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ENVIRONMENTAL PROTECTION

AIR, ENERGY, AND MATERIALS SUSTAINABILITY

DIVISION OF AIR QUALITY AND RADIATION PROTECTION

Air Pollution Control

Prevention of Air Pollution from Consumer Products

Proposed Amendments: N.J.A.C. 7:27-24.1 through 24.8, and 24.10; and 7:27A-3.10

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3.e, 13:1D-9, and 26:2C-1 et seq., in particular 26:2C-8.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 09-24-06.

Proposal Number: PRN 2024-089.

A **public hearing** concerning this notice of rule proposal and proposed State Implementation Plan (SIP) revision will be held on October 15, 2024, at 12:30 P.M.. The hearing will be conducted virtually through the Department of Environmental Protection's (Department's) video conferencing software, Microsoft Teams. A link to the virtual public hearing and telephone call-in option will be provided on the Department's website at <https://www.nj.gov/dep/rules/notices.html>.

Submit comments by close of business on October 18, 2024, electronically at www.nj.gov/dep/rules/comments. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Department encourages electronic submittal of comments. In the alternative,

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comments may be submitted on paper to:

Attention: DEP Docket No. 09-24-06

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

PO Box 402

Trenton, NJ 08625-0402

If you are interested in providing oral testimony at the virtual public hearing, please email the Department at heidi.jones@dep.nj.gov, no later than 5:00 P.M. on October 11, 2024, with your contact information (name, organization, telephone number, and email address). You must provide a valid email address so the Department can send you an email confirming receipt of your interest to testify orally at the hearing and provide you with a separate option for a telephone call-in line if you do not have access to a computer that can connect to Microsoft Teams. Please note that the hearing will be recorded. It is requested (but not required) that anyone providing oral testimony at the public hearing provide a copy of any prepared remarks to the Department through email.

The proposed amendments will become operative 60 days after their adoption (see N.J.S.A. 26:2C-8). This notice of proposal may be viewed or downloaded from the Department's website at www.nj.gov/dep/rules.

The agency proposal follows:

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Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Department proposes the amendments at N.J.A.C. 7:27-24, Prevention of Air Pollution from Consumer Products, to help the State make progress toward attainment of the health-based National Ambient Air Quality Standards (NAAQS) for eight-hour ozone. In a separate notice of proposal, published elsewhere in this issue of the New Jersey Register, the Department is proposing amendments at N.J.A.C. 7:27-23, Prevention of Air Pollution from Architectural Coatings. The primary benefit of the proposed amendments to both the consumer products and architectural coatings rules will be the reduction in the emissions of volatile organic compounds (VOCs), which are precursor emissions that lead to the formation of tropospheric (ground level) ozone. Exposure to ground-level ozone is a health concern in New Jersey. Moreover, New Jersey is in nonattainment of the Federal ozone NAAQS and the proposed amendments will help in the goal of attainment of the ozone NAAQS. Ozone is a highly reactive gas formed in the lower atmosphere or troposphere from the chemical reaction involving oxides of nitrogen, and VOCs in the presence of sunlight. At elevated levels, it causes a variety of human health effects, as well as damage to crops and materials. The ozone NAAQS was established by the United State Environmental Protection Agency (EPA) pursuant to the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., to set health and welfare standards for air pollutants. By reducing emissions that contribute to increases in ground level ozone, the proposed

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amendments are expected to mitigate the impacts of climate change. As an additional co-benefit, the amendments are projected to reduce emissions of hazardous and toxic air pollutants.

The Department's rules at N.J.A.C. 7:27-24, Prevention of Air Pollution from Consumer Products, govern two categories of consumer products: chemically formulated consumer products, and portable fuel containers and spill-proof spouts. The proposed amendments to the rules governing chemically formulated consumer products will add eight new categories (with new VOC limits) of consumer products, making the categories subject to new VOC emission limits. The proposed amendments will also lower (make more stringent) the VOC emission limits for 13 existing categories, for products manufactured on or after the operative date of the new VOC limits. The proposed amendments also serve as proposed revisions to the New Jersey State Implementation Plan for the attainment and maintenance of the eight-hour ozone NAAQS. The proposed amendments governing fuel containers and spill-proof spouts clarify an existing exemption and update registration requirements consistent with the chemically formulated consumer products amendments.

The proposed amendments to the rules governing chemically formulated consumer products are primarily based upon the Ozone Transport Commission's 2010, 2012, and 2013 Model Rules for Consumer Products (OTC 2010 CP model rule; OTC 2012 CP model rule; OTC 2013 CP technical amendment). See <https://otcair.org/document.asp?fview=modelrules>. The OTC CP model rules are largely based upon the 2004, 2006, and 2009 California rule amendments for consumer products (CARB 2004 CP amendments; CARB 2006 CP amendments, and CARB 2009 CP amendments). See <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/formal-rulemaking-documents>, June 24, 2004,

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November 17, 2006, and September 24, 2009. The OTC 2010 and 2012 CP model rules and 2013 CP technical amendment processes were regional processes, which included several stakeholder meetings, conference calls, and opportunities to comment. The Department also sent out notices to its email listserv publicizing the OTC open comment period and soliciting comments on each of the model rules. In addition, the Department held a stakeholder meeting on September 6, 2019, to discuss this proposed rulemaking. On June 15, 2022, the Department sent an electronic notice to stakeholders indicating that it would accept supplemental written comments through Monday, July 28, 2022.

The portions of this Summary that follow are organized by topic; consequently, some provisions of the amendments, such as the definitions, are discussed in several places in the Summary.

The Connection Between Climate Change and Ozone

In 2007, the New Jersey Legislature passed the Global Warming Response Act (GWRA), which recognized that climate change, primarily caused by emissions of heat-trapping greenhouse gases, poses a threat to the earth's ecosystems and environment. See N.J.S.A. 26:2C-38. Additionally, the Legislature recognized that reducing emissions of greenhouse gases was not only possible, but also necessary to prevent further detrimental impacts on human, animal, and plant life. *Id.* A dozen years later, the Legislature amended the GWRA to acknowledge the role that short-lived climate pollutants play in climate change and to require the State to develop programs to reduce emissions of both greenhouse gases and short-lived climate pollutants through a comprehensive strategy. See P.L. 2019, c. 197.

On January 27, 2020, Governor Murphy issued Executive Order No. 100 (2020) (EO No.

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100), which directs the Commissioner of the Department to, among other things, reform and modernize its air and land use rules to mitigate the effects of climate change and to gather information to inform future climate-related rulemaking. In response to EO No. 100, former Commissioner Catherine McCabe issued Administrative Order 2020-01 (AO No. 1), <https://www.nj.gov/dep/njpact/>, which directs the Department to propose rules that reduce emissions of CO₂ and short-lived climate pollutants, as well as identify the rules and programs that should be updated to better respond to the challenges presented by climate change.

As noted in the Department's 2020 Report on Climate Change, the public health and environmental concerns associated with ozone pollution are heightened because of the interaction between climate change and air quality. See New Jersey Department of Environmental Protection, New Jersey Scientific Report on Climate Change, June 2020, p. 61, <https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf> (2020 Report on Climate Change). High temperatures, ample sunshine, and stagnant air masses are conducive to high ground-level ozone (ozone) levels. *Ibid.* Also, though precursor emissions may decrease, they are expected to remain high in dense urban areas and air quality generally will deteriorate due to a warming climate. *Id.* at 62. To mitigate the impacts of climate change, the Department must not only reduce pollutants that directly contribute to climate change, such as greenhouse gases and short-lived climate pollutants, but also pursue strategies to reduce pollutants, such as VOC emissions, which are a precursor of ground-level ozone.

Consumer Products Rules Background

The Department's rules at N.J.A.C. 7:27-24, Prevention of Air Pollution from Consumer Products, as well as the Federal rules at 40 CFR 59.200 through 59.214, National Volatile

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Organic Compound Emission Standards for Consumer Products, control emissions from consumer products by establishing limits on the VOC content of chemically formulated products. Consumer products include items sold to retail customers for personal, household, or automotive use. They also include items used in commercial or institutional settings, such as automotive repair facilities, beauty shops, schools, and hospitals. VOCs, which are precursors to ozone formation, are emitted from these products as the result of the evaporation of solvents during use. Consumer product categories in New Jersey's rules include products such as hair styling products, air fresheners, glass and general-purpose cleaners, products used in the maintenance and repair of motor vehicles, such as brake and engine cleaners and windshield washer fluid, adhesives and sealants in small containers, anti-perspirants and deodorants, household insecticides, and other miscellaneous products.

The consumer products rules also establish restrictions on the use of paradichlorobenzene and three other chlorinated toxic air contaminants, methylene chloride, perchloroethylene, and trichloroethylene. Methylene chloride and trichloroethylene are exempt from the definition of VOC because they have been designated by the EPA as having negligible photochemical reactivity to form ozone; therefore, they do not contribute to the total VOC content in a product and would be eligible to be used as replacement solvents if not prohibited.

The proposed amendments for consumer products primarily impact manufacturers of the products. In order to comply with the rules, manufacturers may have to reformulate some of their products to meet the new rule requirements or refrain from selling non-compliant products in New Jersey for use in New Jersey. Distributors and suppliers will need to ensure proper

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distribution of products to the appropriate states. Retailers must take precautions so as not to be held accountable for selling non-compliant products.

New Jersey's first consumer products rules for the control of VOCs were adopted in 1995 (27 N.J.R. 4291(a)). In 1998, the EPA promulgated consumer and commercial product regulations (40 CFR Part 59) that established VOC formulation limits for less than half of the inventory of VOC-emitting consumer products. The same year, New Jersey submitted an attainment demonstration for its multi-state nonattainment areas to the EPA. The EPA conditionally approved the attainment demonstration, contingent upon New Jersey submitting additional measures needed to achieve greater emission reductions. The EPA issued a similar action to the states in New Jersey's multi-state nonattainment areas and formally requested that the states work together to develop regional strategies to reduce emissions. Those states, in conjunction with the OTC, worked together to develop regional model rules to reduce emissions of ozone precursors to meet EPA requirements. The regional model rules were based on the California Air Resource Board (CARB) rules.

In 2001, the OTC developed a model rule for consumer products. This model rule regulated consumer product categories not covered by the EPA's 1998 regulation and specified more stringent VOC content limits than the Federal rule. As CARB had already addressed VOC emissions from consumer products that the EPA had not, the OTC's 2001 Model Rule for Consumer Products (OTC 2001 CP model rule) closely mirrored a series of CARB's consumer products rules. In 2006, the OTC adopted a new model rule (OTC 2006 CP model rule) based on VOC limits in California rules that were not included in the OTC 2001 CP model rule. See <https://otcair.org/document.asp?fview=modelrules>.

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On April 7, 2004 and October 30, 2008, the Department amended its consumer products rules (36 N.J.R. 2218(a) and 40 N.J.R. 6769(a)) based on the OTC 2001 and 2006 CP model rules, respectively. Since the 2008 adoption, the Department has made no substantive amendments to the consumer products rules at N.J.A.C. 7:27-24. The OTC amended the model rule for consumer products in 2010, 2012, and 2013. The OTC 2010 CP model rule is based on the CARB 2004 and 2006 CP amendments; the OTC 2012 CP model rule for multi-purpose solvents and paint thinners is based on the CARB 2009 CP amendments; the OTC 2013 CP technical amendment for dual purpose air fresheners/disinfectants is based on the CARB 1990 CP amendments. See <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program>; 17 CCR 94507- 94517.

The proposed amendments to the chemically formulated consumer products rules are primarily based upon the OTC's 2010 and 2012 CP model rules, and the OTC 2013 CP technical amendment. In addition, the Department proposes amendments to definitions that are not included in these OTC model rules but are based on the most current definitions in California's August 1, 2022, consumer products regulations (CA 2022 CP regulations). See <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/current-regulations>. The Department proposes these amendments for consistency with California's definitions of product categories.

CARB prepares substantial technical documentation as part of its consumer products regulation development process, including the technical basis for its VOC content limits. The OTC and the Department reviewed CARB's VOC limits and data for applicability in the Ozone Transport Region (OTR), which includes New Jersey, and generally agreed with the conclusions.

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As it did when it drafted the 2001 and 2006 CP model rules, the OTC members relied on the experience, research, and technical expertise of CARB in drafting the OTC 2010 and 2012 CP model rules, as well as the OTC 2013 CP technical amendment. For supporting documentation on the OTC 2010 and 2012 CP model rules, see the OTC Model Regulations for Nitrogen Oxides (NO_x) and Photo-Reactive Volatile Organic Compounds (VOCs) Technical Support Document (TSD) dated August 25, 2016 (OTC 2016 TSD) posted on the OTC's website at <https://otcair.org/document.asp?fview=modelrules>. Supporting documentation for California's amendments to its consumer product regulations can be found in the CARB 1990, 2004, 2006, and 2009 CP Staff Reports. See <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/formal-rulemaking-documents>.

Tables 1 and 2 below summarize the chemically formulated consumer product categories that are affected by the proposed amendments.

Table 1

New Categories with VOC Limits

Chemically Formulated Consumer Product Category	Product Form	Maximum Allowable VOC Content (wt%)
Anti-static product	Aerosol	80
Automotive windshield cleaner	All	35
Disinfectant	Aerosol	70
	Non-aerosol	1
Dual purpose air freshener/disinfectant	Aerosol	60

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Hair finishing spray (previously Hair spray at same VOC limit)		55
Multi-purpose solvent	Non-aerosol	3
Paint thinner	Non-aerosol	3
Sanitizer	Aerosol	70
	Non-aerosol	1
Temporary hair color	Aerosol	55

Table 2

Previously Regulated Categories with More Restrictive VOC Limit

Chemically Formulated Consumer Product Category	Product Form	Existing Maximum Allowable VOC Content (wt%)	New Maximum Allowable VOC Content (wt%)
Bathroom and tile cleaner	Non-aerosol	15	1
Brake cleaner	All	45	10
Carburetor or fuel -injection air intake cleaner	All	45	10
Construction, panel, and floor covering adhesive	Non-aerosol	15	7

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Engine degreaser	Aerosol	35	10
Floor polish or wax	Resilient	7	1
	Non-resilient	10	1
Furniture maintenance product	Non-aerosol	17	12
General purpose cleaner	Aerosol	10	8
General purpose degreaser	Aerosol	50	10
Laundry starch/sizing/fabric finishing products	All	5	4.5
Nail polish remover	All	75	1
Oven cleaner	Non-aerosol	5	4
Shaving gel	All	7	4

Key Differences Among the New Jersey Rules, the CARB Rules, and the OTC Model Rules

To maximize consistency and uniformity of the rules from state to state, the OTC strives to ensure that the VOC limits, definitions, exemptions, and flexibility options in the updated versions of the OTC model rules are the same as those used in California's consumer products regulations (CA CP regulations). However, it is not always practical or feasible for the OTC or individual states to adopt rules identical to the California regulations. Hence, there are some differences between the OTC model rules and California's regulations. For instance, the operative date for compliance with the proposed VOC limits in the OTC model rules is one to

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two years or more later than the California regulations. This delayed operative date allows more time for the products to be manufactured and used in California before implementation in the northeast states.

Unlike the CARB rules, the OTC model rules and the existing and proposed New Jersey rules provide an unlimited sell-through period. In other words, any applicable consumer product manufactured before the operative date of the proposed limits can be sold, with no deadline for sell-through, to reduce the burden on small businesses and retailers in regard to tracking the products on the shelf or possibly having to clear products from the shelf.

A more detailed summary of the proposed amendments to New Jersey's consumer products rules follows:

Product Category Definitions and Standards at N.J.A.C. 7:27-24.1 and 24.4

As discussed above, the proposed amendments at N.J.A.C. 7:27-24 add eight new categories subject to new VOC emission limits and lower the VOC emission limits for 13 existing categories. The number of new categories and category amendments is consistent with the OTC 2010 and 2012 model rules and the OTC 2013 technical amendment. The proposed VOC emission limits apply to products manufactured one year after the effective date of the amendments. These proposed amendments are discussed in more detail below and are based on the OTC 2010 and 2012 CP model rules and 2013 CP technical amendment, and the CA CP regulations. CARB regularly updates its rules for consumer products. With each update, CARB undertakes a great deal of research and technical analyses. Specifically, CARB staff conducts a survey of consumer products, meets with manufacturers, industry groups, the public, and the EPA, conducts technology assessments, and prepares environmental and economic analyses. The

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OTC and the Department rely on CARB's research and analysis when proposing additional categories and lowering of a VOC limit for an existing category in the rules pertaining to consumer products. See the CARB 1990, 2004, 2006, and 2009 CP Staff Reports at <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/formal-rulemaking-documents>.

The Department proposes to define new categories of consumer products at proposed amended N.J.A.C. 7:27-24.1, Definitions. The Department also proposes amending the definitions of some existing coatings. The proposed new and amended definitions are consistent with the OTC 2010 and 2012 CP model rules, the OTC 2013 CP technical amendment, the CARB 1990, 2004, 2006, and 2009 CP amendments, and/or the CA 2022 CP regulations.

Proposed New Categories

The Department proposes eight new categories and/or forms of categories with new VOC limits. The VOC limits for these new categories are shown in proposed amended Table 1 at N.J.A.C. 7:27-24.4 and are proposed to be operative one year after the effective date of the proposed amendments. For each new category or form of category, the Department proposes a corresponding VOC limit in Table 1 at N.J.A.C. 7:27-24.4, Chemically formulated consumer products: standards. The Department proposes to define each of the new categories at N.J.A.C. 7:27-24.1, Definitions. The proposed definitions are consistent with the definitions of the terms in the OTC CP model rules and/or the CA 2022 CP regulations.

Anti-Static Product (Aerosol)

As described in the CARB 2004 CP Staff Report, CARB added VOC limits for the anti-

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static product category. Generally speaking, anti-static products eliminate static electricity from a wide variety of surfaces, must dry quickly, and must not be susceptible to static ignition. The term is defined at existing N.J.A.C. 7:27-24.1. The Department's existing consumer products rules include a VOC limit for only the non-aerosol form of the anti-static product category. The Department proposes to add a VOC limit of 80 percent by weight for the aerosol form of anti-static products in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2004 CP amendments.

Automotive Windshield Cleaner

The Department proposes the new category of automotive windshield cleaner. This is an OTR-specific change based on comments received during the stakeholder process for the OTC 2010 CP model rule. The Department proposes to add a VOC limit of 35 percent by weight in Table 1 at N.J.A.C. 7:27-24.4.

