

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 32 Control of Emissions of Volatile Organic Compounds from Consumer Products

Authority: Environment Article, §§1-101, 1-404, 2-101—2-103, 2-301—2-303, 10-102, and 10-103, Annotated Code of Maryland

.01 Applicability and Exemptions.

A. Applicability. This chapter applies to a person that sells, supplies, offers for sale, or manufactures consumer products on or after the effective date in Regulation .04B of this chapter, for use in the State.

B. Use Outside of the State.

(1) The provisions of this chapter do not apply to a manufacturer or distributor who sells, supplies, or offers for sale in the State a consumer product that does not comply with the VOC standards specified in Regulation .04B of this chapter if the manufacturer or distributor demonstrates that the:

(a) Consumer product is intended for shipment and use outside of the State; and

(b) Manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to or within the State.

(2) The exemption in §B(1) of this regulation does not apply to a person who sells, supplies, or offers for sale a consumer product to a retail outlet in the State.

C. Antiperspirants and Deodorants.

(1) The medium volatility organic compound (MVOC) content standards specified in Regulation .04B of this chapter for antiperspirants or deodorants do not apply to ethanol.

(2) The requirements of Regulation .04 of this chapter for antiperspirants or deodorants do not apply to VOCs that:

(a) Contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown; or

(b) Have a vapor pressure of 2 millimeters of mercury or less at 20°C.

(3) The VOC limits specified in Regulation .04B of this chapter do not apply to colorants up to a combined level of 2 percent by weight contained in any antiperspirant or deodorant.

D. The VOC limits specified in Regulation .04B of this chapter do not apply to the following:

(1) Fragrances up to a combined level of 2 percent by weight contained in a consumer product;

(2) An LVP-VOC, except those contained in a charcoal lighter material subject to the requirements of Regulations .04B and .05 of this chapter;

(3) Air fresheners comprised entirely of fragrance, excluding compounds not defined as VOCs or exempted under §D(2) of this regulation;

(4) Insecticides containing at least 98 percent paradichlorobenzene;

(5) Until January 1, 2009, solid air fresheners containing at least 98 percent paradichlorobenzene;

(6) Adhesives sold in containers of 1 fluid ounce or less;

(7) Units of product that are not aerosol adhesives and that, less packaging:

(a) Consist of more than 1 gallon of contact adhesive; or

(b) Weigh more than 1 pound and consist of more than 16 fluid ounces of the following:

(i) Sealants and caulking compound;

(ii) Construction, panel, and floor covering adhesive; or

(iii) General purpose adhesive;

(8) Bait station insecticides; and

(9) Fabric protectants that are:

(a) Designed for use solely on fabrics that are labeled "for dry cleaning only"; and

(b) Sold in containers of 10 fluid ounces or less.

D-1. On or after January 1, 2009, the provisions of Regulation .10 of this chapter apply to solid air fresheners containing paradichlorobenzene.

E. The requirements in Regulation .13A of this chapter do not apply to consumer products that:

(1) Are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§136—136y; or

(2) Contain VOCs at concentrations of 0.10 percent by weight or less.

F. Retail Sales.

(1) A retailer who makes a consumer product available for sale that violates the standards in this chapter is not in violation of this chapter if:

(a) The retailer demonstrates to the satisfaction of the Department that the purchase was made with reasonable good faith efforts to assure that the product met applicable State requirements; and

(b) The retailer, upon determining that a noncomplying product was purchased, immediately discontinues sale of the product in the State.

(2) Good faith efforts may include the following:

(a) Written communication with manufacturers and distributors that only complying products will be accepted for sale in the State;

(b) Written agreements between the retailer and the manufacturers and distributors, in which the manufacturer and distributor commit to supply only complying products;

(c) The implementation of a self-audit program that periodically evaluates the purchase and sale of consumer products regulated under this chapter; and

(d) The use of invoices, purchase orders, and other contractual and billing documents, which specify that only complying products are acceptable.

.02 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) South Coast Air Quality Management District—Protocol—Rule 1174 Ignition Method Compliance Certification Protocol, dated February 28, 1991.

(2) ASTM Designation: D4359-90 (Reapproved 2000)e1 Standard Test Method for Determining Whether a Material is a Liquid or a Solid.

(3) ASTM Designation: E260-96 (Reapproved 2001) Standard Practice for Packed Column Gas Chromatography.

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

(5) ASTM Designation: D86-04b Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "ACP" means alternative control plan as defined in this section.

(2) "ACP agreement" means a document signed by the Department that:

(a) Includes the conditions and requirements of the ACP; and

(b) Allows manufacturers to sell ACP products in the State under the requirements of this chapter.

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

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

where:

(a) $\text{Emissions} = (\text{VOC Content}) \times (\text{Enforceable Sales}) / 100$;

(b) For all products, except for charcoal lighter material products:

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

where:

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

(ii) B = total weight of all VOCs per unit; and

(iii) C = total weight of all exempted VOCs per unit, as specified in

Regulation .01 of this chapter;

(c) For charcoal lighter material products only:

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

where:

(i) Certified Emissions = the emissions level for products approved by the Department under Regulation .05 of this chapter, as determined under the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start; and

(ii) Certified Use Rate = the usage level for products approved by the Department under Regulation .05 of this chapter, as determined under the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

(4) "ACP limit" means the maximum allowable ACP emissions during the compliance period specified in an ACP agreement, expressed to the nearest pound of VOC and calculated according to the following equation:

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

where:

(a) $\text{Limit} = (\text{ACP Standard}) \times (\text{Enforceable Sales}) / 100$;

(b) Enforceable Sales = the total amount of an ACP product sold for use in the State during the applicable compliance period specified in the ACP agreement, as determined through enforceable sales records (expressed to the nearest pound, excluding container and packaging);

(c) ACP Standard = either the ACP product's Pre-ACP VOC content, or the applicable VOC standard specified in Regulation .04B of this chapter, whichever is less;

(d) 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 Department, based on either the data on the product obtained from the March 12, 1991, California Air Resources Board (CARB) Consumer Products Survey, or other accurate records available to the Department, whichever yields the lowest VOC content for the product;

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

(5) "ACP product" means a consumer product subject to the VOC standards in Regulation.04B of this chapter, except those products that have been exempted under Regulations .01, .11, or .12 of this chapter.

(6) "ACP reformulation" means the process of reducing the VOC content of an ACP product, within the period that an ACP is in effect, to a level that is less than the current VOC content of the product.

(7) "ACP standard" means either the ACP product's pre-ACP VOC content or the applicable VOC standard specified in Regulation .04B of this chapter, whichever is less.

(8) "ACP VOC standard" means the maximum allowable VOC content for an ACP

product, determined as follows:

(a) The applicable VOC standard specified in Regulation .04B of this chapter for all ACP products except charcoal lighter material; or

(b) For charcoal lighter material products only, the VOC standard for the purposes of this chapter shall be calculated according to the following equation:

$$\text{VOC Standard} = (0.020 \text{ pound CH}_2 \text{ per start} \times 100) / \text{Certified Use Rate}$$

where:

(i) 0.020 = the certification emissions level for the Department-approved product, as specified in Regulation .05 of this chapter; and

(ii) Certified Use Rate = the usage level for products approved by the Department under Regulation .05 of this chapter, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

(9) Adhesive.

(a) "Adhesive" means a product that is used to bond one surface to another surface by attachment.

(b) "Adhesive" 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.

(10) Adhesive Remover.

(a) "Adhesive remover" means a product designed to remove adhesives, including caulks, sealants, glues, or similar substances used for the purpose of forming a bond, from either a specific substrate or a variety of substrates.

(b) "Adhesive remover" does not include products that remove adhesives intended exclusively for use on humans or animals.

(11) Aerosol Adhesive.

(a) "Aerosol adhesive" means 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.

(b) "Aerosol adhesive" includes special purpose spray adhesives, mist spray adhesives, and web spray adhesives.

(12) "Aerosol cooking spray" means an aerosol product that is designed to reduce sticking on cooking and baking surfaces or be applied on food.

(13) Aerosol Product.

(a) "Aerosol product" means a pressurized spray system that dispenses product ingredients by means of a propellant contained in a product or a product's container or by means of mechanically induced force.

(b) "Aerosol product" does not include pump spray.

(14) Agricultural Use.

(a) "Agricultural use" means 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.

(b) "Agricultural use" does not include the sale or use of pesticides in properly labeled packages or containers that are intended for:

(i) Use in a household or its immediate environment;

(ii) Use requiring a license under COMAR 15.05.01.03;

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

(iv) Institutional use.

(15) Air Freshener.

(a) "Air freshener" means a consumer product designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air, including sprays, wicks, powders, and crystals.

(b) "Air freshener" does not include:

(i) A product that is used on the human body;

(ii) A product that functions primarily as a cleaning product, as indicated on a product label, or toilet and urinal care products;

(iii) A disinfectant product claiming to deodorize by killing germs on surfaces; or

(iv) An institutional and industrial disinfectant offered for sale solely through institutional or industrial channels of distribution.

(c) "Air freshener" includes spray disinfectants and other products that are expressly represented for use as air fresheners, unless offered for sale through institutional and industrial channels of distribution.

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

(16) "All other carbon-containing compounds" means all compounds which contain at least 1 carbon atom and are not a "Table B" compound or a "LVP-VOC".

(17) All Other Forms.

(a) "All other forms" means all consumer product forms for which no form-specific VOC standard is specified.

(b) "All other forms" includes, unless specified otherwise by the applicable VOC standard, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

(18) "Alternative control plan (ACP)" means an emissions averaging program approved by the Department under the provisions of this chapter.

(19) Antimicrobial Hand or Body Cleaner or Soap.

(a) "Antimicrobial hand or body cleaner or soap" means a cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity.

(b) "Antimicrobial hand or body cleaner or soap" includes antimicrobial hand or body washes or cleaners, foodhandler hand washes, healthcare personnel hand washes, preoperative skin preparations, and surgical scrubs.

(c) "Antimicrobial hand or body cleaner or soap" does not include prescription drug products, antiperspirants, astringent/toner, deodorants, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

(20) Antiperspirant.

(a) "Antiperspirant" means a product that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

(b) "Antiperspirant" includes aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles.

(21) Anti-Static Product.

(a) "Anti-static product" means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static.

(b) "Anti-static product" does not include electronic cleaner, floor polish or wax, or floor coating.

(22) "Architectural coating" means a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

(23) "ASTM" means the American Society for Testing and Materials.

(24) Astringent/Toner.

(a) "Astringent/toner" means a product not regulated as a drug by the U.S. Food and Drug Administration (FDA) and which is applied to the skin for the purpose of cleaning or tightening pores.

(b) "Astringent/toner" includes clarifiers and substrate-impregnated products.

(c) "Astringent/toner" does not include a hand, face, or body cleaner or soap product, medicated astringent/medicated toner, cold cream, lotion, or antiperspirant.

(25) "Automobile headliner adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

(26) "Automotive brake cleaner" means a cleaning product designed to remove oil, grease, brake fluid, brake pad material, or dirt from motor vehicle brake mechanisms.

(27) "Automotive engine compartment adhesive" means an aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200—275°F.

(28) "Automotive hard paste wax" means an automotive wax or polish that is designed to protect and improve the appearance of automotive paint surfaces, is a solid at room temperature,

and contains no water by formulation.

(29) "Automotive instant detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off before the product is allowed to dry.

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

(31) Automotive Wax, Polish, Sealant, or Glaze.

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

(b) "Automotive wax, polish, sealant, or glaze" includes products designed for use in autobody repair shops and drive-through car washes, and by the general public.

(c) "Automotive wax, polish, sealant, or glaze" does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, or products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

(32) Automotive Windshield Washer Fluid.

(a) "Automotive windshield washer fluid" means a liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield.

(b) "Automotive windshield washer fluid" does not include fluids placed by the manufacturer in a new vehicle.

(33) "Bait station insecticide" means a container enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5 percent active ingredients.

(34) Bathroom and Tile Cleaner.

(a) "Bathroom and tile cleaner" means a product labeled to clean tile or surfaces in bathrooms.

(b) "Bathroom and tile cleaner" does not include products specifically designed primarily to clean toilet bowls, toilet tanks, or urinals.

(35) "Bug and tar remover" means a product labeled to remove from painted motor vehicle surfaces, without causing damage to the finish, either or both of the following:

(a) Biological-type residues such as insect carcasses and tree sap; or

(b) Road grime such as road tar, roadway paint markings, and asphalt.

(36) "CARB" means the California Air Resources Board.

(37) Carburetor or Fuel-Injection Air Intake Cleaner.

(a) "Carburetor or fuel-injection air intake cleaner" means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages.

(b) "Carburetor or fuel-injection air intake cleaner" does not include a product designed exclusively to be introduced directly into the fuel lines or fuel storage tank before introduction into the carburetor or fuel injectors.

(38) Carpet and Upholstery Cleaner.

(a) "Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, the interior of motor vehicles, household furniture, or objects upholstered or covered with fabrics such as wool, cotton, nylon, or other synthetic fabrics.

