with §§ 130.211—130.21[6]7 (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:

* * * * *

(b) No later than 75 days after receipt of a complete variance application containing the information required in subsection (a), the Department will hold a public hearing in accordance with § 130.471 (relating to public hearings) to determine:

- (1) Whether a variance from the requirements in §§ 130.211—130.21[6]7 is necessary.
- (2) Under what conditions a variance from the requirements in §§ 130.211—130.21[6]7 is necessary.
- (3) To what extent a variance from the requirements in §§ 130.211—130.21[6]7 is necessary.

(c) The Department will not grant a variance unless the applicant demonstrates in writing the following to the Department's satisfaction:

- (1) That because of reasons beyond the reasonable control of the applicant, requiring compliance with §§ 130.211—130.21[6]7 would result in extraordinary economic hardship.

* * * * *

§ 130.412. Variance orders.

A variance order shall specify a final compliance date by which the requirements of §§ 130.211—130.21[6]7 (relating to standards) will be achieved. A variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and other conditions that the Department, in consideration of the testimony received at the hearing, finds necessary.

* * * * *

§ 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—130.21[6]7 (relating to standards) after holding a public hearing in accordance with § 130.471 (relating to public hearings).

TEST METHODS

§ 130.431. Testing for compliance.

(a) Testing to determine compliance with this subchapter 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] May 5, 2005, including subsequent amendments.**

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

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

* * * * *

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

$$\text{VOC [C]content} = \frac{(B - C)}{A} \times 100$$

where,

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

B = total weight of all VOCs per unit.

C = total weight of VOCs exempted under §§ 130.331—130.33[7]8, 130.351 and 130.352 per unit

* * * * *

(b) Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90**(2000)e1, [(May 25, 1990)]including subsequent amendments.**

(c) Testing to determine compliance with the certification requirements for charcoal lighter material **products** 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), **including subsequent amendments.**

(d) Testing to determine distillation points of petroleum distillate-based charcoal lighter material **products** shall be performed using ASTM D86-[9]04**b, [(September 28, 1990)]including subsequent amendments.**

* * * * *

ACP FOR CONSUMER PRODUCTS

§ 130.452. Exemption.

A manufacturer of consumer products which has been granted an ACP agreement by the CARB under **the ACP provision in** Subchapter 8.5, Article 4, Sections 94540-94555, 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 ACP agreement remains in effect provided that all ACP [P]products within the CARB ACP agreement are contained in § 130.211. A manufacturer claiming such an ACP agreement on this basis shall submit to the Department a copy of the CARB ACP decision (that is, the Executive Order), including the 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 **by the CARB** 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.

* * * * *

§ 130.454. Application for an ACP.

* * * * *

(8) Contain an operational plan covering the products identified under this section for each compliance period that the ACP will be in effect. This plan shall:

(i) Identify the compliance periods and dates for the responsible ACP party to report the information required by the Department in the ACP agreement[**approving an ACP**]. The length of the compliance period chosen by the responsible ACP party shall be no longer than 365 days.

* * * * *

§ 130.455. 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 at least 3 years after the records are generated. The records shall be clearly legible and maintained in good condition during this period.

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

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

$$SR = \text{Enforceable [S]sales} \times \frac{((\text{VOC [C]content})_{\text{initial}} - (\text{VOC [C]content})_{\text{final}})}{100}$$

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 [C]content_{initial} = the Pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in § 130.211, whichever is the lesser of the two, expressed to the nearest 0.1 pound of VOC per 100 pounds of ACP product[,].

VOC [C]content_{final} = the VOC [C]content of the early reformulated ACP product after the early reformulation is achieved, expressed to the nearest 0.1 pound of VOC per 100 pounds of ACP product.

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

(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 may not be used for another purpose.

* * * * *

§ 130.458. 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 will determine the amount of a shortfall that has occurred during the compliance period, and 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) The requirements specified in the ACP agreement[**approving an ACP**], including the applicable ACP limits, shall remain in effect while shortfalls are in the process of being reconciled.

* * * * *

§ 130.460. Modifications that require Department preapproval.

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 subchapter. The responsible ACP party shall meet all applicable requirements of the existing ACP until a proposed modification is approved in writing by the Department.