Disinfectant

As described in the CARB 2006 CP Staff Report, CARB included VOC limits for the aerosol and non-aerosol forms of disinfectants in the CARB 2006 CP amendments. Disinfectants, for purposes of the proposed rules, are products 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 pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136 et seq. The Department proposes to add a VOC limit of 70 percent by weight for the aerosol form of the disinfectant category and a VOC limit of one percent by weight for the non-aerosol form of the disinfectant category in Table 1 at N.J.A.C.

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7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments.

The Department proposes to amend the definition of “disinfectant” to revise the list of products not included in the definition of disinfectant which is consistent with the definition of that product category in the CA 2022 CP regulations. The proposed amendments to the definition and the addition of a VOC limit do not; however, subject hospital or medical disinfectants, as defined in the existing rule, to the proposed VOC limit. These products are exempt, as provided at N.J.A.C. 7:27-14.2, Applicability. The exemption is mandated by the Air Pollution Control Act at N.J.S.A. 26:2C-8.b and is not in the OTC CP model rules or CA CP regulations.

Dual-Purpose Air Freshener/Disinfectant

As described in the CARB 1990 CP Staff Report, CARB added a new VOC limit for dual-purpose air freshener/disinfectant aerosols. For the purposes of the Department’s consumer products rules, dual-purpose aerosol air fresheners/disinfectants are aerosol products that the manufacturer claims will clean, freshen, or deodorize air and disinfect hard surfaces. See the proposed new definition at N.J.A.C. 7:27-24.1. As these products are designed to kill certain microbes, the EPA classifies them as in the general category of pesticides; the products are registered pursuant to FIFRA.

Consistent with stakeholder comments in 2013, that uniformity with California’s VOC limit for this product category is desirable, the Department proposes to add the dual-purpose air freshener/disinfectant aerosol subcategory, and a corresponding VOC limit of 60 percent by weight, within the air freshener product category listed in Table 1 at N.J.A.C. 7:27-24.4. See OTC 2013 CP technical amendment and CARB 1990 CP amendments.

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Hair Finishing Spray

Consistent with the CA 2022 CP regulations, the Department proposes a new category of hair finishing spray at N.J.A.C. 7:27-24.1 and 24.4, which includes products that were previously covered under the “hair spray” category. The new category and VOC limit apply to products manufactured on or after one year after the effective date of the proposed amendments. Prior to that date, the hair spray category applies. The Department proposes corresponding amendments to the definition of “hair spray.” The VOC content limit for the hair finishing spray category is 55 percent by weight, which is the same content limit pursuant to the existing rules for the hair spray category that the new category replaces. The Department proposes to add the term hair finishing spray to the list of exclusions within the definition of “hair shine” because the term hair spray is referenced as an exclusion in the existing definitions.

Multi-Purpose Solvents and Paint Thinners

As described in the CARB 2009 CP Staff Report, CARB formed two categories for the non-aerosol form of multi-purpose solvents and paint thinners. The new categories include any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing, or dissolving other organic materials. The Department proposes to add a VOC limit of three percent by weight for the non-aerosol form of the new categories in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2012 CP model rule and the CARB 2009 CP amendments.

The definition of “multi-purpose solvent” is in New Jersey’s existing rule, because it is referenced in other existing definitions. The proposed amended definition is consistent with the CA

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2022 CP regulations, with the exception of including the aerosol form of the category. The CA regulations regulate the aerosol form of the category, but this rulemaking does not include VOC limits for the aerosol form of the category. Additionally, the Department is adding a definition of “paint thinner,” consistent with the CA 2022 CP regulations, with the exception of including the aerosol form of the category. The Department is also adding a definition for “artist’s solvent/thinner,” which is used in the definition of paint thinner, consistent with the OTC 2012 CP model rule and the CARB 2009 CP amendments.

The Department is also adding additional labeling requirements for multi-purpose solvents and paint thinners at N.J.A.C. 7:27-24.5, Chemically formulated consumer products: registration and labeling multi-purpose solvents and paint thinners, which are generally consistent with the OTC 2012 CP model rule and the CA 2022 CP regulations. The OTC model rule and the CA regulations included an expiration for the additional labeling requirements seven years after adoption. However, five other OTC states that adopted the model rules did not include an expiration date for the additional labeling requirements. To be consistent with the five other OTC states that have included this provision in their adoption of the OTC 2012 CP model rule, the Department proposes to retain the additional labeling requirements without an expiration date.

Sanitizer

As described in the CARB 2006 CP Staff Report, CARB formed a new sanitizer category that consists of products that reduce, but do not necessarily eliminate, microorganisms in the air, on surfaces, or on inanimate objects, and whose label is registered as a sanitizer pursuant to

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FIFRA. Products that are labeled as both a sanitizer and a disinfectant are considered disinfectants. The Department proposes to add a VOC limit of 70 percent by weight for the aerosol form of the sanitizer category and a VOC limit of one percent by weight for the non-aerosol form of the sanitizer category in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments.

Temporary Hair Color

As described in the CARB 2006 CP Staff Report, CARB formed a new temporary hair color category that consists of products that are labeled to apply a temporary layer of color or glitter to human hair or animal fur. The Department proposes to add a VOC limit of 55 percent by weight for the new category in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments.

Proposed Lower VOC Limits for Certain Existing Categories

Based upon the research and analyses of CARB and the OTC, the Department proposes to lower (make more stringent) the VOC content limit for products that fall within certain existing product categories. For some categories, the Department is amending both the VOC content limit and the definition of the category. The number of category amendments is consistent with the OTC 2010 and 2012 model rules and the OTC 2013 technical amendment.

Bathroom and Tile Cleaner

The Department proposes to lower the VOC content limit for the non-aerosol form of the bathroom and tile cleaner category from 15 to one percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. The

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Department is also discontinuing the “all other forms” subcategory and adding a “non-aerosol” subcategory at Table 1. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, the high complying market share, the number of companies making complying products, and product information from manufacturers. The Department is also proposing to amend the definition of bathroom and tile cleaner at N.J.A.C. 7:27-24.1 to revise the list of products not included in the definition, which is consistent with the OTC 2010 CP model rule and the CA 2022 CP regulations.

Brake Cleaner (Automotive Brake Cleaner)

The Department proposes to rename “automotive brake cleaner” as “brake cleaner” and lower the VOC content limit for the category to 10 percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, existing or new technologies, testing, multiple reformulation options, and product information from manufacturers. The Department also proposes to delete the definition of “automotive brake cleaner” and add a definition for “brake cleaner” at N.J.A.C. 7:27-24.1. The proposed new definition is consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments in that it removes the reference to products that are “promoted or advertised ... to clean” and amends that language to refer to products that are “designed or labeled to remove.”

Carburetor or Fuel-Injection Air Intake Cleaner

The Department proposes to combine two forms, aerosols and non-aerosols, for the carburetor or fuel-injection air intake cleaner product category, consistent with the OTC 2010 CP

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model rule and the CARB 2006 CP amendments. In the Department's existing rules, both forms have the same VOC content limit. The Department also proposes to lower the VOC content limit for the carburetor or fuel-injection air intake cleaner product category from 45 to 10 percent by weight in Table 1 at N.J.A.C. 7:27-24.4, to be consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is viable and technically feasible based on its review of survey data, testing, and product information from manufacturers. In addition to amending the VOC content limit, the Department proposes to amend the definition of "carburetor or fuel-injection air intake cleaner" at N.J.A.C. 7:27-24.1 to include "products designed or labeled exclusively to be introduced during engine operation directly into air intake vacuum lines by using a pressurized sprayer wand," which is consistent with the CA 2022 CP regulations.

Construction, Panel, and Floor Covering Adhesive

The Department proposes to lower the VOC content limit for the construction, panel, and floor covering adhesive subcategory from 15 to seven percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, the number of companies making complying products, and product information from manufacturers. The Department also proposes to amend the definition of "construction, panel, and floor covering adhesive" at N.J.A.C. 7:27 24.1, to include references to non-aerosol adhesive and resilient flooring material, which is consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments.

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Engine Degreaser

The Department proposes to lower the VOC content limit for the aerosol engine degreaser category from 35 to 10 percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, testing, and product information from manufacturers. The Department also proposes to amend the definition of “engine degreaser” at N.J.A.C. 7:27-24.1 to add “or labeled,” which is consistent with the 2010 OTC CP model rule and the CARB 2006 CP amendments.

Floor Polish or Wax and Fabric Polish or Wax

The use of the term “fabric polish or wax” in the existing table is the result of an error in the Department’s 2004 adopted rules. The term “fabric polish or wax” in the existing table is meant to refer to “floor polish or wax,” which is a defined term in the existing rules. The Department proposes to rename “fabric polish or wax” as “floor polish or wax” in Table 1 at N.J.A.C. 7:27-24.4 and relocate the term in the table to be alphabetically correct. The Department also proposes to rename two of the three floor polish or wax subcategories: “products for flexible flooring materials” is renamed “resilient flooring materials” and “products for nonresilient flooring” is renamed “nonresilient flooring materials” in Table 1 at N.J.A.C. 7:27-24.4. The Department also proposes to reflect the name change by deleting the old terms/definitions of “products for flexible flooring” and “products for nonresilient flooring” and adding the new terms and definitions at N.J.A.C. 7:27-24.1 to be consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. The Department proposes to lower the VOC content limit for the

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resilient flooring materials subcategory of the floor polish or wax product category from seven to one percent by weight and lower the VOC content limit for the nonresilient flooring material subcategory (formerly, nonresilient flooring) of the floor polishes or wax product category from 10 to one percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, the high complying marketshare, the number of companies making complying products, and product information from manufacturers. The Department also proposes to amend the definitions of “floor polish or wax,” “nonresilient flooring material,” and “wood floor wax” at N.J.A.C. 7:27-24.1, to be consistent with the OTC 2010 CP model rule and the CA 2022 CP regulations. The proposed amendments to the definition of “floor polish or wax” will add a provision that separately defines products that fall within the category that are manufactured on or after one year after effective date of this rulemaking that will reflect the new and revised subcategories discussed above. The proposed amendments to the definition of “nonresilient flooring material” will reflect the name change and minor grammatical corrections. The proposed amendments to the definition of “wood floor wax” will identify products not included in the definition. The Department also proposes to add a new definition for “resilient flooring material” that is consistent with the OTC 2010 CP model rule and the CA 2022 CP regulations.

Furniture Maintenance Product

The Department proposes to change the name of one of the forms of the furniture maintenance product category from “all other forms except solid or paste” to “non-aerosol except solid or paste” in Table 1 at N.J.A.C. 7:27-24.4, to be consistent with the OTC 2010 CARB CP model rule and the CARB 2006 CP amendments. The Department also proposes to lower the

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VOC content limit for this form of the furniture maintenance product category from seven to three percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, the high complying marketshare, the number of companies making complying products, and product information from manufacturers. The Department proposes to amend the definition of “furniture maintenance product” at N.J.A.C. 7:27-24.1 to add additional products covered by the term, which is consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments.

General Purpose Cleaner

The Department proposes to lower the VOC content limit for the aerosol general purpose cleaner category from 10 to eight percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit was reasonable based on its review of survey data, and product information from manufacturers. The Department proposes to amend the definition of “general purpose cleaner” at N.J.A.C. 7:27-24.1 to add a provision that separately defines products that fall within the category that are manufactured on or after one year after effective date of this rulemaking that will reflect a more robust list of surfaces that the products are designed or labeled to clean, which is consistent with the CA 2022 CP regulations. The Department also proposes to add a new definition of “single purpose cleaner” at N.J.A.C. 7:27-24.1 that will distinguish those products from general purpose cleaners, consistent with the CA 2022 CP regulations.

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General Purpose Degreaser

The Department proposes to lower the VOC content limit for the aerosol general purpose degreaser category from 50 to 10 percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit was reasonable based on its review of survey data, and product information from manufacturers. The Department also proposes to amend the definition of “general purpose degreaser” at N.J.A.C. 7:27-24.1 to clarify and refine the list of products not included in the category, which is consistent with OTC 2010 CP model rule and the CARB 2006 CP amendments.

Laundry Starch/Sizing/Fabric Finish Product

The Department proposes to rename “laundry starch product” as “laundry starch/sizing/fabric finish product” and also lower the VOC content limit for the laundry starch/sizing/fabric finish category from five to four and a half percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is commercially and technologically feasible based on its review of survey data, 100 percent complying marketshare for non-aerosol products, and product information from manufacturers. The Department also proposes to amend the definition of “laundry starch product” at N.J.A.C. 7:27-24.1 to reflect the new category name and to reflect the additional “starch and sizing” qualities of the products, which is consistent with OTC 2010 CP model rule.

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Nail Polish Remover

The Department proposes to lower the VOC content limit for the nail polish remover category from 75 to one percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2006 CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, VOC formation, complying products, and product information from manufacturers.

Oven or Grill Cleaner

The Department proposes to rename “oven cleaner” as “oven or grill cleaner,” to discontinue the “liquids” subcategory and add a “non-aerosols (including pump sprays and liquids)” and lower the VOC content limit for the non-aerosol subcategory of oven or grill cleaner category from five to four percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2012 CP model rule and the CARB 2006 CARB CP amendments. CARB determined that the lower VOC content limit is reasonable based on its review of survey data, number of complying products, and product information from manufacturers. The Department also proposes to amend the definition of “oven cleaner” at N.J.A.C. 7:27-24.1 to reflect the renamed category and to distinguish it from general purpose degreasers and cleaners, which is consistent with the OTC 2012 CP model rule.

Shaving Gel

The Department proposes to lower the VOC content limit for the shaving gel category from seven to four percent by weight in Table 1 at N.J.A.C. 7:27-24.4, consistent with the OTC 2010 CP model rule and the CARB 2004 CP amendments. CARB determined that the lower

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VOC content limit is reasonable based on its review of survey data, additional technology, and product information from manufacturers.

Other Category Amendments

Automotive Wax, Polish, Sealant, or Glaze

The Department proposes to amend the definition of “automotive wax, polish, sealant or glaze” to specifically identify three subcategories of all other forms, hard paste wax, and instant detailer, which is consistent with the CA 2022 CP rules. Further, the Department proposes to replace the term “automotive hard paste wax” with “hard paste wax,” and replace “automotive instant detailer” with “instant detailer” at N.J.A.C. 7:27-24.1, to be consistent with the CA 2022 CP rules. The definitions of the new terms are the same as the existing definitions of the terms they replace.

Insecticide

The Department proposes to rename two subcategories under the “insecticide” category at N.J.A.C. 7:27-24.1 and in Table 1 at N.J.A.C. 7:27-24.4. The subcategory “lawn and garden” will be renamed “lawn or garden” and the subcategory “wasp and hornet” will be renamed “wasp or hornet” to be consistent with the CA 2022 CP rules. The Department also proposes to correct capitalization in several of the insecticide categories in Table 1 at N.J.A.C. 7:27-24.4, including the flying bug and crawling bug categories that were subdivided into aerosol and all other forms in the April 17, 2004 adoption. The Department also proposes two minor changes to the definition of “flying bug insecticide” to replace “including, but not limited to” with “such as,” as well as replace “and” with “or.” The acronym NA for not applicable was added to Table 1 to

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clarify that the original categories have been replaced.

Solvent Cleaning Machines, N.J.A.C. 7:27-24.1 and 24.2

Pursuant to existing N.J.A.C. 7:27-24.2(f), the VOC content limits in Table 1 at N.J.A.C. 7:27-24.4 do not apply to a solvent cleaning machine or to liquid products that are designed, labeled, promoted, and advertised (expressed or implied) solely for use in a solvent cleaning machine. The Department proposes an amendment to clarify that it does not apply to solvent cleaning machines, as those machines are defined at N.J.A.C. 7:27-16, Control and Prohibition of Air Pollution by Volatile Organic Compounds. The Department also proposes to replace the definition of solvent cleaning machines at N.J.A.C. 7:27-24.1, Definitions, to refer to the definition of that term at N.J.A.C. 7:27-16.1, to maintain consistency in the definitions of terms in the Air Pollution Control rules.

Other Definitions, N.J.A.C. 7:27-24.1

The Department proposes to amend or delete the following definitions at N.J.A.C. 7:27-24.1 to ensure consistency with the definitions of the same terms in the OTC 2010 and 2012 CP model rules and/or the CA 2022 CP regulations: aerosol adhesive, air freshener, all other forms, antimicrobial hand or body cleaner or soap, ASTM, astringent/toner, automotive windshield washer fluid, carpet and upholstery cleaner, consumer product, contact adhesive, dry cleaning fluid, dusting aid, electronic cleaner, energized electrical cleaner, fabric protectant, fabric refresher, footwear or leather care product, glass cleaner, hair styling product, liquid, laundry prewash, lubricant, medicated astringent/medicated toner, non-aerosol product, plasticizer, pressurized gas duster, pump sprayer, rubber and vinyl protectant, sealant and caulking compound, solid, and waterproofer. The proposed

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amendments to the definitions of “dry cleaning fluid,” “fabric protectant,” “hair styling product,” “pressurized gas duster,” and “rubber/vinyl protectant” will add a provision that separately defines products that fall within or are excluded from the category that are manufactured on or after one year after effective date of this rulemaking. The proposed amendments to the definitions of “astringent/toner,” “dusting aid,” and “glass cleaner” will add “or labeled” to indicate that the product may be “designed or labeled” for particular uses to meet the definition. The proposed amendments to the definitions of “antimicrobial hand or body cleaner or soap” and “astringent toner” will add references to products regulated by the FDA. The proposed amendments to the definition of “aerosol adhesive” will clarify that it refers to products “packaged” as an aerosol product and eliminates the word “nonrefillable” in reference to cans. The proposed amendments to the definition of “air freshener” will expand the category to include wipes and diffusers as well as dual purpose air freshener/disinfectant products. The proposed amendments also expand the list of products not covered under this category to include odor remover/eliminators. The proposed amendments to the definition of “all other forms” will clarify that products covered under the category include the liquid containing or liquid impregnated portion of cloth or paper wipes, such as towelettes. The proposed amendments to the definition of “ASTM” will clarify that it is an organization that has gone through a name change. The proposed amendments to the definition of “automotive windshield washer fluid” will clarify that the category includes products labeled or designed for bug removal and that the category does not include fluids placed in a new vehicle at the time of manufacture. The proposed amendments to the definition of “carpet/upholstery cleaner” will clarify that the category

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includes products used on household furniture and the interior of motor vehicles. The proposed amendments to the definition of “consumer product” will be expanded to include antiperspirants and deodorants. The proposed amendments to the definition of “contact adhesive” will be clarified to indicate that it is limited to non-aerosol adhesives matching the remainder of the definition. The proposed amendments to the definition of “electronic cleaner” will clarify the types of products that do not meet the criteria of the category. The proposed amendments to the definition of “energized electrical cleaner” will correct language related to the performance of products within the category and expand the list of products that are not covered under the category. The proposed amendments to the definition of “fabric refresher” will delete the reference to “soft household surface sanitizers” in the description of products not covered by the term. The proposed amendments to the definition of “footwear or leather care product” replaces the term polycarbonate with plastic. The proposed amendments to the definition of “laundry prewash” will clarify that the term pertains to products applied to laundering in a “wet cleaning process.” The proposed amendments to the definition of “liquid” will include corrections in grammar and an update to the ASTM Method reference. The proposed amendments to the definition of “lubricant” will clarify the products not covered through the definition, including those used exclusively in the manufacturing process. The proposed amendments to the definition of “medicated astringent/medicated toner” will clarify that the term does not include personal fragrance products. The proposed amendments to the definition of “non-aerosol product” will simplify the definition to indicate that a non-aerosol product is a product that is not an aerosol product. The proposed amendments to the

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definitions of “plasticizer” and “solid” will include updates to the ASTM Method references. The Department proposes to delete the term and definition of “pump sprayer” as repetitive because there is an identical definition for the term “pump spray.” The proposed amendments to the definition of “sealant or caulking compound” will expand the list of products not covered under the definition to include pipe thread sealants and pipe joint compounds. The proposed amendments to the definition of “waterproofers” will clarify that the definition only covers nonaerosol products.

