(d) VMC may be calculated by multiplying the maximum number of containers by 29.2 m³, or by other generally accepted methods that meet the Commission’s accuracy standards.

(e) For purposes of this part, the outside dimension of a container is 8 ft. × 8 ft. × 20 ft, or 36.25 m³. These parameters will be used for determining the maximum above-deck container capacity.

7. Section 135.31 is amended by adding at the end thereof a new sentence to read as follows:

§ 135.31 Transitional relief measures.

* * * Vessels subject to relief measures shall provide Canal authorities with sufficient documentation, such as plans and classification certificates, for the Commission to determine the VMC.

8. Section 135.41 is amended by revising the first sentence to read as follows:

§ 135.41 Measurement of vessels when volume information is not available.

When an ITC 69 or suitable substitute and documentation for the calculation of the VMC are not presented, or when the certificate, substitute or VMC documentation presented does not meet accuracy standards acceptable to the Commission, vessels will be measured in a manner that will include the entire cubical contents of V and VMC as defined in this part. * * *

9. Section 135.42 is amended by adding a new paragraph (c) to read as follows:

§ 135.42 Measurement of vessels when tonnage cannot be otherwise ascertained.

* * * * *

(c) VMC may be determined by any accepted method or combination of methods, including but not limited to, simple geometric formulas, multiplication of a container by 29.2 m³, or other standard mathematical formula. The on-deck container capacity of a vessel for VMC purposes will be determined by the Commission.

Dated: August 28, 1996.

John A. Mills,
Secretary, Panama Canal Commission.
was in paragraph (a)(3), which describes the VOC content type of information that must be on the label. The incorrect portion of the proposed rule text required the label to include a statement of the VOC content in the container. This is being corrected to specify that the VOC content statement on the label shall refer to the maximum VOC content of the coating in the container, displayed in units of grams of VOC per liter of coating thinned to the manufacturer’s recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases.

Information on the label about the maximum VOC content of the coating may not allow consumers to compare VOC contents of different coatings. This is because manufacturers would tend to specify on the label that the maximum VOC content of the coating is the applicable standard. Use of a maximum VOC content on the label that is well above the actual VOC content of the coating would allow a manufacturer to account for fluctuations in VOC content of the coating due to batch variation, as well as formulation modifications without requiring a label change to reflect the actual VOC content adjustment. The EPA requests comment on whether consumers would benefit from a VOC labeling requirement that more accurately reflects the actual VOC content of the coating. For example, the requirement could specify that the VOC content of the coating must be within 75 grams of the VOC content on the label. Alternatively, the EPA requests comment on the use of a label which would specify “this coating meets all applicable State and Federal VOC requirements.”

Request for Comment on Definition of Small Business

The Regulatory Flexibility Act of 1980 requires special consideration of the effect of Federal regulations on small entities. Results of the initial regulatory flexibility analysis were summarized in Section VII.D of the June 25, 1996 Federal Register notice for the architectural coatings proposed rule. Docket No. A–92–18 contains the complete initial regulatory flexibility analysis.

To conduct a regulatory flexibility analysis, small entities may be defined using the criteria prescribed in the Regulatory Flexibility Act or some other criteria identified by the EPA. The SBA’s general size standards for Standard Industrial Classification (SIC) code is one way to define small businesses. These size standards are presented either by number of employees or by annual receipt levels, depending on the SIC code. For SIC 2851, Paint and Allied Products, the SBA defines small business as fewer than 500 employees. Because the coating manufacturing industry is not labor intensive, a revenue value cut-off rather than a number of employees cut-off appears to be a better measure to reflect the ability of a manufacturer to devote time as well as research and development resources to meet regulation requirements. Based on input from stakeholders, the EPA has defined small manufacturers as having less than $30 million in annual architectural coating sales and less than $50 million in total annual sales of all products. Using this alternative definition, between 70 and 85 percent of the architectural coating industry would be classified as small. The EPA requests comment on use of this alternative definition to identify small entities under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Ozone, Volatile organic compound.

