
FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Titles of Regulations: 9 VAC 5-20. General Provisions (Rev. D04) (amending [9 VAC 5-20-21, and] 9 VAC 5-20-206).

9 VAC 5-40. Existing Stationary Sources (Rev. D04) (amending 9 VAC 5-40-300, 9 VAC 5-40-5060, 9 VAC 5-40-5200, 9 VAC 5-40-5700, 9 VAC 5-40-5720, 9 VAC 5-40-5750, 9 VAC 5-40-6970, 9 VAC 5-40-7050, 9 VAC 5-40-7120, [9 VAC 5-40-7130,] 9 VAC 5-40-7140, 9 VAC 5-40-7210, 9 VAC 5-40-7240, 9 VAC 5-40-7250, 9 VAC 5-40-7260, 9 VAC 5-40-7270, 9 VAC 5-40-7300, 9 VAC 5-40-7330, 9 VAC 5-40-7360, 9 VAC 5-40-7800, and 9 VAC 5-40-7880).

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110 and 182 of the Clean Air Act; 40 CFR Part 51.

Effective Date: October 4, 2006.

Agency Contact: Gary Graham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4103, FAX (804) 698-4510, or e-mail gegraham@deq.virginia.gov.

Summary:

Currently, Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of rules used to enforce control measures designed to attain and maintain the ozone air quality standard. The geographic applicability of these rules is defined by establishing VOC and NO_x emissions control areas (in a list located in 9 VAC 5-20-206).

Most of the provisions of these rules are being expanded into the new eight-hour ozone nonattainment areas. Accordingly, 9 VAC 5-20-206 is being amended to establish new Fredericksburg NO_x and VOC Emissions Control Areas and to expand the Richmond and Hampton Roads VOC and NO_x Emissions Control Areas to include those counties and cities in the corresponding new eight-hour ozone nonattainment areas that were not previously listed in 9 VAC 5-20-206.

Most of these Chapter 40 rules contain, in the applicability section, the following statement: "The provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206." Therefore the provisions of these rules will automatically apply within all of the new VOC emissions control areas.

Some Chapter 40 rules (specifically, Articles 4, 36, 37 and 53) have provisions that apply only to certain existing VOC and NO_x emissions control areas. Each of these rules are being amended individually in order to manage the extension of applicability of these provisions to the

additional VOC and NO_x emission control areas with coherence and consistency. Article 4 is being amended to ensure that VOC RACT is not required from large VOC sources in the new areas within the expanded Richmond VOC Emissions Control Area. Article 36 (Packaging and Publishing Rotogravure Printing, and Flexographic Printing) is being amended to add appropriate exemptions for small facilities in those VOC emissions control areas that currently have no such exemptions. Article 37 (Storage or Transfer of Petroleum Liquids) is being amended to ensure that Stage 11 Vapor recovery is not required at gasoline dispensing stations in the new areas within the expanded Richmond VOC Emissions Control Area. Article 37 (Storage or Transfer of Petroleum Liquids) is also being amended to remove applicability redundancies resulting from this change and a previous amendment that added the Western VOC Emissions Control Area. Article 53 (Lithographic Printing) is being amended to apply in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas. Article 53 is also being amended to provide appropriate exemptions for small facilities in the newly applicable VOC emissions control areas.

Other Chapter 40 regulations were originally adopted to apply only within the Northern Virginia VOC Emissions Control Area. Most of these rules will be expanded to apply in the Fredericksburg eight-hour ozone nonattainment area. Accordingly, the following Chapter 40 regulations are being amended to apply within the new Fredericksburg VOC Emissions Control Area in addition to the Northern Virginia VOC Emissions Control Area: Article 42 (Portable Fuel Containers), Article 48 (Mobile Equipment Repair and Refinishing), Article 49 (Architectural and Industrial Maintenance Coatings), and Article 50 (Consumer Products).

For most of the facilities that will be subject to new or more stringent VOC emission standards as a result of this amendment, compliance is automatically required by 9 VAC 5-40-20 to be achieved either within 90 days or one year after the effective date of the amendment, depending on whether or not the source is required to make certain physical or process changes to the facility to comply. For affected facilities that will be subject to new or more stringent VOC emission standards under Article 53, compliance will be required no later than one year after the effective date of the amendment. Persons affected by the extension of the provisions of Articles 42, 48, 49 and 50 to the Richmond and Fredericksburg VOC Emission Control Areas must comply by January 1, 2008.

The proposal was changed to limit the expansion of Portable Fuel Containers (Article 42), Mobile Equipment Repair and Refinishing (Article 48), Architectural and Industrial Maintenance Coatings (Article 49), and

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Consumer Products (Article 50) to the Fredericksburg VOC Emissions Control Area, and to ensure that Stage II vapor recovery requirements are not extended into the new areas incorporated into the Richmond VOC Emissions Control Area. Additional changes were made to Chapter 40, Article 49 and to Chapter 20 (documents incorporated by reference) to add standards for six new specialty architectural and industrial maintenance coating categories that were inadvertently omitted from the original regulation. Changes were also made to Chapter 40, Article 50 to provide for the use of an additional form of automotive windshield washing fluid consumer product that was omitted from the original regulation and to correct some typographical errors.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

[9 VAC 5-20-21. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (2004) in effect July 1, 2004. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.
 - a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50--National Primary and Secondary Ambient Air Quality Standards

(a) Appendix A--Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Paros-aniline Method).

(b) Appendix B--Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(c) Appendix C--Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(d) Appendix D--Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(e) Appendix E--Reference Method for Determination of Hydrocarbons Corrected for Methane.

(f) Appendix F--Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(g) Appendix G--Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(h) Appendix H--Interpretation of the National Ambient Air Quality Standards for Ozone.

(i) Appendix I--Reserved.

(j) Appendix J--Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(k) Appendix K--Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(2) 40 CFR Part 51--Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Appendix M--Recommended Test Methods for State Implementation Plans.

Appendix S--Emission Offset Interpretive Ruling.

Appendix W--Guideline on Air Quality Models (Revised).

(3) 40 CFR Part 58--Ambient Air Quality Surveillance.

Appendix B--Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(4) 40 CFR Part 60--Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of Chapter 50, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.

(5) 40 CFR Part 61--National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of Chapter 60, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.

(6) 40 CFR Part 63--National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of Chapter 60, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.

(7) 40 CFR Part 59, Subpart D--National Volatile Organic Compound Emission Standards for Architectural Coatings, Appendix A--"Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings."

(8) 40 CFR Part 64, Compliance Assurance Monitoring.

(9) 40 CFR Part 72, Permits Regulation.

(10) 40 CFR Part 73, Sulfur Dioxide Allowance System.

(11) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.

(12) 40 CFR Part 75, Continuous Emission Monitoring.

(13) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.

(14) 40 CFR Part 77, Excess Emissions.

(15) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.

(16) 40 CFR Part 59 Subpart C, National Volatile Organic Compound Emission Standards for Consumer Products.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

b. Copies of Volume I and Supplements A through C may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road,

Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/chief/ap42/index.html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).

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(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).

(18) D86-01, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure" (2001).

(19) D4359-90, "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (reapproved 2000).

(20) E260-96, "Standard Practice for Packed Column Gas Chromatography" (reapproved 2001).

(21) D 3912-95, "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plant" (reapproved 2001).

(22) D 4082-02, "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants."

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: 1991-1992 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference:

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference:

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1-1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.

9. American Hospital Association (AHA).

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

10. Bay Area Air Quality Management District (BAAQMD).

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

(1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).

(2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD).

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

(1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).

(3) Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB).

a. The following documents from the California Air Resources Board are incorporated herein by reference:

(1) Test Method 510, "Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(2) Test Method 511, "Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(3) Test Method 512, "Determination of Fuel Flow Rate for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).

(4) Test Method 513, "Determination of Permeation Rate for Spill-Proof Systems" (July 6, 2000).

(5) Test Method 310 (including Appendices A and B), "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" (July 18, 2001).

(6) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1, § 94503.5 (2003).

(7) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2, §§ 94509 and 94511 (2003).

(8) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 4, §§ 94540-94555 (2003).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

13. American Architectural Manufacturers Association.

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

(1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).

(2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664.

14. American Furniture Manufacturers Association.

a. The following document from the American Furniture Manufacturers Association is incorporated herein by reference: Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (January 2001).

b. Copies may be obtained from: American Furniture Manufacturers Association, P.O. Box HP-7, High Point, NC 27261; phone (336) 884-5000.

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

Emissions control areas are geographically defined below by locality for the pollutants indicated.

1. Volatile organic compounds.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Fredericksburg Emissions Control Area.

Spotsylvania County Fredericksburg City

c. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Petersburg City
Henrico County	Richmond City
Prince George County	

d. Hampton Roads Emissions Control Area.

Gloucester County	Norfolk City
Isle of Wight County	Poquoson City [*]
James City County [*]	Portsmouth City
York County [*]	Suffolk City
Chesapeake City	Virginia Beach City
Hampton City	Williamsburg City
Newport News City	

e. Western Virginia Emissions Control Area.