The Department also proposes to add a definition of automotive consumer product, which is a term used in the existing rules, but not previously defined. The proposed definition is consistent with the CARB Airborne Toxic Control Measure (ATCM) for Emissions of Chlorinated Toxic Air Contaminants from Automotive Maintenance and Repair Activities, see <https://ww2.arb.ca.gov/resources/documents/atcm-automotive-maintenance-and-repair-activities-0>.

The Department proposes to add definitions for “no rinse shampoo” and “thermal protectant,” which are used in the proposed amended definition of “hair styling product,” consistent with the CA 2022 CP regulations.

The Department proposes new definitions for “clear coating” and “coatings solids.” The Department also proposes amended definitions for “aerosol coating product” and “vinyl/fabric/leather/polycarbonate coating,” including being renamed to “vinyl/fabric/leather/plastic coating.” The new and amended definitions are not regulatory categories with VOC content limits, but are used in multiple other definitions as exclusions or in test method titles. The CA 2022 CP regulations do not define these terms, but rather

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when the terms are used, the CA 2022 CP regulations reference the definitions of the terms as defined in section 94521(a), which is the California aerosol coating rule. As New Jersey does not have an aerosol coating rule, rather than referencing the California aerosol coating rule, the Department has proposed adding the “clear coating” and “coating solids” definitions consistent with the California aerosol coating rule. The proposed amendments to the definition of “aerosol coating product,” which are consistent with the California aerosol coating rule, will clarify the type of container and that the definition may include other coating solid ingredients. Additionally, the proposed amendments to the definition of “vinyl/fabric/leather/plastic coating” will clarify that these products are an aerosol coating that does not include fabric protectant.

The Department proposes to add new definitions for “high temperature coating,” “industrial maintenance coating,” and “zinc rich primer,” which are used in the definitions of “multi-purpose solvent” and “paint thinner.” The proposed new definitions for “high temperature coating,” “industrial maintenance coating,” and “zinc rich primer” are consistent with the 2012 OTC CP model rule and the CA 2022 CP regulations. The Department also proposes to replace the definition of “floor coating,” which is used in the existing definition of “anti-static product.” Each of these terms is defined by referring to the definitions in the Department’s Prevention of Air Pollution from Architectural Coatings rules at N.J.A.C. 7:27-23.2 to maintain consistency among definitions of terms throughout the Department’s Air Pollution Control rules, to the extent possible.

The Department proposes to add a new definition for “exempt compound” to coincide with its use at N.J.A.C. 7:27-24.7(b). The definition describes those compounds excluded from

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the definition of volatile organic compound due to reactivity potential to form ozone and is consistent with the existing definition at N.J.A.C. 7:27-23, Prevention of Air Pollution from Architectural Coatings.

The Department proposes to delete the definition of “soft household surface sanitizer” because it is not used in the proposed amended subchapter.

The Department proposes to amend the definition of “stick product” to clarify that it applies only in the context of antiperspirants or deodorants. The definition of “stick product” does not apply when the word “stick” is used in the definition of “hair styling product.”

The Department proposes to add to the definition of “deodorant body spray” that a deodorant body spray product that indicates or depicts on the container or packaging, or on any sticker or label affixed thereto, that it can be used on or applied to the human axilla, is a deodorant. This provision is in the existing definition of deodorant, however, is also being added to the definition of deodorant body spray to be consistent with CA 2022 regulations.

The Department proposes to change the definition of “tire sealant and inflation” to “tire sealant and inflator” to be consistent with the term in Table 1.

The Department proposes to clarify, in the definition of “web spray adhesive,” the exclusion of mist spray adhesives, rather than all mist sprays.

Other Amendments to Standards at Chemically Formulated Consumer Products: Standards, N.J.A.C. 7:27-**24.4**

Dilution

Existing N.J.A.C. 7:27-24.4(b) describes the methods used for determining compliance with a VOC content limit if the label or accompanying literature indicates that the product should

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be diluted prior to use. The Department proposes to amend this provision to exclude multi-purpose solvent and paint thinner products from using this method, which is consistent with the OTC 2012 CP model rule.

Sell-Through Provision

The sell-through provision, at existing N.J.A.C. 7:27-24.4(d), allows products that are manufactured prior to the operative date of a VOC content limit to be sold after the operative date, if the product complies with the VOC content limit at the time the product is manufactured and if the product displays a date or date-code. The Department proposes to amend this provision to include an additional requirement for the sell-through provision. Specifically, for a product to be eligible for the sell-through provision, the manufacturer of the chemically formulated consumer product must file an explanation of the date-code in accordance with the registration and labeling requirements at N.J.A.C. 7:27-24.5. The requirement to file an explanation of the date-code is at existing N.J.A.C. 7:27-24.5(e).

Most Restrictive Limit

The Department proposes new N.J.A.C. 7:27-24.4(g) to clarify which VOC content limit applies when a product could fall under more than one category and the definitions exclude each other. In such a case, the lower (more stringent) VOC standard will apply. The Department proposes new N.J.A.C. 7:27-24.4(h) to clarify that certain product categories that make ancillary claims that the product can be used for disinfecting or sanitizing are not subject to the VOC content limit for disinfectant or sanitizer as that is not their primary purpose, such as general purpose cleaners and fabric refreshers.

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Obsolete Provisions

The Department proposes to delete existing N.J.A.C. 7:27-24.4(f), which requires a manufacturer to meet the lowest applicable VOC content limit if an aerosol adhesive could be classified in more than one chemically formulated consumer product category. The subsection is not necessary because aerosol adhesives are included in a similar provision for all categories at recodified N.J.A.C. 7:27-24.4(f). The Department proposes to delete N.J.A.C. 7:27-24.4(g) regarding FIFRA-registered insecticides manufactured before January 1, 2009, because it is outdated and no longer necessary.

IPE, ACP, or Variances

Existing N.J.A.C. 7:27-24.4(j) and the definitions of alternative control plan (ACP) and innovate product exemption (IPE) at N.J.A.C. 7-27-24.1 exempt products from the VOC content limits if those products have been granted an IPE, ACP, or variance by another air pollution control agency of another state that has adopted a consumer products rule based on or equivalent to the OTC 2001 CP model rule. The OTC 2001 CP model rule is outdated since the OTC developed subsequent consumer product model rules. Further, not all states in the OTR adopt the OTC CP model rules in a similar manner or timeframe. As a result, the Department proposes to amend this provision to exempt products that have received an IPE, ACP, or variance from a state that has adopted a consumer products rule with VOC content limits that are at least as stringent as New Jersey's. This language will eliminate references to potentially stale or inapplicable model rules.

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Toxic Compounds

Existing N.J.A.C. 7:27-24.4(m) through (t) prohibit certain toxic compounds from being used in consumer products above trace amounts, prescribe the timeframes for when the products must comply and can no longer be sold, as well as set forth requirements for manufacturers to notify distributors and retailers that certain products cannot be sold after a certain date. The Department proposes to consolidate these provisions into new N.J.A.C. 7:27-24.4(m) and use tables to make the information clearer and consistent with the CA 2022 CP regulations. The Department proposes to delete existing (m) through (q), (s), and (t). New Tables 2 and 3 at N.J.A.C. 7:27-24.4(m) provide a list of product categories in which the use of chlorinated toxic air contaminants and para-dichlorobenzene is prohibited above trace amounts and establishes the operative date and sell-through date for each product category. Products that were manufactured before the operative date may be sold, supplied, or offered for sale until the corresponding sell-through date if the product complies with the product dating requirements described at N.J.A.C. 7:27-24.5. As at existing N.J.A.C. 7:27-24.4(o) or (p), any person who sells or supplies such a product to a distributor or retailer within six months before the sell-through date must notify the purchaser of the end of the sell-through period.

In addition to the existing rule's categories of products in which the use of chlorinated toxic air contaminants and para-dichlorobenzene is prohibited above trace amounts, proposed new Table 2 includes the following new categories: construction, panel, and floor covering; bathroom and tile cleaner; non-aerosol multi-purpose solvent; oven or grill cleaner; and non-aerosol paint thinner.

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Aromatic Compound Content of Multi-Purpose Solvents

The Department proposes, at new N.J.A.C. 7:27-24.4(n), to include new requirements for the non-aerosol form of multi-purpose solvents and paint thinners. Specifically, the Department proposes to prohibit the sale of products that contain greater than one percent aromatic compound content by weight. The proposed new term “aromatic compound” is defined at N.J.A.C. 7:27-24.1.

Aerosol Adhesives

The Department proposes, at new N.J.A.C. 7:27-24.4(o), to include new requirements for aerosol adhesives. These requirements were included in all versions of the OTC model rules, however, were excluded from the New Jersey rules in error. The requirements provide guidance to manufacturers regarding the applicability of the special purpose spray adhesive category.

Chlorinated Toxic Contaminant

The Department proposes to replace the references to methylene chloride, perchloroethylene, or trichloroethylene at existing N.J.A.C. 7:27-24.4(r) (recodified as subsection (p)) with the term “chlorinated toxic air contaminant.” “Chlorinated toxic air contaminant” is defined at N.J.A.C. 7:27-24.1 as “methylene chloride, perchloroethylene, or trichloroethylene,” making the reference to the individual compounds unnecessary.

Table 1 Formatting

The Department proposes to amend the notes to Table 1. In particular, new note 11 defines “NA” or “not applicable.” Proposed note 11 does not identify specific categories for a coating for which the VOC limit is no longer applicable. Instead, the new note explains that if a specific category’s VOC limit is no longer applicable, the VOC limit for a coating that would otherwise fall

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within that category is determined based on the definitions of applicable categories for which there is an applicable VOC limit, and any other relevant provision of the subchapter. The addition of new note 11 makes existing note 5 unnecessary; accordingly, existing note 5 is deleted.

The Department also proposes to add new notes 4 and 6 to explain the renaming of the automotive brake cleaner category to brake cleaner and the additional requirements pertaining to floor wax strippers. Existing note 4 is recodified as note 5. The Department proposes to add new notes 7 and 8 to identify subcategories that will be renamed. Similarly, the Department proposes new note 9, which clarifies that products that meet the existing definition of the hair spray category will be subject to the definition of the newly proposed hair finishing spray category beginning one year after the effective date of this rulemaking. The Department's other proposed amendments to the notes clarify VOC content limits or additional requirements pertaining to hair gels and charcoal lighter material.

The glass cleaner all other forms category was renamed to non-aerosol in the April 7, 2004 adoption. The acronym NA for not applicable was added to the table to clarify that the original category has been replaced.

The Department proposes to reorganize some of the terms in Table 1 at N.J.A.C. 7:27-24.4 to place terms in alphabetical order. The Department proposes to replace the existing short form of "not applicable," which is "N/A" in the existing table, with "NA," and correct the capitalization of words for consistency.

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Testing, N.J.A.C. 7:27-24.7

Existing N.J.A.C. 7:27-24.7 sets forth the test methods that a manufacturer of a chemically formulated consumer product must use to determine whether the product complies with the subchapter. The Department proposes to amend the section to reflect the most recent editions of the required test methods. The Department proposes similar amendments throughout the subchapter. Other amendments to the section replace the physical address of the organizations that establish the test methods with their web addresses.

The Department proposes to amend the compliance requirements at N.J.A.C. 7:27-24.7(b) to require that testing for compliance with the subchapter be performed using the CARB's latest test method 310. The required test method is consistent with the CA 2022 CP regulations.

Proposed new N.J.A.C. 7:27-24.7(h) prescribes the method for determining compliance with the requirements regarding the aromatic compound content of any multi-purpose solvent or paint thinner, which are new categories. The required use of the method is consistent with the OTC CP model rules and the CARB CP amendments.

Portable Fuel Containers and Spill-Proof Spouts: Certification Requirements, N.J.A.C. 7:27-24.8

The Department is proposing amendments at N.J.A.C. 7:27-24.8, Portable fuel containers and spill-proof spouts: certification requirements, that are specific to New Jersey and unrelated to the CARB or OTC rules. Existing N.J.A.C. 7:27-24.8(d) provides an exemption if an innovative product exemption or variance has been issued by CARB, the EPA, or by the air pollution control agency of another state that has adopted a portable fuel container rule that is based on or substantially equivalent to the OTC Model Rule for Portable Fuel Containers dated March 6, 2001 (OTC 2001 PFC model rule). The OTC 2001 PFC model rule is outdated. Further, the

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OTC CP model rules are not always adopted by the states in the OTR in a similar manner or timeframe and the EPA adopted a Federal portable fuel container regulation after the OTC 2001 PFC model rule. As a result, the Department proposes to provide an exemption when CARB, the EPA, or another state has adopted a consumer products rule that is substantially equivalent to New Jersey's existing rules. This language will eliminate references to potentially stale or inapplicable model rules in the future. In addition, the Department proposes to correct the reference to N.J.A.C. 7:27-24.4(j)3 at 24.8(e)4. N.J.A.C. 7:27-24.8(e)4 refers to requirements for a variance. The variance provisions are at N.J.A.C. 7:27-24.4(k)3, not paragraph (j)3.

Miscellaneous Amendments

Electronic Submittals

Throughout the rules is the requirement that manufacturers submit documents to the Department. The Department is removing the option of submitting those documents in hard copy, except in a limited circumstance. For example, N.J.A.C. 7:27-24.5(a) and 24.10(e) allow a manufacturer to make a paper submission if the manufacturer could demonstrate a hardship. The Department has never received a hardship request to submit a registration through the mail, rather than email; accordingly, the Department does not believe this exemption is needed.

Pursuant to proposed amended N.J.A.C. 7:27-24.3(d) and 24.8(f), the Department will accept a hard copy (non-electronic) submittal if the manufacturer asserts a claim of confidentiality as part of an alternative control plan, innovative product exemption, or variance only, not for registration data, as provided at N.J.A.C. 7:27-1. The Department is also amending N.J.A.C. 7:27-24.3(c) and 24.4(l) to clarify that a claim of confidentiality may not be submitted to the Department electronically. A manufacturer shall submit their confidentiality claim by

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hardcopy format only. Proposed amended N.J.A.C. 7:27-24.3(d) updates the address for submitting the hard-copy documents.

Civil Administrative Penalties and Requests for Adjudicatory Hearings, N.J.A.C. 7:27A-3.10

The Department proposes to amend the Civil Administrative Penalties and Requests For Adjudicatory Hearings at N.J.A.C. 7:27A-3.10 to update references to cross-references that are changed in the proposed rules. The Department is adding one new penalty that corresponds with the additional labeling requirements for multi-purpose solvents and paint thinners. The proposed penalties are consistent with existing penalties for comparable labeling violations of other Department rules, such as a violation of N.J.A.C. 7:27-24.5(f), pertaining to labeling requirements for aerosol adhesives.

Pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 through 133, a person responsible for a minor violation is afforded a period of time by the Department to correct the violation in order to avoid being subject to a penalty. Based upon the criteria set forth at N.J.S.A. 13:1D-129, the Department has determined the proposed new penalties at N.J.A.C. 7:27A-3.10(m) are minor, and, thus, subject to a grace period. Generally, the Department has determined that those violations that do not result in excess emissions (and, therefore, pose minimal risk to the public health, safety, and the environment) and do not materially and substantially undermine or impair the goals of the regulatory program are classified as “minor.” Pursuant to the existing rules, a minor violation can be ineligible for a grace period if the conditions at N.J.A.C. 7:27A-3.10(s) are not met.

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Social Impact

The Department anticipates that the proposed amendments will have a positive social impact in New Jersey. As explained in the Summary above and Environmental Impact statement below, the Department expects the proposed amendments will reduce emissions of VOCs, which is a precursor of ground-level ozone and may cause adverse health effects. By reducing emissions of this harmful air pollutant, the Department expects corresponding health benefits, resulting in a positive social impact, particularly for individuals who are more susceptible to the health impacts.

Adverse Health Impacts of Ground-Level Ozone

“High ground-level ozone concentrations have been found to have a varying degree of impact on human health, ranging from eye irritation to severe respiratory distress and can lead to chronic illness or premature death.” See New Jersey Department of Environmental Protection, New Jersey Scientific Report on Climate Change, June 2020, pp. 63-64, <https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf> (2020 Report on Climate Change). Ozone exposure can cause several health effects, including irritation of the lungs, which can make the lungs more vulnerable to diseases, such as pneumonia and bronchitis, increase incidents of asthma and susceptibility to respiratory infections, reduce lung function, and reduce an individual’s ability to exercise and aggravate chronic lung diseases. See EPA Health Effects of Ozone Pollution, <https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution>). Increased ozone concentrations can severely affect the quality of life for susceptible populations (children, the elderly, and asthmatics) and present health risks for everyone. *Ibid.* Exposure to ozone for several hours at relatively low concentrations significantly reduces lung function and induces respiratory inflammation in normal, healthy people during

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exercise. This decrease in lung function is generally accompanied by symptoms such as chest pain, coughing, sneezing, and pulmonary congestion. Studies consistently report associations between short-term ozone exposures and total non-accidental mortality, which includes deaths from respiratory causes. Long-term exposure to ozone is linked to aggravation of asthma and is likely to be one of many causes of asthma development. Long-term exposure to higher concentrations of ozone may also be linked to permanent lung damage, such as abnormal lung development in children.

