CHAPTER 7 VOLATILE ORGANIC COMPOUNDS

Section

700 ORGANIC SOLVENTS

700.1 Sources subject to the requirements of §§ 701 through 713 shall not be subject to § 700.

700.2 No person shall discharge into the atmosphere more than fifteen (15) pounds of photochemically reactive solvents in any one (1) day, nor more than three (3) pounds in any one (1) hour, from any article, machine, equipment, or other contrivance, unless the uncontrolled organic emissions are reduced by at least eighty-five percent (85%).

700.3 No person shall discharge into the atmosphere more than forty (40) pounds of nonphotochemically reactive solvents in any one (1) day, nor more than eight (8) pounds in any one (1) hour, from any article, machine, equipment, or other contrivance, unless the uncontrolled organic emissions are reduced by at least eighty-five percent (85%).

AUTHORITY: Unless otherwise noted, the authority for this chapter is § 412 of the District of Columbia Self-Government and Governmental Reorganization Act, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Official Code § 1-204.04(a) (2001); and § 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, D.C. Official Code § 8-101.06 (2001), Mayor's Order 93-12 dated February 16, 1993.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 700, 32 DCR 565, 615 (February 1, 1985).

701 STORAGE OF PETROLEUM PRODUCTS

701.1 A person shall not place, store or hold in any stationary tank, reservoir or other container with a capacity of more than forty thousand (40,000) gallons any gasoline or any petroleum distillate having a vapor pressure of one and one-half pounds per square inch (1.5 lb./in.^{2}) absolute or greater under actual storage conditions, unless the tank, reservoir, or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the vapor loss control devices in good working order and in operation, as provided in §§ 701.2 through 701.13.

701.2 This section shall apply to all petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than forty thousand (40,000) gallons.

701.3 This section does not apply to petroleum liquid storage vessels which do any of the following:

(a) When used to store waxy, heavy pour crude oil;

(b) Have a capacity of less than four hundred twenty thousand (420,000) gallons and are used to store produced crude oil and condensate prior to lease custody transfer;

(c) Contain a petroleum liquid with a true vapor pressure of less than one and one-half (1.5) pounds psia;

(d) Contain a petroleum liquid with a true vapor pressure less than four (4.0) pounds psia:

(1) Are of welded construction; and

(2) Presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Mayor; or

(e) Are of welded construction, equipped with a metallic-type shoe primary seal and have a secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal).

701.4 No owner of a petroleum liquid storage vessel subject to this section shall store a petroleum liquid in that vessel unless the following requirements have been met:

(a) The vessel has been fitted with the following:

(1) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(2) A closure or other device which controls volatile organic compound emissions with an effectiveness equal to or greater than a seal required under § 701.4(a)(1) and approved by the Mayor;

(b) All seal closure devices meet the following requirements:

(1) There are no visible holes, tears, or other openings in the seal(s) or seal fabric;

(2) The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(3) For vapor mounted primary seals, the accumulated areas of gaps exceeding one-eighth inch (1/8 in.) in width between the secondary seal and the tank wall shall not exceed one inch squared per foot (1.0 $in/ft.^2$) of tank diameter, as determined by the method in § 701.12.

(c) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are as follows:

(1) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(2) Equipped with projections into the tank which remain below the liquid surface at all times.

(d) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(e) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting; and

(f) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least ninety percent (90%) of the area of the opening.

701.5 The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this subtitle shall do the following:

(a) Perform routine inspections semi-annually in order to insure compliance with § 701.4 and the inspections shall include a visual inspection of the secondary seal gap;

(b) Measure the secondary seal gap annually in accordance with § 701.4(b)(3) when the floating roof is equipped with a vapor-mounted primary seal; and

(c) Maintain records of the types of volatile petroleum liquids stored, the maximum true vapor pressure of the liquid stored, and the results of the inspections performed according to §§ 701.5(a) and 701.5(b).

701.6 The owner or operator of a petroleum liquid storage vessel with an external floating roof exempted from this section by § 701.3(c) but containing a petroleum liquid with a true vapor pressure greater than one pound per square inch (1.0 lb./in.^{2}), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all petroleum liquids with a true vapor pressure greater than one pound per square inch (1.0 lb./in.^{2}).

701.7 Copies of all records under §§ 701.5 and 701.6 shall be retained by the owner or operator for a minimum of two (2) years after the date the record was made.

701.8 Copies of all records under this section shall immediately be made available to the Mayor, upon verbal or written request, at any reasonable time.

701.9 The Mayor may, upon written notice, require more frequent inspections or modify the monitoring and recordkeeping requirements, when necessary to accomplish the purposes of this section.

701.10 The owner or operator of any volatile organic compound source required to comply with § 701.13 shall, at his or her own expense, demonstrate compliance by the methods approved by the Mayor.

701.11 A person proposing to conduct a volatile organic compound, emissions test shall notify the Mayor of the intent to test not less than thirty (30) days before the proposed initiation of the tests so the Mayor may at his or her option observe the test. The notification shall contain the information required by, and be in a format approved by the Mayor.

701.12 Compliance with § 701.4(b)(3) shall be determined by the following:

(a) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a one-eighth inch (1/8 in.) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and

(b) Summing the area of the individual gaps.

701.13 A vapor recovery system shall consist of a vapor gathering system capable of collecting the hydrocarbon vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 701, 32 DCR 565, 615 (February 1, 1985).