Botetourt County	Roanoke City
Frederick County	Salem City
Roanoke County	Winchester City

2. Nitrogen oxides.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Fredericksburg Emissions Control Area.

Spotsylvania County Fredericksburg City

c. Richmond Emissions Control Area.

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Charles City County Colonial Heights City
Chesterfield County Hopewell City
Hanover County Petersburg City
Henrico County Richmond City
Prince George County

e. d. Hampton Roads Emissions Control Area.

Gloucester County Norfolk City
Isle of Wight County Poquoson City
James City County Portsmouth City
York County Suffolk City
Chesapeake City Virginia Beach City
Hampton City Williamsburg City
Newport News City

⊕ e. Western Virginia Emissions Control Area.

Botetourt County Roanoke City
Frederick County Salem City
Roanoke County Winchester City

PART II

EMISSION STANDARDS

ARTICLE 4.

EMISSION STANDARDS FOR GENERAL PROCESS OPERATIONS (RULE 4-4).

9 VAC 5-40-300. Standard for volatile organic compounds.

A. No owner or other person shall cause or permit to be discharged from any affected facility any volatile organic compound emissions in excess of that resultant from using reasonably available control technology.

B. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia or Richmond Emissions Control Area (see 9 VAC 5-20-206) and (ii) are within a stationary source that has a theoretical potential to emit 25 tons per year or greater in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area. *For the purposes of this section only, the Richmond Emissions Control Area does not include Prince George County and Petersburg City.* Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for volatile organic compounds in this chapter, shall be added together to determine theoretical potential to emit.

C. For facilities subject to the provisions of this section, the owners shall within three months of the effective date of this emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but not later than the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.

2. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, May 31, 1996.

3. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1995.

ARTICLE 36.

EMISSION STANDARDS FOR FLEXOGRAPHIC, PACKAGING ROTOGRAVURE, AND PUBLICATION ROTOGRAVURE PRINTING LINES (RULE 4-36).

9 VAC 5-40-5060. Applicability and designation of affected facility.

A. Except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each flexographic, packaging rotogravure, or publication rotogravure printing line which uses a substrate other than a textile.

B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

C. Exempted from the provisions of this article are flexographic, packaging rotogravure, and publication rotogravure facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 25 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.

D. Exempted from the provisions of this article are flexographic, packaging rotogravure, and publication rotogravure facilities in the Richmond and Hampton Roads all volatile organic compound emissions control areas, other than the Northern Virginia Volatile Organic Compound Emissions Control Area, whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.

E. The provisions of this article do not apply to the following:

1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:

a. The operation is not an integral part of the production process.

b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and

c. The exemption is approved by the board.

2. Lithography or letterpress printing.

3. Electrostatic duplication.

ARTICLE 37.

EMISSION STANDARDS FOR PETROLEUM LIQUID STORAGE AND TRANSFER OPERATIONS (RULE 4-37).

9 VAC 5-40-5200. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each operation involving the storage or transfer of petroleum liquids or both.

B. Except as provided in subdivisions 1, 2 and 3 through 4 of this subsection, the provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

1. The emission standards in 9 VAC 5-40-5220 C, D, E, F and G shall not apply to affected facilities in the following localities: Botetourt County, Frederick County, and Winchester City.

2. The emission standard in 9 VAC 5-40-5220 F shall apply only to affected facilities in the Northern Virginia and Richmond Volatile Organic Compound Emissions Control Areas. [For the purposes of applicability of 9 VAC 5-40-5220 F only, the Richmond Emissions Control Area does not include Prince George County and Petersburg City.]

3. The emission standard in 9 VAC 5-40-5220 E shall apply only to affected facilities in the ozone nonattainment areas designated in 9 VAC 5-40-204, maintenance areas designated in 9 VAC 5-20-203, and the following localities: Roanoke County, Roanoke City, and Salem City.

4. 3. The emission standard in 9 VAC 5-40-5220 C shall apply to affected facilities in Bedford County.

C. The provisions of this article do not apply to affected facilities using petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions. (Kerosene and fuel oil have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of this article when used or stored at ambient temperatures).

D. The burden of proof of eligibility for exemption from this article is on the owner. Owners seeking such an exemption shall maintain adequate records of average monthly throughput and furnish these records to the board upon request.

ARTICLE 42.

EMISSION STANDARDS FOR PORTABLE FUEL CONTAINER SPILLAGE IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSIONS CONTROL AREA (RULE 4-42).

9 VAC 5-40-5700. Applicability.

A. Except as provided in subsections C through H of this section, the provisions of this article apply to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts.

B. The provisions of this article apply only to sources and persons in the Northern Virginia [and] Fredericksburg [and] Richmond] Volatile Organic [Compounds Compound] Emissions Control area Areas designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to any portable fuel container or spout manufactured for shipment, sale, and use outside of the Northern Virginia [and] Fredericksburg [and] Richmond] Volatile Organic Compound Emissions Control area Areas.

D. This article does not apply to a manufacturer or distributor who sells, supplies, or offers for sale a portable fuel container or spout that does not comply with the emission standards specified in 9 VAC 5-40-5720, as long as the manufacturer or distributor can demonstrate that: (i) the portable fuel container or spout is intended for shipment and use outside of the Northern Virginia [and] Fredericksburg [and] Richmond] Volatile Organic Compound Emissions Control area Areas; and (ii) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout is not distributed within the Northern Virginia [and] Fredericksburg [and] Richmond] Volatile Organic Compound Emissions Control area Areas. This subsection does not apply to portable fuel containers or spouts that are sold, supplied, or offered for sale to retail outlets.

E. This article does not apply to safety cans meeting the requirements of 29 CFR Part 1926 Subpart F.

F. This article does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.

G. This article does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed either (i) to be used in officially sanctioned off-highway motorcycle competitions, (ii) to create a leak-proof seal against a stock target fuel tank, or (iii) to operate in conjunction with a receiver permanently installed on the target fuel tank.

H. This article does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

I. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to business/governmental entities/individuals.

9 VAC 5-40-5720. Standard for volatile organic compounds.

A. No person shall sell, supply, offer for sale, or manufacture for sale any portable fuel container that at the time of sale or manufacture does not meet all of the following standards for spill-proof systems:

1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.

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3. Has only one opening for both filling and pouring.

4. Provides a fuel flow rate and fill level of:

a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:

(1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or

(2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on each spill-proof system or label affixed thereto and on the accompanying package, if any; or

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

5. Does not exceed a permeation rate of 0.4 grams per gallon per day.

6. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

B. No person shall sell, supply, offer for sale, or manufacture for sale any spout that at the time of sale or manufacture does not meet all of the following standards for spill-proof spouts:

1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows;

2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.

3. Provides a fuel flow rate and fill level of:

a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:

(1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or

(2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto; or

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

4. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

C. The test procedures for determining compliance with the standards in this section are set forth in 9 VAC 5-40-5760. The manufacturer of portable fuel containers or spouts shall perform the tests for determining compliance as set forth in 9 VAC 5-40-5760 to show that its product meets the standards of this section prior to allowing the product to be offered for sale. The manufacturer shall maintain records of these compliance tests for as long as the product is available for sale and shall make those test results available within 60 days of request.

D. Compliance with the standards in this section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and state statutes and regulations such as state fire codes, safety codes, and other safety regulations, nor will the board test for or determine compliance with such other statutes or regulations.

E. Notwithstanding the provisions of subsections A and B of this section, a portable fuel container or spout manufactured before ~~January 1, 2005~~ the applicable compliance date specified in 9 VAC 5-40-5750 A, may be sold, supplied, or offered for sale after ~~January 1, 2005~~ the applicable compliance date, if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

9 VAC 5-40-5750. Compliance schedules.

A. Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or

2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [~~Areas Area~~].

B. Any person who cannot comply with the provisions of this article by the date specified in subsection A of this section, due to extraordinary reasons beyond that person's reasonable control, may apply in writing to the board for a waiver. The waiver application shall set forth:

1. The specific grounds upon which the waiver is sought;

2. The proposed date by which compliance with the provisions of this article will be achieved; and

3. A compliance report detailing the methods by which compliance will be achieved.

C. No waiver may be granted unless all of the following findings are made:

1. That, due to reasons beyond the reasonable control of the applicant, required compliance with this article would result in extraordinary economic hardship;

2. That the public interest in mitigating the extraordinary hardship to the applicant by issuing the waiver outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the waiver; and

3. That the compliance report proposed by the applicant can reasonably be implemented and shall achieve compliance as expeditiously as possible.

D. Any approval of a waiver shall specify a final compliance date by which compliance with the requirements of this article shall be achieved. Any approval of a waiver shall contain a condition that specifies the increments of progress necessary to assure timely compliance and such other conditions that the board finds necessary to carry out the purposes of this article.

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

F. Upon the application of any person, the board may review, and for good cause, modify or revoke a waiver from requirements of this article.

ARTICLE 48.

EMISSION STANDARDS FOR MOBILE EQUIPMENT REPAIR AND REFINISHING OPERATIONS IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSION CONTROL AREA (RULE 4-48)

9 VAC 5-40-6970. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each mobile equipment repair and refinishing operation. Certain provisions also apply to each person providing or selling affected coatings.