EPA estimates that attaining a 70 ppb health standard for ozone by 2025 will prevent the following, annually: 230,000 cases of exacerbated asthma, 960 hospital admissions and emergency room visits, and 11,000 cases of upper and lower respiratory symptoms. See Implementing EPA's 2015 Ozone Air Quality Standards dated August 16, 2018, p. 22 at <https://fas.org/sgp/crs/misc/R43092.pdf>. As such, the Department's proposed amendments would not only yield greater air quality benefit, but also would save lives and money and provide better living conditions for the people of New Jersey, especially the susceptible populations.

Additionally, there is some evidence that the health impacts of increased ozone may be elevated when combined with other climate-related impacts, such as the higher temperatures that occur during heat waves. See 2020 Report on Climate Change at 66. This is particularly significant for New Jersey's urban areas where high temperatures are often accompanied by high levels of other local air pollutants. See *ibid*.

Adverse Health Impacts from VOCs, HAPs, and Toxic Air Pollutants

As discussed above, high levels of ground-level ozone have been linked to negative health impacts. Also, in addition to contributing to increased ozone concentrations, VOC

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emissions have been associated with other negative health effects. See EPA Volatile Organic Compounds' Impact on Indoor Air Quality, <https://www.epa.gov/indoor-air-quality-iaq/volatile-organic-compounds-impact-indoor-air-quality>. VOCs are emitted as gases from certain solids or liquids. VOCs include a variety of chemicals, some of which may have short- and long-term adverse health effects. Concentrations of many VOCs are consistently higher indoors (up to 10 times higher) than outdoors. VOCs are emitted by a wide array of products numbering in the thousands. Health effects may include: eye, nose, and throat irritation; headaches; loss of coordination; nausea; and damage to liver, kidney, and central nervous system. Some organics are suspected or known to cause cancer in humans.

In addition, several VOCs are also classified as hazardous air pollutants (HAPs) pursuant to the Clean Air Act (42 U.S.C. § 7412(b)). HAPs are substances that cause serious health effects including, but not limited to, cancer, birth defects, nervous system problems, and death due to massive accidental releases. See EPA Hazardous Air Pollutants at: <https://www.epa.gov/haps>. Common HAPs used in adhesives and sealants, for example, include methyl ethyl ketone, methyl isobutyl ketone, methanol, toluene, xylenes, hexane, and vinyl acetate.

The proposed amendments will also directly reduce chlorinated toxic compounds (methylene chloride, perchloroethylene, and trichloroethylene) from consumer products. Exposure to methylene chloride, perchloroethylene, and trichloroethylene may result in both cancer and non-cancer (acute and chronic) health effects to off-site receptors and on-site workers. See CARB ATCM for Emissions of Chlorinated Toxic Air Contaminants from Automotive Maintenance and Repair Activities, <https://ww2.arb.ca.gov/resources/documents/atcm-automotive-maintenance-and-repair-activities->

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0. The primary route of human exposure for these compounds is inhalation. Non-cancer effects from exposure to perchloroethylene include headache, dizziness, rapid heartbeat, and liver and kidney damage. Non-cancer effects from exposure to methylene chloride include cardiac arrhythmia and loss of consciousness. Non-cancer effects from exposure to trichloroethylene include headache, nausea, tremors, and respiratory irritation. These health effects may also result from exposures that occur within the workplace for all three compounds. CARB noted that alternative products and processes are effective in cleaning and degreasing, based on claims that manufacturers make on the product labels of non-chlorinated products and on their websites.

Additional benefits from the proposed rules include reduced wastewater and hazardous waste contamination, and reduced workplace exposure.

Economic Impact

The Department does not anticipate a significant adverse economic impact on consumer product manufacturers, distributors, retailers, businesses that use consumer products, or consumers. The Department anticipates that the proposed amendments may result in increased costs to consumer products manufacturers, and may have an economic impact on distributors, retailers, contractors, and other associated businesses if any potential increase in manufacturing costs is passed on and dampen demand. The proposed amendments may also have a positive economic impact on certain companies, such as those that supply solvents, other chemicals, and equipment for use in reformulating the products. The Department also anticipates that the proposed amendments will result in reduced ozone concentrations and exposure to VOCs,

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leading to health care savings. The Department does not anticipate any significant adverse economic impacts for manufacturers, distributors, retailers, painting contractors, or consumers.

Cost-Benefit Analysis

The cost-effectiveness of a proposed emission limit for a consumer product is estimated using the ratio of total dollars to be spent to comply with the limit (as an annual cost) to the mass reduction of the pollutant(s) to be achieved by complying with that limit (in annual pounds or tons). To calculate the cost-effectiveness of this rulemaking, the Department relied, in large part, on the economic analyses performed by CARB for its 2004, 2006, and 2009 CP amendments and the OTC 2010 and 2012 CP model rules and the OTC 2016 TSD. CARB economic analyses can be found in the CARB Initial Statement of Reasons and Technical Support Documents for each of the rule amendments (dated 2004, 2006, and 2008). CARB reports can be downloaded from CARB's website at <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/formal-rulemaking-documents>. The OTC CP model rules and the OTC 2016 TSD can be downloaded from the OTC website at [OTCAir.org](https://www.otc.ca.gov/).

The Department took a conservative approach to its economic analyses by not modifying certain of CARB's assumptions. For example, a number of non-recurring costs, like reformulation, were included in CARB's economic analyses. However, many of the manufacturers that will be impacted by the Department's proposed amendments produce products that are distributed nationally. These manufacturers already incurred costs to reformulate products to implement California's regulation (and regulations of other states in the northeast region that have adopted the OTC CP model rule). Additionally, the Department did not adjust CARB's economic assumptions to account for the proposed unlimited sell-through

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period in New Jersey (the unlimited sell-through period does not apply to products containing toxic air contaminants or para-dichlorobenzene, as shown in proposed Tables 2 and 3 at N.J.A.C. 7:27-24.4). In its economic analysis, CARB assumed a three-year sell-through period, which means some manufacturers and retailers in California could suffer losses in unsold products. The Department's analysis of the cost-effectiveness ratio is, therefore, conservative.

Though the Department did not adjust for non-recurring costs and an unlimited sell-through period, it did make some adjustments to CARB's figures. For instance, the Department did not include CARB's estimated costs for oven cleaners and nail polish removers in the cost analysis. CARB later increased the oven cleaner VOC limit from one g/l to four g/l. Regarding nail polish removers, New Jersey has adopted the Federal definition for VOCs, which differs from the California definition of VOCs. This affects nail polish removers because acetone is not considered an exempt VOC in the California definition. Finally, the Department adjusted the estimated average annual costs of reformulation to 2022 dollars using the "annual average" from the "Historical Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, all items, by month" downloaded in January 2023, https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm.

As discussed above, the calculations are based on CARB's calculations, and were adjusted by population for New Jersey. The Department estimated cost effectiveness and "potential" cost increase per unit for each of the 21 categories or subcategories with more restrictive VOC limits. The Department estimated the cost effectiveness of the individual categories or subcategories to range from approximately \$352.00 to \$60,312 per ton of VOC

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reduced, with an adjusted weighted average for all the categories of approximately \$4,043 per ton of VOC reduced.

CARB's estimated "potential" cost increase per unit of product for the individual categories or subcategories ranges from no increase to a worst-case scenario of approximately \$2.27 per unit. The Department estimated an adjusted weighted average for all the categories of approximately \$0.32 per unit. However, as discussed previously, these cost estimates are conservative as they pertain to national manufacturers, because the manufacturers may not need to incur all reformulation costs to comply with New Jersey's proposed amendments. To the extent there are costs, the Department anticipates that manufacturers will absorb them, rather than pass them on to the distributors or consumers.

Impact on Regulated Parties and Government

The amendments for consumer products would primarily impact manufacturers of products. In order to comply with the amendments, manufacturers will have to produce compliant products to meet the rule requirements or refrain from selling them in New Jersey for use in New Jersey. However, as discussed above, many of the manufacturers that will be impacted by the Department's proposed amendments produce products that are distributed nationally and have already incurred costs to reformulate products to implement California's regulation. Those costs should not be passed on a second time. To the extent that manufacturers pass on their increased costs (in the case of those manufacturers that have not yet reformulated), distributors and retailers may be impacted if the increase in the cost of products dampens demand for the products. If manufacturers absorb some or all of the costs of compliance, the

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potential impact to these groups would be reduced. In addition, distributors and suppliers may incur costs to ensure proper distribution of products in New Jersey.

CARB determined that most affected manufacturers or marketers would be able to absorb the reformulation costs with no significant impact on their profitability. Consistent with CARB's analysis, the Department does not anticipate that employment in the consumer products industry in New Jersey will change significantly as a result of the proposed emission limits.

Businesses that supply raw ingredients and equipment to these manufacturers may experience a decline in demand for their products. On the other hand, companies that supply the solvents, other chemicals, and equipment that manufacturers need in order to reformulate the products could potentially benefit from the proposed amendments as they experience an increase in demand for their products. As the proposed amendments would not significantly alter the profitability of most businesses, the Department does not expect a noticeable change in employment, business creation, elimination, or expansion; and business competitiveness in New Jersey. The Department does not anticipate any significant adverse economic impact for manufacturers, distributors, retailers, or consumers.

It is not anticipated that additional Department resources will be needed to implement the proposed amendments to the existing rules.

Environmental Impact

The Department anticipates that the proposed amendments will have a significant and positive environmental impact due to the expected reductions of VOCs, which are precursor emissions that lead to the formation of ground level ozone. The Department anticipates a

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co-benefit of these rules from the expected reductions in hazardous and toxic air pollutants.

In addition, by reducing emissions that contribute to increases in ground level ozone, the rules are expected to mitigate the impact of climate change on air quality.

Ground-Level Ozone

As discussed more fully in the Social Impact statement, ground-level ozone (also referred to as “ozone”) harms human health. With respect to the physical environment, the damaging effects “of ozone can be observed across a variety of scales, i.e., subcellular, cellular, leaf, whole plant, population and ecosystem.” See EPA, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2, Regulatory Impact Analysis, August 2016 (USEPA 2016 RIA), pp. 6-25, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P7NS.PDF?Dockey=P100P7NS.PDF>. Plant-level effects, when widespread, can cause “broad changes in ecosystems, such as productivity, carbon storage, water cycling, nutrient cycling, and community composition.” *Id.* Ozone damage to sensitive species includes visible injury to leaves and impaired photosynthesis, which is the process by which the plant makes carbohydrates, its source of energy and food. *Id.* By interfering with the ability of plants to produce and store food, ozone can lead to reduced crop and forest yields, including timber production, and can lessen overall plant productivity and growth. *Id.* Ground-level ozone makes plants more susceptible to harsh weather, disease, insects, and other pollutants. It also damages the foliage of trees and other plants, sometimes marring the landscape of cities, national parks and forests, and recreation areas. *Id.* at 6-25.

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Climate Change and Air Quality

The 2020 New Jersey Scientific Report on Climate Change is the Department's effort to compile scientific material in a comprehensive report detailing both the effects and the impacts of climate change. See 2020 Report on Climate Change. While the report examines climate change at the global and regional level, its purpose is to explain the current and anticipated effects and impacts in New Jersey. See *id.* at 3. In fact, one of the report's findings is that New Jersey is uniquely vulnerable to climate change due to multiple factors, including its coastal location, population density, and geography. See *id.*, Executive Summary.

Climate scientists worldwide agree that the substantial increase in heat-trapping greenhouse gases in the earth's atmosphere from fossil fuel production and combustion, as well as land degradation are the principal causes of climate change. See *id.*, p. vi. As the 2020 Report on Climate Change explains, the increasing CO₂ concentration was first observed over 60 years ago. *Id.* at 15. "Since then, other human-sourced greenhouse gases have been recognized as contributing to climate change, such as methane (CH₄), nitrous oxide (N₂O), ozone (O₃), many halogenated gases (especially chlorofluorocarbons [CFC-11 and CFC-12]), among others." *Id.* at 16. Although CO₂ is the most abundant greenhouse gas, scientists have recently begun to study the role of other short-lived climate pollutants/forcers, such as hydrofluorocarbons, methane, and black carbon in climate change. See *id.* at 25-26. It is now understood within the scientific community that while these pollutants and forcers tend to have shorter atmospheric lives, they also have much higher warming potentials, making them significant contributors to climate change. See *ibid.*

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Climate change affects temperature, precipitation, sea-level rise, and ocean acidification. See 2020 Report on Climate Change at 28. And “[a]s temperature, precipitation, sea-level rise, and ocean acidification increase, so will the impacts to New Jersey’s air, water, habitats, and wildlife.” *Ibid.* at vii. Climate induced increases in air pollution will also further degrade the environment, reducing visibility, and damaging crops and forests. *Ibid.* Increased air pollution will lead to adverse health impacts, such as increased respiratory and cardiovascular health problems and more premature deaths. *Ibid.*

Of particular relevance is the interaction between climate change and air pollution, specifically, ground-level ozone. In the stratosphere, ozone provides protection from the sun’s harmful ultraviolet rays. Ozone is harmful, however, when created in the earth’s lower atmosphere, or troposphere, by the interaction of “precursor” pollutant gases such as NO_x and VOCs with heat and sunlight.

Ozone-Climate Penalty

As the 2020 Report on Climate Change explains, “[t]he atmospheric conditions that generate high ozone levels are high temperatures, plenty of sunshine, and stagnant air masses, and often result in elevated levels of particulate matter and/or other colored gases that may appear visually as haze or smog...” *Id.* at 61. The many factors that contribute to ground-level ozone concentrations at any given time and location can be separated into two general categories. *Id.* at 62. The first category includes sources that emit ozone precursors, such as consumer products that emit VOCs. Precursor emissions are expected to decline generally, but remain high in dense urban areas. *Id.* at 62. The second category includes meteorological conditions that are conducive to the formation of ozone, such as a warming climate. *Id.* at 61-62. Meteorological

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changes are expected to cause the primary climate change impacts on ozone formation. *Id.* at 62. This phenomenon, which is frequently referred to as the “ozone-climate penalty,” is explained as “the deterioration of air quality due to a warming climate, in the absence of anthropogenic (human-caused) polluting” activities. *Id.* Thus, “even as emissions are reduced, ozone formation may still increase due to the warmer climate,” making it more important to continue to reduce emissions of ozone precursors, even as it may become more difficult to reduce ozone pollution. *Id.*

Emission Reductions

The Department estimates that VOC emissions from consumer products in New Jersey in 2017 were approximately 71 tons per day. The emission reduction benefit from the proposed amendments is estimated to be approximately 5.4 tons per day. As discussed in the Economic Impact, these estimates are based on analyses done by CARB in their 2004, 2006, and 2009 CP Staff Reports, with some modifications. Additional details can be found in the OTC 2016 TSD.

Federal Standards Analysis

N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), requires State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The Department has performed a comparison of the proposed amendments at N.J.A.C. 7:27-24, Prevention of Air Pollution from Consumer Products, to analogous Federal regulations, namely, 40 CFR 59.200 through 59.214, National Volatile Organic Compound Emission Standards for Consumer Products. These Federal regulations have been promulgated pursuant to the Federal Clean Air Act and set forth the substantive Federal standards. After review, the

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Department has determined that the proposed amendments are more stringent than the Federal rules; however, the amendments are needed to fulfill a requirement, imposed by the EPA pursuant to the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., that New Jersey adopt sufficient control measures to address ozone precursor emission reductions needed for New Jersey to attain the eight-hour ozone standard. Therefore, the proposed amendments are necessary for the State to comply with Federal requirements. See the Economic Impact statement above for a cost-benefit analysis of the proposed amendments.

Jobs Impact

The Department does not anticipate these proposed amendments will have an impact on job creation or retention in New Jersey. As discussed in more detail in the Economic Impact above, because the proposed amendments are not expected to alter significantly the profitability of most businesses, the Department does not expect a noticeable change in employment; business creation, elimination or expansion; and business competitiveness in New Jersey for manufacturers, distributors, retailers, businesses that use the products, or for consumers.

Agriculture Industry Impact

The Department has evaluated this rulemaking to determine the nature and extent of impact of the proposed amendments on the agriculture industry. The primary environmental benefit will be a reduction in VOCs, which are a precursor emission that leads to the formation of ground-level ozone. As discussed in the Environmental Impact, VOC emissions contribute to the formation of ozone, which harms crops and vegetation. For this reason, the proposed

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amendments should have a net positive impact on agriculture in the State by reducing emissions of pollutants that are harmful to crops and vegetation.

Regulatory Flexibility Analysis

As required pursuant to the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated the reporting, recordkeeping, and other compliance requirements that the proposed amendments would impose upon small businesses. The Regulatory Flexibility Act defines the term “small business” as “any business which is a resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 fulltime employees.”

The proposed amendments do require additional compliance requirements upon businesses within New Jersey. No new reporting or recordkeeping requirements are included in the proposed amendments. The Department does not anticipate the proposed amendments will have a significant negative impact on small businesses in New Jersey due to increased reporting, recordkeeping, or other compliance requirements. The Department does not know how many small businesses may be affected by these proposed amendments and is soliciting comment on any information that can be provided to the Department. As discussed in more detail in the Economic Impact above, the proposed amendments are not expected to alter significantly the profitability of most businesses, including those that would likely be defined as a small business, such as manufacturers, distributors, and retailers.

Additionally, there are numerous flexibility options built into the proposed amendments. The operative date for compliance with the proposed VOC limits gives manufacturers one year

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to comply with the rulemaking. The operative date of the VOC limits in the proposed amendments ranges from nine years to 15 years after the operative date of the VOC limits in the CARB rules. Therefore, manufacturers that sell products nationally will have already reformulated to be compliant in California. The proposed amendments do not apply to aerosol coating products, unlike CARB's rules. To reduce burdensome labeling requirements, the proposed rulemaking does not require the inclusion of the product's manufacture date on the product label. Rather, a date code, which is generally used by industry is proposed as acceptable.