* * * * *

§ 130.462. Modification of an ACP by the Department.

(a) The Department will modify the ACP as necessary to ensure that the ACP meets the requirements of this subchapter and that the ACP emissions will not exceed the ACP limit if the Department determines one of the following:

* * * * *

(3) The ACP emissions are exceeding the ACP [L]limit specified in the ACP agreement.

* * * * *

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

* * * * *

§ 130.465. Other applicable requirements.

* * * * *

(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 the requirements of the ACP agreement[**approving the ACP**] and this subchapter.

* * * * *

PUBLIC HEARING REQUIREMENTS

§ 130.471. Public hearings.

(a) Prior to issuance, **extension**, modification or revocation of a variance order or an ACP, the Department will hold **[a]three public hearings** to take public comment **on the application for a variance or on the proposed extension, modification or revocation of a variance order. The public hearings will be held in the eastern, central and western parts of the Commonwealth.**

(b) The applicant shall publish notice of the time, place and purpose of the three public hearings in newspapers of general circulation not less than 30 days prior to the hearings.

[(b)](c) The Department will publish notice of the time, place and purpose of the **three public hearings** in **[a local newspaper of general circulation and]** the *Pennsylvania Bulletin* **[not less than]at least** 30 days prior to the hearings.

[(c) At least](d) At least 30 days prior to the hearings, the Department will make available **to the public the following:**

(1) [t]The application for the variance or ACP [and]or, if the hearings are for an extension, modification or revocation, the variance or ACP order.

(2) [t]The proposed order for issuing, extending, modifying or revoking the variance or ACP.



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

August 29, 2007

Policy Office

717-783-8727

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

Re: Proposed Rulemaking: Consumer Products Proposed Rulemaking – Chapter 130,
Subchapter B, (#7-416)

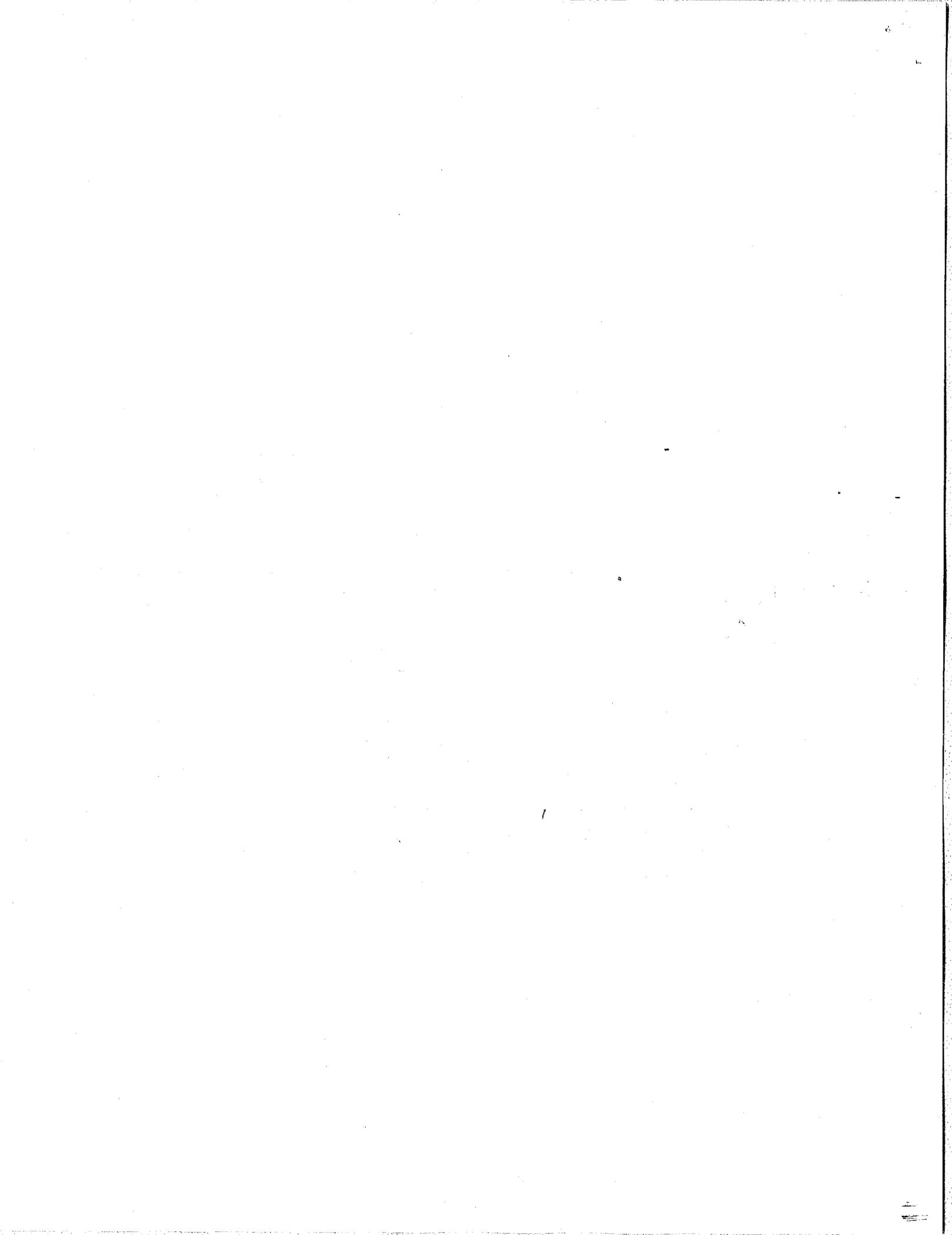
Dear Mr. Kaufman:

Enclosed is a copy of a proposed regulation for review and comment by the Independent Regulatory Review 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 September 15, 2007, with a 60-day public comment period, that will conclude on November 14, 2007. Three public hearings have been scheduled for this proposal as indicated in the enclosed Preamble of this rulemaking. The Environmental Quality Board (EQB) adopted this proposal on June 19, 2007.

This proposed rulemaking amends the existing consumer products regulation in Chapter 130 by adding volatile organic compound (VOC) content limits for 11 additional categories of consumer products, including adhesive removers, antistatic product, electrical cleaner, electronic cleaner, fabric refresher, footwear or leather care product, graffiti remover, hair styling product, shaving gel, toilet/urinal care product and wood cleaner. The VOC content limits in the proposed rule are more stringent than Federal requirements, but will assure additional reductions in VOC emissions, which are reasonably necessary for achieving and maintaining the health-based eight-hour ozone National Ambient Air Quality Standard (NAAQS). The proposed regulation is based on the 2006 model rule developed by the Ozone Transport Commission (OTC) and member states, and is consistent with regulatory initiatives that will be undertaken by other jurisdictions in the Ozone Transport Region to address regional transport of ozone precursor emissions. If adopted by the EQB in its final-form, the regulation will be submitted to the EPA as a revision to the State Implementation Plan, and is expected to provide approximately 767 tons per year of additional VOC emission reductions in Pennsylvania.

In addition to the above provisions, the proposed rulemaking revises the VOC content limits for the contact adhesive category that is currently regulated in Chapter 130; adds definitions for approximately 30 new terms, including those that relate to the new product categories that will be regulated, and includes revised definitions for approximately 110 existing terms to provide clarity. The Commonwealth, in conjunction with other OTC Member Jurisdictions, discussed the proposed amendments with representatives of the various National consumer product manufacturers in related





industries, and gained their support for the proposal. The Department also consulted with the Air Quality Technical Advisory Committee (AQTAC), who concurred with the Department to proceed to the EQB with the proposal. In addition, the Department consulted with the Citizens Advisory Council and the Small Business Compliance Advisory Committee regarding the proposed rulemaking.

The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey to the agency its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions submitted by the Commission, as well as the Committees and public commentators, prior to final adoption of the regulation.