B. The provisions of this article apply only to sources and persons in the Northern Virginia [and] Fredericksburg [and Richmond] Volatile Organic [Compounds Compound] Emissions Control area Areas designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply under any of the following circumstances:

1. The mobile equipment repair and refinishing operation is subject to Article 28 (9 VAC 5-40-3860 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Automobile and Light Duty Truck Coating Application Systems).

2. The mobile equipment repair and refinishing operation is subject to Article 34 (9 VAC 5-40-4760 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems).

3. The person applying the coatings does not receive compensation for the application of the coatings.

4. The mobile equipment repair and refinishing operations uses coatings required to meet military specifications (MILSPEC) where no other existing coating can be used that meets the provisions of this article.

9 VAC 5-40-7050. Compliance schedule.

Affected persons and facilities shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or

2. January 1, 2008, in the Fredericksburg [and Richmond] VOC Emissions Control [Areas Area].

ARTICLE 49.

EMISSION STANDARDS FOR ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSIONS CONTROL AREA (RULE 4-49)

9 VAC 5-40-7120. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use, as well as any person who applies or solicits the application of any architectural coating.

B. The provisions of this article apply only to sources and persons in the Northern Virginia [and] Fredericksburg [and Richmond] Volatile Organic Compound Emissions Control area Areas designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to:

1. Any architectural coating that is sold or manufactured for use exclusively outside of the Northern Virginia [and] Fredericksburg [and Richmond] Volatile Organic [Compounds Compound] Emission Control Area Areas or for shipment to other manufacturers for reformulation or repackaging.

2. Any aerosol coating product.

3. Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

D. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals.

9 VAC 5-40-7130. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

C. Terms defined.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Aerosol coating product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for

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hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

“Antenna coating” means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

“Antifouling coating” means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating shall be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia).

“Appurtenance” means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.

“Architectural coating” means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this article.

“ASTM” means the American Society for Testing and Materials.

“Bitumens” means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits of asphalt or as residues from the distillation of crude petroleum or coal.

“Bituminous roof coating” means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

“Bituminous roof primer” means a primer that consists of a coating or mastic formulated and recommended for roofing, pavement sealing, or waterproofing that incorporates bitumens.

“Bond breaker” means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

“*Calcimine recoater*” means a flat solvent borne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

“Clear brushing lacquers” means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, that are intended exclusively for application by brush and that are labeled as specified in subdivision 5 of 9 VAC 5-40-7150.

“Clear wood coatings” means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

“Coating” means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

“Colorant” means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

“Concrete curing compound” means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

“*Concrete surface retarder*” means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

“*Conversion varnish*” means a clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. The film formation is the result of an acid-catalyzed condensation reaction, effecting a transesterification at the reactive ethers of the amino resins.

“Dry fog coating” means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

“Exempt compound” means a compound identified as exempt under the definition of Volatile Organic Compound (VOC) in 9 VAC 5-10-20. An exempt compound’s content of a coating shall be determined by Reference Method 24 or South Coast Air Quality Management District (SCAQMD) Method for Determination of Exempt Compounds (see 9 VAC 5-20-21).

“Extreme durability coating” means an air-dried coating, including fluoropolymer-based coating, that is formulated and recommended for application to exterior metal surfaces and touch up, repair and overcoating of precoated metal surfaces, and that meets the weathering requirements of American Architectural Manufacturers Association Voluntary Specification - Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels (see 9 VAC 5-20-21).

“Faux finishing coating” means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

“Fire-resistive coating” means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing assemblies of structural materials into compliance with federal, state, and local building code requirements. The fire-resistive

coating shall be tested in accordance with American Society for Testing and Materials (ASTM) Standard Test Method for Fire Tests of Building Construction Materials (see 9 VAC 5-20-21).

“Fire-retardant coating” means a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing building and construction materials into compliance with federal, state, and local building code requirements. The fire-retardant coating shall be tested in accordance with ASTM Standard Test Method for Surface Burning Characteristics of Building Construction Materials (see 9 VAC 5-20-21).

“Flat coating” means a coating that is not defined under any other definition in this article and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

“Floor coating” means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces, that may be subjected to foot traffic.

“Flow coating” means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

“Form-release compound” means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

“Graphic arts coating or sign paint” means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

“High-temperature coating” means a high-performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204 degrees Centigrade (400 degrees Fahrenheit).

“Impacted immersion coating” means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage caused by floating ice or debris.

“Industrial maintenance coating” means a high-performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions, and labeled as specified in subdivision 4 of 9 VAC 5-40-7150.

1. Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

2. Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

3. Repeated exposure to temperatures above 121 degrees Centigrade (250 degrees Fahrenheit);

4. Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or

5. Exterior exposure of metal structures and structural components.

“Lacquer” means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

“Low-solids coating” means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

“Magnesite cement coating” means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

“Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

“Metallic pigmented coating” means a coating containing at least 48 grams of elemental metallic pigment, mica particles or any combination of metallic pigment or mica particles per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with South Coast Air Quality Air Management District (SCAQMD) Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction (see 9 VAC 5-20-21).

“Multi-color coating” means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

“Nonflat coating” means a coating that is not defined under any other definition in this article and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

“Nonflat high-gloss coating” means a nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

“Nonindustrial use” means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

“Nuclear coating” means a protective coating formulated and recommended to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusions by radioactive materials. These coatings must be resistant to long-term (service life) cumulative radiation exposure as determined by ASTM

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Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants (see 9 VAC 5-20-21), relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed as determined by ASTM Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants (see 9 VAC 5-20-21).

“Post-consumer coating” means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

“Pretreatment wash primer” means a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products (see 9 VAC 5-20-21), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

“Primer” means a coating labeled and formulated for application to a substrate to provide a firm bind between the substrate and subsequent coats.

“Quick-dry enamel” means a nonflat coating that is labeled as specified in subdivision 8 of 9 VAC 5-40-7150 and that is formulated to have the following characteristics:

1. Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 and 27 degrees Centigrade (60 and 80 degrees Fahrenheit);
2. When tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see 9 VAC 5-20-21), sets to touch in two hours or less, is tack-free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and
3. Has a dried film gloss of 70 or above on a 60-degree meter.

“Quick-dry primer sealer and undercoater” means a primer, sealer, or undercoater that is dry to the touch in 30 minutes and can be recoated in two hours when tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see 9 VAC 5-20-21).

“Recycled coating” means an architectural coating formulated such that not less than 50% of the total weight consists of secondary and post-consumer coating, with not less than 10% of the total weight consisting of post-consumer coating.

“Residence” means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

“Roof coating” means a nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

“Rust-preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in subdivision 6 of 9 VAC 5-40-7150.

“Sanding sealer” means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding sealer that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

“Sealer” means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

“Secondary coating (rework)” means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

“Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

“Shop application” means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

“Solicit” means to require for use or to specify, by written or oral contract.

“Specialty primer, sealer, and undercoater” means a coating labeled as specified in subdivision 7 of 9 VAC 5-40-7150 and that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (see 9 VAC 5-20-21).

“Stain” means a clear, semi-transparent, or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

“Swimming pool coating” means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

“Swimming pool repair and maintenance coating” means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

“Temperature-indicator safety coating” means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to

temperatures above 204 degrees Centigrade (400 degrees Fahrenheit).

"Thermoplastic rubber coating and mastic" means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40% by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

"Tint base" means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

"Traffic marking coating" means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berets, driveways, parking lots, sidewalks, and airport runways.

"Undercoater" means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

"Varnish" means a clear or semitransparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the fetal sheen or gloss of the finish.

"VOC content" means the weight of VOC per volume of coating, calculated according to the procedures specified in 9 VAC 5-40-7220 B.

"Waterproofing sealer" means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

"Waterproofing concrete/masonry sealer" means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

"Wood preservative" means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14.1 (§ 3.1-249.27 et seq.) of the Code of Virginia).

9 VAC 5-40-7140. Standard for volatile organic compounds.

A. Except as provided in this section, no person shall (i) manufacture, blend, or repackage for sale, (ii) supply, sell, or offer for sale, or (iii) solicit for application or apply any architectural coating with a VOC content in excess of the corresponding limit specified in Table 4-49A.

B. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or any person acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 4-49A, then the most restrictive VOC content limit shall apply. This provision does not apply to the following coating categories.

Lacquer coatings (including lacquer sanding sealers).

- Metallic pigmented coatings;
- Shellacs;
- Fire-retardant coatings;
- Pretreatment wash primers;
- Industrial maintenance coatings;
- Low-solids coatings;
- Wood preservatives;
- High-temperature coatings;
- Temperature-indicator safety coatings;
- Antenna coatings;
- Antifouling coatings;
- Flow coatings;
- Bituminous roof primers;
- [Calcimine recoaters;
- Impacted immersion coatings;
- Nuclear coatings;
- Thermoplastic rubber coating and mastic;] and
- Specialty primers, sealers, and undercoaters.