New Jersey's proposed rules are not as stringent as the rules in California: specifically, 13 new categories and 20 categories with lower VOC limits which are included in the CA CP 2022 regulations are not included in the proposed amendments. New Jersey also retains the Federal category for structural waterproof adhesives that is not in the CA 2022 CP regulations.

The Department proposes a sell-through provision that differs from the California rules, in that any product manufactured before the operative date of the proposed VOC limits can be sold, with no deadline for sell-through (this does not apply to the toxic requirements at proposed Tables 2 and 3 at N.J.A.C. 7:27-24.4). To reduce burdensome reporting requirements, the proposed rules do not require periodic reporting; rather, reporting is required only upon request by the Department.

In proposing these amendments, the Department has balanced the need to protect the environment and the public health against the potential economic impacts of the rules upon businesses.

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Housing Affordability Impact Analysis

Pursuant to N.J.S.A. 52:14B-4, the Department has evaluated the proposed amendments to determine the impact, if any, on the affordability of housing. The proposed amendments relate to the regulation of VOC emissions from consumer products. Many of the VOC emissions categories regulated in these amendments include products that can be purchased for use inside and outside of the home. As discussed above in more detail in the Economic Impact, the Department does not anticipate significant adverse economic impact on consumers or businesses that use the products. Therefore, the Department does not anticipate these proposed amendments will have a significant negative impact on housing affordability or on the average costs of housing in New Jersey.

Smart Growth Development Impact Analysis

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed rules to determine the impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

The proposed new rules and amendments for consumer products are to be implemented evenly Statewide and, therefore, do not relate to the State's official land use and development policies in a way that would either encourage or discourage any development or redevelopment in this State contrary to the guiding principles of the State Development and Redevelopment Plan. As a result, the Department does not expect this rulemaking to have an impact on housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. As the proposed amendments are intended to reduce the emissions of VOCs in the State, thereby helping to protect air quality, the proposed amendments

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support the State Development and Redevelopment Plan’s goal of protecting the environment and preventing air pollution by implementing a strategy of reducing air pollution at the source.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

In accordance with N.J.S.A. 52:14B-4(a)(2) and 2C:48B-2, the Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 27

AIR POLLUTION CONTROL

SUBCHAPTER 24. PREVENTION OF AIR POLLUTION FROM CONSUMER PRODUCTS

7:27-24.1 Definitions

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

...

“Aerosol adhesive” means [an] **any** adhesive [that is] **packaged as** an aerosol product in which the spray mechanism is permanently housed in a [nonrefillable] can designed for hand-

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held application without the need for ancillary hoses or spray equipment. This term includes special purpose spray adhesives, mist spray adhesives, and web spray adhesives.

“Aerosol coating product” means a pressurized coating product containing pigment[s] or resin[s] that dispenses product ingredients by means of a propellant[,] and is packaged in a disposable [can] **aerosol container** for hand-held application[,] or for use in specialized equipment for ground traffic/marketing applications. **This term may include other coating solid ingredients.**

...

“Air freshener” means a product including, but not limited to, sprays, wicks, **wipes, diffusers**, powders, and crystals, designed **or labeled** for the purpose of masking odors[,] or freshening, cleaning, scenting, or deodorizing the air. **This term includes dual purpose air freshener/disinfectant products.** This term does not include products that are used on the human body, products that, as indicated on a product label, function primarily as cleaning products, **odor remover/eliminator, or** toilet/urinal care products[, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional/industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution. This term does include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging or in the product’s literature and advertising may be considered. The presence of or

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representation about a product's fragrance and ability to deodorize resulting from surface application shall not constitute a claim of air freshening].

“All other forms” means all product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, this term includes, but is not limited to, solids, liquids (**which includes the liquid containing or liquid impregnated portion of cloth or paper wipes, such as towelettes**), wicks, powders, **and** crystals[, and cloth or paper wipes (towelettes)].

“Alternative control plan” or “ACP” means an emissions averaging program for chemically formulated consumer products, which provides a manufacturer with an alternative method to comply with the VOC content limits in Table 1 at N.J.A.C. 7:27-24.4(a), and which was issued in accordance with N.J.A.C. 7:27-24.4(j) and (k) by:

1. CARB pursuant to its consumer products regulations, [(including all amendments and supplements)], at 17 CCR [94540-94555] **94540 through 94555**; or
2. The air pollution control agency of another state pursuant to its consumer product regulations if those consumer product regulations [are based on the Ozone Transport Commission (OTC) “Model Rule for Consumer Products” dated November 29, 2001, including subsequent revisions] **contain VOC content limits that are at least as stringent as the limits in the New Jersey consumer products rule in this subchapter.**

“Antimicrobial hand or body cleaner or soap” means a cleaner or soap that is designed to reduce the level of microorganisms on the skin through germicidal activity, **and is regulated as an over-the-counter drug by the FDA.** This term includes, but is not limited to, antimicrobial hand or body washes/cleaners, food handler hand washes, healthcare personnel hand washes,

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pre-operative skin preparations, and surgical scrubs. This term does not include prescription drug products, antiperspirants, astringent/toners, deodorants, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, and rubbing alcohol.

...

“Aromatic compound” means a carbon containing compound that contains one or more benzene or equivalent heterocyclic rings and has an initial boiling point less than or equal to 280 degrees Celsius (°C). This term does not include compounds excluded from the definition of VOC in this section.

“Artist’s solvent/thinner” means any liquid product, labeled to meet ASTM D4236-94 (2021) Standard Practice for Labeling Art Materials for Chronic Health Hazards, which is incorporated herein by reference, as amended and supplemented, and packaged in a container equal to or less than 34 fluid ounces, labeled to reduce the viscosity of, and/or remove art coating compositions or components.

“ASTM” means ASTM International, formerly known as the American Society for Testing and Materials, [1916 Race Street, Philadelphia, PA 19103] which was formed in 1898 (<https://www.astm.org/>).

“Astringent/toner” means a product [not regulated as a drug by the FDA, and that is] designed or labeled to be applied to the skin for the purpose of cleaning or tightening pores. This term also includes clarifiers and substrate impregnated products. This term does not include any hand, face, or body cleaner or soap product, medicated astringent/medicated toner, cold cream, lotion, [or] antiperspirant, or any astringent/toner product regulated as a drug by the FDA.

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[“Automotive brake cleaner” or “brake cleaner” means a product designed, labeled, promoted or advertised (expressed or implied) to clean motor vehicle brake mechanisms and parts by removing oil, grease, brake fluid, brake pad material or dirt from them.]

“Automotive consumer product” means any of the following chemically formulated [consumer] **aerosol** products[, aerosol] or liquid[,] **products** used in automotive maintenance or repair activities: brake cleaners, carburetor or fuel-injection air intake cleaners, engine degreasers, [and] **or** general purpose degreasers intended for use in automotive maintenance or repair activities.

...

[“Automotive hard paste wax” means an automotive wax or polish that:

1. Is designed to protect and improve the appearance of automotive paint surfaces;
2. Is a solid at room temperature; and
3. Contains zero percent water by formulation.]

...

[“Automotive instant detailer” means a product designed for use in a pump spray that is designed to be applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.]

...

“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. This term includes, but is not limited to, products designed for use in autobody repair shops and drive-through car washes, as well as products designed for the general public. This term does not

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include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, or products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic. **Automotive wax, polish, sealant, or glaze products are subcategorized into: all other forms, hard paste wax, and instant detailer.** The “all other forms” subcategory consists of all automotive wax, polish, sealant, or glaze products that are not either a hard paste wax or an instant detailer.

“Automotive windshield cleaner” means for products manufactured on or after (one year after effective date of this rulemaking), a product labeled for automotive use only, packaged as an automotive windshield cleaner in the form of moistened towelette, and designed to be used on automotive windshields, automotive mirrors, and automotive headlights. This term does not include automotive windshield washer fluid.

“Automotive windshield washer fluid” means a product that is a liquid designed **or labeled** for use in a motor vehicle windshield washer system as an antifreeze or for the purpose of cleaning, washing, **bug removal**, or wetting the windshield. This term does not include **any** fluid[s] **that is** placed [by the manufacturer] in a new vehicle **at the time the vehicle is manufactured.**

...

“Bathroom and tile cleaner” means a product designed to clean tile or surfaces in bathrooms. This term does not include [products designed primarily to clean toilet bowls, toilet tanks, or urinals] **toilet/urinal care products.**

“Brake cleaner” means a cleaning product designed or labeled to remove oil, grease, brake fluid, brake pad material, or dirt from motor vehicle brake mechanisms.

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...

“Carburetor or fuel-injection air intake cleaner” means a product designed **or labeled** to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages. This term does not include products designed **or labeled** exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors **or products designed or labeled exclusively to be introduced during engine operation directly into air intake vacuum lines by using a pressurized sprayer wand.**

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

...

“Clear coating” means an aerosol coating product that is colorless or transparent, containing resins, but no pigments, except flatting agents, and is designed and labeled to form a transparent or translucent solid film.

“Coating solids” means any nonvolatile ingredient of an aerosol coating product.

...

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“Construction, panel, and floor covering adhesive” means [a] **any non-aerosol** one-component adhesive that:

1. Is designed **or labeled** exclusively for the installation, remodeling, maintenance, or repair of:

i. (No change.)

ii. 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, **resilient flooring material**, nonresilient flooring material, mirror tiles or other types of tiles, or artificial grass; and

2. (No change.)

...

“Consumer product” means a household or institutional product, including any packaging, that includes, but is not limited to:

1. Chemically formulated products including, but not limited to, products that are **antiperspirants**; detergents; **deodorants**; cleaning compounds; floor polishes and waxes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; and automotive specialty products. This term also refers to aerosol adhesives, including aerosol adhesives used for consumer, industrial, or commercial uses and automotive consumer products; and

2. (No change.)

“Contact adhesive” means [an] **a non-aerosol** adhesive that:

1.-6. (No change.)

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...

“Contact adhesive - special purpose” means a contact adhesive that:

1. Is used to bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, high pressure laminate, or wood veneer 1/16 inch or less in thickness to any porous or nonporous surface; or
2. Is used in automotive applications that are either [automotive]:
 - i. **Automotive** under-the-hood applications requiring heat, oil, or gasoline resistance[,]; or [body-side]
 - ii. **Body-side** molding, automotive weatherstrip, or decorative trim.

...

“Deodorant body spray” means:

1. For products manufactured before January 1, 2009, a personal fragrance product with 20 percent or less fragrance[; or].
2. For products manufactured on or after January 1, 2009, a personal fragrance product with 20 percent or less fragrance that is designed for application all over the human body to provide a scent. **A deodorant body spray product that indicates or depicts on the container or packaging, or on any sticker or label affixed thereto, that it can be used on or applied to the human axilla, is a deodorant.**

...

“Disinfectant” means a product [intended] **that is labeled as a disinfectant, or is labeled** 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] **as a disinfectant**

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pursuant to FIFRA. Products that are labeled as both a sanitizer and a disinfectant are considered disinfectants. This term does not include:

1. Products [designed] **labeled** solely for use on humans or animals;
2. Products [designed] **labeled solely** for agricultural use;
3. Products [designed] **labeled** 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.]
- 4. Products that are labeled to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces;**
- 5. Products that are pre-moistened wipes or towelettes sold exclusively to medical, convalescent, or veterinary establishments; or**
- 6. Products that are labeled as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet/urinal care products, metal polishes, carpet cleaners, or fabric refreshers that may also make disinfecting or anti-microbial claims on the label.**

...

“Dry cleaning fluid” means:

- 1. For products manufactured before (one year after effective date of the amendments),** a non-aqueous liquid product designed and labeled exclusively for use on fabrics [which] **that** are labeled “dry clean only,” such as clothing or drapery, or on “S-

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coded” fabrics (that is, upholstery fabrics designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee).

This term includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer’s residence or work place. This term does not include [“]spot remover[“] or [“]carpet and upholstery cleaner[”].

2. For products manufactured on or after (one year after effective date of this rulemaking), any nonaqueous solvent that is:

i. Used in dry cleaning machines at commercial dry cleaners or used by commercial businesses that clean fabrics, such as draperies at the customer’s residence or work place; and

ii. Is designed and labeled exclusively to clean:

(1) Fabrics which are labeled “for dry clean only,” such as clothing or drapery; or

(2) S-coded fabrics. Dry cleaning fluid does not include spot remover or carpet/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 Joint Fabric Standards Committee.

“Dual-purpose air freshener/disinfectant” means an aerosol product that is represented on the product container for use as both a disinfectant and an air freshener, or is so represented on any sticker, label, packaging, or literature attached to the product container.

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“Dusting aid” means a product designed **or labeled** to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone-based coating. This term does not include a pressurized gas duster.

...

“Electronic cleaner” means a product labeled for the removal of dirt, moisture, dust, flux, or oxides from the internal components of electronic or precision equipment, such as circuit boards, and the internal components of electronic devices, including, but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers. This term does not include anti-static product, dusting aid, electrical cleaner, energized electrical cleaner, engine degreaser, general purpose cleaner, general purpose degreaser, pressurized gas duster, or a product [designed] **labeled** to clean the casings or housings of electronic equipment. **This term does not include any product that meets both of the following criteria:**

- 1. The product is labeled to clean and/or degrease electronic equipment, where cleaning and/or degreasing is accomplished when electrical current exists, or when there is residual electrical potential from a component; and**
- 2. The product label clearly displays the statement: “Energized Electronic Equipment use only.”**

“Energized electrical cleaner” means a product that meets both of the following criteria:

1. The product is labeled to clean and/or degrease electrical equipment, where cleaning and/or degreasing [is accomplished] **can only be performed** when electrical current exists, or when there is a residual electrical potential from a component, such as a capacitor; and

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2. (No change.)

This term does not include electronic cleaners **or products used for automotive maintenance or repair activities.**

“Engine degreaser” means a product designed **or labeled** to clean engines and other mechanical parts by removing grease, grime, oil, and other contaminants from their external surfaces.

...

“Exempt compound” means a compound excluded pursuant to the definition of volatile organic compound (VOC).

“Fabric protectant” means:

1. For products manufactured before (one year after effective date of this rulemaking), 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. This term does not include waterproofers, products designed for use solely on leather, or products sold in packages of 10 fluid ounces or less and designed for use solely on fabrics labeled “dry clean only.”

2. For products manufactured on or after (one year after effective date of this rulemaking), a product labeled to be applied to fabric substrates to protect the surface from soiling from dirt or other impurities or to reduce absorption of liquid into the fabric fibers. This term does not include waterproofers, products labeled for use solely on leather, pigmented products that are designed to be used primarily for coloring, products used for construction, reconstruction, modification, structural

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maintenance or repair of fabric substrates, products that renew or restore fabric, clear coating, or vinyl/fabric/leather/plastic coating.

“Fabric refresher” means a product labeled to neutralize or eliminate odors on non-laundered fabric including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing, and/or on household furniture or objects upholstered or covered with fabrics, such as, but not limited to, wool, cotton, or nylon. This term does not include an anti-static product, a carpet and upholstery cleaner, [soft household surface sanitizers,] footwear or leather care product, spot remover, or disinfectant, or a product labeled for application to both fabric and human skin.

...

[“Flexible flooring material” means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.]

...

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

“Floor coating” has the same meaning as the definition of the term at N.J.A.C. 7:27-23.2.

“Floor polish or wax” means:

1. For products manufactured before (one year after effective date of this rulemaking), a wax, polish, or any other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically

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replenished. This term 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 coating rules at 40 CFR Parts 9 and 59 or N.J.A.C. 7:27-23.

2. For products manufactured on or after (one year after effective date of this rulemaking), a product designed or labeled to polish, wax, condition, protect, temporarily seal, or otherwise enhance floor surfaces by leaving a protective finish that is designed or labeled to be periodically replenished. This term does not include spray buff products, floor finish wax strippers, products designed or labeled for unfinished wood floors, or coatings subject to the architectural coatings rules at 40 CFR Parts 9 and 59 or N.J.A.C. 7:27-23. Floor polish or wax is divided into three categories: products for resilient flooring materials, products for nonresilient flooring materials, and wood floor wax.

...

“Flying bug insecticide” means an insecticide that is designed for use against flying insects or other flying arthropods, [including, but not limited to,] **such as** flies, mosquitoes, moths, or gnats. This term does not include wasp [and] **or** hornet insecticides, products that are designed to be used exclusively on humans or animals, or any 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.

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...

“Footwear or leather care product” means a product designed or labeled to be applied to footwear, including both leather and non-leather foot apparel, or to other leather articles/components, to maintain, enhance, clean, protect, or modify the appearance, durability, fit, or flexibility of the footwear or leather article/component. This term does not include fabric protectant, general purpose adhesive, contact adhesive, [vinyl/fabric/leather/polycarbonate] **vinyl/fabric/leather/plastic** coating, rubber and vinyl protectant, fabric refresher, products solely for deodorizing, or sealant products with adhesive properties used to create external protective layers greater than two millimeters thick.

...

“Furniture maintenance product” means a wax, polish, conditioner, or any other product [designed] **labeled** for the purpose of polishing, protecting, or enhancing finished wood surfaces, other than floors, **and other furniture surfaces, including, but not limited to, acrylics, ceramic, plastics, stone surfaces, metal surfaces, and fiberglass.** This term does not include dusting aids, wood cleaners [and], **or** products designed solely for the purpose of cleaning, [and] **or** products designed to leave a permanent finish such as stains, sanding sealers, and lacquers.

...

“General purpose cleaner” means:

1. For products manufactured before (one year after effective date of this rulemaking), a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. This term includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners

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

2. For products manufactured on or after (one year after effective date of this rulemaking), a product that is designed or labeled to clean hard surfaces in homes, garages, patios, commercial, or institutional environments. General purpose cleaner includes products that clean kitchens, sinks, appliances, counters, walls, cabinets, or floors and products that claim to clean a variety of similar surfaces such as plastics, stone, or metal. This term does not include single purpose cleaner or furniture maintenance product.