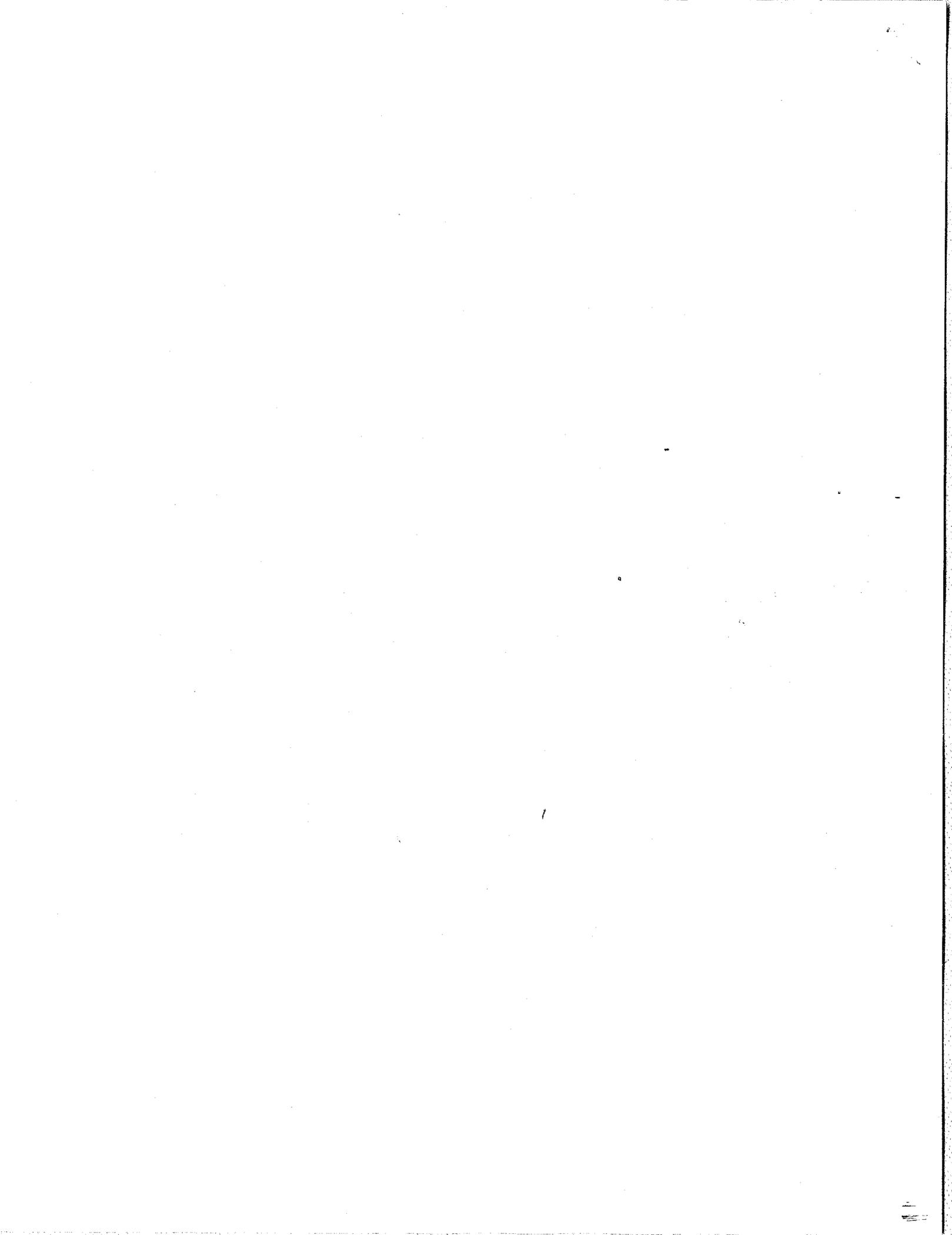
Please contact me at the number above if you have any questions or need additional information.

Sincerely,



Michele L. Tate
Regulatory Coordinator

Enclosures





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

I.D. NUMBER: 7- 416

SUBJECT: Consumer Products Rulemaking - Chapter 130, Subchapter 3

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

RECEIVED
 2007 AUG 29 PM 3:57
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

8/29/07

D. Newf

Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

8/29/07

R. Beasley

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

8-29

M. Ernst

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

8-29

A. Rybarczyk

Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY

8/29/07

Kathy Cooper

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

8-29-07

Maya Garas

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

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