Table 4-49A.
VOC Content Limits for Architectural Coatings

Limits are expressed in grams of VOC per liter¹ of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. "Manufacturers maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

Coating Category	VOC Content Limit
Flat Coatings	100
Nonflat Coatings	150
Nonflat High Gloss Coatings	250
Specialty Coatings [:]	530
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
[Calcimine Recoater	475]
Clear Wood Coatings	
• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
[• Conversion Varnishes	725]
• Varnishes [other than conversion varnishes]	350
Concrete Curing Compounds	350
[Concrete Surface Retarder	780]
Dry Fog Coatings	400
Extreme durability coating	400
Faux Finishing Coatings	350
Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350

¹ Conversion factor: one pound of VOC per gallon (U.S.) = 119.95 grams per liter.

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Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
[Impacted Immersion Coating	780]
Industrial Maintenance Coatings	340
Low-Solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
[Nuclear Coatings	450]
Pretreatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
[Thermoplastic Rubber Coating and Mastic	550]
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

C. A coating manufactured prior to January 1, 2005 the applicable compliance date specified in 9 VAC 5-40-7210, may be sold, supplied, or offered for sale until December 31, 2007 for two years following the applicable compliance date. In addition, a coating manufactured before January 1, 2005 the applicable compliance date specified in 9 VAC 5-40-7210, may be applied at any time, both before and after January 1, 2005 the applicable compliance date, so long as the coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date code required by subdivision 1 of 9 VAC 5-40-7150.

D. All architectural coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

E. No person who applies or solicits the application of any architectural coating shall apply a coating that contains any thinning material that would cause the coating to exceed the applicable VOC limit specified in Table 4-49A.

F. No person shall apply or solicit the application of any rust preventative coating for industrial use, unless such a rust preventative

coating complies with the industrial maintenance coating VOC limit specified in Table 4-49A.

G. For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table 4-49A, the VOC content limit shall be determined by classifying the coating as a flat coating or a nonflat coating, based on its gloss, as defined in 9 VAC 5-40-7130 C, and the corresponding flat or nonflat coating limit shall apply.

H. Notwithstanding the provisions of subsection A of this section, up to 10% by volume of VOC may be added to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65 degrees Fahrenheit, at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

9 VAC 5-40-7210. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or
2. January 1, 2008, in the Fredericksburg [and Richmond] VOC Emissions Control [Areas Area].

ARTICLE 50.

EMISSION STANDARDS FOR CONSUMER PRODUCTS IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSIONS CONTROL AREA (RULE 4-50).

9 VAC 5-40-7240. Applicability.

A. Except as provided in 9 VAC 5-40-7250, the provisions of this article apply to those persons who sell, supply, offer for sale, or manufacture for sale any consumer product that contains volatile organic compounds (VOCs) as defined in 9 VAC 5-10-20.

B. The provisions of this article apply throughout the Northern Virginia [and] Fredericksburg [and Richmond] Volatile Organic Compound Emissions Control area Areas designated in 9 VAC 5-20-206.

C. For purposes of this article, the term "supply" or "supplied" does not include internal transactions within a business or governmental entity. The term only applies to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals.

9 VAC 5-40-7250. Exemptions.

A. This article shall not apply to any consumer product manufactured in the Northern Virginia applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240 for shipment and use outside of this area those areas.

B. The provisions of this article shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale a consumer product that does not comply with the VOC standards specified in 9 VAC 5-40-7270 A, as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of the Northern Virginia applicable volatile organic compound emissions control area areas

designated in 9 VAC 5-40-7240, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the Northern Virginia those applicable volatile organic compound emissions control [area areas]. This subsection does not apply to consumer products that are sold, supplied, or offered for sale by any person to retail outlets in the Northern Virginia those applicable volatile organic compound emissions control area areas.

C. The medium volatility organic compound (MVOC) content standards specified in 9 VAC 5-40-7270 A for antiperspirants or deodorants shall not apply to ethanol.

D. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to fragrances up to a combined level of 2.0% by weight contained in any consumer product and shall not apply to colorants up to a combined level of 2.0% by weight contained in any antiperspirant or deodorant.

E. The requirements of 9 VAC 5-40-7270 A for antiperspirants or deodorants shall not apply to those volatile organic compounds that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of 2 mm Hg or less at 20 degrees Centigrade.

F. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to any LVP-VOC.

G. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to air fresheners that are composed entirely of fragrance, less compounds not defined as VOCs or exempted under subsection F of this section.

H. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.

I. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to adhesives sold in containers of one fluid ounce or less.

J. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5.0% active ingredients.

K. A person who cannot comply with the requirements set forth in 9 VAC 5-40-7270 because of extraordinary reasons beyond the person's reasonable control may apply in writing to the board for a waiver.

1. The application shall set forth:

- a. The specific grounds upon which the waiver is sought, including the facts that support the extraordinary reasons that compliance is beyond the applicant's reasonable control;
- b. The proposed dates by which compliance with the provisions of 9 VAC 5-40-7270 will be achieved; and
- c. A compliance report reasonably detailing the methods by which compliance will be achieved.

2. Upon receipt of an application containing the information required in subdivision 1 of this subsection, the board will hold

a public hearing to determine whether, under what conditions, and to what extent, a waiver from the requirements in 9 VAC 5-40-7270 is necessary and will be permitted. A hearing shall be initiated no later than 75 days after receipt of a waiver application. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the Virginia Register. At least 30 days prior to the hearing, the waiver application shall be made available to the public for inspection. Information submitted to the board by a waiver applicant may be claimed as confidential, and such information will be handled in accordance with the procedures specified in §§ 10.1-1314 and 10.1-1314.1 of the Virginia Air Pollution Control Law and 9 VAC 5-170-60. The board may consider such confidential information in reaching a decision on an exemption application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

3. No waiver shall be granted unless all of the following findings are made:

- a. That, because of reasons beyond the reasonable control of the applicant, requiring compliance with 9 VAC 5-40-7270 would result in extraordinary economic hardship;
- b. That the public interest in mitigating the extraordinary hardship to the applicant by issuing the waiver outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the waiver; and
- c. That the compliance report proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

4. Any waiver may be issued as an order of the board. The waiver order shall specify a final compliance date by which the requirements of 9 VAC 5-40-7270 will be achieved. Any waiver order shall contain a condition that specifies increments of progress necessary to assure timely compliance and such other conditions that the board, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of the Virginia Air Pollution Control Law and the regulations of the board.

5. A waiver shall cease to be effective upon failure of the party to whom the waiver was granted to comply with any term or condition of the waiver order.

6. Upon the application of anyone, the board may review and for good cause modify or revoke a waiver from requirements of 9 VAC 5-40-7270. Modifications and revocations of waivers are considered case decisions and will be processed using the procedures prescribed in 9 VAC 5-170 and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act.

L. The requirements of 9 VAC 5-40-7300 A shall not apply to consumer products registered under FIFRA.

9 VAC 5-40-7260. Definitions

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and

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related uses, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

C. Terms defined.

"ACP" or "alternative control plan" means any emissions averaging program approved by the board pursuant to the provisions of this article.

"ACP agreement" means the document signed by the board that includes the conditions and requirements of the board and that allows manufacturers to sell ACP products pursuant to the requirements of this article.

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

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

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

where

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

Enforceable sales = (see definition in this section).

VOC content = one of the following:

1. For all products except for charcoal lighter material products:

where

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

where

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

B = total weight of all VOCs per unit.

C = total weight of all exempted VOCs per unit, as specified in 9 VAC 5-40-7250.

2. For charcoal lighter material products only:

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

where

Certified emissions = (see definition in this section).

Certified use rate = (see definition in this section).

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

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

where

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

where

Enforceable sales = (see definition in this section).

ACP standard = (see definition in this section).

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

"ACP product" means any consumer product subject to the VOC standards specified in 9 VAC 5-40-7270 A, except those products that have been exempted as innovative products under 9 VAC 5-40-7290.

"ACP reformulation" or "ACP reformulated" 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.

"ACP standard" means either the ACP product's pre-ACP VOC content or the applicable VOC standard specified in 9 VAC 5-40-7270 A, whichever is the lesser of the two.

"ACP VOC standard" means the maximum allowable VOC content for an ACP product, determined as follows:

1. The applicable VOC standard specified in 9 VAC 5-40-7270 A for all ACP products except for charcoal lighter material;

2. For charcoal lighter material products only, the VOC standard for the purposes of this article shall be calculated according to the following equation:

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

where

0.020 = the certification emissions level for the product, as specified in 9 VAC 5-40-7270 E.

Certified use rate = (see definition in this section).

"Adhesive" means any product that is used to bond one surface to another by attachment. Adhesive does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For contact adhesive only, adhesive also does not include units of product, less packaging, which consist of more than one gallon. In addition, for construction, panel, and floor covering adhesive and general purpose adhesive only, adhesive does not include units of product, less packaging, which consist of more than one pound and consist of more than 16 fluid ounces. The package size limitations do not apply to aerosol adhesives.

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

"Aerosol adhesive" 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.

"Aerosol cooking spray" means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food or both.