(b) "Carpet and upholstery cleaner" includes products that make fabric protectant claims.

(c) "Carpet and upholstery cleaner" does not include general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

(39) Charcoal Lighter Material.

(a) "Charcoal lighter material" means a combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition.

(b) "Charcoal lighter material" does not include electrical starters and probes, metallic cylinders using paper tinder, natural gas, propane, and fat wood.

(40) "Clear, paintable, water resistant caulking compound" means a compound which:

(a) Contains no appreciable level of opaque fillers or pigments;

(b) Transmits most or all visible light through the caulk when cured;

(c) Is paintable; and

(d) Is immediately resistant to precipitation upon application.

(41) "Colorant" means a pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

(42) "Compliance period" means the period of time, not to exceed 1 year, for which the ACP limit and ACP emissions are calculated and for which compliance with the ACP limit is determined, as specified in the ACP agreement.

(43) Construction, Panel, and Floor Covering Adhesive.

(a) "Construction, panel, and floor covering adhesive" means a one-component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

(i) Structural and building components including beams, trusses, studs, ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, flooring or subflooring, and paneling such as drywall or drywall laminates, fiberglass reinforced plastic, plywood, particle board, insulation board, predecorated hardboard or tileboard; or

(ii) Floor or wall coverings including wood or simulated wood covering, carpet, carpet pad or cushion, vinyl-backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass.

(b) "Construction, panel, and floor covering adhesive" does not include floor seam sealer.

(44) Consumer.

(a) "Consumer" means a person who purchases or acquires a consumer product for personal, family, household, or institutional use.

(b) "Consumer" does not include a person who acquires a consumer product for resale.

(45) Consumer Product.

(a) "Consumer product" means a chemically formulated product used by household or institutional consumers.

(b) "Consumer product" includes detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, home, lawn, and garden products, disinfectants, sanitizers, aerosol paints, automotive specialty products, and aerosol adhesives for consumer, industrial, or commercial uses.

(c) "Consumer product" does not include paint products other than those listed under §B(45)(b) of this regulation, furniture coatings, or architectural coatings.

(46) Contact Adhesive.

(a) "Contact adhesive" means an adhesive that:

(i) Is designed for application to two surfaces to be bonded together;

(ii) Is allowed to dry before the two surfaces are placed in contact with each other;

(iii) Forms an immediate bond that is impossible or difficult to reposition after both adhesive-coated surfaces are placed in contact with each other; and

(iv) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(b) "Contact adhesive" does not include rubber cements intended primarily for use on paper substrates and vulcanizing fluids that are designed and labeled for tire repair only.

(47) "Contact adhesive—general purpose" means any contact adhesive that is not a contact adhesive—special purpose.

(48) "Contact adhesive—special purpose" means a contact adhesive that:

(a) Is used to bond melamine-covered board, unprimed metal, unsupported vinyl, polytetrafluoroethylene or closely related fluoropolymer (for example, Teflon(r)), ultra-high molecular weight polyethylene, rubber, high pressure laminate, or wood veneer 1/16 inch or less in thickness to any porous or nonporous surface, and is sold in units of product, less packaging, that contain more than 8 fluid ounces;

(b) Is used in automotive applications that are:

(i) Automotive under-the-hood applications requiring heat, oil, or gasoline resistance; and

(ii) Body-side molding, automotive weather stripping, or decorative trim.

(49) "Contact person" means a representative that has been designated by the responsible ACP party for the purpose of reporting or maintaining information specified in the ACP agreement.

(50) Container or Packaging.

(a) "Container or packaging" means the part or parts of the consumer or institutional product that serve only to contain, enclose, incorporate, deliver, dispense, wrap, or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended.

(b) "Container or packaging" includes an article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed, or attached.

(51) Crawling Bug Insecticide.

(a) "Crawling bug insecticide" means an insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, mites, silverfish, and spiders.

(b) "Crawling bug insecticide" does not include:

(i) A product designed to be used exclusively on humans or animals; or

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

(52) "Date-code" means the day, month, and year on which the consumer product was manufactured, filled, or packaged, or a code indicating that date.

(53) Deodorant.

(a) "Deodorant" means:

(i) For products manufactured before January 1, 2009, a product that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria that cause the decomposition of perspiration; and

(ii) For products manufactured on or after January 1, 2009, a product that indicates or depicts on the container or packaging, or on any sticker or label affixed thereto, that the product can be used on or applied to the human axilla to provide a scent or minimize odor.

(b) "Deodorant" includes aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles.

(54) "Deodorant body spray" means:

(a) For products manufactured before January 1, 2009, a personal fragrance product with 20 percent or less fragrance; and

(b) For products manufactured on or after January 1, 2009, a personal fragrance product with 20 percent or less fragrance, that is designed for application all over the human body to provide a scent.

(55) Device.

(a) "Device" means an instrument or contrivance other than a firearm that is designed for trapping, destroying, repelling, or mitigating pests, or other forms of plant or animal life other than man and other than bacteria, virus, or other microorganisms on or in living man or other living animals.

(b) "Device" does not include equipment used for the application of pesticides when sold separately from the pesticide.

(56) Disinfectant.

(a) "Disinfectant" means a product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and for which the label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136.

(b) "Disinfectant" does not include products:

(i) Designed solely for use on humans or animals;

(ii) Designed for agricultural use;

(iii) Designed solely for use in swimming pools, therapeutic tubs, or hot tubs; and

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

(57) Distributor.

(a) "Distributor" means a person to whom a consumer product is sold or supplied

for the purposes of resale or distribution in commerce.

(b) "Distributor" does not include manufacturers, retailers, or consumers.

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

(59) Dry Cleaning Fluid.

(a) "Dry cleaning fluid" means a non-aqueous liquid product designed and labeled exclusively for use on:

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

(ii) Upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee.

(b) "Dry cleaning fluid" includes products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at a customer's residence or work place.

(c) "Dry cleaning fluid" does not include spot remover or carpet and upholstery cleaner.

(60) Dusting Aid.

(a) "Dusting aid" means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone-based coating.

(b) "Dusting aid" does not include pressurized gas duster.

(61) Electrical Cleaner.

(a) "Electrical cleaner" means a product labeled to remove heavy soils such as grease, grime, or oil from electrical equipment, including electric motors, armatures, relays, electric panels, or generators.

(b) "Electrical cleaner" does not include general purpose cleaner, general purpose degreaser, dusting aid, electronic cleaner, energized electrical cleaner, pressurized gas duster, engine degreaser, anti-static product, or products designed to clean the casings or housings of electrical equipment.

(62) Electronic Cleaner.

(a) "Electronic cleaner" means a product labeled for the removal of dirt, moisture, dust, flux or oxides from the internal components of electronic precision equipment such as circuit boards, and the internal components of electronic devices, including but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers.

(b) "Electronic cleaner" does not include general purpose cleaner, general purpose degreaser, dusting aid, pressurized gas duster, engine degreaser, electrical cleaner, energized electrical cleaner, anti-static product, or products designed to clean the casings or housings of electronic equipment.

(63) Energized Electrical Cleaner.

(a) "Energized electrical cleaner" means a product:

(i) That is 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; and

(ii) Whose label clearly displays the statements: "Energized equipment use only. Not to be used for motorized vehicle maintenance, or their parts."

(b) "Energized electrical cleaner" does not include electronic cleaner.

(64) "Enforceable sales" means the total amount of an ACP product, as determined through enforceable sales records expressed to the nearest pound, but excluding product container and packaging sold for use in the State during the applicable compliance period specified in the ACP agreement.

(65) Enforceable Sales Record.

(a) "Enforceable sales record" means 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 the State during the applicable compliance period can be accurately documented.

(b) "Enforceable sales record" includes:

(i) Accurate records of direct retail or other outlet sales to the end user during the applicable compliance period;

(ii) Accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period

if a detailed method to verify data comprising these summaries is submitted by the responsible ACP party and approved by the Department; and

(iii) Other accurate product sales records approved by the Department as meeting the criteria specified in §B(65)(a) of this regulation.

(66) "Engine degreaser" means a cleaning product designed to remove grease, grime, oil, and other contaminants from the external surfaces of engines and other mechanical parts.

(67) Fabric Protectant.

(a) "Fabric protectant" means a product designed to be applied to fabric substrates to:

(i) Protect the surface from soiling from dirt and other impurities; or

(ii) Reduce absorption of liquid into the fabric's fibers.

(b) "Fabric protectant" does not include waterproofers or products designed for use solely on leather.

(68) Fabric Refresher.

(a) "Fabric refresher" means a product labeled to neutralize or eliminate odors on nonlaundered fabric, including soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing, or on household furniture or objects upholstered or covered with fabrics such as, but not limited to, wool, cotton, or nylon.

(b) "Fabric refresher" does not include anti-static product, carpet and upholstery cleaner, soft household surface sanitizers, footwear or leather care product, spot remover, or disinfectant, or products labeled for application to both fabric and human skin.

(c) For the purposes of this definition only, soft household surface sanitizer means a product labeled to neutralize or eliminate odors on surfaces listed in §B(68)(a) of this regulation whose label is registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA, 7 U.S.C. 136 et seq.).

(69) Facial Cleaner or Soap.

(a) "Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face.

(b) "Facial cleaner or soap" includes facial cleansing creams, semisolids, liquids, lotions, and substrate-impregnated forms.

(c) "Facial cleaner or soap" does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

(70) Fatwood.

(a) "Fatwood" means pieces of wood kindling with high, naturally-occurring levels of sap or resin that enhance ignition of the kindling.

(b) "Fatwood" does not include kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

(71) Flea and Tick Insecticide.

(a) "Flea and tick insecticide" means an insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs.

(b) "Flea and tick insecticide" does not include products that are designed to be used exclusively on humans or animals and their bedding.

(72) "Flexible flooring material" means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

(73) "Flexible vinyl adhesive" means an aerosol adhesive designed to bond to substrates a nonrigid polyvinyl chloride plastic with at least 5 percent by weight of plasticizer content.

(74) "Floor and wall covering adhesive remover" means a product designed or labeled to remove floor or wall coverings and associated adhesives from the underlying substrate.

(75) "Floor coating" means a coating that is labeled and designed for application to flooring, including but not limited to, decks, porches, steps, and other horizontal surfaces that may be subject to foot traffic.

(76) Floor Polish or Wax.

(a) "Floor polish or wax" means a wax, polish, or other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished.

(b) "Floor polish or wax" does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, or coatings subject to architectural coatings regulations.

(77) "Floor seam sealer" means a product designed and labeled exclusively for bonding, fusing, or sealing seams between adjoining rolls of installed flexible sheet flooring.

(78) Floor Wax Stripper.

(a) "Floor wax stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax.

(b) "Floor wax stripper" does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

(79) Flying Bug Insecticide.

(a) "Flying bug insecticide" means an insecticide product that is designed for use against flying insects or other flying arthropods, such as flies, mosquitoes, moths, or gnats.

(b) "Flying bug insecticide" does not include:

(i) Wasp and hornet insecticide;

(ii) A product designed to be used exclusively on humans or animals; or

(iii) A product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths but not from flying insects or other flying arthropods.

(80) Footwear or Leather Care Product.

(a) "Footwear or leather care product" means any product designed or labeled to be applied to footwear or to other leather articles and components, to maintain, enhance, clean, protect, or modify the appearance, durability, or fit including both leather and nonleather foot apparel.

(b) "Footwear or leather care product" does not include fabric protectant, general purpose adhesive, contact adhesive, vinyl/fabric/leather/polycarbonate coating, rubber and vinyl protectant, fabric refresher, products solely for deodorizing, or sealant products with adhesive properties used to create external protective layers greater than 2 millimeters thick.

(81) "Fragrance" means 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 Hg at 20°C, intended solely to impart an odor or scent or counteract a malodor.

(82) Furniture Maintenance Product.

(a) "Furniture maintenance product" means a wax, polish, conditioner, or other product designed for the purpose of polishing, protecting, or enhancing finished wood surfaces other than floors.

(b) "Furniture maintenance product" does not include dusting aids, wood cleaners, and products designed solely for the purpose of cleaning, or products designed to leave a permanent finish such as stains, sanding sealers, and lacquers.

(83) "Furniture coating" means a paint designed for application to room furnishings including cabinets, tables, chairs, beds, and sofas.

(84) Gasket or Thread Locking Adhesive Remover.

(a) "Gasket or thread locking adhesive remover" means a product designed or labeled to remove gaskets or thread locking adhesives.

(b) "Gasket or thread locking adhesive remover" includes a product labeled for dual use as:

(i) A paint stripper and gasket remover; or

(ii) A paint stripper and thread locking adhesive remover.

(85) "Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

(86) General Purpose Adhesive.

(a) "General purpose adhesive" means a nonaerosol adhesive designed for use on a variety of substrates.