Dated: August 23, 1996.

Mary D. Nichols,
Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, it is proposed that 40 CFR Part 59 be added consisting of subpart D to read as follows:

PART 59—NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARDS FOR CONSUMER AND COMMERCIAL PRODUCTS

Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings

Secs. 59.400-59.407

Applicability and designation of source.

59.401 Definitions.

59.402 Standards.

59.403 Container labeling requirements.

59.404 Test methods.

59.405 Recordkeeping requirements.

59.406 Reporting requirements.

59.407 Variances.

Authority: 42 U.S.C. 7401 et seq.

Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings

§ 59.400 Applicability and designation of source.

(a) The provisions of this subpart apply to architectural coatings manufactured or imported on or after April 1, 1997 for sale or distribution in the United States.

(b) The provisions of this subpart apply to each manufacturer or importer of architectural coatings that sells or distributes these coatings in the United States.

(c) The provisions of this subpart do not apply to architectural coatings meeting the requirements in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), or (c)(5) of this section.

(1) Coatings that are manufactured exclusively for sale or distribution outside the United States.

(2) Coatings that are manufactured or imported prior to April 1, 1997.

(3) Coatings that are sold in nonrefillable aerosol containers.

(4) Coatings that are collected and redistributed at community-based paint exchanges.

(5) Coatings that are sold in containers with a volume of one liter or less.

§ 59.401 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or his or her authorized representative.

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

Anti-fouling coating means a coating formulated and recommended for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms, including, but not limited to, coatings registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.) and nontoxic foul-release coatings.

Anti-graffiti coating means a clear or opaque high performance coating specifically labeled as an anti-graffiti coating and formulated and recommended for application to a stationary structure, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lamp posts;
partitions; pipes and piping systems; rain gutters and downspouts; stairways, fixed ladders, catwalks, and fire escapes; and window screens.

Architectural coating means a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs.

Architectural coating importer or individual that brings architectural coatings from a location outside the United States into the United States for sale or distribution within the United States.

Architectural coating manufacturer or manufacturer means a company, group, or individual that produces, packages, or repackages architectural coatings for sale or distribution in the United States. A company, group, or individual that repackages architectural coatings as part of a community-based paint exchange, and does not produce, package, or repack any other architectural coatings for sale or distribution in the United States, is excluded from this definition.

Below-ground wood preservative means a coating that is formulated and recommended to protect below-ground wood from decay or insect attack and that is registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.).

Bituminous coating and mastic means a coating or mastic formulated and recommended for roofing, pavement sealing, or waterproofing that incorporates bitumens. Bitumens are black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits of asphalt or as residues from the distillation of crude petroleum or coal.

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

Chalkboard resurfacer means a coating formulated and recommended for application to chalkboards to restore a suitable surface for writing with chalk.

Clear coating means a coating that produces a dry film that allows light to pass through, so that the substrate may be distinctly seen.

Clear and semi-transparent wood preservative means a coating that is formulated and recommended to protect exposed wood from decay or insect attack, registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.), that may change the color of the substrate but does not conceal the substrate.

Coating means a protective, decorative, or functional film applied to a surface. Such materials include, but are not limited to, paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, enamels, and temporary protective coatings.

Coating product means all coatings produced by one manufacturer or imported by one importer that have the same formulation and are defined within the same architectural coating category listed in Table 1 of this subpart.

Colorant means a concentrated pigment dispersion of water, solvent, and/or binder that is added to an architectural coating in a paint store or on-site to produce the desired color.

Community-based paint exchange means a program in which members of the general public may drop off and pick up usable post-consumer architectural coatings in order to reduce household hazardous waste.

Concrete curing compound means a coating formulated and recommended for application to freshly placed concrete to retard the evaporation of water.