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

"Agricultural use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage, or processing of any animal or plant crop. Agricultural use does not include the sale or use of pesticides in properly labeled packages or containers that are intended for home use, use in structural pest control, industrial use, or institutional use. For the purposes of this definition only:

1. "Home use" means use in a household or its immediate environment.

2. "Structural pest control" means a use requiring a license under the applicable state pesticide licensing requirement.

3. "Industrial use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.

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

"Air freshener" means any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors or freshening, cleaning, scenting, or deodorizing the air. Air fresheners do not include products that are used on the human body, products that function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional or industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution. Air fresheners do include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

"All other carbon-containing compounds" means all other compounds that contain at least one carbon atom and are not an "exempt compound" or an "LVP-VOC."

"All other forms" means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, all other forms include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

"Alternative control plan" or "ACP" means any emissions averaging program approved by the board pursuant to the provisions of this article.

"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. Antimicrobial hand or body cleaner or soap includes, but is not limited to, antimicrobial hand or body washes or cleaners, food handler hand washes, healthcare personnel hand washes, preoperative skin preparations, and surgical scrubs. Antimicrobial hand or body cleaner or soap does not include prescription drug products, antiperspirants, astringent or toner, deodorant, 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 or medicated toner, and rubbing alcohol.

"Antiperspirant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20% in at least 50% of a target population.

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

"ASTM" means the American Society for Testing and Materials.

"Astringent or toner" means any product not regulated as a drug by the United States Food and Drug Administration that is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate-impregnated products. This category does not include any hand, face, or body cleaner or soap product, medicated astringent or medicated toner, cold cream, lotion, or antiperspirant.

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

"Automotive hard paste wax" means an automotive wax or polish that is:

1. Designed to protect and improve the appearance of automotive paint surfaces;
2. A solid at room temperature; and
3. Contains no water.

"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 prior to the product being allowed to dry.

"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.

"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. Automotive wax, polish, sealant, or glaze includes, but is not limited to, products designed for use in auto body repair shops and drive-through car washes, as well as products designed for the general public. Automotive wax, polish, sealant, or glaze does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, and

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products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

"Automotive windshield washer fluid" means any 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. [*Automotive windshield washer fluid also includes liquids that are (i) packaged as a pre-wetted, single-use manual wipe and (ii) designed exclusively for cleaning, washing or wetting automotive glass surfaces for the purpose of restoring or maintaining visibility for the driver. Glass cleaners that are intended for use on other glass surfaces are not included in this definition.*] Automotive windshield washer fluid does not include fluids placed by the manufacturer in a new vehicle.

"Bathroom and tile cleaner" means a product designed to clean tile or surfaces in bathrooms. Bathroom and tile cleaners do not include products specifically designed to clean toilet bowls or toilet tanks.

"Bug and tar remover" means a product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish: (i) biological residues, such as insect carcasses and tree sap and (ii) road grime, such as road tar, roadway paint markings, and asphalt.

"CARB" means the California Air Resources Board.

"Carburetor or fuel-injection air intake cleaners" 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. Carburetor or fuel-injection air intake cleaners do not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

"Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon, or other synthetic fabrics. Carpet and upholstery cleaners include, but are not limited to, products that make fabric protectant claims. Carpet and upholstery cleaners do 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.

"Certified emissions" means the emissions level for products approved under 9 VAC 5-40-7270 E, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21), expressed to the nearest 0.001 pound VOC per start.

"Certified use rate" means the usage level for products approved under 9 VAC 5-40-7270 E, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol, expressed to the nearest 0.001 pound certified product used per start.

"Charcoal lighter material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. Charcoal lighter material does not include any of the following:

1. Electrical starters and probes,

2. Metallic cylinders using paper tinder,

3. Natural gas,

4. Propane, or

5. Fat wood.

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

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

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

1. Structural and building components that include, but are not limited to, beams, trusses, studs, paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, etc.), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring; or

2. Floor or wall coverings that include, but are not limited to, 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.

Construction, panel, and floor covering adhesive does not include floor seam sealer.

"Consumer" means a person who purchases or acquires a consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not consumers for that product.

"Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products, but does not include other paint products, furniture coatings, or architectural coatings.

"Contact adhesive" means an adhesive that:

1. Is designed for application to both surfaces to be bonded together,

2. Is allowed to dry before the two surfaces are placed in contact with each other,

3. Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other, and

4. 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.

Contact adhesive does not include rubber cements that are primarily intended for use on paper substrates.

"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. Containers or packaging include any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed, or attached.

"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 approving an ACP.

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

1. "House dust mite product" means 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.

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

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

"Deodorant" means a product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

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

"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 whose label is registered under the FIFRA. Disinfectant does not include any of the following:

1. Products designed solely for use on humans or animals.
2. Products designed for agricultural use.

3. Products designed solely for use in swimming pools, therapeutic tubs, or hot tubs, or

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

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

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

"Dry cleaning fluid" means a nonaqueous liquid product designed and labeled exclusively for use on:

1. Fabrics that are labeled "for dry clean only," such as clothing or drapery; or
2. S-coded fabrics.

Dry cleaning fluid includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place. Dry cleaning fluid does not include spot remover or carpet and upholstery cleaner. For the purposes of this definition, "S-coded fabric" means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the American Furniture Manufacturers Association Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (see 9 VAC 5-20-21).

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

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

"Enforceable sales" means the total amount of an ACP product sold for use in the ~~Northern Virginia~~ applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240 during the applicable compliance period specified in the ACP agreement approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding product container and packaging).

"Enforceable sales record" means a written, point-of-sale record or another board-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 ~~Northern Virginia~~ applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240 during the applicable compliance period can be accurately documented. For the purposes of this article, enforceable sales records include, but are not limited to, the following types of records:

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1. Accurate records of direct retail or other outlet sales to the end user during the applicable compliance period.

2. Accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period, provided that a detailed method that can be used to verify data composing such summaries is submitted by the responsible ACP party and approved by the board; and

3. Other accurate product sales records acceptable to the board.

"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.

"Exempt compound" means acetone, ethane, methyl acetate, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), or perchloroethylene (tetrachloroethylene).

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

"Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face. Facial cleaner or soap includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms. Facial cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent or toner, general-use hand or body cleaner or soap, medicated astringent or medicated toner, or rubbing alcohol.

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

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136-136y).

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

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

"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. 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, and coatings subject to architectural coatings regulations.

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

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

"Flying bug insecticide" means an insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats. Flying bug insecticide does not include wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals, or a moth-proofing product. For the purposes of this definition only, "moth-proofing product" means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

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

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

"Furniture coating" means a paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

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

"General purpose adhesive" means a nonaerosol adhesive designed for use on a variety of substrates. General purpose adhesive does not include:

1. Contact adhesives,

2. Construction, panel, and floor covering adhesives,

3. Adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls), or

4. Adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

"General purpose cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. General purpose cleaner includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

"General purpose degreaser" means a product designed to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. General purpose degreaser does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, metal polish or cleanser, products used exclusively in solvent cleaning tanks or related equipment, or products that are (i) sold exclusively to establishments which manufacture or construct goods or commodities; and (ii) labeled "not for retail sale." Solvent cleaning tanks or related equipment includes, but is not limited to, cold cleaners, vapor degreasers, conveyorized degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

"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. General-use hand or body cleaner or soap includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. General-use hand or body cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent or toner, facial cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent or medicated toner, or rubbing alcohol.

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

"Gross sales" means the estimated total sales of an ACP product in the Northern Virginia applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240 during a specific compliance period (expressed to the nearest pound), based on either of the following methods, whichever the responsible ACP party demonstrates to the satisfaction of the board will provide an accurate sales estimate:

1. Apportionment of national or regional sales of the ACP product to 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 Northern Virginia volatile organic compound emissions control area's current population of the applicable volatile organic compound emissions control areas designated in 9 VAC 5-40-7240; or
2. Another documented method that provides an accurate estimate of the total current sales of the ACP product.

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

"Hair shine" means a product designed for the primary purpose of creating a shine when applied to the hair. Hair shine includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. Hair shine does not include hair spray, hair mousse, hair styling gel or spray gel, or products whose primary purpose is to condition or hold the hair.

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

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

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

"Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes products that are (i) for agricultural use, or (ii) restricted materials that require a permit for use and possession.

"High volatility organic compound" or "HVOC" means a volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury (mm Hg) when measured at 20 degrees Centigrade.

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

"Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

1. For agricultural use;
2. For a use which requires a structural pest control license under applicable state laws or regulations; or
3. Restricted materials that require a permit for use and possession.

"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.

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

1. Manufactures, transports, or sells goods or commodities, or provides services for profit; or
2. Is engaged in the nonprofit promotion of a particular public, educational, or charitable cause.

Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. Institutional product does not include household products and products that are incorporated into or used exclusively in the manufacture or

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construction of the goods or commodities at the site of the establishment.

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

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

"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 and may also act to help ease ironing of the fabric. Laundry starch product includes, but is not limited to, fabric finish, sizing, and starch.

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

"Liquid" means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (see 9 VAC 5-20-21). Liquid does not include powders or other materials that are composed entirely of solid particles.

"Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two-cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are:

1. Sold exclusively to establishments which manufacture or construct goods or commodities, and
2. Labeled "not for retail sale."

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

"LVP-VOC" means a chemical compound or mixture that contains at least one carbon atom and meets one of the following:

1. Has a vapor pressure less than 0.1 mm Hg at 20 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21);
2. Is a chemical compound with more than 12 carbon atoms, or a chemical mixture composed solely of compounds with more than 12 carbon atoms, and the vapor pressure is unknown;
3. Is a chemical compound with a boiling point greater than 216 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21); or

4. Is the weight percent of a chemical mixture that boils above 216 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21).

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

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

"Medicated astringent or medicated toner" means a product regulated as a drug by the United States Food and Drug Administration that is applied to the skin for the purpose of cleaning or tightening pores. Medicated astringent or medicated toner includes, but is not limited to, clarifiers and substrate-impregnated products. Medicated astringent or medicated toner does not include hand, face, or body cleaner or soap products, astringent or toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

"Medium volatility organic compound" or "MVOC" means a volatile organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20 degrees Centigrade.

"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. To "improve the appearance" means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny. Metal polish or cleanser includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals. Metal polish or cleanser does not include automotive wax, polish, sealant, or glaze, wheel cleaner, paint remover or stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

"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 board, as specified in the ACP agreement.

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

"Multi-purpose dry lubricant" means a lubricant that is:

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

"Multi-purpose lubricant" means a lubricant designed for general purpose lubrication, or for use in a wide variety of applications. Multi-purpose lubricant does not include multi-purpose dry lubricants, penetrants, or silicone-based multi-purpose lubricants.

"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. Multi-purpose solvent includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific, or other laboratories. Multi-purpose solvent does not include solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

"Nail polish" means a clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats, and top coats.

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

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

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

"Nonresilient flooring" means flooring of a mineral content that is not flexible. Nonresilient flooring includes but is not limited to terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

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

"One-product business" means a responsible ACP party that sells, supplies, offers for sale, or manufactures for use in the Northern Virginia applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240.

1. Only one distinct ACP product, sold under one product brand name, which is subject to the requirements of 9 VAC 5-40-7270; or

2. Only one distinct ACP product line subject to the requirements of 9 VAC 5-40-7270, in which all the ACP products belong to the same product category and the VOC contents in the products are within 98.0% and 102.0% of the arithmetic mean of the VOC contents over the entire product line.

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

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

"Paint remover or stripper" means a product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. Paint remover or stripper does not include multi-purpose solvents, paint brush cleaners, products designed and labeled exclusively to

remove graffiti, and hand cleaner products that claim to remove paints and other related coatings from skin.

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

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

"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 board, based on the data obtained from accurate records available to the board that yields the lowest VOC content for the product.

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

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

"Product category" means the applicable category that best describes the product as listed in this section.

"Product line" means a group of products of identical form and function belonging to the same product category.

"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.

"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.

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

"Reconciliation of shortfalls plan" means the plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the board pursuant to 9 VAC 5-40-7280 B 1 g (10).

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

"Responsible ACP party" means the company, firm, or establishment which is listed on the ACP product's label. If the

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label lists two or more companies, firms, or establishments, the responsible ACP party is the party that the ACP product was "manufactured for" or "distributed by," as noted on the label.

"Restricted materials" means pesticides established as restricted materials under the Virginia Pesticide Control Act (§ 3.1-249.27 et seq. of the Code of Virginia).

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

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

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

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

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

"Sealant and caulking compound" means a product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. Sealant and caulking compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear or paintable or water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings. Sealant and caulking compound also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces. For the purposes of this definition only, "removable caulking compounds" means a compound that temporarily seals windows or doors for three- to six-month time intervals; and "clear or paintable or water resistant caulking compounds" means a compound that contains no appreciable level of opaque fillers or pigments, transmits most or all visible light through the caulk when cured, is paintable, and is immediately resistant to precipitation upon application.

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

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

"Shortfall" 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. Shortfall does not include emissions occurring prior to the

date that the ACP agreement approving an ACP is signed by the board.

"Silicone-based multi-purpose lubricant" means a lubricant that is:

1. Designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane, and
2. Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

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

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

"Small business" means any stationary source that: is owned or operated by a person that employs 100 or fewer individuals; is a small business concern as defined in the federal Small Business Act; is not a major stationary source; does not emit 50 tons or more per year of any regulated pollutant; and emits less than 75 tons per year of all regulated pollutants.

"Solid" means a substance or mixture of substances which, either whole or subdivided (such as the particles composing a powder), is not capable of visually detectable flow as determined under ASTM "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (see 9 VAC 5-20-21).

"Special purpose spray adhesive" means an aerosol adhesive that meets any of the following definitions:

1. "Mounting adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, or other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.
2. "Flexible vinyl adhesive" means an aerosol adhesive designed to bond flexible vinyl to substrates. "Flexible vinyl" means a nonrigid polyvinyl chloride plastic with at least 5%, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM "Standard Practice for Packed Column Gas Chromatography" (see 9 VAC 5-20-21) or from product formulation data.
3. "Polystyrene foam adhesive" means an aerosol adhesive designed to bond polystyrene foam to substrates.
4. "Automobile headliner adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.
5. "Polyolefin adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.
6. "Laminate repair or edgebanding adhesive" means an aerosol adhesive designed for:
 - a. The touch-up or repair of items laminated with high pressure laminates (e.g., lifted edges, delaminates, etc.); or

b. The touch-up, repair, or attachment of edgebonding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals.

For the purposes of this definition, "high pressure laminate" means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265 degrees Fahrenheit and at pressures between 1,000 and 1,400 psi.

7. "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 degrees Fahrenheit.

"Spot remover" means a product designed to clean localized areas or remove localized spots or stains on cloth or fabric, such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal. Spot remover does not include dry cleaning fluid, laundry prewash, carpet and upholstery cleaner, or multi-purpose solvent.

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

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

"Structural waterproof adhesive" means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water and that conforms with the definition in the federal consumer products regulation, 40 CFR Part 59, Subpart C.

"Surplus reduction" means the ACP limit minus the ACP emissions when the ACP limit was greater than the ACP emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in 9 VAC 5-40-7280 F 3, surplus reduction does not include emissions occurring prior to the date that the ACP agreement approving an ACP is signed by the board.

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

"Terrestrial" means to live on or grow from land.

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

"Total maximum historical emissions" or "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. The TMHE shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP party has failed to provide the required VOC content or enforceable sales records. The TMHE shall be expressed to the nearest pound and calculated according to the following calculation:

$$TMHE = (MHE)_1 + (MHE)_2 + K + (MHE)_N$$

$$MHE = (\text{Highest VOC Content} \times \text{Highest Sales}) \times \text{Missing Data Days}$$

$$100 \times 365$$

where

Highest VOC content = the maximum VOC content which the ACP product has contained in the previous five years, if the responsible ACP party has failed to meet the requirements for reporting 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.

Highest sales = the maximum one-year gross sales of the ACP product in the previous five years, if the responsible ACP party has failed to meet the requirements for reporting enforceable sales records (for any portion of the compliance period), as specified in the ACP agreement approving the ACP, or the current actual one-year enforceable sales for the product, if the responsible ACP party has provided all required enforceable sales records (for the entire compliance period), as specified in the ACP agreement approving the ACP.

Missing Data Days = (see definition in this section).

I, 2, ..., N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required enforceable sales or VOC content data as specified in the ACP agreement.

"Type A propellant" means a compressed gas such as CO sub2, N sub2, N sub2 O, 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.

"Type B propellant" means a halocarbon that is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

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

"Undercoating" means an aerosol product designed to impart a protective, nonpaint layer to the undercarriage, trunk interior, or firewall of motor vehicles to prevent the formation of rust or to deaden sound. Undercoating includes, but is not limited to, rubberized, mastic, or asphaltic products.

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

"VOC content" means, except for charcoal lighter products, the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined pursuant to 9 VAC 5-40-7340 B and C.

For charcoal lighter material products only

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

where

Certified emissions = (see definition in this section)

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Certified use rate = (see definition in this section).

"Volatile organic compound" or "VOC" means volatile organic compound as defined in 9 VAC 5-10-20.

"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 intended insects or their hiding place.

"Waterproof" means a product designed and labeled exclusively to repel water from fabric or leather substrates. Waterproof does not include fabric protectants.

"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 (plastics). Wax includes, but is not limited to, substances derived from the secretions of plants and animals such as carnauba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

"Web spray adhesive" means an aerosol adhesive which is not a mist spray or special purpose spray adhesive.

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

"Working day" means a day between Monday through Friday, inclusive, except for federal holidays.

9 VAC 5-40-7270. Standard for volatile organic compounds.

A. Except as provided in 9 VAC 5-40-7250, 9 VAC 5-40-7280, and 9 VAC 5-40-7290, no person shall (i) sell, supply, or offer for sale a consumer product manufactured on or after July 1, 2005 the applicable compliance date specified in 9 VAC 5-40-7330, or (ii) manufacture for sale a consumer product on or after July 1, 2005 the applicable compliance date specified in 9 VAC 5-40-7330, that contains volatile organic compounds in excess of the limits specified in Table 4-50A.