“General purpose degreaser” means a product labeled to remove or dissolve grease, grime, oil, and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. This term does not include:

1. Engine degreasers, general purpose cleaners, adhesive removers, electronic cleaners, electrical cleaners, energized electrical cleaners, [or] metal polish/cleansers, **or oven or grill cleaners;**

2. Products used exclusively in solvent cleaning **machines or** tanks or related equipment (that is, in tanks or equipment including, but 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, **as defined at N.J.A.C. 7:27-16.1**); or

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3. Products that are sold exclusively **directly or through distributors** to establishments that manufacture or construct goods or commodities **and** labeled [“not for retail sale.”] **exclusively for “use in the manufacturing process only.”**

...

“Glass cleaner” means a product designed **or labeled** primarily to clean surfaces made of glass. This term does not include products designed **or labeled** solely to clean optical materials used in eyeglasses, photographic equipment, scientific equipment, and photocopying machines.

...

“**Hair finishing spray**” means for products manufactured on or after (one year after the effective date of this rulemaking), a consumer product that is designed or labeled for application to styled hair to provide sufficient rigidity, to hold, retain, or finish the style of the hair for a period of time. This term includes aerosol hair sprays, pump hair sprays, spray waxes; color, glitter, or sparkle hair sprays that make finishing claims; and products that are both a styling and finishing product. This term does not include spray products that are intended to aid in styling, but do not provide finishing of a hair style. For the purposes of this category, finish or finishing means the maintaining and/or holding of previously styled hair for a period of time, and styling means the forming, sculpting, or manipulating the hair to temporarily alter the hair’s shape.

...

“Hair shine” means a product designed for the primary purpose of creating a shine when applied to the hair. This term includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. This term does not include hair spray, **hair finishing spray**, hair

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mousse, hair styling product, hair styling gel, or products whose primary purpose is to condition or hold the hair.

“Hair spray” means:

1. For products manufactured before January 1, 2009, a product designed primarily for the purpose of dispensing droplets of a resin on and into hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time[; and].
2. For products manufactured on or after January 1, 2009, **and before (one year after effective date of this rulemaking)**, a consumer product that is applied to styled hair, and is designed or labeled to provide sufficient rigidity to hold, retain, and/or finish the style of the hair for a period of time. This term includes aerosol hair sprays, pump hair sprays, spray waxes, products that are both a styling and finishing product, and color, glitter, or sparkle hairsprays that make finishing claims. This term does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle.

...

“Hair styling product” means [a consumer]:

1. **For** products manufactured on or after January 1, 2009, **a product** that is designed or labeled for the application to wet, damp, or dry hair to aid in defining, shaping, lifting, styling, and/or sculpting of the hair. This term includes, but is not limited to, hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers, and/or conditioners that make styling claims. This term does not include hair mousse,

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hair shine, hair spray, or shampoo and/or conditioner that is rinsed from the hair prior to styling.

2. For products manufactured on or after (one year after the effective date of this rulemaking), this term, in addition to the above, also does not include no rinse shampoo, thermal protectant and hair spray is renamed and redefined as hair finishing spray.

“Hard paste wax” means an automotive wax or polish that:

- 1. Is designed to protect and improve the appearance of automotive paint surfaces;**
- 2. Is a solid at room temperature; and**
- 3. Contains zero percent water by formulation.**

...

“High temperature coating” has the same meaning as the definition of the term at N.J.A.C. 7:27-23.2.

...

“Industrial maintenance coating” has the same meaning as the definition of the term at N.J.A.C. 7:27-23.2.

“Innovative product exemption” or “IPE” means a determination that a particular consumer product will result in less VOC emissions as compared to a representative compliant consumer product or as compared to the reformulation of the particular product in order to comply with a VOC content limit due to some characteristic of the product formulation, design, delivery system, or other factor. Such determination must be in accordance with N.J.A.C. 7:27-24.4(j) and (k) for a chemically formulated consumer product, and in accordance with N.J.A.C.

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7:27-24.8(e) and (f) for a portable fuel container, spout, or portable fuel container and spout, and be issued by:

1. (No change.)
2. The air pollution control agency of another state pursuant to its consumer product regulations, if those consumer product regulations [are based on the Ozone Transport Commission (OTC) “Model Rule for Consumer Products” dated November 29, 2001, including subsequent revisions] **contain VOC content limits that are at least as stringent as the limits in the New Jersey consumer products rule in this subchapter.**

...

“Instant detailer” means a product designed for use in a pump spray that is designed to be applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

...

“Laundry prewash” means a product that is designed for application to a fabric prior to laundering in a wet cleaning process and that supplements and contributes to the effectiveness of laundry detergents [or] and/or provides specialized performance.

“[Laundry starch] Laundry starch/sizing/fabric finish product” means a product that is [designed] labeled 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. This term includes, but is not limited to, starch, sizing, and fabric finish[, sizing, and starch].

“Lawn [and] or garden insecticide” means an insecticide labeled primarily to be used in household lawn [and] or garden areas to protect plants from insects or other arthropods.

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Notwithstanding the requirements [of] **at** N.J.A.C. 7:27-24.4[(g)](**f**), aerosol lawn [and] or garden insecticides may claim to kill insects or other arthropods.

“Liquid” means a substance or mixture of substances [which] **that** is capable of a visually detectable flow as determined [under] **pursuant to** ASTM [D-4359-90(2006)] **D-4359-90(2019)**, as supplemented or amended. This term 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. This term does not include:

1.-4. (No change.)

5. Products that are sold exclusively **directly or through distributors** to establishments [which] **that** manufacture or construct goods or commodities and are labeled [“not for retail sale.”] **exclusively for “use in the manufacturing process only.”**

...

“Medicated astringent/medicated toner” means a product regulated as a drug by the FDA and that is applied to the skin for the purpose of cleaning or tightening pores. This term includes, but is not limited to, clarifiers and substrate-impregnated products. This term does not include hand, face, or body cleaner or soap products, **personal fragrance products**, astringent/toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor’s prescription.

...

“Multi-purpose solvent” means:

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1. For products manufactured before (one year after effective date of this rulemaking), 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. This term includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific, or other laboratories. This term 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.

2. For products manufactured on or after (one year after effective date of this rulemaking), any liquid product designed or labeled to be used for dispersing, dissolving, or removing contaminants or other organic materials.

i. This term includes:

- (1) Products that do not display specific use instructions on the product container or packaging;**
- (2) Products that do not display an end-use function or application on the product container or packaging;**
- (3) Solvents used in institutional facilities;**
- (4) Products labeled as “paint clean-up,” or products designed or labeled for cleaning oil-based or water-based paint, lacquer, varnish, or related coatings from painting equipment or tools, plastics, or metals;**
- (5) Products labeled to prepare surfaces for painting; and**

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(6) Products that display in the Principal Display Panel a specific chemical name. Examples of specific chemical names include mineral spirits, ketone, turpentine, toluene, xylene(s), acetone, naphtha, or alcohol.

ii. This term does not include:

- (1) Solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers, or film cleaning machines;**
- (2) Solvents labeled exclusively for the clean-up of application equipment used for polyaspartic and polyurea coatings;**
- (3) Products that are labeled exclusively to clean a specific contaminant, in a single substrate;**
- (4) Rubbing alcohol;**
- (5) Laboratory reagents used in analytical, educational, research, scientific, or other laboratories;**
- (6) Products that are used exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings that meet both of the following criteria:**
 - (A) The responsible party also manufactures for sale in New Jersey industrial maintenance coatings, zinc-rich primers, or high temperature coatings; and**
 - (B) The label states the specific product or brand of the industrial maintenance coating, zinc-rich primer, or high temperature coating for which the product is used; and**

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(7) Denatured alcohol products that are sold directly or through distributors to a public utility as defined at N.J.S.A. 48:2-13, and are used to maintain electrical equipment that meet both of the following criteria:

(A) The equipment is owned by a public utility; and

(B) The equipment manufacturer states that maintenance can only be performed with denatured alcohol.

...

“Non-aerosol product” means a product that is not [dispensed by a pressurized spray system] **an aerosol product.**

...

“Nonresilient flooring **material**” means flooring of a mineral content [which] **that** is not flexible. This term includes, **but is not limited to**, terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete. **Formerly, referred to as “nonresilient flooring.”**

...

“**No rinse shampoo**” means a product designed or labeled solely to be applied to hair that is dry to clean, absorb oil, or eliminate odor, and is subsequently removed from the hair by combing, brushing, or toweling the hair.

...

[“Oven cleaner” means a product designed to clean ovens and to remove dried food deposits from oven walls.]

“**Oven or grill cleaner**” means a product labeled exclusively to remove baked-on greases and/or deposits from surfaces used for food preparation and/or cooking. A product

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that is labeled as an oven or grill cleaner that makes claims it is suitable for degreasing other hard surfaces is a general purpose degreaser. A product that is labeled as an oven or grill cleaner that makes claims that it is suitable for cleaning other hard surfaces is a general purpose cleaner.

...

“Paint thinner” means any liquid product that is designed or labeled to reduce the viscosity of coating compositions or components, or a product that prominently displays terms such as paint thinner, lacquer thinner, thinner, or reducer on the label. This term does not include:

1. Artist’s solvent/thinner;
2. Rubbing alcohol;
3. Products that are sold in containers with a capacity of five gallons or more and labeled exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings that meet both of the following criteria:
 - i. The responsible party also manufactures for sale and use in New Jersey industrial maintenance coatings, zinc-rich primers, or high temperature coatings; and
 - ii. The label states the specific product or brand of the industrial maintenance coating, zinc-rich primer, or high temperature coating for which the thinning product is to be used;

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4. Products labeled and used exclusively as an ingredient in a specific coating or coating brand line, whereby the coating would not be complete or usable without the specific ingredient; and

5. Products that meet all of the following criteria:

- i. The principal display panel of the product displays, in a font size as large as, or larger than, the font size of all other words in the principal display panel, excluding the company name, brand name, and logo, language that the product is used exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings;**
- ii. No representation is made anywhere on the product container or packaging, or any label or sticker attached thereto, that the product is suitable for use or may be used for any other purpose except the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings;**
- iii. The responsible party also manufactures for sale in New Jersey industrial maintenance coatings, zinc-rich primers, or high temperature coatings; and**
- iv. The label states the specific product or brand of the industrial maintenance coating, zinc-rich primer, or high temperature coating for which the thinning product is to be used.**

...

“Plasticizer” means 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

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determined using ASTM Method [E260-96(2006)] **E260-96(2019)**, as supplemented or amended, or from product formulation data.

...

“Pressurized gas duster” means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces, such as photographs, photographic film negatives, computer keyboards, and other types of surfaces that cannot be cleaned with solvents. This term does not include a dusting aid. **For products manufactured on or after (the effective date of this rulemaking), this term also does not include: general purpose cleaner, electrical cleaner, energized electrical cleaner, or anti-static product. This term also does not include products labeled exclusively to remove dust from equipment where dust removal is accomplished when: electric current exists; residual electrical potential from a component, such as a capacitor exists; or an open flame exists, as long as the principal display panel clearly displays the statement: “Energized Equipment use only.”**

...

[“Pump sprayer” 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.]

...

“Resilient flooring material” means flexible flooring material including, but not limited to, asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring. Formerly referred to as “flexible flooring materials.”

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...

“[Rubber and vinyl] **Rubber/vinyl** protectant” means:

- 1. For products manufactured before (one year after effective date of this rulemaking),** 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. This term does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.
- 2. For products manufactured on or after (one year after effective date of this rulemaking),** any product labeled to protect, preserve, or renew vinyl, or rubber on vehicles, tires, luggage, furniture, and/or household products, such as vinyl covers, clothing, or accessories. Rubber/vinyl protectant does not include products labeled to clean the wheel rim, such as aluminum or magnesium wheel cleaners; tire cleaners that do not leave an appearance-enhancing or protective substance on the tire; pigmented products designed or labeled to be used primarily for coloring; products used for construction, reconstruction, modification, structural maintenance, or repair of rubber or vinyl substrates; or products, other than those labeled to be used on vehicle tires; qualifying as either clear coating or vinyl/fabric/leather/plastic coating.

...

“Sanitizer” means a product that is labeled as a sanitizer, or labeled to reduce, but not necessarily eliminate, microorganisms in the air, on surfaces, or on inanimate objects,

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and whose label is registered as a sanitizer pursuant to FIFRA. Products that are labeled as both a sanitizer and a disinfectant are considered disinfectants. “Sanitizer” does not include:

- 1. Disinfectants;**
- 2. Products labeled solely for use on humans or animals;**
- 3. Products labeled solely for agricultural use;**
- 4. Products labeled solely for use in swimming, therapeutic tubs, or hot tubs;**
- 5. Products labeled to be used on heat-sensitive critical or semi-critical medical devices or medical equipment surfaces;**
- 6. Products that are pre-moistened wipes or towelettes sold exclusively to medical, convalescent, or veterinary establishments;**
- 7. Products labeled to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; or**
- 8. Products labeled as bathroom and tile cleaner, glass cleaner, general purpose cleaner, toilet/urinal care product, metal polish or cleanser, carpet cleaner, or fabric refresher that may also make sanitizing or anti-microbial claims on the label.**

“Sealant [and] or caulking compound” means a product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. This term does not include **pipe thread sealants or pipe joint compounds**; roof cements and roof sealants, insulating foams, removable caulking compounds (that is, compounds which temporarily seal windows or doors for three to six month time intervals), clear/paintable/water resistant caulking compounds (that is, compounds which contain no appreciable level of opaque

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fillers or pigments, transmit most or all visible light through the caulk when cured, are paintable, and are immediately resistant to precipitation upon application), floor seam sealers, products designed exclusively for automotive uses, or sealers that are applied as continuous coatings.

...

“Single purpose cleaner” means a cleaning product that is designed and labeled exclusively to clean one specific object or its parts that is not subject to any other regulated category, except that a cleaning product that claims to clean a single appliance, counter, wall, cabinet, or floor is a general purpose cleaner.

[“Soft household surface sanitizer” means a product labeled to neutralize or eliminate odors on surfaces to which fabric refreshers are applied and listed in the definition of “fabric refresher” above, whose label is registered as a sanitizer under FIFRA.]

“Solid” means a substance or mixture of substances which is not capable of visually detectable flow as determined [under ASTM D-4359-90(2006)] **pursuant to ASTM D-4359-90(2019)**, as supplemented or amended. The substance or mixture of substances may be in a form either whole or subdivided (such as particles comprising a powder).

[“Solvent cleaning machine” means any device or piece of equipment with a capacity greater than 7.6 liters (two gallons) that uses methylene chloride, perchloroethylene, or trichloroethylene to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of motor vehicle substrates or surfaces or miscellaneous metallic parts.]

“Solvent cleaning machine” has the same meaning as the definition of the term at N.J.A.C. 7:27-16.1.

...

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“Stick product” means, **when used in the context of antiperspirants or deodorants**, an antiperspirant or deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

...

“Temporary hair color” means any product that applies color, glitter, or UV-active pigments to hair, wigs, or fur and is removable when washed. This term includes hair color mousses and products labeled to add texture or thickness to cover thinning/balding areas. This term does not include hair spray, hair styling product, or hair mousse. For products manufactured on or after (one year after effective date of this rulemaking), hair spray is renamed and redefined as hair finishing spray.

...

“Thermal protectant” means a product that is designed or labeled solely to be applied to the hair to protect it from heat damage during the use of heated tools, such as blow drier, flat iron, and/or curling iron.

“Tire sealant and [inflation] inflator” means a pressurized product designed to temporarily inflate and seal a leaking tire.

...

[“Vinyl/fabric/leather/polycarbonate coating” means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate substrates.]

“Vinyl/fabric/leather/plastic coating” means an aerosol coating product, which does not include fabric protectant, that is:

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1. Designed and labeled exclusively to coat vinyl, fabric, leather, or plastic substrates; or

2. Designed and labeled exclusively to repel water from fabric or leather substrates.

“Volatile organic compound” or “VOC” means a volatile organic compound, as that term is defined by the EPA at 40 CFR 51.100(s), which is incorporated **herein** by reference [herein], [together with all amendments and supplements] **as amended and supplemented.**

“Wasp [and] **or** hornet insecticide” means any insecticide that is designed for use against wasps, hornets, yellow jackets, or bees by allowing the user to spray a directed stream or burst from a distance at the intended insects or their hiding place.

“Waterproofer” means a **non-aerosol** product designed [and] **or** labeled exclusively to repel water from fabric or leather substrates. This term does not include fabric protectant[s]. **Any aerosol product that meets the definition of an “aerosol coating product” and is designed or labeled exclusively to repel water from fabric or leather substrates is a vinyl/fabric/leather/plastic coating.**

...

“Web spray adhesive” means any aerosol adhesive that is not a mist spray **adhesive** or special purpose spray adhesive.

...

“Wood floor wax” means a wax-based consumer product for use solely on wood floors. **This term does not include products that make the claim to “clean and wax” or “clean and polish.”**

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“Zinc-rich primer” has the same meaning as the definition of the term at N.J.A.C.

7:27-23.2.

7:27-24.2 Applicability

(a)-(e) (No change.)

(f) N.J.A.C. 7:27-[24.4(n)]**24.4(m)** does not apply to a solvent cleaning machine or to liquid products that are designed, labeled, promoted, and advertised (expressed or implied) solely for use in a solvent cleaning machine **as defined and regulated at N.J.A.C. 7:27-16.**

(g)-(i) (No change.)

7:27-24.3 General provisions

(a)-(b) (No change.)

(c) Except as provided at N.J.A.C. 7:27-24.5(b), any person who submits information to the Department pursuant to this subchapter may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. The Department will process and evaluate confidentiality claims and treat information claimed to be confidential in accordance with N.J.A.C. 7:27-1.6 through 1.30. **Information submitted to the Department with a claim of confidentiality shall be submitted in hardcopy format to the address at (d) below.**

(d) A non-electronic submittal required pursuant to this subchapter shall be sent to the following address, **only if a claim of confidentiality is made in accordance with N.J.A.C. 7:27-1 as part of an ACP, IPE, or variance; otherwise, all submittals shall be electronic in accordance with the requirements of the applicable section:**

New Jersey Department of Environmental Protection

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Division of Air Quality and Radiation Protection

Bureau of [Air Quality] **Evaluation and Planning**

401 East State Street

PO Box 420

Mail Code [401-07H] **401-02**

[PO Box 420]

Trenton, New Jersey 08625-0420

(e)-(f) (No change.)