(b) "General purpose adhesive" does not include the following:

(i) Contact adhesives;

(ii) Construction, panel, and floor covering adhesives;

(iii) Adhesives designed 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); or

(iv) Adhesives designed exclusively for use on one specific functional 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).

(87) General Purpose Adhesive Remover.

(a) "General purpose adhesive remover" means a product designed or labeled to remove cyanoacrylate adhesives as well as nonreactive adhesives or residue from a variety of substrates.

(b) "General purpose adhesive remover" includes a product that removes:

- (i) Thermoplastic adhesives;
- (ii) Pressure sensitive adhesives;
- (iii) Dextrine or starch-based adhesives;
- (iv) Casein glues;
- (v) Rubber or latex-based adhesives; or
- (vi) Products that remove stickers, decals, stencils, or similar materials.

(c) "General purpose adhesive remover" does not include floor or wall covering adhesive remover.

(88) General Purpose Cleaner.

(a) "General purpose cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations.

(b) "General purpose cleaner" includes:

- (i) Products designed for general floor cleaning and kitchen or countertop cleaning; and
- (ii) Cleaners designed to be used on a variety of hard surfaces.

(c) "General purpose cleaner" does not include general purpose degreasers or electronic cleaners.

(89) General Purpose Degreaser.

(a) "General purpose degreaser" means a product labeled to remove or dissolve grease, grime, oil, and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(b) "General purpose degreaser" does not include:

(i) Engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, or metal polish or cleanser;

(ii) Products used exclusively in solvent cleaning tanks or related equipment such as cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container; or

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

(90) General-Use Hand or Body Cleaner or Soap.

(a) "General-use hand or body cleaner or soap" means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils.

(b) "General-use hand or body cleaner or soap" includes hand or body washes, dual-purpose shampoo body cleaners, shower or bath gels, and moisturizing cleaners or soaps.

(c) "General-use hand or body cleaner or soap" does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

(91) Glass Cleaner.

(a) "Glass cleaner" means a cleaning product designed primarily for cleaning surfaces made of glass.

(b) "Glass cleaner" does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment, or photocopying machines.

(92) Graffiti Remover.

(a) "Graffiti remover" means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish, from a variety of noncloth or nonfabric substrates.

(b) "Graffiti remover" includes products labeled for dual use as both a paint stripper and graffiti remover.

(c) "Graffiti remover" does not include paint remover or stripper, nail polish remover, or spot remover.

(93) "Gross State sales" means the estimated total State sales, expressed to the nearest pound, of an ACP product during a specific compliance period based on either of the following methods the responsible ACP party demonstrates to the satisfaction of the Department provides an accurate State sales estimate:

(a) Apportionment of national or regional sales of the ACP product to State sales, determined by multiplying the average national or regional sales of the product by the fraction of the national or regional population, respectively, that is represented by the State's current population; or

(b) Another documented method that provides an accurate estimate of the total current State sales of the ACP product.

(94) "Hair mousse" means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

(95) Hair Shine.

(a) "Hair shine" means a product designed for the primary purpose of creating a shine when applied to the hair.

(b) "Hair shine" includes dual-use products designed primarily to impart a sheen to the hair.

(c) "Hair shine" does not include hair spray, hair mousse, hair styling product, hair styling gel, or products of which the primary purpose is to condition or hold the hair.

(96) Hair Spray.

(a) "Hair spray", for products manufactured before January 1, 2009, means a consumer product designed primarily for dispensing droplets of a resin on and into a hair coiffure to impart sufficient rigidity to the coiffure to establish or retain the style for a period of time; and

(b) "Hair spray", for products manufactured on or after January 1, 2009, means a consumer product that is applied to styled hair, and is designed or labeled to provide sufficient rigidity, to hold, retain, or finish the style of the hair for a period of time and includes aerosol hair sprays, pump hair sprays, spray waxes, color, glitter, or sparkle hair sprays that make finishing claims and products that are both a styling and finishing product.

(c) "Hair spray" does not include spray products that are intended to aid in styling

but do not provide finishing of a hairstyle.

(d) For the purposes of this definition:

(i) "Finish" or "finishing" means the maintaining and holding of previously styled hair for a period of time; and

(ii) "Styling" means the forming, sculpting, or manipulating the hair to temporarily alter the hair's shape.

(97) "Hair styling gel" means a consumer product manufactured before January 1, 2009, that is a high viscosity product that contains a resin and is designed for the application to hair to aid in styling and sculpting of a hair coiffure.

(98) Hair Styling Product.

(a) "Hair styling product" means a consumer product manufactured on or after January 1, 2009 that is designed or labeled for the application to wet, damp, or dry hair to aid in defining, shaping, lifting, styling, and sculpting of the hair.

(b) "Hair styling product" includes, but is not limited to, hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers, and conditioners that make styling claims.

(c) "Hair styling product" does not include hair mousse, hair shine, hair spray, or shampoos and conditioners that are rinsed from the hair prior to styling.

(d) For the purposes of this definition:

(i) "Finish" or "finishing" means the maintaining and holding of previously styled hair for a period of time; and

(ii) "Styling" means forming, sculpting, or manipulating the hair to temporarily alter the hair's shape.

(99) Heavy-Duty Hand Cleaner or Soap.

(a) "Heavy-duty hand cleaner or soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water.

(b) "Heavy-duty hand cleaner or soap" does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

(100) Herbicide.

(a) "Herbicide" means a pesticide product designed to kill or retard a plant's growth.

(b) "Herbicide" does not include products that are for agricultural use, or restricted materials that require a permit for use and possession.

(101) "High pressure laminate" means 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 pounds per square inch.

(102) "High volatility organic compound" means a volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury when measured at 20°C.

(103) "House dust mite" means a mite that feeds primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

(104) "Household product" means a consumer product that is primarily designed to be used inside or outside of living quarters or residences, including the immediate surroundings that are occupied or intended for occupation by individuals.

(105) "HVOOC" means a high volatility organic compound, as defined in this chapter.

(106) Insecticide.

(a) "Insecticide" means a pesticide product that is designed for use against insects or other arthropods.

(b) "Insecticide" does not include:

(i) Products for agricultural use;

(ii) Products for a use which requires a structural pest control license under applicable State laws or regulations; or

(iii) Restricted materials that require a permit for use and possession.

(107) "Insecticide fogger" means an insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

(108) Institutional Product.

(a) "Institutional product" means a consumer product that is designed for use in the maintenance or operation of an establishment that:

(i) Manufactures, transports, or sells goods or commodities, or provides services for profit; and

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

(b) "Institutional product" 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, which includes government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, and transportation companies.

(109) "Institutional use" means use within the lines of or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

(110) "Label" means a written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon a consumer product or consumer product package, for purposes of branding, identifying, or giving information about the product or the contents of the package.

(111) "Laminate repair or edgebanding adhesive" means an aerosol adhesive designed for:

(a) The touch-up or repair of items laminated with high pressure laminates such as lifted edges or delaminates; or

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

(112) "Laundry prewash" means a product that:

(a) Is designed for application to a fabric before laundering; and

(b) Supplements and contributes to the effectiveness of laundry detergents.

(113) Laundry Starch Product.

(a) "Laundry starch product" means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look.

(b) "Laundry starch product" includes fabric finish, sizing, and starch.

(114) "Lawn and garden insecticide" means an insecticide product labeled primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

(115) Liquid.

(a) "Liquid" means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D4359-90(2000)el.

(b) "Liquid" does not include powders or other materials composed entirely of solid particles.

(116) Lubricant.

(a) "Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms.

(b) "Lubricant" does not include:

(i) Automotive power steering fluids;

(ii) Products for use inside power generating motors, engines, and turbines and their associated power-transfer gearboxes;

(iii) Two-cycle oils or other products designed to be added to fuels;

(iv) Products for use on the human body or animals; or

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

(117) "LVP content" means the total weight in pounds of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest tenth of a percent.

(118) "Low Vapor Pressure-VOC" means:

(a) A chemical compound or mixture that contains at least one carbon atom with a vapor pressure less than 0.1 millimeters of mercury at 20°C, as determined by CARB Method

310;

(b) 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 with unknown vapor pressure and boiling point;

(c) A chemical compound that contains at least one carbon atom with a boiling point greater than 216°C, as determined by CARB Method 310; or

(d) A weight percent of a chemical mixture that contains at least one carbon atom and that boils above 216°C, as determined by CARB Method 310.

(119) "Manufacturer" means a person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.

(120) Medicated Astringent/Medicated Toner.

(a) "Medicated astringent/medicated toner" means a product regulated as a drug by the U.S. Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores.

(b) "Medicated astringent/medicated toner" includes clarifiers and substrate-impregnated products.

(c) "Medicated astringent/medicated toner" does not include: hand, face, or body cleaner or soap products, astringent/toner, cold creams, lotions, antiperspirants, or products that must be purchased with a doctor's prescription.

(121) "Medium volatility organic compound (MVOC)" means a volatile organic compound that exerts a vapor pressure greater than 2 millimeters of mercury, and less than or equal to 80 millimeters of mercury, when measured at 20°C.

(122) Metal Polish or Cleanser.

(a) "Metal polish or cleanser" means a product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces, by physical or chemical action, for the purpose of removing or reducing stains, impurities, or oxidation from surfaces or making surfaces smooth and shiny.

(b) "Metal polish or cleanser" includes metal polishes used on brass, silver, chrome, copper, stainless steel, and other ornamental metals.

(c) "Metal polish or cleanser" does not include:

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

(123) "Missing data days" means the number of days in a compliance period for which the responsible ACP party has failed to provide the required enforceable sales or VOC content data to the Department, as specified in the ACP agreement.

(124) Mist Spray Adhesive.

(a) "Mist spray adhesive" means an aerosol that delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

(b) "Mist spray adhesive" does not include a special purpose spray adhesive.

(125) "Mounting adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, or other drawn or printed medium onto a backing (paper, board, cloth, or similar items) without causing discoloration to the medium.

(126) "Multi-purpose dry lubricant" means a lubricant that is:

(a) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly), polytetrafluoroethylene, or closely related fluoropolymer (teflon) on surfaces; and

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

(127) Multi-Purpose Lubricant.

(a) "Multi-purpose lubricant" means a lubricant designed for general purpose lubrication, or for use in a wide variety of applications.

(b) "Multi-purpose lubricant" does not include multi-purpose dry lubricants, penetrants, or silicone-based multi-purpose lubricants.

(128) Multi-Purpose Solvent.

(a) "Multi-purpose solvent" means an organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing, or dissolving other organic materials.

(b) "Multi-purpose solvent" includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific, or other laboratories.

(c) "Multi-purpose solvent" does not include solvents:

(i) Used in cold cleaners, vapor degreasers, conveyORIZED degreasers, or film cleaning machines; or

(ii) That are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

(129) "MVOC" means a medium volatility organic compound, as defined in this section.

(130) "Nail polish" means a clear or colored coating such as lacquers, enamels, acrylics, base coats, and top coats designed for application to the fingernails or toenails.

(131) "Nail polish remover" means a product designed to remove nail polish and coatings from fingernails or toenails.

(132) "Nonaerosol product" means a consumer product that is not dispensed by a pressurized spray system.

(133) "Noncarbon containing compound" means a compound that does not contain carbon atoms.

(134) Nonresilient Flooring

(a) "Nonresilient flooring" means flooring of a mineral content that is not flexible.

(b) "Nonresilient flooring" includes terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

(135) "Nonselective terrestrial herbicide" means a terrestrial herbicide product that is toxic to plants without regard to species.

(136) "One-product business" means a responsible ACP party that sells, supplies, offers for sale, or manufactures for use in the State only one distinct:

(a) ACP product that is sold under one product brand name and subject to the requirements of Regulations .04 —.10 of this chapter; or

(b) ACP product line subject to the requirements of Regulations .04—.10 of this chapter, in which all the ACP products belong to the same product category or categories and the VOC contents in the products are within 98 percent and 102 percent of the arithmetic mean of the VOC contents over the entire product line.

(137) "Oven cleaner" means a cleaning product designed to clean and remove dried food deposits from oven walls.

(138) "Paint" means a pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is:

(a) Converted to an opaque solid film after application; and

(b) 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.

(139) Paint Remover or Stripper.

(a) "Paint remover or stripper" means a product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate.

(b) "Paint remover or stripper" does not include multi-purpose solvents, paintbrush cleaners, products designed and labeled as graffiti removers, or hand cleaner products that claim to remove paints and other related coatings from skin.

(140) Penetrant.

(a) "Penetrant" means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes.

(b) "Penetrant" does not include multi-purpose lubricants that claim to have penetrating qualities but are not labeled primarily to loosen bonded parts.

(141) Personal Fragrance Product.

(a) "Personal fragrance product" means any product which is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor, including cologne, perfume, aftershave, and toilet water.

(b) "Personal fragrance product" does not include:

(i) Deodorant;

(ii) Medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body;

(iii) Mouthwashes, breath fresheners, and deodorizers;

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

(v) Products designed exclusively for use on human genitalia;

(vi) Soaps, shampoos, and products primarily used to clean the human body; and

(vii) Fragrance products designed to be used exclusively on nonhuman animals.