TABLE 4-50A

Product Category: Percent VOC by Weight

Adhesives

Aerosol

Mist spray: 65%

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/Edgebanding: 60%

Contact: 80%

Construction, panel, and floor covering: 15%

General purpose: 10%

Structural waterproof: 15%

Air fresheners

Single-phase aerosols: 30%

Double-phase aerosols: 25%

Liquids/Pump sprays: 18%

Solids/Gels: 3%

Antiperspirants

Aerosol: 40% HVOC/10% MVOC

Nonaerosol: 0% HVOC/ [40% 0%] MVOC

Automotive brake cleaners: 45%

Automotive rubbing or polishing compound: 17%

Automotive wax, polish, sealant, or glaze

Hard paste waxes: 45%

Instant detailers: 3%

All other forms: 15%

Automotive windshield washer fluids: 35%

Bathroom and tile cleaners

Aerosols: 7%

All other forms: 5%

Bug and tar remover: 40%

Carburetor or fuel-injection air intake cleaners: 45%

Carpet and upholstery cleaners

Aerosols: 7%

Nonaerosols (dilutables): 0.1%

Nonaerosols (ready-to-use): 3.0%

Charcoal lighter material: see subsection E of this section.

Cooking spray, aerosols: 18%

Deodorants

Aerosol: 0% HVOC/10% MVOC

Nonaerosol: 0% HVOC/0% MVOC

Dusting aids

Aerosols: 25%

All other forms: 7%

Engine degreasers

Aerosol: 35%

Nonaerosol: 5%

Fabric protectants: 60%

Floor polishes/Waxes

Products for flexible flooring materials: 7%

Products for nonresilient flooring: 10%

Wood floor wax: 90%

Floor wax strippers, nonaerosol: see 9 VAC 5-40-7270 G

Furniture maintenance products

Aerosols: 17%

All other forms except solid or paste: 7%

General purpose cleaners

Aerosols: 10%

Nonaerosols: 4%

General purpose degreasers

Aerosols: 50%

Nonaerosols: 4%

Glass cleaners

Aerosols: 12%

Nonaerosols: 4%

Hair mousses: 6%

Hair shines: 55%

- Hair sprays: 55%
- Hair styling gels: 6%
- Heavy-duty hand cleaner or soap: 8%
- Insecticides
 - Crawling bug (aerosol): 15%
 - Crawling bug (all other forms): 20%
 - Flea and tick: 25%
 - Flying bug (aerosol): 25%
 - Flying bug (all other forms): 35%
 - Foggers: 45%
 - Lawn and garden (all other forms): 20%
 - Lawn and garden (nonaerosol): 3%
 - Wasp and hornet: 40%
- Laundry prewash
 - Aerosols/Solids: 22%
 - All other forms: 5%
- Laundry starch products: 5%
- Metal polishes and cleansers: 30%
- Multi-purpose lubricant (excluding solid or semi-solid products): 50%
- Nail polish remover: 75%
- Nonselective terrestrial herbicide, nonaerosols: 3%
- Oven cleaners
 - Aerosols/Pump sprays: 8%
 - Liquids: 5%
- Paint remover or strippers: 50%
- Penetrants: 50%
- Rubber and vinyl protectants
 - Nonaerosols: 3%
 - Aerosols: 10%
- Sealants and caulking compounds: 4%
- Shaving creams: 5%
- Silicone-based multi-purpose lubricants (excluding solid or semi-solid products): 60%
- Spot removers
 - Aerosols: 25%
 - Nonaerosols: 8%
- Tire sealants and inflators: 20%
- Undercoatings, aerosols: 40%

B. No person shall sell, supply, offer for sale, or manufacture for sale an antiperspirant or a deodorant that contains a compound that has been defined as a toxic pollutant in 9 VAC 5-60-210 C.

C. Provisions follow concerning products that are diluted prior to use.

1. For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in Table 4-50A shall apply to the product only after the minimum recommended dilution has taken place

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

2. For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with a VOC solvent prior to use, the limits specified in Table 4-50A shall apply to the product only after the maximum recommended dilution has taken place.

D. For those consumer products that are registered under FIFRA, the effective date of the VOC standards is ~~July 1, 2006~~ *one year after the applicable compliance date specified in 9 VAC 5-40-7330.*

E. The following requirements shall apply to all charcoal lighter material products:

1. Effective ~~July 1, 2005~~ *as of the applicable compliance date specified in 9 VAC 5-40-7330*, no person shall (i) sell, supply, or offer for sale a charcoal lighter material product manufactured on or after ~~July 1, 2005~~ *the applicable compliance date* or (ii) manufacture for sale a charcoal lighter material product unless at the time of the transaction:

a. The manufacturer can demonstrate to the board's satisfaction that they have been issued a currently effective certification by CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, § 94509(h), of Title 17 of the California Code of Regulations (see 9 VAC 5-20-21). This certification remains in effect for as long as the CARB certification remains in effect. A manufacturer claiming such a certification on this basis must submit to the board a copy of the certification decision (i.e., the Executive Order), including all conditions established by CARB applicable to the certification.

b. The manufacturer or distributor of the charcoal lighter material has been issued a currently effective certification pursuant to subdivision 2 of this subsection.

c. The charcoal lighter material meets the formulation criteria and other conditions specified in the applicable ACP agreement issued pursuant to subdivision 2 of this subsection.

d. The product usage directions for the charcoal lighter material are the same as those provided to the board pursuant to subdivision 2 c of this subsection.

2. Provisions follow concerning certification requirements.

a. No charcoal lighter material formulation shall be certified under this subdivision unless the applicant for certification demonstrates to the board's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.020 pound of VOC per start, using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21). The provisions relating to LVP-VOC in 9 VAC 5-40-7250 F and 9 VAC 5-40-7260 C shall not apply to a charcoal lighter material subject to the requirements of 9 VAC 5-40-7270 A and E.

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b. The board 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 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21).

c. A manufacturer or distributor of charcoal lighter material may apply to the board for certification of a charcoal lighter material formulation in accordance with this subdivision. The application shall be in writing and shall include, at a minimum, the following:

(1) The results of testing conducted pursuant to the procedures specified in South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21); and

(2) The exact text or graphics that will appear on the charcoal lighter material's principal display panel, label, or accompanying literature. The provided material shall clearly show the usage directions for the product. These directions shall accurately reflect the quantity of charcoal lighter material per pound of charcoal that was used in the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) for that product, unless:

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

(3) For a charcoal lighter material which meets the criteria specified in subdivision 2 c (2) (a) of this subsection, the usage instructions provided to the board will accurately reflect the quantity of charcoal lighter material used in the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) for that product.

(4) Physical property data, formulation data, or other information required by the board for use in determining when a product modification has occurred and for use in determining compliance with the conditions specified on the ACP agreement issued pursuant to subdivision 2 e of this subsection.

d. Within 30 days of receipt of an application, the board will advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 30 days of receipt of additional information, the board will advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete.

e. If the board finds that an application meets the requirements of subdivision 2 of this subsection, then an ACP agreement shall be issued certifying the charcoal lighter material formulation and specifying such conditions as are necessary to insure that the requirements of this subsection are met. The board will act on a complete

application within 90 days after the application is deemed complete.

3. For charcoal lighter material for which certification has been granted pursuant to subdivision 2 of this subsection, the applicant for certification shall notify the board in writing within 30 days of: (i) a change in the usage directions, or (ii) a change in product formulation, test results, or other information submitted pursuant to subdivision 2 of this subsection which may result in VOC emissions greater than 0.020 pound of VOC per start.

4. If the board determines that a certified charcoal lighter material formulation results in VOC emissions from the ignition of charcoal which are greater than 0.020 pound of VOC per start, as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) and the statistical analysis procedures contained therein, the board will revoke or modify the certification as is necessary to assure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.020 pound of VOC per start. Modifications and revocations of certifications are considered case decisions and will be processed using the procedures prescribed in 9 VAC 5-170 and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act.

F. Requirements for aerosol adhesives.

1. The standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in 9 VAC 5-40-7250 and 9 VAC 5-40-7290, no person shall sell, supply, offer for sale, use or manufacture for sale an aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of the specified standard.

2. a. In order to qualify as a "special purpose spray adhesive," the product must meet one or more of the definitions specified in 9 VAC 5-40-7260 C, but if the product label indicates that the product is suitable for use on a substrate or application not listed in 9 VAC 5-40-7260 C, then the product shall be classified as either a "web spray adhesive" or a "mist spray adhesive."

b. If a product meets more than one of the definitions specified in 9 VAC 5-40-7260 C for "special purpose spray adhesive," and is not classified as a "web spray adhesive" or "mist spray adhesive" under subdivision 2 a of this subsection, then the VOC limit for the product shall be the lowest applicable VOC limit specified in 9 VAC 5-40-7270 A.