7:27-24.4 Chemically formulated consumer products: standards

(a) Except as provided at N.J.A.C. 7:27-24.2 and [in] **at** (c), (d), and (j) below, no person shall sell, offer for sale, hold for sale, distribute for sale, supply for sale, or manufacture for sale in New Jersey a chemically formulated consumer product that belongs to a chemically formulated consumer product category listed in Table 1 below, that was manufactured on or after the operative date in Table 1 below, and that contains a VOC content in excess of the applicable limit specified in Table 1 below.

TABLE 1			
VOC CONTENT LIMITS FOR CHEMICALLY FORMULATED CONSUMER PRODUCTS			
Chemically Formulated	<u>Form</u>	Maximum Allowable VOC Content	
		(percent by weight, ¹ unless otherwise indicated) ²	

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<u>Consumer Product Category</u>		State Standard Operative Date <u>4/30/96-12/31/04</u> ³	State Standard Operative Date <u>1/1/05</u>	State Standard Operative Date <u>1/1/09</u>	State Standard Operative Date (one year after effective date of this rulemaking)
Adhesive Remover:	Floor or wall covering			5	
	Specialty			70	
Adhesives	Aerosol:	75	NA		
	Mist spray		65		
	Web spray		55		
	Special purpose spray adhesives:				
	Mounting, automotive engine compartment, and flexible vinyl		70		
	Polystyrene foam and automotive headliner		65		

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	Polyolefin and laminate repair/edgebanding		60		
	Construction, panel, and floor covering	40	15		7
	Contact:	80	80	[N/A ⁵¹ NA	
	Contact general purpose			55	
	Contact special purpose			80	
	[Construction, panel, and floor covering	40	15]		
	General purpose	10	10		
	Structural waterproof	(Reserved)	15		
Air fresheners	Single-phase aerosols	70	30		
	Double-phase aerosols	30	25		
	Dual-purpose air freshener/disinfectant aerosols				60
	Liquids/pump sprays	18	18		
	Solids/semisolids	3	3		
Antiperspirants	Aerosols	60 HVOC	40 HVOC		

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			10 MVOC		
	Non-aerosols	0 HVOC	0 HVOC		
			0 MVOC		
Anti-static products[, non-aerosol]	Aerosol				80
	Non-aerosol			11	
[Automotive brake cleaners			45]		
Automotive rubbing or polishing compounds			17		
Automotive wax[es],	Hard paste waxes		45		
polish[es],	Instant detailers		3		
Sealant[s], or glaze[s]	All other forms		15		
Automotive windshield cleaner					35
Automotive windshield				35	

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washer fluids					
Bathroom and tile cleaners	Aerosols	7	7		
	All other forms	15			NA
	Non-aerosol				1
Brake cleaner ⁴			45	45	10
Bug and tar removers			40		
Carburetor or fuel- injection air intake cleaners	[Aerosols]	75	45		10
	[Non-aerosols]	75	45]		
Carpet and upholstery cleaners	Aerosols		7		
	Non-aerosols (dilutables)		0.1		
	Non-aerosols (ready-to- use)		3.0		
Charcoal lighter material			0.02 lb start ^{[4]5}		
Cooking sprays	Aerosols	18	18		
Deodorants	Aerosols	20 HVOC	0 HVOC		
			10 MVOC		
	Non-aerosols	0 HVOC	0 HVOC		
			0 HVOC		

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Disinfectant	Aerosols				70
	Non-aerosols				1
Dusting aids	Aerosols	35	25		
	All other forms	7	7		
Electrical cleaners				45	
Electronic cleaners				75	
Engine degreasers	Aerosols	75	35		10
	Non-aerosols	75	5		
Fabric protectants		75	60		
[Fabric polishes/waxes	Products for flexible flooring materials	7	7		
	Products for nonresilient flooring	10	10		
	Wood floor wax	90	90]		
Fabric refreshers	Aerosol			15	
	Non-aerosol			6	
Floor polishes or waxes	Resilient flooring materials⁷	7	7		1
	Nonresilient flooring materials⁸	10	10		1

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	Wood floor wax	90	90		
Floor wax strippers	Non-aerosol:				
	For light or medium build-up		3 ⁶		
	For heavy build-up		12 ⁶		
Footwear or leather care products	Aerosol			75	
	Solid			55	
	Other forms			15	
Furniture maintenance products	Aerosols	25	17		
	All other forms except solid or paste		7		NA
	Non-aerosol except solid or paste				3
General purpose cleaners	Aerosols	10	10		8
	Non-aerosols	10	4		
General purpose degreasers	Aerosols		50		10
	Non-aerosols		4		
Glass cleaners	Aerosols	12	12		
	All other forms	8	NA		
	Non-aerosols		4		
Graffiti removers	Aerosol			50	

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	Non-aerosol			30	
Hair mousses		16	6		
Hair finishing sprays⁹					55
Hair shines			55		
Hair sprays ⁹		80	55		NA
Hair styling gels ¹⁰		6	6	NA	
Hair styling products ¹⁰	Aerosol and pump sprays			6	
	All other forms			2	
Heavy-duty hand cleaner or soaps			8		
Insecticides	Crawling bug:	40	NA		
	[Aerosols] aerosols		15		
	[All] all other forms		20		
	Flea and tick	25	25		
	Flying bug:	35	NA		
	[Aerosols] aerosols		25		
	[All] all other forms		35		
	Foggers	45	45		
	Lawn [and] or garden:	20	NA		

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	[Non-aerosols] non-aerosols		3		
	[All] all other forms		20		
	Wasp [and] or hornet		40		
Laundry prewash	Aerosol/solids	22	22		
	All other forms	5	5		
Laundry [starch] starch/sizing/fabric finish products		5	5		4.5
Metal polishes/cleansers		30			
Multi-purpose lubricants (excluding solid or semi-solid products)				50	
Multi-purpose solvent	Non-aerosols				3
Nail polish removers		85	75		1

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Non-selective terrestrial herbicide	Non-aerosols		3		
Oven or grill cleaners	Aerosols/pump sprays	8	8		
	Liquids	5	5		NA
	Non-aerosols (including pump sprays and liquids)				4
Paint removers or strippers			50		
Paint thinner	Non-aerosol				3
Penetrants			50		
Rubber and vinyl protectants	Aerosols		10		
	Non-aerosols		3		
Sanitizer	Aerosols				70
	Non-aerosols				1
Sealants and caulking compounds			4		
Shaving creams		5	5		
Shaving gels				7	4

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Silicone-based multi-purpose lubricants (excluding solid or semi-solid products)			60		
Spot removers	Aerosols		25		
	Non-aerosols		8		
Temporary hair color	Aerosol				55
Tire sealants and inflators			20		
Toilet/urinal care products	Aerosol			10	
	Non-aerosol			3	
Undercoatings	Aerosols		40		
Wood cleaners	Aerosol			17	
	Non-aerosol			4	

Footnotes to Table:

¹⁻³ (No change.)

⁴ **Effective (one year after effective date of this rulemaking), automotive brake cleaners is renamed brake cleaners.**

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¹⁴⁵ See N.J.A.C. 7:27-24.4(i) for additional [State] requirements pertaining to **VOC limits for charcoal lighter material.**

¹⁵ On and after January 1, 2009, the contact adhesive category shall be not applicable and is replaced with two new categories, Contact general purpose and Contact special purpose.]

⁶ See N.J.A.C. 7:27-24.5(g) for additional requirements pertaining to **VOC limits for floor wax strippers.**

⁷ Formerly, “products for flexible flooring materials.”

⁸ Formerly, “products for nonresilient flooring.”

⁹ For products manufactured on or after (one year after effective date of this rulemaking), a product that falls within this category shall be subject to the VOC limit for “hair finishing spray.”

¹⁰ Effective January 1, 2009, hair gels are included in hair styling products.

¹¹ NA means not applicable. For products manufactured on or after the applicable operative date, the coating category is discontinued. The VOC limit for a coating manufactured on or after the applicable operative date shall be determined based on the definitions which are applicable on or after the operative date and any other relevant provision in this subchapter.

(b) [For] **Except for multi-purpose solvent and paint thinner products,** for the purpose of determining compliance with a VOC content limit set forth in Table 1 above, if the label, packaging, or accompanying literature specifically states that the consumer product should be diluted prior to use, the VOC content of the product shall be determined as follows:

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1. – 2. (No change.)

(c) (No change.)

(d) Except as provided at (n) through (p), (t), and (u) below, a chemically formulated consumer product manufactured prior to the operative date specified for that product in Table 1 above, may be sold, supplied, or offered for sale after the specified operative date, if that product complies with the standards in effect at the time that product was manufactured, and if that product displays the date or date-code in accordance with the requirements at N.J.A.C. 7:27-24.5[(d), (e) and (f)] **and if an explanation of the date-code has been submitted in accordance with N.J.A.C. 7:27-24.5.**

(e) (No change.)

[(f) If an aerosol adhesive could be classified in more than one chemically formulated consumer product category listed in Table 1, the standard for the category with the lowest applicable VOC limit applies.

(g) If anywhere on the principal display panel of a consumer product manufactured before January 1, 2009, or any FIFRA-registered insecticide manufactured before January 1, 2010, any representation is made that the product may be used as, or is suitable for use as, a consumer product that belongs to more than one chemically formulated consumer product category in Table 1 at (a) above, then the lowest VOC content limit shall apply. However, this subsection does not apply to general purpose cleaners, antiperspirants, deodorants, and insecticide foggers.]

[(h)] (f) (No change in text.)

(g) When determining the applicable VOC standard for a product that meets the definitions for both “Regulated Category A” and “Regulated Category B,” in

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circumstances where the definition of “Regulated Category A” states that it excludes “Regulated Category B,” and the definition of “Regulated Category B” states that it excludes “Regulated Category A,” the product is subject to the VOC standard for whichever regulated category has the lower VOC standard.

1. For the purposes of this subchapter, a “Regulated Category” means a category of consumer products that is both defined at N.J.A.C. 7:27-24.1 and has a VOC standard specified at N.J.A.C. 7:27-24.4.

(h) Notwithstanding the provisions at (f) and (g) above, a product that makes ancillary disinfecting, sanitizing, or antimicrobial claims on the label is not subject to the VOC standards for disinfectant or sanitizer if the product is designed and labeled on the principal display panel as a bathroom and tile cleaner, carpet/upholstery cleaner, fabric refresher, general purpose cleaner, glass cleaner, metal polish or cleanser, or toilet/urinal care product.

(i) (No change.)

(j) A chemically formulated consumer product is exempt from (a) above and (n) below, if:

1. The manufacturer of the product has been granted an IPE, ACP, or variance for the product by either:

i. CARB, pursuant to its antiperspirants and deodorants, consumer products, alternative control plan, or automotive consumer products regulations (including all amendments and supplements) at 17 CCR 94503.5, 94505, 94511, 94514, 94540 through 94555, or 93111, respectively; or

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ii. By the air pollution control agency of another state that has adopted a consumer product rule [based on or substantially equivalent to the Ozone Transport Commission (OTC) “Model Rule for Consumer Products” dated November 29, 2001, including subsequent revisions (accessible at the OTC’s website at <http://www.otcair.org>)] **that contains an applicable VOC content limit that is at least as stringent as the applicable limit in this subchapter**; and

2. (No change.)

(k) An IPE, ACP, or variance [in] **at** (j) above shall not be valid for use in New Jersey to comply with this subchapter, unless:

1.-5. (No change.)

6. The manufacturer has included in its electronic registration, submitted pursuant to N.J.A.C. 7:27-24.5(a)[,] **and** (b) [and (c)], indication that for the specified product it is complying with this section [under] **pursuant to** an IPE, ACP, or variance.

(l) Any submittal made pursuant to (k)5 above shall be sent **electronically** to consumer-products@dep.nj.gov **if there is no claim of confidentiality as provided for at N.J.A.C. 7:27-**

1. If there is a claim of confidentiality, the submittal shall meet the requirements at N.J.A.C. 7:27-1 and be sent to the address [given] at N.J.A.C. 7:27-24.3(d) [and the envelope or package]. **The subject line of an electronic submittal or the packaging containing a hard-copy submittal, shall be labeled as follows:**

1.-3. (No change.)

[(m) On and after January 1, 2005, no person shall sell, offer for sale, hold for sale, distribute, supply, or manufacture for sale in New Jersey, an aerosol adhesive product that contains

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methylene chloride, perchloroethylene, or trichloroethylene, even if its VOC content conforms with the standards required pursuant to (a) above.

(n) Except as provided at N.J.A.C. 7:27-24.2(f), and at (o), (q) and (r) below, on and after January 1, 2009, no person shall sell, offer for sale, hold for sale, distribute for sale, supply for sale, or manufacture for sale in New Jersey any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner, graffiti remover or automotive consumer product that contains a chlorinated toxic air contaminant even if it meets the VOC content standards at (a) above.

(o) Any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner, graffiti remover or automotive consumer product that was manufactured before January 1, 2009 and contains a chlorinated toxic air contaminant may be sold, offered for sale, held for sale, distributed, or supplied through December 31, 2011, so long as the product container or package displays the date on which the product was manufactured, or a code indicating such date, in accordance with N.J.A.C. 7:27-24.5 and the product otherwise meets the VOC content standards at (a) above.

(p) On or after June 30, 2011, any person who sells or supplies for sale a consumer product identified in (o) above to a distributor or retailer must notify the distributor or retailer in writing that the product cannot be sold after December 31, 2011.

(q) The requirements of (n) through (p) above do not apply to any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner, graffiti remover that contains a chlorinated toxic air contaminant that is present as an impurity in a combined amount equal to or less than 0.01 percent by weight.]

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(m) The following provisions limit the use of specific toxic compounds in specific chemically formulated consumer products:

1. Except as provided at (m)3, 5, and 6 below, on or after the operative date shown in Table 2 below, for each chemically formulated consumer product category, no person shall sell, supply, offer for sale, or manufacture for use in New Jersey any chemically formulated consumer product listed in Table 2 that contains a chlorinated toxic air contaminant.

Table 2			
Product Categories in which Use of Chlorinated Toxic Air Contaminants is Prohibited			
Chemically Formulated Consumer Product Category		Operative Date	Sell-Through Date
Adhesive remover:			
	Floor or wall covering	1/1/2009	1/1/2012
	Gasket or thread locking	1/1/2009	1/1/2012
	General purpose	1/1/2009	1/1/2012
	Specialty	1/1/2009	1/1/2012
Adhesives:			
	Aerosol:		
	Mist spray	1/1/2005	None
	Web spray	1/1/2005	None
	Special purpose spray adhesives:		

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	Mounting, automotive engine compartment, and flexible vinyl	1/1/2005	None
	Polystyrene foam and automotive headliner	1/1/2005	None
	Polyolefin and laminate repair/edgebanding	1/1/2005	None
	Adhesives, other:		
	Construction, panel, and floor covering	(One year after effective date of this rulemaking)	(Four years after effective date of this rulemaking)
	Contact general purpose	1/1/2009	1/1/2012
	Contact special purpose	1/1/2009	1/1/2012
	Bathroom and tile cleaner	(One year after effective date of this rulemaking)	(Four years after effective date of this rulemaking)
	Brake cleaner	1/1/2009	1/1/2012
	Carburetor or fuel injection air intake cleaner	1/1/2009	1/1/2012
	Electrical cleaner	1/1/2009	1/1/2012
	Electronic cleaner	1/1/2009	1/1/2012
	Electronic cleaner labeled as energized electronic equipment use only	1/1/2009	1/1/2012
	Engine degreaser	1/1/2009	1/1/2012
	Footwear or leather care product	1/1/2009	1/1/2012

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General purpose cleaner	1/1/2009	1/1/2012
General purpose degreaser	1/1/2009	1/1/2012
Graffiti remover	1/1/2009	1/1/2012
Lubricant: multi-purpose (excluding solid or semisolid products)	1/1/2009	1/1/2012
Multi-purpose solvent, non-aerosol	(One year after effective date of this rulemaking)	(Four years after effective date of this rulemaking)
Oven or grill cleaner	(One year after effective date of this rulemaking)	(Four years after effective date of this rulemaking)
Paint thinner, non-aerosol	(One year after effective date of this rulemaking)	(Four years after effective date of this rulemaking)

2. Except as provided at (m)3 below, on or after the applicable operative date shown in Table 3 below, no person shall sell, supply, offer for sale, or manufacture for use in New Jersey any chemically formulated consumer product listed in Table 3 that contains any para-dichlorobenzene.

Table 3
Product Categories in which Use of Para-Dichlorobenzene is Prohibited

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Chemically Formulated Consumer Product Category	Operative Date	Sell-Through Date
Air freshener (solid)	1/1/2009	1/1/2012
Toilet/urinal care products	1/1/2009	1/1/2012

3. A chemically formulated consumer product listed in Tables 2 and 3 above that was manufactured before the applicable operative date in Tables 2 and 3 may be sold, supplied, or offered for sale until the corresponding sell-through date in Tables 2 and 3, so long as the product complies with the product dating requirements at N.J.A.C. 7:27-24.5;

4. A person who sells or supplies a chemically formulated consumer product identified in Tables 2 or 3 above must notify the purchaser of the products, in writing, that the sell-through period for that product will end on the date specified in Tables 2 or 3, if the product is sold or supplied to a distributor or retailer, and the product is sold or supplied within six months before the sell through date;

5. The requirements at (m)1 above shall not apply to any chemically formulated consumer product listed in Table 2 that is present as an impurity in a combined amount equal to or less than 0.01 percent by weight; and

6. The requirements at (m)1 above shall not apply to penetrant products used on equipment when electrical current exists; residual electrical potential from a component

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exists; or an open flame exists; as long as the Principal Display Panel clearly displays the statement: “Nonflammable: For use on energized equipment only.”

(n) Effective on or after (one year after the effective date of this rulemaking) the following requirements apply to multi-purpose solvents and paint thinners:

1. Except as provided at (n)5ii below, no person shall sell, supply, offer for sale, or manufacture for use in New Jersey any non-aerosol multi-purpose solvent or paint thinner product that contains greater than one percent aromatic compound content by weight; and

2. Non-aerosol multi-purpose solvent and paint thinner products that contain greater than one percent aromatic compound content by weight; and were manufactured before (one year after the effective date of this rulemaking), may be sold, supplied, or offered for sale in New Jersey so long as these products comply with the product dating requirements at (n)6i and ii below.