(142) Pesticide.

(a) "Pesticide" means a substance or mixture of substances labeled, designed, or intended for use:

(i) In preventing, destroying, repelling, or mitigating pests; or

(ii) As a defoliant, desiccant, or plant regulator.

(b) "Pesticide" does not include a substance, mixture of substances, or device that the U.S. Environmental Protection Agency does not consider a pesticide.

(143) "Plasticizer" means a material, such as a high boiling point organic solvent, that:

(a) Is incorporated into a plastic to increase its flexibility, workability, or distensibility; and

(b) May be determined using ASTM Method E260-96 or from product formulation data.

(144) "Polyolefin adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.

(145) "Polystyrene foam adhesive" means an aerosol adhesive designed to bond

polystyrene foam to substrates.

(146) "Pre-ACP VOC content" means 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.

(147) Pressurized Gas Duster.

(a) "Pressurized gas duster" means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces such as photographs, photographic film negatives, computer keyboards, and other types of surfaces that cannot be cleaned with solvents.

(b) "Pressurized gas duster" does not include dusting aid.

(148) "Principal display panel or panels" means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase.

(149) "Product brand name" means the name of the product exactly as it appears on the principal display panel of the product.

(150) "Product category" means the applicable category that best describes the product as listed in Regulations .03 and .04B of this chapter.

(151) "Product form" means the applicable form that most accurately describes the product's dispensing form, such as aerosol product, solid, pump spray, liquid, or gel as follows:

(a) A = Aerosol Product:

(i) S = Solid;

(ii) P = Pump Spray;

(iii) L = Liquid; and

(iv) SS = Semisolid; and

(b) O = Other.

(152) "Product line" means a group of products of identical form and function belonging to the same product category or categories.

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

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

(155) "Reconcile or reconciliation" means to provide sufficient VOC emission reductions to completely offset shortfalls generated under the ACP during an applicable compliance period.

(156) "Reconciliation of shortfalls plan" means the plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the Department under Regulation .23 of this chapter.

(157) "Removable caulking compound" means a compound that temporarily seals windows or doors for 3 to 6 month time intervals.

(158) "Responsible party" means:

(a) The company, firm, or establishment that is listed on the product's label; or

(b) If the label lists two companies, the firms or establishments which the product was "manufactured for" or "distributed by", as noted on the label.

(159) "Responsible ACP party" means:

(a) The company, firm, or establishment listed on the ACP product's label; or

(b) If the label lists two or more companies, firms, or establishments, the party which the ACP product was "manufactured for" or "distributed by", as noted on the label.

(160) "Restricted materials" means pesticides established as restricted use pesticides as classified by Agriculture Article, Title 5, Annotated Code of Maryland, the federal government, or the Maryland Secretary of Agriculture.

(161) "Retailer" means a person who sells, supplies, or offers consumer products for sale directly to consumers.

(162) "Retail outlet" means an establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

(163) "Roll-on product" means an antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

(164) Rubber and Vinyl Protectant.

(a) "Rubber and vinyl protectant" means a product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, or household products such as vinyl covers, clothing, and accessories.

(b) "Rubber and vinyl protectant" does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, or tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

(165) "Rubbing alcohol" means a product containing isopropyl alcohol or denatured ethanol and labeled for topical use:

(a) To decrease germs in minor cuts and scrapes;

(b) To relieve minor muscle aches, as a rubefacient; and

(c) For massage.

(166) Sealant and Caulking Compound.

(a) "Sealant and caulking compound" means a product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces.

(b) "Sealant and caulking compound" does not include roof cements and roof sealants, insulating foams, removable caulking compounds, clear, paintable, water resistant caulking compounds, floor seam sealers, products designed exclusively for automotive uses, or sealers that are applied as continuous coatings.

(167) "Semisolid" means a product that at room temperature will not pour but will spread or deform easily, such as gels, pastes, and greases.

(168) Shaving Cream.

(a) "Shaving cream" means an aerosol product that dispenses 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.

(b) "Shaving cream" does not include shaving gel.

(169) Shaving Gel.

(a) "Shaving gel" means an aerosol product, which dispenses a post-foaming semisolid designed for use with a blade, cartridge razor, or other shaving system in the removal

of facial or other bodily hair.

(b) "Shaving gel" does not include shaving cream.

(170) Shortfall.

(a) "Shortfall" means 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.

(b) "Shortfall" does not include emissions occurring before the date that the ACP agreement is signed by the Department.

(171) Silicone-Based Multi-Purpose Lubricant.

(a) "Silicone-based multi-purpose lubricant" means a lubricant which is designed and labeled:

(i) To provide lubricity primarily through the use of silicone compounds such as polydimethylsiloxane; and

(ii) For general purpose lubrication, or for use in a wide variety of applications.

(b) "Silicone-based multi-purpose lubricant" does not include products designed and labeled exclusively to release manufactured products from molds.

(172) "Single phase aerosol air freshener" means an aerosol air freshener with its liquid contents in a single homogeneous phase and does not require that the product container be shaken before use.

(173) "Solid" means a substance or mixture of substances that, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D4359-90 (2000)e1.

(174) "Special purpose spray adhesive" means one or more of the following aerosol adhesives:

(a) Mounting adhesive;

(b) Flexible vinyl adhesive;

(c) Polystyrene foam adhesive;

- (d) Automobile headliner adhesive;
- (e) Polyolefin adhesive;
- (f) Laminate repair or edgebanding adhesive; or
- (g) Automotive engine compartment adhesive.

(175) Specialty Adhesive Remover.

(a) "Specialty adhesive remover" means a product designed to remove from a variety of substrates reactive adhesives including epoxies, urethanes, and silicones that require a hardener or catalyst in order for the bond to occur.

(b) "Specialty adhesive remover" does not include gasket or thread locking adhesive remover.

(176) Spot Remover.

(a) "Spot remover" means a product labeled to clean localized areas or remove localized spots or stains on cloth or fabric, such as drapes and clothing, that does not require subsequent laundering to achieve stain removal.

(b) "Spot remover" does not include dry cleaning fluid, laundry prewash, or multi-purpose solvent.

(177) "Spray buff product" means a product designed to restore a worn floor finish with a floor buffing machine and special pad.

(178) "State sales" means the sales in the State, if available, or sales estimated by incorporating national or regional sales data by population, expressed as net pounds of product, less packaging and container:

(a) For the calendar year immediately before the year that the registration is due;
or

(b) If the data in §B(178)(a) of this regulation is not available, for a consecutive 12-month period beginning not earlier than 2 years before the due date of the registration.

(179) "Stick product" means an antiperspirant or deodorant that contains active ingredients in a solid matrix form and dispenses the active ingredients by frictional action on the affected area.

(180) "Structural waterproof adhesive" means an adhesive:

(a) Whose bond lines are resistant to conditions of continuous immersion in fresh or salt water; and

(b) That conforms with Federal Specification MMM-A-181D (Type 1, Grade A) of the Federal Consumer Products Regulation 40 CFR Part 59, Subpart C.

(181) Surplus Reduction.

(a) "Surplus reduction" means the ACP limit minus the ACP emissions expressed to the nearest pound of VOC when the ACP limit was greater than the ACP emissions during a given compliance period.

(b) Except as provided in this chapter, "surplus reduction" does not include emissions occurring before the date that the ACP agreement is signed by the Department.

(182) "Surplus trading" means the buying, selling, or transfer of surplus reductions between responsible ACP parties.

(183) "Table B compound" means a carbon-containing compound that is an exception to the definition of VOC in COMAR 26.11.01.01B(53).

(184) "Terrestrial" means living on or growing from land.

(185) "Tire sealant and inflation" means a pressurized product that is designed to temporarily inflate and seal a leaking tire.

(186) Toilet and Urinal Care Product.

(a) "Toilet and urinal care product" means any product designed or labeled to clean or to deodorize toilet bowls, toilet tanks, or urinals.

(b) For purposes of this definition, toilet bowls, toilet tanks, or urinals include:

(i) Toilets or urinals connected to permanent plumbing in buildings and other structures;

(ii) Portable toilets or urinals placed at temporary or remote locations; and

(iii) Toilets or urinals in vehicles such as buses, recreational motor homes, boats, ships, and aircraft.

(c) "Toilet and urinal care product" does not include bathroom and tile cleaner or general purpose cleaner.

(187) "Total maximum historical emissions (TMHE)" means 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 and that are:

(a) Determined by calculating emissions of 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;

(b) Expressed to the nearest pound and calculated according to the following calculation:

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

where:

(i) $\text{MHE} = (\text{Highest VOC Content} \times \text{Highest Sales}) \times \text{Missing Data Days} / 100 \times 365$;

(ii) Highest VOC Content = the maximum VOC content which the ACP product has contained in the previous 5 years, if the responsible ACP party fails to report all the required VOC content data (for any 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;

(iii) Highest Sales = the maximum 1 year gross State sales of the ACP product in the previous 5 years, if the responsible ACP party fails to report all required enforceable sales records (for any 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;

(iv) Missing Data Days = the number of days in a compliance period for which the responsible ACP party has failed to provide the required enforceable sales records or VOC content data as specified in the ACP agreement;

(v) 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 records or VOC content data as specified in the ACP agreement.

(188) "Type A propellant" means a compressed gas such as carbon dioxide (CO₂), nitrogen (N₂), nitrogen oxide (N₂O), or compressed air that is used as a propellant, and is either incorporated with the product or contained in a separate chamber within the product's packaging.

(189) "Type B propellant" means a halocarbon that is used as a propellant including

chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

(190) "Type C propellant" means a propellant that is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether.

(191) Undercoating.

(a) "Undercoating" means an aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, or firewall of motor vehicles to prevent the formation of rust or to deaden sound.

(b) "Undercoating" includes rubberized, mastic, or asphaltic products.

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

(193) "Vinyl/fabric/leather/polycarbonate coating" means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate substrates.

(194) VOC Content.

(a) "VOC content" means, except for charcoal lighter products, the total weight of VOC in a product expressed as a percentage of the product weight, excluding the container or packaging, as determined under Regulation .16A and B of this chapter.

(b) "VOC content" means, for charcoal lighter material products only,

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

(i) Certified Emissions = the emissions level for products approved by the Department under Regulation .05 of this chapter, as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH₂ per start;

(ii) Certified Use Rate = the usage level for products approved by the Department under Regulation .05 of this chapter, as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

(195) "Wasp and hornet insecticide" means an insecticide product that is designed for use

against wasps, hornets, yellow jackets, or bees by allowing the user to spray from a distance a directed stream or burst at the insects or their hiding place.

(196) Waterproofer.

(a) "Waterproofer" means a product designed and labeled exclusively to repel water from fabric or leather substrates.

(b) "Waterproofer" does not include fabric protectants.

(197) Wax.

(a) "Wax" means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers.

(b) "Wax" includes substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

(198) "Web spray adhesive" means an aerosol adhesive that is not a mist spray or special purpose spray adhesive.

(199) Wood Cleaner.

(a) "Wood cleaner" means a product labeled to clean wooden materials including decking, fences, flooring, logs, cabinetry, and furniture.

(b) "Wood cleaner" does not include dusting aid, general purpose cleaner, furniture maintenance product, floor wax stripper, floor polish or wax, or products designed and labeled exclusively to preserve or color wood.

(200) "Wood floor wax" means wax-based products for use solely on wood floors.

(201) "Working day" means a day between Monday and Friday, inclusive, except days that are federal holidays.

.04 Standards—General.

A. Except as provided in Regulations .01, .04D, .08, .09, .10, .11, .12, .15, and .17—.26 of this chapter, a person may not sell, supply, offer for sale, or manufacture for sale in the State a consumer product manufactured on or after the effective date in §B of this regulation that contains volatile organic compounds (VOC) in excess of the limits specified in §B of this regulation.

B. VOC limits, expressed as percent volatile organic compounds by weight, except as otherwise indicated are as follows:

Table F. VOC Standards.