Concrete protective coating means a high build coating formulated and recommended for application in a single coat over concrete, plaster, or other cementitious surfaces. These coatings are formulated to be primerless, one-coat systems that can be applied over form oils and/or uncurved concrete. These coatings prevent spalling of concrete in freezing temperatures by providing long-term protection from water and chloride intrusion.

Container means the individual receptacle that holds the coating for storage and distribution.

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

Exempt compounds means specific organic compounds that are not considered volatile organic compounds due to negligible photochemical reactivity. The exempt compounds are specified in §51.100(s) of this chapter.

Exterior coating means an architectural coating formulated and recommended for use in conditions exposed to the weather.

Heat reactive coating means a high performance phenolic-based coating requiring a minimum temperature of 191 °C (375 °F) to 204 °C (400 °F) to obtain complete polymerization or cure. These coatings are formulated and recommended for commercial and industrial use to protect substrates from degradation and maintain product purity in which one or more of the following extreme conditions exist:

1. Continuous or repeated immersion exposure to 90 to 98 percent sulfuric acid or oleum;
2. Continuous or repeated immersion exposure to strong organic solvents;
Lacquer means a clear or pigmented wood finish including clear lacquer sanding sealers formulated with cellulose or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film. Low solids stain means a stain containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water. Low solids wood preservative means a wood preservative containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water.

Manufacturer (See the definition for architectural coating manufacturer.)

Mastic texture coating means a coating formulated and recommended for application to magnesite cement substrate to prevent the magnesite cement substrate from erosion by water. Metallic pigmented coating means a nonluminous coating containing at least 0.4 pounds of metallic pigment per gallon (0.048 kilograms per liter) of coating including, but not limited to, zinc pigment.

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

Nonferrous ornamental metal lacquers and surface protectant means a clear coating formulated and recommended for application to ornamental architectural metal substrates (brass, stainless steel, copper, brass, and anodized aluminum) to prevent oxidation, corrosion, and surface degradation.

Nonflat coating means a coating that is not defined under any other definition in this section and that registers a gloss of 15 or greater on a 60-degree meter. Nuclear coating means a coating labeled for application to magnesite cement substrate to provide a firm bond to prevent oxidation, corrosion, and surface degradation.

Label means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any architectural coating container for purposes of branding, identifying, or giving information with respect to the product, use of the product, or contents of the container.

Lacquer means a clear or pigmented wood finish including clear lacquer sanding sealers formulated with cellulose or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film. Low solids stain means a stain containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water. Low solids wood preservative means a wood preservative containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water.

Manufacturer (See the definition for architectural coating manufacturer.)

Mastic texture coating means a coating formulated and recommended for application to magnesite cement substrate to prevent the magnesite cement substrate from erosion by water. Metallic pigmented coating means a nonluminous coating containing at least 0.4 pounds of metallic pigment per gallon (0.048 kilograms per liter) of coating including, but not limited to, zinc pigment.

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Nonflat coating means a coating that is not defined under any other definition in this section and that registers a gloss of 15 or greater on a 60-degree meter. Nuclear coating means a coating labeled for application to magnesite cement substrate to provide a firm bond to prevent oxidation, corrosion, and surface degradation.

Label means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any architectural coating container for purposes of branding, identifying, or giving information with respect to the product, use of the product, or contents of the container.
Quick-dry primer, sealer, and undercoater means a primer, sealer, or undercoater that is dry to the touch in one-half hour and can be recoated in two hours when tested in accordance with American Society for Testing and Materials Method D1640, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.

Recycled coating means an architectural coating that contains some portion of post-consumer coating. Recycled architectural coatings include, but are not limited to, post-consumer coatings that have been repackaged or blended with virgin coating materials.

Repackaging means to transfer an architectural coating from one container to another container for sale or distribution in the final container.

Repair and maintenance thermoplastic coating means an industrial maintenance coating that has vinyl or chlorinated rubber as a primary resin and is recommended solely for the repair of existing vinyl or chlorinated rubber coatings without the full removal of the existing coating system.