3. Effective July 1, 2005 as of the applicable compliance date specified in 9 VAC 5-40-7330, no person shall (i) sell, supply, or offer for sale an aerosol adhesive manufactured on or after July 1, 2005 the applicable compliance date, or (ii) manufacture for sale an aerosol adhesive that contains any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.

4. All aerosol adhesives must comply with the labeling requirements specified in 9 VAC 5-40-7300 D.

G. Effective as of the applicable compliance date specified in 9 VAC 5-40-7330, no person shall sell, supply, offer for sale, or

manufacture for use a floor wax stripper unless the following requirements are met:

1. The label of each nonaerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3.0% by weight or less.

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

3. The terms "light build-up," "medium build-up" or "heavy build-up" are not specifically required, as long as comparable terminology is used.

H. For a consumer product for which standards are specified under subsection A of this section, no person shall sell, supply, offer for sale, or manufacture for sale a consumer product which contains any of the following ozone-depleting compounds:

CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane);

CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane);

CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane);

CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane);

halon 1301 (bromotrifluoromethane), halon 2402 (dibromotetrafluoroethane);

HCFC-22 (chlorodifluoromethane), HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane);

HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane);

HCFC-141b (1,1-dichloro-1-fluoroethane), HCFC-142b (1-chloro-1,1-difluoroethane);

1,1,1-trichloroethane; or

carbon tetrachloride.

I. The requirements of subsection H of this section shall not apply to an existing product formulation that complies with Table 4-50A or an existing product formulation that is reformulated to meet Table 4-50A, provided the ozone-depleting compound content of the reformulated product does not increase.

J. The requirements of subsection H of this section shall not apply to ozone-depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

9 VAC 5-40-7300. Administrative requirements.

A. Each manufacturer of a consumer product subject to 9 VAC 5-40-7270 shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured or a code indicating such date. The date or code shall be 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 disassembling a part of the container or packaging. This date or code shall be displayed on each consumer

product container or package no later than the effective date of the applicable standard specified in 9 VAC 5-40-7270 A. No person shall erase, alter, deface, or otherwise remove or make illegible a date or code from a regulated product container without the express authorization of the manufacturer. The requirements of this provision shall not apply to products containing no VOCs or containing VOCs at 0.10% by weight or less.

B. If a manufacturer uses a code indicating the date of manufacture for a consumer product subject to 9 VAC 5-40-7270, an explanation of the code must be filed with the board upon request by the board.

C. Notwithstanding the definition of "product category" in 9 VAC 5-40-7260 C, if anywhere on the principal display panel of a consumer product, a representation is made that the product may be used as or is suitable for use as a consumer product for which a lower VOC limit is specified in 9 VAC 5-40-7270 A, then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners and antiperspirant or deodorant products.

D. Provisions follow concerning additional labeling requirements for aerosol adhesives:

1. In addition to the requirements specified in subsections A and C of this section and in 9 VAC 5-40-7360, both the manufacturer and responsible party for each aerosol adhesive product subject to this article shall ensure that all products clearly display the following information on each product container which is manufactured on or after ~~July 1, 2005~~ the applicable compliance date specified in 9 VAC 5-40-7330.

a. The aerosol adhesive category as specified in 9 VAC 5-40-7270 A or an abbreviation of the category shall be displayed.

b. (1) The applicable VOC standard for the product that is specified in 9 VAC 5-40-7270 A, expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the board, as provided in 9 VAC 5-40-7280.

(2) If the product is included in an alternative control plan approved by the board, and the product exceeds the applicable VOC standard specified in 9 VAC 5-40-7270 A, the product shall be labeled with the term "ACP" or "ACP product".

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

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

2. The information required in subdivision [A] 1 of this ~~section~~ subsection shall be displayed on the product container such that it is readily observable without removing or disassembling a portion of the product container or packaging. For the purposes of this subsection, information may be

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displayed on the bottom of a container as long as it is clearly legible without removing product packaging.

3. No person shall remove, alter, conceal, or deface the information required in subdivision 1 of this subsection prior to final sale of the product.

9 VAC 5-40-7330. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. July 1, 2005, in the Northern Virginia VOC Emissions Control Area; or

2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [~~Areas Area~~].

9 VAC 5-40-7360. Notification, records and reporting.

A. The provisions of subsections D, E, F, and H of 9 VAC 5-40-50 (Notification, records and reporting) apply. The other provisions of 9 VAC 5-40-50 do not apply.

B. Upon 90 days written notice, the board may require a responsible party to report information for a consumer product the board may specify, including, but not limited to, all or part of the following information:

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

2. A claim of confidentiality made pursuant to applicable state confidentiality requirements;

3. The product brand name for each consumer product subject to registration and, upon request by the board, the product label;

4. The product category to which the consumer product belongs;

5. The applicable product forms listed separately;

6. An identification of each product brand name and form as a "Household Product," "I&I Product," or both;

7. Separate sales in pounds per year, to the nearest pound, and the method used to calculate sales for each product form;

8. For registrations submitted by two companies, an identification of the company which is submitting relevant data separate from that submitted by the responsible party. All registration information from both companies shall be submitted by the date specified in this subsection.

9. For each product brand name and form, the net percent by weight of the total product, less container and packaging, composed of the following, rounded to the nearest one-tenth of a percent (0.1%):

a. Total exempt compounds;

b. Total LVP-VOCs that are not fragrances;

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

d. Total all noncarbon-containing compounds;

e. Total fragrance;

f. For products containing greater than 2.0% by weight fragrance:

(1) The percent of fragrances that are LVP-VOCs; and

(2) The percent of fragrances that are all other carbon-containing compounds;

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 exempt compound; and

b. Each LVP-VOC that is not a fragrance;

11. If applicable, the weight percent composed of propellant for each product;

12. If applicable, an identification of the type of propellant.

C. In addition to the requirements of subdivision B 10 of this section, the responsible party shall report to the board the net percent by weight of each ozone-depleting compound which is:

1. Listed in 9 VAC 5-40-7270 H; and

2. Contained in a product subject to registration under subsection A of this section in an amount greater than 1.0% by weight.

D. All information submitted by responsible parties pursuant to this section shall be handled in accordance with the procedures specified in §§ 10.1-1314 and 10.1-1314.1 of the Virginia Air Pollution Control Law and 9 VAC 5-170-60.

E. Provisions follow concerning special reporting requirements for consumer products that contain perchloroethylene or methylene chloride.

1. The requirements of this subsection shall apply to all responsible parties for consumer products that are subject to 9 VAC 5-40-7270 A and contain perchloroethylene or methylene chloride. For the purposes of this subsection, a product contains perchloroethylene or methylene chloride if the product contains 1.0% or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

2. For each consumer product that contains perchloroethylene or methylene chloride, the responsible party shall report the following information for products sold during each calendar year, beginning with the year 2005 of the applicable compliance date specified in 9 VAC 5-40-7330, and ending with the year 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, listed separately;

d. For each product form listed in subdivision 2 c of this subsection, the total sales during the calendar year, to the

nearest pound (exclusive of the container or packaging), and the method used for calculating sales;

e. The weight percent, to the nearest [40% 0.10%], of perchloroethylene and methylene chloride in the consumer product;

3. The information specified in subdivision 2 of this subsection shall be reported for each calendar year by March 1 of the following year. The first report shall be due on March 1, 2006, for calendar year 2005 of the calendar year following the year of the applicable compliance date specified in 9 VAC 5-40-7330. A new report is due on March 1 of each year thereafter until March 1, 2011, when the last report is due.

ARTICLE 53.

EMISSION STANDARDS FOR LITHOGRAPHIC PRINTING PROCESSES (RULE 4-53)

9 VAC 5-40-7800. Applicability and designation of affected facility

A. Except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each lithographic printing process which uses a substrate other than a textile.

B. The provisions of this article apply only to sources of volatile organic compounds in the Northern Virginia or Richmond volatile organic compound emissions control Area areas designated in 9 VAC 5-20-206.

C. Exempted from the provisions of this article are facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 10 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

D. Exempted from the provisions of this article are facilities in the Richmond all volatile organic compound emissions control Area areas, other than the Northern Virginia Volatile Organic Compound Emissions Control Area, whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

E. The provisions of this article do not apply to the following:

1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:

a. The operation is not an integral part of the production process;

b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and

c. The exemption is approved by the board.

2. Photoprocessing, typesetting, or imagesetting equipment using water-based chemistry to develop silver halide images.

3. Platemaking equipment using water-based chemistry to remove unhardened image-producing material from an exposed plate.

4. Equipment used to make blueprints.

5. Any sheet-fed offset lithographic press with a cylinder width of 26 inches or less.

9 VAC 5-40-7880. Compliance.

A. The provisions of 9 VAC 5-40-20 (Compliance) apply.

B. All affected facilities in the Northern Virginia and Richmond VOC Emissions Control Areas shall be in compliance with the provisions of this rule within two years following by April 1, 1996 1998.

C. All affected facilities in VOC emission control areas, other than the Northern Virginia and Richmond VOC Emissions Control Areas, shall be in compliance with the provisions of this rule by [insert date one year after the effective date October 4, 2007]

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