Product Category	VOC Limits Effective 1/1/2005	VOC Limits Effective 1/1/2009
Adhesive Removers:		
Floor or Wall Covering		5
Gasket or Thread Locking		50
General Purpose		20
Specialty		70
Adhesives:		
Aerosol Mist Spray	65	
Aerosol Web Spray	55	
Special Purpose Spray Adhesives:		
Mounting, Automotive Engine Compartment, and Flexible Vinyl	70	
Polystyrene Foam and Automotive Headliner	65	
Polyolefin and Laminate Repair/Edge Banding	60	
Construction, Panel, and Floor	15	
Contact	80	NA
Contact General Purpose		55
Contact Special Purpose		80
General Purpose	10	
Structural Waterproof	15	
Air Fresheners:		
Single-Phase Aerosols	30	
Double-Phase Aerosols	25	
Liquids/Pump Sprays	18	

Solids/Semisolids	3	
Antiperspirants:		
Aerosol	40 HVOC	
	10 MVOC	
Non-Aerosol	0 HVOC	
	0 MVOC	
Anti-Static Product, Non-Aerosol		11
Automotive Brake Cleaners	45	
Automotive Rubbing or Polishing Compound	17	
Automotive Wax, Polish, Sealant or Glaze:		
Hard Paste Waxes	45	
Instant Detailers	3	
All Other Forms	15	
Automotive Windshield Washer Fluids	35	
Bathroom and Tile Cleaners:		
Aerosols	7	
All Other Forms	5	
Bug and Tar Remover	40	
Carburetor or Fuel-Injection Air Intake Cleaners	45	
Carpet and Upholstery Cleaners:		
Aerosols	7	
Non-Aerosols (Dilutables)	0.1	
Non-Aerosols (Ready-to-Use)	3.0	
Charcoal Lighter Material	Regulation .05 of this chapter	

Cooking Sprays, Aerosols	18	
Deodorants:		
Aerosol	0 HVOC	
	10 MVOC	
Non-Aerosol	0 HVOC	
	0 MVOC	
Dusting Aids:		
Aerosols	25	
All Other Forms	7	
Electrical Cleaner		45
Electronic Cleaner		75
Engine Degreasers:		
Aerosol	35	
Non-Aerosol	5	
Fabric Protectants	60	
Fabric Refresher:		
Aerosol		15
Non-Aerosol		6
Floor Polishes/Waxes:		
Products for Flexible Flooring Materials	7	
Products for Nonresilient Flooring	10	
Wood Floor Wax	90	
	Regulation	
Floor Wax Strippers, Non-Aerosol	.07	
	of this	
	chapter	
Footwear or Leather Care Products		
Aerosol		75

Solid	55
Other forms	15
Furniture Maintenance Products:	
Aerosols	17
All Other Forms Except Solid or Paste	7
General Purpose Cleaners:	
Aerosols	10
Non-Aerosols	4
General Purpose Degreasers:	
Aerosols	50
Non-Aerosols	4
Glass Cleaners:	
Aerosols	12
Non-Aerosols	4
Graffiti Remover:	
Aerosol	50
Non-Aerosol	30
Hair Mousses	6
Hairshines	55
Hairsprays	55
Hair Styling Gels	6
Hair Styling Products:	
Aerosol and pump sprays	6
All other forms	2
Heavy-Duty Hand Cleaner or Soap	8
Insecticides:	
Crawling Bug (Aerosol)	15

Crawling Bug (All other forms)	20
Flea and Tick	25
Flying Bug (Aerosol)	25
Flying Bug (All other forms)	35
Foggers	45
Lawn and Garden (All other forms)	20
Lawn and Garden (Non-Aerosol)	3
Wasp and Hornet	40
Laundry Prewash:	
Aerosols/Solids	22
All Other Forms	5
Laundry Starch Products	5
Metal Polishes/Cleanders	30
Multi-Purpose Lubricant (Excluding Solid or Semi-Solid Products)	50
Nail Polish Remover	75
Non-Selective Terrestrial Herbicide	
Non-Aerosols	3
Oven Cleaners:	
Aerosols/Pump Sprays	8
Liquids	5
Paint Remover or Strippers	50
Penetrants	50
Rubber and Vinyl Protectants:	
Non-Aerosols	3
Aerosols	10
Sealants and Caulking Compounds	4

Shaving Creams	5	
Shaving Gel		7
Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products)	60	
Spot Removers:		
Aerosols	25	
Non-Aerosols	8	
Tire Sealants and Inflators	20	
Toilet/Urinal Care:		
Aerosol		10
Non-Aerosol		3
Undercoatings, Aerosols	40	
Wood Cleaner:		
Aerosol		17
Non-Aerosol		4

NA = Not applicable after January 1, 2009

B-1. A person may not sell, supply, offer for sale, or manufacture for sale in the State any antiperspirant or deodorant which contains any compound that has been identified by the CARB in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 7, Section 93000 as a toxic air contaminant.

C. Products that are Diluted Before Use.

(1) Products Diluted with Water or Non-VOC Solvent.

(a) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent before use, the limits specified in §B of this regulation apply to the product only after the minimum recommended dilution has taken place.

(b) For purposes of this subsection, "minimum recommended dilution" does not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

(2) Products Diluted with VOC Solvent. For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with a VOC solvent before use, the limits specified in §B of this regulation apply to the product only after the maximum recommended dilution has taken place.

D. Products Registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). For a consumer product that is registered under the FIFRA (U.S.C. §§136-136y), the effective date of the VOC standards is 1 year after the date specified in §B of this regulation.

E. Products containing Ozone-Depleting Compounds. For a consumer product for which standards are specified under §B of this regulation, a person may not cause a violation of the requirements of 40 CFR Part 82.

F. Sell-Through of Products.

(1) Sell-Through Period. Notwithstanding the provisions of §B of this regulation and Regulation .06 , .07, .08, .09, or .10 of this chapter, a consumer product manufactured prior to each of the effective dates specified for that product in Table 1 of §B of this regulation may be sold, supplied, or offered for sale after each of the specified effective dates.

(2) Section F(1) does not apply to:

(a) Any 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 Regulation .13A of this chapter; or

(b) Solid air fresheners and toilet or urinal care products that contain paradichlorobenzene, which are subject to the 1-year sell-through period specified in Regulation .10 of this chapter.

05 Standards—Requirements for Charcoal Lighter Materials.

A. The requirements of this regulation apply to a charcoal lighter material product as defined in Regulation .03B of this chapter.

B. Regulatory Standards.

(1) A person may not sell, supply, or offer for sale after January 1, 2005, a charcoal lighter material product unless at the time of the transaction the following conditions are met:

(a) The manufacturer demonstrates that it has been issued a currently effective certification by the CARB under the Consumer Products provisions of Subchapter 8.5, Article 2, Section 94509(h), of Title 17 of the California Code of Regulations, which remains in effect for the State as long as the CARB certification remains in effect;

(b) The manufacturer or distributor of the charcoal lighter material has been issued a currently effective certification under §C of this regulation;

(c) The charcoal lighter material meets the formulation criteria and other conditions specified in the applicable ACP agreement issued under §C of this regulation; and

(d) The product usage directions for the charcoal lighter material are the same as those provided to the Department under §C of this regulation.

(2) A manufacturer claiming a certification on the basis of §B(1)(a) of this regulation shall submit to the Department a copy of the certification decision (that is, the Executive Order), including all conditions established by CARB applicable to the certification.

C. Certification Requirements.

(1) A charcoal lighter material formulation may not be certified under this regulation unless the applicant for certification demonstrates to the Department's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.02 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 (the "South Coast Air Quality Management District Rule 1174 Testing Protocol").

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

(3) A manufacturer or distributor of charcoal lighter material may apply to the Department for certification of a charcoal lighter material formulation under §D of this regulation.

(4) Completeness of Application Information.

(a) On receipt and review of an application, the Department shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete.

(b) On receipt and review of additional information requested, the Department shall advise the applicant in writing if testing is still required before the application can be

deemed complete.

(5) The Department shall act on a complete application after the application is deemed complete. If the Department finds that an application meets the requirements of §C of this regulation, then an ACP agreement shall be issued certifying the charcoal lighter material formulation and specifying the conditions necessary to ensure that the requirements of this regulation are met.

D. Application for Certification.

(1) An application for certification of a charcoal lighter material formulation shall be in writing and include the following:

(a) Results of testing conducted under the South Coast Air Quality Management District Rule 1174 Testing Protocol;

(b) Exact text and graphics that clearly show the usage directions for the charcoal lighter material and that appear on the product's principal display panel, label, and accompanying literature; and

(c) Physical property data, formulation data, or other information required by the Department for use in determining when a product modification has occurred and, if necessary, for use in determining compliance with the conditions specified in the ACP agreement.

(2) Usage directions referenced in §D(1)(b) of this regulation shall accurately reflect the quantity of charcoal lighter material per pound of charcoal that was used under the South Coast Air Quality Management District Rule 1174 Testing Protocol for the product, unless the:

(a) Charcoal lighter material is intended to be used in fixed amounts independent of the amount of charcoal used, such as certain paraffin cubes; or

(b) Charcoal lighter material is already incorporated into the charcoal, such as certain "bag light", "instant light", or "match light" products.

E. Notice of Modifications. For a charcoal lighter material for which certification has been granted, the applicant for certification shall notify the Department in writing within 30 days of:

(1) A change in the usage directions; or

(2) A change in product formulation, test results, or other information submitted under §C of this regulation which may result in VOC emissions greater than 0.02 pound of VOC per start.

F. Revocation or Modification of Certification. If the Department determines that a certified charcoal lighter material formulation results in VOC emissions from the ignition of charcoal which are greater than 0.02 pound of VOC per start as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol, the Department shall revoke or modify the certification as is necessary to ensure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.02 pound of VOC per start.

.06 Standards—Requirements for Aerosol Adhesives.

A. The standards for aerosol adhesives under Regulation .04B of this chapter apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in Regulations .01, .08, .11, .12, and .15 of this chapter, a person may not sell, supply, offer for sale, use, or manufacture for sale in the State an aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of the specified standard.

B. Special Purpose Spray Adhesives.

(1) To qualify as a "special purpose spray adhesive" a product shall meet one or more of the terms specified in Regulation .03B(174) of this chapter.

(2) If the label of an aerosol adhesive product indicates that the product is suitable for use on a substrate or application not listed in Regulation .03B(174) of this chapter as one of the definitions for "special purpose spray adhesive", then the product shall be classified as either a "web spray adhesive" or a "mist spray adhesive".

(3) If a product meets more than one of the definitions specified in Regulation .03B of this chapter for "special purpose spray adhesive" and is not classified as a "web spray adhesive" or "mist spray adhesive" under §B(2) of this regulation, then the VOC limit for the product shall be the lowest applicable VOC limit specified in Regulation .04B of this chapter.

C. Effective January 1, 2005, a person may not sell, supply, offer for sale, or manufacture for use in the State an aerosol adhesive which contains one or more of the following compounds:

- (1) Methylene chloride;
- (2) Perchloroethylene; or
- (3) Trichloroethylene.

D. A person who manufactures an aerosol adhesive shall comply with the labeling requirements specified in Regulation .13C of this chapter.

.07 Standards—Requirements for Floor Wax Strippers.

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

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

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

C. The terms "light build-up", "medium build-up", or "heavy build-up" are not specifically required on the product label if comparable terminology is used.

.08 Requirements for Contact Adhesives, Electronic Cleaners, Footwear, or Leather Care Products, and General Purpose Degreasers.

A. Except as provided in §§B and D of this regulation, effective January 1, 2009, a person may not sell, supply, offer for sale, or manufacture for use in the State any contact adhesive, electronic cleaner, footwear or leather care product, or general purpose degreaser that contains any of the following compounds:

- (1) Ethylene chloride;
- (2) Perchloroethylene; or
- (3) Trichloroethylene.

B. Sell-Through of Products. Contact adhesives, electronic cleaners, footwear, or leather care products, and general purpose degreasers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before January 1, 2009 may be sold, supplied, or offered for sale until January 1, 2012, if:

(1) The product container or package displays the date on which the product was manufactured; or

(2) A code indicates such date in accordance with Regulation .13A of this chapter.

C. A person who sells or supplies a consumer product identified above in §A of this regulation shall notify the purchaser of the product in writing that the sell-through period for that product will end on January 1, 2012, if both of the following conditions are met:

- (1) The product is sold or supplied to a distributor or retailer; and

(2) The product is sold or supplied on or after June 30, 2011.

D. Impurities. The requirements in §§A and C of this regulation do not apply to any contact adhesive, electronic cleaner, footwear, or leather care product, or general purpose degreaser containing methylene chloride, perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01 percent by weight.

.09 Requirements for Adhesive Removers, Electrical Cleaners, and Graffiti Removers.

A. Except as provided in §§B and D of this regulation, effective January 1, 2009, a person may not sell, supply, offer for sale, or manufacture for use in the State any adhesive remover, electrical cleaner, or graffiti remover that contains any of the following compounds:

- (1) Methylene chloride;
- (2) Perchloroethylene; or
- (3) Trichloroethylene.

B. Sell-Through of Products. Adhesive removers, electrical cleaners, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before January 1, 2009, may be sold, supplied, or offered for sale until January 1, 2012, if:

- (1) The product container or package displays the date on which the product was manufactured; or
- (2) A code indicates such date, in accordance with Regulation .13A of this chapter.

C. Any person who sells or supplies a consumer product identified in §A of this regulation shall notify the purchaser of the product in writing that the sell-through period for that product will end on January 1, 2012 if both of the following conditions are met:

- (1) The product is sold or supplied to a distributor or retailer; and
- (2) The product is sold or supplied on or after June 30, 2011.

D. Impurities. The requirements of §§A and C of this regulation do not apply to any adhesive remover, electrical cleaner, or graffiti remover containing methylene chloride, perchloroethylene, or trichloroethylene that is present as an impurity in a combined amount equal to or less than 0.01 percent by weight.