Roof coating means a nonbituminous coating or a nonthermoplastic rubber coating formulated and recommended for application to exterior roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and reflecting ultraviolet radiation.

Rust preventive coating means a coating formulated and recommended for use in preventing the corrosion of ferrous metal surfaces in residential situations.

Sales means the introduction of a coating product into U.S. commerce.

Sanding sealer means a clear wood coating formulated and recommended for application to bare wood to seal the wood and to provide a coat that can be sanded to create a smooth surface. A sanding sealer that also meets the definition of a lacquer sanding sealer shall not be considered in this category, but shall be considered to be in the lacquer category.

Sealer means a coating formulated and recommended for application to substrates for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate; to prevent harm to subsequent coatings by materials in the substrate; to block stains, odors, or efflorescence; to seal fire, smoke, or water damage; or to condition chalky surfaces.

Semitransparent stain means a coating formulated and recommended for application to substrates to impart a desired color without completely concealing the surface or its natural texture or grain pattern.

Shellac means a clear or pigmented coating formulated with natural resins soluble in alcohol (including, but not limited to, the resins secretions of the lac beetle, Laccifer lacca). Shellacs dry by evaporation without chemical reaction and provide a quick-drying, solid protective film that may be used for blocking stains.

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

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

Tint Base means a coating to which colorant is added to produce a desired color.

Traffic marking coating means a coating formulated and recommended for marking and striping streets, highways, and other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots, and airport runways.

Undercoater means a coating formulated and recommended to provide a smooth surface for subsequent coats.

Varnish means a clear or semitransparent coating (excluding lacquers and shellacs) formulated to provide a durable, solid, protective film. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

Volatil organic compound or VOC means any organic compound that participates in atmospheric photochemical reactions, that is, any organic compound other than those which the Administrator designates as having negligible photochemical reactivity. For a list of compounds that the Administrator has designated as having negligible photochemical reactivity, also referred to as exempt compounds, refer to 40 CFR 51.100.

VOC content. (1) VOC content means the amount of VOC, in grams, in one liter of coating thinned to the manufacturer’s maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. Grams of VOC per liter of material means the weight of VOC per volume of material and is calculated by using equation 1 unless the coating meets the definition of a “low solids” stain or wood preservative, in which case, Equation 2 is used.

\[
\text{VOC} = \frac{(W_s - W_w - W_{ec})}{(V_m - V_w - V_{ec})} \quad \text{(Equation 1)}
\]

where:

- \(W_s\) = grams of VOC per liter of coating
- \(W_w\) = weight of volatiles, in grams
- \(W_{ec}\) = weight of water, in grams
- \(V_m\) = volume of coating, in liters
- \(V_w\) = volume of water, in liters
- \(V_{ec}\) = volume of exempt compounds, in liters

(2) Equation 2 may be used to calculate the VOC content of the coating for low solids stains and wood preservatives:

\[
\text{VOC}_{ls} = \frac{(W_s - W_w - W_{ec})}{V_m} \quad \text{(Equation 2)}
\]

where:

- \(VOC_{ls}\) = the VOC content of a low solids coating in grams of VOC per liter of coating
- \(W_s\) = weight of volatiles, in grams
- \(W_w\) = weight of water, in grams
- \(W_{ec}\) = weight of exempt compounds, in grams
- \(V_m\) = volume of coating, in liters

Waterproofing (treatment) sealer means a coating that is applied to porous substrates for the primary purpose of preventing the penetration of water.

§ 59.402 Standards.