(o) Additional requirements for aerosol adhesives are as follows:

1. For special purpose spray adhesives:

- i. In order to qualify as a special purpose spray adhesive the product must meet one or more of the definitions for special purpose spray adhesive specified at N.J.A.C. 7:27-24.1, but if the product label indicates that the product is suitable for use on any substrate or application not listed in one of the definitions for special purpose spray adhesive, then the product shall be classified as either a web spray adhesive or a mist spray adhesive; and

- ii. If a product meets more than one of the definitions specified at N.J.A.C. 7:27-24.1 for special purpose spray adhesive and is not classified as a web spray adhesive

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or mist spray adhesive pursuant to (o)li above, then the VOC limit for the product shall be the lowest applicable VOC limit specified at (a) above; and

2. All aerosol adhesives must comply with the labeling requirements specified at N.J.A.C. 7:27-24.5.

[(r)] **(p)** For purposes [of (n)] **at (m)** above, an automotive consumer product contains a chlorinated toxic air contaminant if the product contains 1.0 percent or more by weight (exclusive of the container or packaging) of [methylene chloride, perchloroethylene, or trichloroethylene] **any chlorinated toxic air contaminant**, as determined by the test method specified [in] **at N.J.A.C. 7:27-24.7(b).**

[(s)] On and after January 1, 2009, no person shall sell, supply for sale, offer for sale, or manufacture for use in New Jersey any solid air fresheners or toilet/urinal care products that contain paradichlorobenzene, except that solid air fresheners and toilet/urinal care products that contain paradichlorobenzene and were manufactured before January 1, 2009 may be sold, supplied, or offered for sale through December 31, 2011, so long as the product container or package displays the date on which the product was manufactured, or a code indicating such date, in accordance with N.J.A.C. 7:27-24.5.

(t) On or after June 30, 2011, any person who sells or supplies for sale a solid air freshener or toilet/urinal care product that contains paradichlorobenzene to a distributor or retailer must notify the distributor or retailer in writing that the product cannot be sold after December 31, 2011.]

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7:27-24.5 Chemically formulated consumer products: registration and labeling

(a) The manufacturer of a chemically formulated consumer product that is subject to this subchapter pursuant to N.J.A.C. 7:27-24.2(b)1 shall register or re-register (for manufacturers who have submitted registration prior to June 6, 2004) with the Department as follows:

1. The registration or re-registration shall be submitted to the Department on the form provided by the Department at [<http://www.state.nj.us/dep/baqp>]

<https://www.state.nj.us/dep/baqp/>, and shall be submitted electronically, by email[, on diskette, or on CD-ROM, unless:

- i. Electronic submission would impose hardship on the manufacturer; and
- ii. The Department is satisfied that a hardship exists and approves a written request from the manufacturer to submit the information on paper pursuant to (c) below;] **to the email address provided on the form;**

2. – 4. (No change.)

(b) Notwithstanding N.J.A.C. 7:27-24.3(c), any information submitted as part of the registration or re-registration pursuant to (a) above and [(e)] **(d)** below may not be claimed to be confidential, including [under] **pursuant to** the procedures set forth at N.J.A.C. 7:27-1.6 through 1.29.

[(c) If a manufacturer seeks approval to submit its registration or re-registration on paper, rather than electronically, the following apply:

1. The manufacturer shall submit the written request to the address given at N.J.A.C. 7:27-24.3(d), and the envelope in which the written request is submitted shall be labeled as follows: “Attention: Request for On-Paper Submittal of Consumer Product Registration”;

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2. The written request shall include an explanation of the hardship that electronic submission would impose on the manufacturer; and

3. The Department shall not approve a manufacturer's written request to submit its registration on paper unless the Department is satisfied that electronic submission would impose hardship on the manufacturer.]

[(d)] (c) Except as provided at [(f)] (e) below, a manufacturer of a chemically formulated consumer product subject to this subchapter pursuant to N.J.A.C. 7:27-24.2(b)1 shall clearly display, on each product package, the day, month, and year in which the product was manufactured, or a code indicating such date (that is, a date-code). The date or date-code shall be located on the packaging, or inside the cover or cap, so that it is readily observable or obtainable without irreversibly disassembling any part of the packaging, such as by simply removing the cover or cap. Use of the following code to indicate the date of manufacture in compliance with the requirements of this subsection will exempt the manufacturer from the requirements [of (e)] at (d) below, if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD

Where:

“YY” = two digits representing the year in which the product was manufactured[.]; and

“DDD” = three digits representing the day of the year on which the product was manufactured, with “001” representing the first day of the year, “002” representing the second day of the year, and so forth (also known as the “Julian date”).

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[(e)] **(d)** If for any consumer product, the manufacturer uses a date-code other than the YY DDD format described at [(d)] **(c)** above to comply with [(d)] **(c)** above, the manufacturer shall submit an explanation of the date portion of the product code to the Department. The explanation shall be submitted with the electronic registration or re-registration, in accordance with the requirements [of] **at (a)[,] and (b) [and (c)]** above.

[(f)] **(e)** Subsection [(d)] **(c)** above does not apply to a product if:

1.-3. (No change.)

[(g)] **(f)** For any aerosol adhesive, adhesive remover, contact adhesive, electronic cleaner, electrical cleaner, and energized electrical cleaner products manufactured on or after the effective date for the product category specified in Table 1 at N.J.A.C. 7:27-24.4(a), the manufacturer shall ensure that:

1. (No change.)

2. If abbreviation(s) are used, as allowed [under (g)1i] **pursuant to (f)1i** and iii above, an explanation of the abbreviation shall be submitted electronically with the electronic registration or re-registration **pursuant to (a) above**; and

3. The information required [under (g)1] **at (f)1** above shall be displayed on the product packaging such that it is readily observable without removing or irreversibly disassembling any portion of the product packaging. Information may be displayed on the bottom of a container or package, as long as it is clearly legible without removing any product packaging.

[(h)] **(g)** (No change in text.)

[(i)] **(h)** No person shall erase, alter, deface, or otherwise remove or make illegible any information required to be displayed on any product packaging [under (d), (g) or (h)] **at (c), (f),**

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or (g) above, prior to the final sale of the product to a consumer without the express authorization of the manufacturer.

(i) For multi-purpose solvents and paint thinners manufactured on or after (one year after effective date of this rulemaking):

1. Except as provided at (i)2 below, no person shall sell, supply, offer for sale, or manufacture for use in New Jersey any “flammable” or “extremely flammable” multi-purpose solvent or paint thinner named, on the principal display panel as “paint thinner,” “multi-purpose solvent,” “clean-up solvent,” or “paint clean-up”;

2. Paragraph (i)1 above does not apply to products that meet either of the following criteria:

i. Products that include an attached hang tag, sticker, or contrasting square or rectangular area on the principle display panel that displays, at a minimum, the following statements in a font size as large as, or larger than, the “signal word” (that is, “DANGER,” “WARNING,” or “CAUTION”) (not including the font size used for the company name, brand name, or logo) as specified at Title 16, Code of Federal Regulations, section 1500.121 (16 CFR 1500.121): “Formulated to meet California VOC limits; see warnings on label,” which is incorporated herein by reference, as amended and supplemented; or

ii. Products where the principle display panel displays, in a font size as large as, or larger than, the font size of all other words on the panel (not including the font size used for the company name, brand name, or logo), the common name of the chemical

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compound (for example, “acetone,” “methyl acetate,” etc.) that results in the product meeting the criteria for “flammable” or “extremely flammable”; and

3. For the purposes of this subsection, a product is “flammable” or “extremely flammable” if it is labeled as “flammable” or “extremely flammable” on the product container, or if the product meets the criteria for these terms specified at Title 16, Code of Federal Regulations, section 1500.3(c)(6) (16 CFR 1500.3(c)(6)), which is incorporated herein by reference, as amended and supplemented.

7:27-24.6 Chemically formulated consumer products: recordkeeping and reporting

(a)-(f) (No change.)

(g) Within 30 days of a receipt of the Department's written request, the manufacturer of a charcoal lighter material product shall submit to the Department:

1. Documentation for the product’s certification issued by CARB or the air pollution agency of another state in accordance with N.J.A.C. 7:27-[24.4(h)]**24.4(i)**; and

2. (No change.)

(h)-(j) (No change.)

7:27-24.7 Chemically formulated consumer products: testing

(a) Upon the written request of the Department, any manufacturer of a chemically formulated consumer product subject to the requirements of this subchapter shall test any of its products that are sold, offered for sale, held for sale, distributed, supplied, or manufactured for sale in New Jersey to determine the VOC content of the product (or in the case of charcoal lighter material, its emissions per start) or the amount of [a chlorinated toxic air contaminant the product

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contains] **specific prohibited compounds**. Such [testing] **a determination** shall be [performed] **made** utilizing the test methods [in] **and/or calculation methods at** (b) through [(g)] **(h)** below, as applicable.

(b) Testing to determine compliance with **the requirements of this subchapter, including the** VOC content limits at N.J.A.C. 7:27-24.4(a) [or], the prohibition of [chlorinated toxic air contaminants] **specific compounds** at N.J.A.C. 7:27-[24.4(n)]**24.4(m), LVP-VOC, volatile components of a product that do not meet the definition of a VOC, or are exempt compounds** shall be performed using:

1. CARB Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products **and Reactive Organic Compounds (ROC) in Aerosol Coating Products**, adopted September 25, 1997, [as supplemented or amended, which is incorporated by reference herein. For purposes of determining compliance with N.J.A.C. 7:27-24.4(l) through (o), Sections 3.5 and 3.7 of CARB Method 310 shall be used and the term “VOC” in those sections shall be interpreted as meaning “chlorinated toxic air contaminant”] **and last amended August 1, 2022, which is incorporated herein by reference, as amended and supplemented;** or

2. An alternative method that is shown to accurately determine the concentration of VOCs [or chlorinated toxic air contaminants in a product] **prohibited compounds, LVP-VOC, and volatile components of a product that do not meet the definition of a VOC or are exempt compounds**. Such methods must first be approved, in writing, by the Department and **the EPA**.

(c) (No change.)

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(d) Testing to determine whether a product is a liquid or a solid shall be performed using ASTM [D4359-90(2006)] **D4359-90(2019)**, “Standard Test Method for Determining Whether a Material is a Liquid or a Solid,” [as supplemented or amended,] which is incorporated **herein** by reference [herein], **as amended and supplemented**.

(e) Testing to determine compliance with the standards for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991), [including subsequent revisions,] which is incorporated **herein** by reference [herein], **as amended and supplemented**.

(f) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM [D86-07b] **D86-20b**, [as supplemented or amended,] which is incorporated **herein** by reference [herein], **as amended and supplemented**.

(g) Testing to determine whether a material is a “plasticizer” may be determined using ASTM Method [E260-96(2006)] **E260-96(2019)**, [as supplemented or amended,] which is incorporated **herein** by reference [herein], **as amended and supplemented**.

(h) Testing to determine compliance with N.J.A.C. 7:27-24.4(n) regarding the aromatic compound content of any multi-purpose solvent or paint thinner shall be determined as follows:

1. Performed using the CARB Method 310, which is incorporated herein by reference, as amended and supplemented. Alternative test methods that are demonstrated to be equally or more accurate than CARB Method 310 in determining the Aromatic

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Compound content in a product or its emissions may be used upon the written approval from the Department and the EPA; or

2. Demonstrated through calculation of aromatic compound content from records of the amounts of constituents used to make the product pursuant to the following criteria:

i. Compliance determinations based on these records may not be used unless the responsible party of a multi-purpose solvent or paint thinner keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records must be kept for at least three years;

ii. For the purposes of this subchapter, the aromatic compound content shall be calculated according to the following equation:

$$\text{Aromatic compound content} = (E/D) \times 100$$

Where:

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

E = total weight of all aromatic compounds, as defined at N.J.A.C.

7:27-24.1, per unit; and

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

[(h)] (i) (No change in text.)

[(i)] (j) Test methods can be obtained as follows:

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1. ASTM test methods can be purchased from the [American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; Telephone (610) 832-9585; Fax (610) 832-9555; or ASTM test methods can be purchased from the ASTM website at <http://www.ASTM.org>] **following website:** <https://www.astm.org/>;

2. SCAQMD test methods [can be purchased from the South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, California 91765-0934; Telephone (909) 396-2162] **are available at the following website:** <http://www.aqmd.gov/home/research/methods-procedures>;

3. CARB Method 310 is available [on the web at <http://www.arb.ca.gov/testmeth/cptm/cptm.htm>] **at the following website:** <https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/consumer-products-laboratory-sops-test-methods>.

7:27-24.8 Portable fuel containers and spill-proof spouts: certification requirements

(a) (No change.)

(b) Certification criteria, including all test procedures for determining certification and compliance with the standards applicable to portable fuel containers, spouts, or portable fuel containers and spouts, produced on or after January 28, 2009, that are manufactured for sale, advertised for sale, sold, or offered for sale in New Jersey, or that are introduced, delivered, or imported into New Jersey for introduction into commerce and that are subject to any of the standards prescribed in this subchapter, and documents incorporated by reference therein, are as follows:

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1. For CARB certification, in “CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts,” [as supplemented or amended] **which is incorporated herein by reference, as amended or supplemented.** CP-501 is available at [\[http://www.arb.ca.gov\]](http://www.arb.ca.gov) or from contacting CARB, at:

1001 “I” Street

P.O. Box 2815

Sacramento, CA 95812

(916) 322-3260

or at webmaster@arb.ca.gov] **the following website:** <https://ww2.arb.ca.gov/our-work/programs/portable-fuel-containers-gas-cans/portable-fuel-containers-certification-testing>; and

2. For EPA certification, [in] **at** 40 CFR Part 59, Subpart F, generally, and for testing specifically, 40 CFR 59.653[, each as supplemented or amended], **which are incorporated herein by reference.**

(c) (No change.)

(d) The provisions [of] **at** (a) and (c) above do not apply to a spout, portable fuel container, or portable fuel container and spout if:

1. The spout, portable fuel container, or portable fuel container and spout has been exempted or granted an IPE or variance by CARB, the EPA, or by the air pollution control agency of another state that has adopted a portable fuel container rule [based on or] substantially equivalent to [the Ozone Transport Commission (OTC) “Model Rule for Portable Fuel Container Spillage Control” dated March 6, 2001, including subsequent revisions accessible at the OTC’s

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website at <http://www.otcair.org>] **New Jersey's consumer product rule at this subchapter;**

and

2. (No change.)

(e) The IPE or variance [in] **at** (d) above shall not be valid for use in New Jersey to comply with this subchapter unless:

1.-3. (No change.)

4. For a variance, the requirements at N.J.A.C. 7:27-[24.4(j)3]**24.4(k)3** are met; and

5. (No change.)

(f) Any submittal pursuant to (e)5 above shall be sent **electronically** to consumer-products@dep.nj.gov **if there is no claim of confidentiality in accordance with the requirements at N.J.A.C. 7:27-1 or the address given at N.J.A.C. 7:27-24.3(d) if accompanied by a claim of confidentiality in accordance with the requirements at N.J.A.C. 7:27-1 and [the envelope or package] shall be labeled as follows: “Attention: Portable Fuel Container Innovative Product Exemption” or “Attention: Portable Fuel Container Variance,” whichever is applicable.**

(g) (No change.)

7:27-24.10 Portable fuel containers and spill proof spouts: recordkeeping and reporting

(a) If the manufacturer of a spout, a portable fuel container, or a portable fuel container and spout uses a date-code on a product or its packaging, the manufacturer shall electronically register or re-register the product with the Department by following the procedure at N.J.A.C. 7:27-24.5[(a)1 and 2, (b) and (c)], and by following (b) [through (e)], **(c), and (d)** below.

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(b)-(d) (No change.)

[(e) If a manufacturer seeks approval to submit its registration or re-registration on paper, rather than electronically, the following apply:

1. The manufacturer shall submit the written request to the address given at N.J.A.C. 7:27-24.3(d), and the envelope in which the written request is submitted shall be labeled as follows: “Attention: Request for On-Paper Submittal of Portable Fuel Container Registration”;
2. The written request shall include an explanation of the hardship that electronic submission would impose on the manufacturer; and
3. The Department shall not approve a manufacturer’s written request to submit its registration on paper unless the Department is satisfied that electronic submission would impose hardship on the manufacturer.]

CHAPTER 27A

AIR ADMINISTRATIVE PROCEDURES AND PENALTIES

SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a)-(l) (No change.)

(m) The violations of N.J.A.C. 7:27, whether the violation is minor or non-minor in accordance with (q) through (t) below, and the civil administrative penalty amounts for each violation are as set forth in the following Civil Administrative Penalty Schedule. The numbers of the following subsections correspond to the numbers of the corresponding subchapter at N.J.A.C. 7:27. The rule summaries for the requirements set forth in the Civil Administrative Penalty

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Schedule in this subsection are provided for informational purposes only and have no legal effect.

1. – 23. (No change.)

24. Civil administrative penalties for each violation of N.J.A.C. 7:27-24, Control of Air

Pollution from Consumer Products, are as set forth in the following table:

<u>Citation and Rule Summary</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
...						
N.J.A.C. 7:27-24.4(m) Toxic content in [aerosol adhesive] chemically formulated consumer products	Manufacturer, Distributor, Seller	NM	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(n) [Chlorinated air toxic in consumer products] Multi-purpose solvents and paint thinners aromatic compound content	Manufacturer, Distributor, Seller	NM	\$500	\$1,000	\$2,500	\$7,500
[N.J.A.C. 7:27-24.4(o) Sell through date for chlorinated air toxic in consumer products	Seller	NM	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(p) Sell through date for chlorinated air toxic in consumer products	Supplier	NM	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(s) Sell through date for paradichlorobenzene in consumer products	Seller	NM	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(t) Sell through date for	Supplier	NM	\$500	\$1,000	\$2,500	\$7,500]

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paradichlorobenzene in consumer products						
...						
N.J.A.C. 7:27-[24.5(d)] 24.5(c) Date or date-code requirement	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-[24.5(e)] 24.5(d) Date-code registration	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-[24.5(g)] 24.5(f) Information on aerosol adhesive products after 1/1/05	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-[24.5(h)] 24.5(g) Floor wax stripper products after 1/1/05	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-[24.5(i)] 24.5(h) Defacing of label	Manufacturer, Distributor, Seller	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-24.5(i) Multi-purpose solvents and paint thinners	Manufacturer, Distributor, Seller	M	\$500	\$1,000	\$2,500	\$7,500
...						