.10 Requirements for Solid Air Fresheners and Toilet and Urinal Care Products.

A. Effective January 1, 2009, a person may not sell, supply, offer for sale, or manufacture for use

in the State any solid air fresheners or toilet and urinal care products that contain paradichlorobenzene, except that solid air fresheners, toilet and urinal care products that contain paradichlorobenzene and were manufactured before January 1, 2009, may be sold, supplied, or offered for sale until January 1, 2010, if the product container or package displays:

- (1) The date on which the product was manufactured; or
- (2) A code indicating such date in accordance with Regulation .13A of this chapter.

B. A person who sells or supplies any solid air freshener or toilet and urinal care product that contains paradichlorobenzene shall notify the purchaser of the product in writing that the sell-through period for the product will end on January 1, 2010, if both of the following conditions are met:

- (1) The product is sold or supplied to a distributor or retailer; and
- (2) The product is sold or supplied on or after June 30, 2009.

.11 Innovative Products—CARB Exemption.

A. A manufacturer of a consumer product that has been granted an innovative product exemption by the CARB under the innovative products provisions in Subchapter 8.5, Article 2, Section 94511, or Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the California Code of Regulations is exempt from the standards in Regulation .04B of this chapter for as long as the CARB innovative products exemption remains in effect and all consumer products within the CARB innovative products exemption are contained in Regulation .04B of this chapter.

B. A manufacturer that has a CARB innovative product exemption shall submit to the Department a copy of the CARB innovative product exemption decision (that is, the Executive Order), including all conditions established by CARB applicable to the exemption.

.12 Innovative Products—Department Exemption.

A. A manufacturer of a consumer product that has not been granted an exemption by the CARB may seek an innovative products exemption in accordance with this regulation.

B. For the purposes of this regulation, "representative consumer product" means a consumer product that:

- (1) Is subject to the same VOC limit in Regulation .04B of this chapter as the innovative product;
- (2) Is of the same product form as the innovative product, unless the innovative product uses a new form which does not exist in the product category at the time the application is made;

and

(3) Has at least similar efficacy as other consumer products in the same product category based on tests accepted for that product category by the consumer products industry.

C. Exemption Criteria.

(1) The Department shall exempt a consumer product from the VOC limits in Regulation .04B of this chapter if the manufacturer demonstrates by clear and convincing evidence that, due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in less VOC emissions as compared to:

(a) VOC emissions from a representative consumer product which complies with the VOC limits in Regulation .04B of this chapter; or

(b) Calculated VOC emissions from a noncomplying representative product, if the product had been reformulated to comply with the VOC limits in Regulation .04B of this chapter.

(2) Equation.

(a) VOC emissions shall be calculated using the following equation:

$$E_R = (E_{NC} \times \text{VOC}_{STD}) / \text{VOC}_{NC}$$

where:

(i) E_R = VOC emissions from the noncomplying representative product, had it been reformulated;

(ii) E_{NC} = VOC emissions from the noncomplying representative product in its current formulation;

(iii) VOC_{STD} = VOC limit specified in the table of standards in Regulation .04B of this chapter; and

(iv) VOC_{NC} = VOC content of the noncomplying product in its current formulation.

(b) If a manufacturer demonstrates that this equation yields inaccurate results due to some characteristic of the product formulation or other factors, an alternative method which accurately calculates emissions may be used upon approval by the Department.

D. Application Information.

(1) A manufacturer shall apply in writing to the Department for an exemption claimed under §B(1) of this regulation.

(2) The application shall include:

(a) Supporting documentation that verifies the emissions from the innovative product, including the actual physical test methods used to generate the data;

(b) If necessary, the consumer testing undertaken to document product usage; and

(c) Information necessary to enable the Department to establish enforceable conditions for granting the exemption, including the VOC content for the innovative product and test methods for determining the VOC content.

(3) All information submitted by a manufacturer under this section shall be maintained in accordance with the confidentiality requirements in State Government Article, §10-617, Annotated Code of Maryland.

E. On receipt and review of the exemption application, the Department shall determine whether an application is complete.

F. Departmental Decision on Innovative Product Exemption.

(1) On receipt and review of a complete application, the Department shall determine whether, under what conditions, and to what extent, an exemption from the requirements of Regulation .04B of this chapter will be permitted.

(2) The Department shall notify the applicant of a decision in writing and specify the terms and conditions necessary to ensure that emissions from the product will meet the emissions reductions specified in this regulation, and that the emissions reductions can be enforced.

G. In granting an exemption for a product, the Department shall establish the following:

(1) Enforceable conditions that include:

(a) The VOC content of the innovative product;

(b) Dispensing rates;

(c) Application rates; and

(d) Other parameters the Department determines necessary; and

(2) Test methods for determining conformance to the conditions established in §G(1) of this regulation, including:

(a) Criteria for reproducibility, accuracy, and sampling; and

(b) Laboratory procedures.

H. For a product that has been granted an exemption under this regulation, the manufacturer shall notify the Department in writing within 30 days of:

(1) A change in the product formulation or recommended product usage directions; and

(2) Information which would alter the emissions estimates submitted to the Department in support of the exemption application.

I. Exemptions Following Modification of VOC limit.

(1) If a VOC limit in Regulation .04B of this chapter is lowered for a product category through a subsequent rulemaking, all innovative product exemptions granted for products in that product category, except as provided in this section, have no effect as of the effective date of the modified VOC standard.

(2) The provision of §I(1) of this regulation does not apply to those innovative products which have VOC emissions less than the applicable lowered VOC limit and for which a written notification of the product's emissions status versus the lowered VOC limit has been submitted to and approved by the Department at least 60 days before the effective date of the limits.

J. Modification or Revocation of an Exemption.

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

(2) The Department shall allow the applicant an opportunity for a contested case hearing before modifying or revoking an exemption.

.13 Administrative Requirements.

A. Product-Dating.

(1) A manufacturer of a consumer product subject to Regulations .04—.10 of this chapter shall clearly display on each consumer product container or package:

(a) The day, month, and year on which the product was manufactured; or

(b) A code indicating the date of manufacture that is:

(i) Located on the container or inside the cover or cap so that it is readily

observable or obtainable (by simply removing the cap or cover) without irreversibly disassembling any part of the container or packaging or displayed on the bottom of a container as long as it is clearly legible without removing any product packaging; and

(ii) Displayed on each consumer product container or package not later than 12 months before the effective date of the applicable standard in Regulation .04B of this chapter.

(2) A manufacturer who uses a code indicating the date of manufacture for a consumer product subject to Regulations .04—.10 of this chapter shall file an explanation of the date portion of the code with the Department not later than 12 months before the effective date of the applicable standard in Regulation .04B of this chapter.

(3) A manufacturer who uses the following code to indicate the date of manufacture is not subject to the requirements of §A(2) of this regulation, 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; and
"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").

(4) If a manufacturer changes to a code other than that specified in §A(3) of this regulation indicating the date of manufacture for any consumer product, an explanation of the modified code shall be submitted to the Department before any products displaying the modified code are sold, supplied, or offered for sale in the State.

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

(6) Date code explanations for codes indicating the date of manufacture are public information, shall be separate from any confidential information, and may not be claimed as confidential.

(7) The requirements of §A of this regulation do not apply to:

(a) Products containing no VOCs; or

(b) Products containing VOCs at 0.10 percent by weight or less.

B. Most Restrictive Limit.

(1) Notwithstanding the definition of "product category" in Regulation .03 of this chapter, if a representation is made that a consumer product is suitable for or may be used as a consumer product with a lower VOC limit as specified in Regulation .04B of this chapter, and the representation appears on the container, packaging, or label or sticker affixed thereto, the lower VOC limit shall apply for:

(a) A consumer product manufactured before January 1, 2009; and

(b) A FIFRA-registered insecticide manufactured before January 1, 2010.

(2) The requirement in §B(1) of this regulation does not apply to a general purpose cleaner, an antiperspirant or deodorant product, a product intended to serve as an antiperspirant deodorant, insecticide foggers, and lawn and garden insecticide.

(3) Notwithstanding the definition of product category in Regulation .03 of this chapter, if a representation is made that a consumer product is suitable for or may be used as a consumer product with a lower VOC limit as specified in Regulation .04B, and the representation appears on the container, packaging, or label or sticker affixed thereto, the lower VOC limit applies for:

(a) A consumer product manufactured on or after January 1, 2009; or

(b) A FIFRA-registered insecticide manufactured on or after January 1, 2010.

(4) The requirement of §B(3) of this regulation does not apply to general purpose cleaners, antiperspirant, deodorant products, insecticide foggers, and lawn and garden insecticide.

C. Additional Labeling Requirements for Aerosol Adhesive, Adhesive Remover, Electronic Cleaner, Electrical Cleaner, Energized Electrical Cleaner, and Contact Adhesive.

(1) In addition to the requirements specified in §§A and B of this regulation and Regulation .14 of this chapter, both the manufacturer and responsible party for each aerosol adhesive, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, and contact adhesive product subject to this chapter shall ensure that all products clearly display the following information on each product container which is manufactured on or after the effective date for the category specified in the table of standards:

(a) The product category as specified in Regulation .04B of this chapter or an abbreviation of the category;

(b) The applicable VOC standard for the product in Regulation .04B of this chapter, except for energized electrical cleaner, expressed as a percentage by weight, unless the

product is included in an alternative control plan approved by the Department as provided in Regulations .17—.26 of this chapter, and the product exceeds the applicable VOC standard;

(c) If the product is included in an alternative control plan approved by the Department, and the product exceeds the applicable VOC standard in Regulation .04B of this chapter, the term "ACP" or "ACP product";

(d) If the product is classified as a special purpose spray adhesive, the applicable substrate, or application or an abbreviation of the substrate or application, that qualifies the product as special purpose; and

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

(2) The information required in §A(1) of this regulation 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 section, information may be displayed on the bottom of a container if it is clearly legible without removing any product packaging.

(3) A person may not remove, alter, conceal, or deface the information required in §C(1) of this regulation before final sale of the product.

.14 Reporting Requirements.

A. Upon 90 days written notice, the Department may require a responsible party to report the following information for a consumer product:

(1) The company name of the responsible party and the party's address, telephone number, and designated contact person;

(2) Any claim of confidentiality made under State Government Article, §10-617, Annotated Code of Maryland;

(3) The product brand name for each consumer product and the product label;

(4) The product category to which the consumer product belongs;

(5) The applicable product form or forms listed separately;

(6) An identification of each product brand name and form as a "Household Product", "Industrial and Institutional Product", or both;

(7) State sales in pounds per year, to the nearest pound, and the method used to calculate

State sales for each product form;

(8) For information submitted by multiple companies, an identification of each company which is submitting relevant data separate from that submitted by the responsible party;

(9) For each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest 0.10 percent:

(a) Total Table B compounds;

(b) Total LVP-VOCs that are not fragrances;

(c) Total all other carbon-containing compounds that are not fragrances;

(d) Total all non-carbon-containing compounds;

(e) Total fragrance;

(f) For products containing greater than 2 percent by weight fragrance:

(i) The percent of fragrance that are LVP-VOCs; and

(ii) The percent of fragrance that is all other carbon-containing compounds; and

(g) Total paradichlorobenzene;

(10) For each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following:

(a) Each Table B compound; and

(b) Each LVP-VOC that is not a fragrance;

(11) If applicable, the weight percent comprised of propellant for each product; and

(12) If applicable, an identification of the type of propellant such as Type A, Type B, Type C, or a blend of the different types.

B. All information submitted by any person under this regulation shall be maintained in accordance with the confidentiality requirements in State Government Article, §10-617, Annotated Code of Maryland.

C. Special Reporting Requirements for Consumer Products that Contain Perchloroethylene or

Methylene Chloride.

(1) The requirements of this section apply to all responsible parties for consumer products that are subject to Regulation .04B of this chapter and contain perchloroethylene or methylene chloride.

(2) For the purposes of this section, a product contains perchloroethylene or methylene chloride if the product contains 1 percent or more by weight, excluding the container or packaging, of either perchloroethylene or methylene chloride.

(3) For each consumer product that contains perchloroethylene or methylene chloride, the responsible party shall report the following information for products sold in the State during the calendar years of 2005 through 2010:

(a) The product brand name and a copy of the product label with legible usage instructions;

(b) The product category to which the consumer product belongs;

(c) The applicable product form or forms listed separately;

(d) For each product form listed in §C(3)(c) of this regulation, the total sales in the State during the calendar year, to the nearest pound (excluding the container or packaging), and the method used for calculating the State sales; and

(e) The weight percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the consumer product.

(4) The information specified in §C(3) of this regulation shall be reported for each calendar year by March 1 of the following year until March 1, 2011, when the last report is due.

D. All information under §A(8) of this regulation from both companies shall be submitted by the date specified in §A of this regulation.