(a) Effective April 1, 1997 and thereafter, manufacturers and importers of architectural coatings subject to this subpart shall limit the VOC content of each architectural coating manufactured or imported to the VOC levels in Table 1, except as provided in § 59.407.
TABLE 1.—ARCHITECTURAL COATING VOLATILE ORGANIC COMPOUND CONTENT LEVELS

[Unless otherwise specified, units are in grams of VOC per liter of coating thinned to the manufacturer’s maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases]

<table>
<thead>
<tr>
<th>Coating category</th>
<th>Effective April 1, 1997</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antenna coatings</td>
<td>530</td>
</tr>
<tr>
<td>Anti-fouling coatings</td>
<td>400</td>
</tr>
<tr>
<td>Anti-graffiti coatings</td>
<td>600</td>
</tr>
<tr>
<td>Bituminous coatings and mastics</td>
<td>500</td>
</tr>
<tr>
<td>Bond breakers</td>
<td>600</td>
</tr>
<tr>
<td>Chalkboard resurfacers</td>
<td>450</td>
</tr>
<tr>
<td>Concrete curing compounds</td>
<td>350</td>
</tr>
<tr>
<td>Concrete protective coatings</td>
<td>400</td>
</tr>
<tr>
<td>Dry fog coatings</td>
<td>400</td>
</tr>
<tr>
<td>Extreme high durability coatings</td>
<td>800</td>
</tr>
<tr>
<td>Fire-retardant/resistive coatings:</td>
<td></td>
</tr>
<tr>
<td>Clear</td>
<td>850</td>
</tr>
<tr>
<td>Opaque</td>
<td>450</td>
</tr>
<tr>
<td>Flat coatings:</td>
<td></td>
</tr>
<tr>
<td>Exterior</td>
<td>250</td>
</tr>
<tr>
<td>Interior</td>
<td>250</td>
</tr>
<tr>
<td>Floor coatings</td>
<td>400</td>
</tr>
<tr>
<td>Flow coatings</td>
<td>650</td>
</tr>
<tr>
<td>Form release compounds</td>
<td>450</td>
</tr>
<tr>
<td>Graphic arts coatings (sign paints)</td>
<td>500</td>
</tr>
<tr>
<td>Heat reactive coatings</td>
<td>420</td>
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<tr>
<td>High temperature coatings</td>
<td>650</td>
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<tr>
<td>Impacted immersion coatings</td>
<td>780</td>
</tr>
<tr>
<td>Industrial maintenance coatings</td>
<td>450</td>
</tr>
<tr>
<td>Lacquers (including lacquer sanding sealers)</td>
<td>680</td>
</tr>
<tr>
<td>Magnesite cement coatings</td>
<td>600</td>
</tr>
<tr>
<td>Mastic texture coatings</td>
<td>300</td>
</tr>
<tr>
<td>Metallic pigmented coatings</td>
<td>500</td>
</tr>
<tr>
<td>Multi-colored coatings</td>
<td>580</td>
</tr>
<tr>
<td>Nonferrous ornamental metal lacquers and surface protectants</td>
<td>870</td>
</tr>
<tr>
<td>Nonflat coatings:</td>
<td></td>
</tr>
<tr>
<td>Exterior</td>
<td>380</td>
</tr>
<tr>
<td>Interior</td>
<td>380</td>
</tr>
<tr>
<td>Nuclear coatings</td>
<td>420</td>
</tr>
<tr>
<td>Pretreatment wash primers</td>
<td>780</td>
</tr>
<tr>
<td>Primers and undercoaters</td>
<td>350</td>
</tr>
<tr>
<td>Quick-dry coatings:</td>
<td></td>
</tr>
<tr>
<td>Enamels</td>
<td>450</td>
</tr>
<tr>
<td>Primers, sealers, and undercoaters</td>
<td>450</td>
</tr>
<tr>
<td>Repair and maintenance thermoplastic coatings</td>
<td>650</td>
</tr>
<tr>
<td>Roof coatings</td>
<td>250</td>
</tr>
<tr>
<td>Rust preventative coatings</td>
<td>400</td>
</tr>
<tr>
<td>Sanding sealers (other than lacquer sanding sealers)</td>
<td>550</td>
</tr>
<tr>
<td>Sealers (including interior clear wood sealers)</td>
<td>400</td>
</tr>
<tr>
<td>Shellacs:</td>
<td></td>
</tr>
<tr>
<td>Clear</td>
<td>650</td>
</tr>
<tr>
<td>Opaque</td>
<td>550</td>
</tr>
<tr>
<td>Stains:</td>
<td></td>
</tr>
<tr>
<td>Clear and semitransparent</td>
<td>550</td>
</tr>
<tr>
<td>Opaque</td>
<td>350</td>
</tr>
<tr>
<td>Low solids</td>
<td>+120</td>
</tr>
<tr>
<td>Swimming pool coatings</td>
<td>600</td>
</tr>
<tr>
<td>Thermoplastic rubber coatings and mastics</td>
<td>550</td>
</tr>
<tr>
<td>Traffic marking coatings</td>
<td>150</td>
</tr>
<tr>
<td>Varnishes</td>
<td>450</td>
</tr>
<tr>
<td>Waterproofing sealers and treatments:</td>
<td></td>
</tr>
<tr>
<td>Clear</td>
<td>600</td>
</tr>
<tr>
<td>Opaque</td>
<td>400</td>
</tr>
<tr>
<td>Wood preservatives:</td>
<td></td>
</tr>
<tr>
<td>Below ground wood preservatives</td>
<td>550</td>
</tr>
<tr>
<td>Clear and semitransparent</td>
<td>550</td>
</tr>
<tr>
<td>Opaque</td>
<td>350</td>
</tr>
<tr>
<td>Low solids</td>
<td>+120</td>
</tr>
</tbody>
</table>