E. If the responsible party does not have or does not provide the information requested by the Department, the Department may require the reporting of this information by the person that has the information, including, but not limited to, any formulator, manufacturer, supplier, parent company, private labeler, distributor, or repackager.

.15 Variances.

A. A person who cannot comply with the requirements set forth in Regulations .04—.10 of this chapter because of reasons beyond the person's reasonable control may apply in writing to the Department for a variance. The variance application shall include:

- (1) The specific grounds upon which the variance is sought;
- (2) The proposed date or dates by which compliance with the provisions of Regulations .04—.10 of this chapter will be achieved; and
- (3) A plan reasonably detailing the method or methods by which compliance will be achieved.

B. Action on an Application for a Variance.

- (1) A variance may not be granted unless the Department determines that:
 - (a) Due to reasons beyond the reasonable control of the applicant, requiring compliance with Regulations .04—.10 of this chapter would result in undue economic hardship;
 - (b) The public interest in mitigating the applicant's undue economic hardship by granting the variance outweighs the public interest in avoiding increased emissions of air contaminants that may result from issuing the variance; and
 - (c) The plan proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.
- (2) If the Department determines that a variance may be granted, it shall prepare an order that contains the following:
 - (a) A final compliance date by which the requirements of Regulations .04—.10 of this chapter will be achieved;
 - (b) A condition that specifies increments of progress necessary to ensure timely compliance; and
 - (c) Other conditions that the Department deems necessary.
- (3) Before the order is issued, a public hearing will be held to allow an opportunity for comment on the order.
- (4) If issued, the order shall be submitted to the EPA for inclusion in the approved State Implementation Plan.

C. Failure to Comply. If a person subject to an order fails to comply fully with the terms and conditions of the order, it will be withdrawn, and the standards in Regulation .04B of this chapter shall apply.

.16 Test Methods.

A. VOC Compliance Test Method.

(1) Testing to determine compliance with the requirements of this chapter shall be performed using CARB Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, and last amended on May 5, 2005.

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

B. VOC Content Determinations Using Product Formulation and Records.

(1) Testing to determine compliance with the requirements of this chapter may also be demonstrated through calculation of the VOC content based upon records of the amounts of constituents used to make the product under the criteria of this section.

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

(3) The VOC content shall be calculated according to the following equation:

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

where:

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

(b) B = total weight of all VOCs, per unit; and

(c) C = total weight of VOCs exempted under Regulation .01 of this chapter, per unit.

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

C. Determination of Liquid or Solid. Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90(2000)e1.

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

E. Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-014b.

F. A person may not create, alter, falsify, or otherwise modify records in such a way that the records do not accurately reflect:

- (1) The constituents used to manufacture a product;
- (2) The chemical composition of the individual product; or
- (3) Other tests, processes, or records used in connection with product manufacture.

.17 Alternative Control Plan (ACP).

A. Exemption Based upon an ACP Approved by CARB.

(1) A manufacturer that has been granted an ACP agreement by the CARB under the provisions in Subchapter 8.5, Article 4, §§94540—94555, CCR Title 17 of the California Code of Regulations based on national sales data, is exempt from the limits in Regulation .04B of this chapter for the period of time that the CARB ACP agreement remains in effect if all ACP products within the CARB ACP agreement are contained in Regulation .04B of this chapter.

(2) A manufacturer claiming an ACP agreement on this basis shall submit to the Department the following:

- (a) A copy of the CARB ACP decision, including all conditions established by CARB applicable to the exemption;
- (b) Enforceable sales for each eligible ACP product in the State; and
- (c) If applicable, the number of surplus reduction credits created in the State.

B. ACP Approved by the Department. A manufacturer may seek an ACP agreement in accordance with Regulations .18—.26 of this chapter if that manufacturer:

- (1) Has been granted an ACP agreement under the ACP provision in Subchapter 8.5, Article 4, §§94540—94555, California Code of Regulations based on sales data specific to the state of California; or
- (2) Has not been granted an ACP agreement by the CARB.

C. Application for an ACP.

- (1) An application for an ACP shall be submitted in writing to the Department and shall

contain all of the following:

(a) An identification of the contact persons, phone numbers, names, and addresses of the responsible ACP party who is submitting the ACP application and will be implementing the requirements specified in the ACP agreement;

(b) A statement of whether the responsible ACP party is a small business or a one-product business, as defined in Regulation .03B of this chapter;

(c) A list of the exact product brand name, form, available variations such as flavors, scents, colors, and sizes, and the applicable product category for each distinct product that is proposed for inclusion in the ACP;

(d) For each product identified in §C(1)(c) of this regulation, a demonstration to the satisfaction of the Department that the enforceable sales records to be used by the responsible ACP party for tracking product sales meet the minimum criteria specified in §D(1)(e) of this regulation;

(e) For each of the products identified in §D(1)(e) of this regulation, all of the following:

(i) Legible copies of the existing labels for each product;

(ii) The VOC and LVP contents of the product at the time the application for an ACP is submitted; and

(iii) VOC and LVP contents of the product that have occurred within the 4 years before the date of submittal of the application for an ACP, if either the VOC or LVP contents have varied by more than 10 percent of the VOC or LVP contents reported in §C(1)(e)(ii) of this regulation;

(f) A written commitment by the responsible ACP party that it will:

(i) Date-code every unit of each ACP product approved for inclusion in the ACP; and

(ii) Display the date-code on each ACP product container or package not later than 5 working days after the date an ACP is approved by the Department;

(g) An operational plan that meets the requirements of §C(2) of this regulation and covers all the products identified under §D(1)(e) of this regulation for each compliance period that the ACP will be in effect; and

(h) A declaration, signed by a legal representative for the responsible ACP party,

which states that all information and operational plans submitted with the ACP application are true and correct.

(2) The operational plan required under §C(1)(g) of this regulation shall contain all of the following:

(a) An identification of the compliance periods and dates for the responsible ACP party to report the information required by the Department in the ACP agreement where:

(i) The length of the compliance period does not exceed 365 days; and

(ii) The required VOC content and enforceable sales data for all ACP products are reported to the Department at the same time and frequency;

(b) An identification of specific enforceable sales records, to be provided to the Department not later than the compliance period dates specified in §C(2)(a) of this regulation, for enforcing the provisions of this chapter and the ACP agreement;

(c) For a small business or a one-product business which will be relying to some extent on surplus trading to meet its ACP limits, a written commitment from the responsible ACP party or parties that they will transfer the surplus reductions to the small business or one-product business upon approval of the ACP;

(d) For each ACP product, all VOC content levels which will be applicable for the ACP product during each compliance period, the specific method or methods by which the VOC content will be determined, and the statistical accuracy and precision (repeatability and reproducibility) calculated for each specified method;

(e) The projected enforceable sales for each ACP product at each different VOC content for every compliance period that the ACP will be in effect;

(f) A detailed demonstration that:

(i) Shows the combination of specific ACP reformulations or, if applicable, surplus trading, that is sufficient to ensure that the ACP emissions will not exceed the ACP limit for each compliance period that the ACP will be in effect;

(ii) States the approximate date within each compliance period that reformulations or surplus trading are expected to occur;

(iii) Describes the extent to which the VOC content of the ACP products will be reduced;

(iv) Uses the equations specified in Regulation .03B(2) and (3) for

projecting the ACP emissions and ACP limits during each compliance period; and

(v) Includes all VOC content levels and projected enforceable sales for all ACP products to be sold in the State during each compliance period;

(g) A certification that all reductions in the VOC content of a product will be real, actual reductions that do not result from changing product names, mischaracterizing ACP product reformulations that have occurred in the past, or other attempts to circumvent the provisions of this chapter;

(h) Written explanations of the date-codes that will be displayed on each ACP product's container or packaging;

(i) A statement of the approximate dates by which the responsible ACP party will meet the applicable ACP VOC standards for each product in the ACP; and

(j) A reconciliation of shortfalls plan that:

(i) Commits the responsible ACP party to completely reconcile shortfalls in all cases, even to the extent permitted by law, if the responsible ACP party files for bankruptcy protection;

(ii) Demonstrates how shortfalls of up to 5, 10, 15, 25, 50, 75, and 100 percent of the applicable ACP limit will be completely reconciled within 90 working days from the date the shortfall is determined;

(iii) Lists the specific records and other information that will be necessary to verify that the shortfalls were reconciled as specified in the plan; and

(iv) Contains a commitment to provide all records or information requested by the Department to verify that the shortfalls have been completely reconciled.

D. Enforceable Sales Records.

(1) To provide the demonstration required under §C(1)(d) of this regulation, the responsible ACP party shall:

(a) Provide the contact persons, phone numbers, names, and street and mail addresses of all persons and businesses who will provide information that will be used to determine the enforceable sales;

(b) Determine the enforceable sales of each product using enforceable sales records as defined in Regulation .03B(65) of this chapter;

(c) Demonstrate, to the satisfaction of the Department, the validity of the enforceable sales based on enforceable sales records provided by the contact persons or the responsible ACP party;

(d) Calculate the percentage of the gross State sales, as defined in Regulation .03B(92) of this chapter, which is comprised of enforceable sales; and

(e) Determine which products have enforceable sales that are 75 percent or more of the gross State sales.

(2) Only ACP products meeting the criteria of §D(1)(e) of this regulation shall be allowed to be sold in the State under an ACP.

.18 Approval of an ACP Application.

A. Action on an Application.

(1) Upon receipt and review of an ACP application, the Department shall inform the applicant in writing that either:

(a) The application is complete and accepted for filing; or

(b) The application is deficient and the Department identifies the specific information required to make the application complete.

(2) If the Department finds that an application meets the requirements of Regulation .17C of this chapter, then it shall issue an ACP agreement.

(3) The Department may deny an ACP application submitted by a responsible ACP party if the Department determines, upon review of the responsible ACP party's compliance history with past or current ACPs or the requirements for consumer products of this chapter, that the responsible ACP party has a recurring pattern of violations and has consistently refused to take the necessary steps to correct those violations.

B. Approving an ACP Application.

(1) The Department shall specify the terms and conditions necessary to ensure that the emissions from the ACP products do not exceed the emissions that would have occurred if the ACP products subject to the ACP had met the VOC limits specified in Regulation .04B of this chapter.

(2) The ACP agreement shall include:

(a) Only those ACP products for which the enforceable sales are at least 75

percent of the gross State sales;

(b) A reconciliation of shortfalls plan meeting the requirements of this chapter;
and

(c) Operational terms, conditions, and data to be reported to the Department to ensure that all requirements of this chapter are met.

.19 Record Keeping and Availability of Requested Information.

A. All records specified in the ACP agreement shall be:

(1) Maintained by the responsible ACP party for a minimum of 3 years after the records are generated; and

(2) Clearly legible and maintained in good condition.

B. The responsible ACP party shall make the records required in §A of this regulation available to the Department:

(1) Immediately upon request, during an on-site visit to a responsible ACP party;

(2) Within 5 working days after receipt of a written request from the Department; or

(3) During another period of time acceptable to the Department.

.20 Violations.

A. Except as otherwise provided in this regulation, failure to meet a requirement of this chapter or a condition of an applicable ACP agreement constitutes a single, separate violation of this chapter for each day until the requirement or condition is satisfied.

B. False reporting of information contained in an ACP application, or supporting documentation or amendments to the application, constitutes a single, separate violation of the requirements of this chapter for each day that the approved ACP is in effect.

C. Each exceedance during the applicable compliance period of the VOC content specified for an ACP product in the ACP agreement constitutes a single, separate violation of the requirements of this chapter for each ACP product which exceeds the specified VOC content that is sold, supplied, offered for sale, or manufactured for use in the State.

D. Each of the following actions constitutes a single, separate violation of the requirements of this chapter for every day after the applicable deadline until the requirement is satisfied:

(1) Failure to report data or failure to report data accurately in writing to the Department regarding the VOC content, LVP content, enforceable sales, or other information required by deadlines specified in the applicable ACP agreement;

(2) False reporting of information submitted to the Department for determining compliance with the ACP requirements;

(3) Failure to completely implement the reconciliation of shortfalls plan set forth in the ACP agreement, within 30 working days from the date of written notification of a shortfall by the Department; or

(4) Failure to completely reconcile the shortfall as specified in the ACP agreement, within 90 working days from the date of written notification of a shortfall by the Department.

E. False reporting or failure to report the required information set forth in this regulation, or the sale or transfer of invalid surplus reductions, constitutes a single, separate violation of the requirements of this chapter for each day during the time period for which the surplus reductions are claimed to be valid.