*Units are grams of VOC per liter of coating, including water and exempt compounds, thinned to the maximum thinning recommended by the manufacturer.
(b) If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or importer or anyone acting on their behalf, any representation is made that the coating may be suitable for use in more than one of the coating categories listed in Table 1, then the most restrictive VOC level shall apply. This requirement does not apply to the representation of the following coatings in paragraphs (b)(1) through (b)(7).

(1) High temperature coatings that may also be suitable for use as metallic pigmented coatings shall only be subject to the VOC level in Table 1 for high temperature coatings.

(2) Lacquer sanding sealers that may also be suitable for use as sanding sealers in conjunction with clear lacquer topcoats shall only be subject to the VOC level in Table 1 for lacquer sanding sealers.

(3) Metallic pigmented coatings that may also be suitable for use as roof coatings, industrial maintenance coatings, or primers shall only be subject to the VOC level in Table 1 for metallic pigmented coatings.

(4) Shellacs that may also be suitable for use as primers, sealers, or undercoaters shall only be subject to the VOC level in Table 1 for shellacs.

(5) Fire-retardant/resistive coatings that may be suitable for use as any other architectural coatings shall only be subject to the VOC level in Table 1 for fire-retardant/resistive coatings.

(6) Pretreatment wash primers that may be suitable for use as primers shall only be subject to the VOC level in Table 1 for pretreatment wash primers.

(7) Industrial maintenance coatings that may also be suitable for use as primers shall only be subject to the VOC level in Table 1 for industrial maintenance coatings.

(c) For the purpose of determining compliance with the standards of this subpart, the VOC content shall be determined using the procedure in § 59.404. With the exception of low solids stains and low solids wood preservatives, the VOC content shall be determined in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. For low solids stains and low solids wood preservatives, the VOC content shall be determined in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation including the volume of any water and exempt compounds.