F. Except as provided in §G of this regulation, an exceedance of the ACP limit for a compliance period that the ACP is in effect constitutes a single, separate violation of the requirements of this chapter for each day of the applicable compliance period. An exceedance of the ACP limit is determined as follows:

(1) If the responsible ACP party has all required information for the applicable compliance period specified in the ACP agreement, then a determination whether an exceedance has occurred is made using the enforceable sales records and VOC content for each ACP product, as reported by the responsible ACP party for the applicable compliance period; and

(2) If the responsible ACP party does not have all the required information specified in the ACP agreement for an applicable compliance period, the determination of whether an exceedance of the ACP limit has occurred is made as follows:

(a) For the missing data days, calculate the total maximum historical emissions;

(b) For the remaining portion of the compliance period which is not missing data days, calculate the emissions for each ACP product using the enforceable sales records and VOC content that were reported for that portion of the applicable compliance period;

(c) The ACP emissions for the entire compliance period is the sum of the total maximum historical emissions, determined under §F(2)(a) and (b) of this regulation;

(d) Calculate the ACP limit for the entire compliance period using the ACP standards applicable to each ACP product and the enforceable sales records specified in §F(2)(b)

of this regulation;

(e) The enforceable sales for each ACP product during missing data days, as specified in §F(2)(a) of this regulation, is zero; and

(f) An exceedance of the ACP limit has occurred when the ACP emissions exceeds the ACP limit.

G. Calculation of ACP Limit Violations.

(1) If a violation specified in §F of this regulation occurs, the responsible ACP party may establish the number of violations as calculated according to the following equation: $NEV = (ACP \text{ emissions} - ACP \text{ limit}) \times 1 \text{ Violation}/40 \text{ Pounds}$ where:

(a) NEV = number of ACP limit violations;

(b) ACP emissions = the ACP emissions for the compliance period; and

(c) ACP limit = the ACP limit for the compliance period.

(2) The responsible ACP party may determine the number of ACP limit violations under this section only if it has provided all required information for the applicable compliance period, as specified in the ACP agreement approving the ACP.

(3) By choosing this option, the responsible ACP party waives any and all legal objections to the calculation of the ACP limit violations under this section.

H. A cause of action against a responsible ACP party under this regulation accrues when a violation occurs.

I. The responsible ACP party is fully liable for violation of a requirement of this chapter, even if the responsible ACP party contracts with or otherwise relies on another person to comply with some or all of the requirements of this chapter.

.21 Surplus Reductions and Surplus Trading.

A. Surplus Reductions.

(1) The Department shall issue surplus reduction certificates that establish and quantify, to the nearest pound of VOC reduced, surplus reductions achieved by a responsible ACP party operating under an ACP.

(2) The surplus reductions can be bought from, sold to, or transferred to a responsible ACP party operating under an ACP.

(3) A surplus reduction shall be calculated by the Department at the end of each compliance period within the time specified in the approved ACP.

(4) Surplus reduction certificates are not instruments, securities, or other form of property.

B. Surplus Reduction Requirements.

(1) The issuance, use, and trading of surplus reductions are subject to the provisions of this section.

(2) VOC reductions from sources of VOCs other than consumer products subject to the VOC standards specified in Regulation .04B of this chapter may not be used to generate surplus reductions.

(3) A surplus reduction is valid only when generated by a responsible ACP party and only while that responsible ACP party is operating under an approved ACP.

(4) A surplus reduction is valid only after the Department has issued an ACP agreement.

(5) A surplus reduction issued by the Department may be used by the responsible ACP party who generated the surplus reduction until the reductions expire or are traded, or until the ACP is canceled under Regulation .25 of this chapter.

(6) A surplus reduction may not be applied retroactively to a compliance period before the compliance period in which the reductions were generated.

(7) Except as provided in §B(8) of this regulation, only small or one-product businesses selling products under an approved ACP may purchase surplus reductions. An increase in the size of a small business or one-product business has no effect on surplus reductions purchased by that business before the date of the increase.

(8) Valid surplus reductions can be used only for the following purposes:

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

(b) To be traded for the purpose of reconciling another responsible ACP party's shortfalls, if the reconciliation is part of the reconciliation of shortfalls plan approved by the Department under Regulation .17C(2)(j) of this chapter.

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

(10) At least 5 working days before the effective date of transfer of surplus reductions, both the responsible ACP party which is selling surplus reductions and the responsible ACP party which is buying the surplus reductions shall, either together or separately, submit to the Department a written notification of the transfer as described in Regulation .26 of this chapter.

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

C. The written notification of transfer of surplus reductions shall include all of the following:

- (1) The date the transfer is to become effective;
- (2) The date the surplus reductions being traded are due to expire;
- (3) The amount, expressed as pounds of VOCs, of surplus reductions that are being transferred;
- (4) The total purchase price paid by the buyer for the surplus reductions;
- (5) The contact persons, names of the companies, street and mail addresses, and phone numbers of the responsible ACP parties involved in the trading of the surplus reductions;
- (6) A copy of the Department-issued surplus reductions certificate, that:
 - (a) Is signed by both the seller and buyer of the certificate, showing transfer of all or a specified portion of the surplus reductions;
 - (b) States, if applicable, the amount of remaining non-traded surplus reductions and their expiration date; and
 - (c) Indicates that both the buyer and seller of the surplus reductions fully understand the conditions and limitations placed upon the transfer of the surplus reductions and accept full responsibility for the appropriate use of the surplus reductions as provided in this regulation.

.22 Limited-Use Surplus Reduction Credits for Early Reformulations of ACP Products.

A. Early Reformulation.

(1) For the purposes of this regulation, "early reformulation" means an ACP product that is reformulated to result in a reduction in the product's VOC content and that is sold, supplied, or offered for sale in the State for the first time during the 1-year period immediately before the date on which the application for a proposed ACP is submitted to the Department.

(2) "Early reformulation" does not include reformulated ACP products which are sold, supplied, or offered for sale in the State more than 1 year before the date on which the ACP application is submitted to the Department.

B. If requested in the application for a proposed ACP, the Department shall, upon approval of the ACP, issue surplus reduction credits for early reformulation of an ACP product if the responsible ACP party provides, to the satisfaction of the Department, the following:

(1) Accurate documentation showing that the early reformulation reduced the VOC content of the ACP product to a level which is below the pre-ACP VOC content of the product, or below the applicable VOC standard specified in Regulation .04B of this chapter, whichever is the lesser of the two;

(2) Accurate documentation demonstrating that the early reformulated ACP product was sold in State retail outlets within the time period specified in §A(1) of this regulation;

(3) Accurate sales records for the early reformulated ACP product that meet the definition of "enforceable sales records" in Regulation .03B(65) of this chapter, and that demonstrate that the enforceable sales for the ACP product are at least 75 percent of the gross State sales for the product; and

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

C. Surplus reduction credits issued under this regulation are calculated separately for each early reformulated ACP product by the Department according to the following equation:

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

where:

(1) SR = Surplus reductions for the ACP product, expressed to the nearest pound;

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

(3) VOC Content_{initial} = The pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in Regulations .04—.10 of this chapter, whichever is the lesser of the two, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product; and

(4) VOC Content_{final} = The VOC content of the early reformulated ACP product after the early reformulation is achieved, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product.

D. The use of surplus reduction credits issued under this regulation is subject to the following provisions:

(1) Surplus reduction credits will be used solely to reconcile the responsible ACP party's shortfalls, if any, generated during the first compliance period occurring immediately after the issuance of the ACP agreement;

(2) Surplus reduction credits may not be transferred to or used by any other responsible ACP party; and

(3) Except as provided in this regulation, surplus reduction credits are subject to all requirements applicable to surplus reductions and surplus trading, as specified in Regulation .21 of this chapter.

.23 Reconciliation of Shortfalls.

A. Determination of Shortfalls.

(1) At the end of each compliance period, the responsible ACP party shall submit to the Department an initial calculation of shortfalls occurring in that compliance period, as specified in the ACP agreement approving the ACP.

(2) Upon receipt of this information, the Department shall determine the amount of a shortfall that has occurred during the compliance period, and shall notify the responsible ACP party of this determination.

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

C. All 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.

D. All requirements specified in the ACP agreement, including all applicable ACP limits, remain in effect while shortfalls are in the process of being reconciled.

.24 Modifications to an ACP.

A. Modifications That Do Not Require Department Pre-Approval.

(1) The responsible ACP party shall notify the Department, in writing, not later than 15 working days from the date of a change to an ACP product's:

- (a) Name;
- (b) Formulation;
- (c) Form;
- (d) Function;
- (e) Applicable product category;
- (f) VOC content;
- (g) LVP content;
- (h) Date-codes; or
- (i) Recommended product usage directions.

(2) For each modification, the notification shall fully explain the following:

- (a) The nature of the modification;
- (b) The extent to which the ACP product formulation, VOC content, LVP content, or recommended usage directions will be changed;
- (c) The extent to which the ACP emissions and ACP limit specified in the ACP agreement will be changed for the applicable compliance period; and
- (d) The effective date and corresponding date-codes for the modification.

B. Modifications That Require Department Pre-Approval.

(1) A responsible ACP party may propose modifications to the enforceable sales records or reconciliation of shortfalls plan specified in the ACP agreement approving the ACP if the responsible party:

- (a) Describes the proposed modification fully in writing and forwards the description to the Department; and
- (b) Clearly demonstrates that the proposed modifications will meet the requirements of this chapter.

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

(3) The Department shall act on the proposed modifications using the procedure set forth in Regulation .24 of this chapter.

C. Other Modifications. Except as otherwise provided in §A or B of this regulation, the responsible ACP party shall notify the Department in writing of information learned by the responsible ACP party that may alter the information submitted under the requirements of this regulation not later than 15 working days from the date the information is known to the responsible ACP party.

D. Modification of an ACP by the Department.

(1) The Department shall modify an ACP as necessary to ensure that the ACP meets all requirements of this chapter and that the ACP emissions will not exceed the ACP limit if the Department determines that:

(a) The enforceable sales for an ACP product are no longer at least 75 percent of the gross State sales for that product;

(b) The information submitted under the approval process set forth in §C of this regulation is no longer valid; or

(c) The ACP emissions are exceeding the ACP limit specified in the ACP agreement.

(2) The Department may not modify the ACP without first affording the responsible ACP party an opportunity for public comment in accordance with the procedures specified in applicable State laws and regulations to determine if the ACP should be modified.

(3) If an applicable VOC limit specified in Regulation .04B of this chapter is modified by CARB in a future rulemaking, the Department shall modify the ACP limit specified in the ACP agreement to reflect the modified ACP VOC standards as of the effective dates of their modification by CARB.

.25 Cancellation of an ACP.

A. An ACP shall remain in effect until:

(1) The ACP reaches the expiration date specified in the ACP agreement;

(2) The ACP is modified by the responsible ACP party and the modification is approved by the Department, as provided in Regulation .24 of this chapter;

(3) The ACP is modified by the Department, as provided in Regulation .24D of this chapter;

(4) The ACP includes a product for which the VOC standard specified in Regulation .04B is modified by the Department in a future rulemaking, and the responsible ACP party

informs the Department in writing that the ACP will terminate on the effective date or dates of the modified standard; or

(5) The ACP is canceled under §B of this regulation.

B. The Department shall cancel an ACP if one or more of the following circumstances occur:

(1) The responsible ACP party demonstrates to the satisfaction of the Department that the continuation of the ACP will result in an extraordinary economic hardship;

(2) The responsible ACP party violates the requirements of the approved ACP, and the violation results in a shortfall that is 20 percent or more of the applicable ACP limit (that is, the ACP emissions exceed the ACP limit by 20 percent or more);

(3) The responsible ACP party fails to meet the requirements of the reconciliation of shortfalls plan described under Regulation .23 of this chapter within the time periods specified; or

(4) The responsible ACP party has demonstrated a recurring pattern of violations and has consistently failed to take the necessary steps to correct those violations.

C. The Department may not cancel an ACP under this regulation without first affording the responsible ACP party an opportunity for a public comment hearing under procedures specified by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, to determine if the ACP should be canceled.

D. The responsible ACP party for an ACP which is canceled under this regulation and who does not have a valid ACP to immediately replace the canceled ACP shall meet all of the following requirements:

(1) All remaining shortfalls in effect at the time of ACP cancellation shall be reconciled under the requirements of Regulation .23 of this chapter; and

(2) All ACP products subject to the ACP shall be in compliance with the applicable VOC limits in Regulations .04—.10 of this chapter immediately on the effective date of ACP cancellation.

E. A violation incurred under Regulation .20 of this chapter may not be canceled or in any way affected by the subsequent cancellation or modification of an ACP.

.26 Transfer of an ACP.

A responsible ACP party may transfer an ACP to another responsible ACP party if the following conditions are met:

A. Both responsible ACP parties participating in the transfer of the ACP and its associated ACP agreement submit a written notification to the Department that:

(1) Has been postmarked at least 5 working days before the effective date of the transfer;

(2) Is signed and submitted separately by both responsible parties; and

(3) Clearly identifies the contact persons, business names, mail and street addresses, and phone numbers of the responsible parties involved in the transfer; and

B. The responsible ACP party to which the ACP is being transferred provides a written declaration stating that the transferee shall fully comply with all requirements of the ACP agreement approving the ACP and this chapter.

[All regulations except .05 and .07 are added or revised; the SIP effective date is January 9, 2008. The SIP effective date for Regulations .05 and .07 is January 23, 2004.]