(d) For the purpose of determining compliance with the requirements of this subpart, manufacturers or importers of recycled architectural coatings may calculate an adjusted VOC content to account for the post-consumer coating content. The adjusted VOC content shall be determined using Equation 3.

\[
\text{Adjusted VOC} = \text{Actual VOC} - \left[ \text{Actual VOC} \left( \frac{\text{Percent Post-consumer Coating}}{100} \right) \right] \quad \text{(Equation 3)}
\]

Where:
- \(\text{Adjusted VOC}\) = The VOC content assigned to the recycled coating for purposes of complying with provisions of this section (grams VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases.)
- \(\text{Actual VOC}\) = The VOC content of the coating product as determined using the procedure in § 59.404.
- \(\text{Percent Post-consumer Coating}\) = The volume percent of the coating product that is post-consumer architectural coating as determined in paragraph (e) of this section.

(e) Manufacturers or importers of recycled architectural coatings calculating an adjusted VOC as described in § 59.402(d) of this section shall determine the post-consumer architectural coating content of each recycled coating using Equation 4.

\[
\text{Volume of Post-consumer Coating} \times 100 \% \quad \text{(Equation 4)}
\]

Where:
- \(\text{Percent Post-consumer}\) = The volume percent of a recycled coating that is post-consumer coating materials.
- \(\text{Volume of Post-consumer Coating}\) = The volume of post-consumer coating materials per gallon used in the production of a recycled coating.
- \(\text{Volume of Virgin Materials}\) = The volume of virgin coating materials per gallon used in the production of a recycled coating.

§ 59.403 Container labeling requirements.

(a) Manufacturers and importers subject to the provisions of this subpart shall include the information listed in paragraphs (a)(1) through (a)(3) of this section on the label or lid of all architectural coatings subject to this subpart that are manufactured or imported on or after April 1, 1997.

(1) The date of manufacture of the contents or a code indicating the date of manufacture.

(2) A statement of the manufacturer's recommendation regarding thinning of the coating. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

(3) The maximum VOC content of the coating in the container, including any recommended thinning. With the exception of low solids stains and low solids wood preservatives, this VOC content shall be displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. For low solids stains and low solids wood preservatives, the VOC content shall be displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation including the volume of any water and exempt compounds.

(b) Manufacturers and importers of industrial maintenance coatings manufactured or imported on or after April 1, 1997 that are subject to the provisions of this subpart shall display on the label or lid of the container the phrase "NOT INTENDED FOR RESIDENTIAL USE."
§59.404 Test methods.
(a) Except as provided in paragraph (b) of this section, the EPA's Reference Method 24 of Appendix A of Part 60 of this chapter shall be used to determine compliance with the VOC content of coatings if they are demonstrated to the Administrator's satisfaction to provide results equivalent to the percent, by volume, of post-consumer architectural coating.

§59.405 Recordkeeping requirements.
(a) Each manufacturer or importer complying with the recycled coating provisions in §59.402(d) shall maintain records in written or electronic form of the information specified in paragraphs (a)(1) through (a)(6) of this section for a period of three years.

(b) The volume of coating received for recycling.
(c) The volume of coating received that was unusable.
(d) The volume of virgin materials used.
(e) The volume of each recycled coating manufactured or imported.
(f) The volume of the final recycled coating manufactured or imported.

§59.407 Variances.
(a) Any manufacturer or importer of architectural coatings subject to the provisions of this subpart that cannot comply with the requirements of this subpart because of extraordinary circumstances beyond reasonable control may apply in writing to the Administrator for a variance. The variance application shall include the information specified in paragraphs (a)(1) through (a)(6) of this section.

(b) In cases where codes are used to represent the date of manufacture, as provided in §59.403(a)(1), the manufacturer or importer shall submit an explanation of each date code to the Administrator.

(c) The Administrator may grant a variance if the criteria specified in paragraphs (c)(1) through (c)(3) are met.

(d) Any variance order will specify a final compliance date by which the requirements of this subpart will be achieved. Any variance order will contain a condition that specifies increments of progress necessary to assure timely compliance.

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

(f) Upon the application of any party, the Administrator may review, and for good cause, modify, or revoke a variance from requirements of this subpart after holding a public hearing in accordance with the provisions of paragraph (b) of this section.

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