702 CONTROL OF VOLATILE ORGANIC COMPOUND LEAKS FROM PETROLEUM REFINERY EQUIPMENT

702.1 The owner or operator of a petroleum refinery complex subject to this section shall do the following:

(a) Develop a monitoring program consistent with the provisions in § 702.5(a);

(b) Conduct a monitoring program consistent with the provisions in § 702.7;

(c) Record all leaking components which have a volatile organic compound concentration exceeding ten thousand parts per million (10,000 ppm) when tested according to the provisions in § 702.6, and place an identifying tag on each component consistent with the provisions in § 702.9;

(d) Repair and retest the leaking components as soon as possible but no later than fifteen (15) days after the leak is found; and

(e) Identify all leaking components which cannot be repaired until the unit is shut down.

702.2 The Mayor may, at his or her discretion, require early unit shutdown based on the number and severity of tagged leaks awaiting shutdown.

702.3 Except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken or during maintenance operations.

702.4 Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to both refinery personnel performing monitoring and the Mayor.

702.5 In order to comply with §§ 702.1 through 702.4, the owner or operator of a petroleum refinery shall do the following:

(a) Submit to the Mayor a monitoring program within ninety (90) days of the effective date of the District of Columbia Air Pollution Control Act of 1984. This program shall contain, at a minimum, a list of the refinery units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this subtitle; and

(b) Submit the first quarterly monitoring report to the Mayor within two hundred seventy (270) days of the effective date of the District of Columbia Air Pollution Control Act of 1984.

702.6 Testing and calibration procedures used to comply with this subtitle shall be consistent with Appendix B of the EPA Office of Air Quality Planning and Standards, Guideline Series document, "*Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment*," EPA-450/2-78-036.

702.7 The owner or operator of a petroleum refinery subject to this subtitle shall conduct a monitoring program consistent with the following provisions:

(a) Monitor yearly by the methods referenced in § 702.6, the following:

(1) Pump seals;

(2) Pipeline valves in liquid service; and

(3) Process drains.

(b) Monitor quarterly by the methods referenced in § 702.6, the following:

(1) Compressor seals;

(2) Pipeline valves in gaseous service; and

(3) Pressure relief valves in gaseous service;

(c) Monitor weekly by visual methods all pump seals;

(d) Monitor immediately any pump seal from which liquids are observed dripping;

(e) Monitor any relief valve within twenty-four (24) hours after it has vented to the atmosphere; and

(f) Monitor immediately after repair any component that was found leaking.

702.8 Pressure relief devices which are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, or valves that are not externally regulated, are exempt from the monitoring requirements in § 702.7.

702.9 The owner or operator of a petroleum refinery, upon the detection of a leaking component, shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the leaking component. This tag shall remain in place until the leaking component is repaired.

702.10 The owner or operator of a petroleum refinery shall maintain a leaking component monitoring log as specified in § 702.1(c) which shall contain, at a minimum, the following data:

(a) The name of the process unit where the component is located;
(b) The type of component (e.g., valve, seal);

(c) The tag number of the component;

(d) The date on which a leaking component is discovered;

(e) The date on which a leaking component is repaired;

(f) The date and instrument reading of the recheck procedure after a leaking component is repaired;

(g) A record of the calibration of the monitoring instrument;

(h) Those leaks that cannot be repaired until turnaround; and

(i) The total number of components checked and the total number of components found leaking.

702.11 Copies of the monitoring log shall be retained by the owner or operator for a minimum of two (2) years after the date on which the record was made or the report prepared.

702.12 Copies of the monitoring log shall be made available immediately to the Mayor, upon verbal or written request made at a reasonable time.

702.13 The owner or operator of a petroleum refinery, upon the completion of each yearly or quarterly monitoring procedure, shall submit the following:

(a) A report to the Mayor by the fifteenth (15th) day of January, April, July, and October that lists all leaking components that were located during the previous three (3) calendar months but not repaired within fifteen (15) days, all leaking components awaiting unit turnaround, the total number of components inspected and the total number of components found leaking; and

(b) A signed statement with the report attesting to the fact that, with the exception of those leaking components listed in § 702.13(a), all monitoring and repairs were performed as stipulated in the monitoring program.

702.14 The Mayor, upon written notice, may modify the monitoring, recordkeeping and reporting requirements as to a specific petroleum refinery complex or part of the specific petroleum refinery complex.

702.15 If, at any time after two (2) complete liquid service inspections and five (5) complete gaseous service inspections, the owner or operator of a petroleum refinery can demonstrate that modifications to §§ 702.7 through 702.14 are appropriate, he or she may petition to the Mayor that revisions be made.

702.16 The petition for revisions under § 702.15 shall contain the following:

(a) The name and address of the company and the name and telephone number of the responsible company representative over whose signature the petition is submitted;

(b) A detailed description of the problem encountered by implementing §§ 702.7 through 702.14; and

(c) A detailed description of the proposed alternative monitoring procedure.

702.17 If at any time the owner or operator of a petroleum refinery can demonstrate that compliance with §§ 702.1 through 702.4 would require more than leaking component repair of equipment changed, he or she may petition the Mayor to allow the use of alternative operational or equipment controls for the reduction of volatile organic emissions.

702.18 The petition filed pursuant to § 702.17 shall be made for each component within a given facility, and shall contain the following:

(a) The name and address of the company and the name and telephone number of the responsible company representative over whose signature the petition is submitted;

(b) A description of all operations conducted at the location to which the petition applies and the purpose that the volatile organic compound emitting component serves within the operations;

(c) A detailed description of the proposed alternative operational or equipment controls; and

(d) A schedule for the installation or institution of the alternative operational or equipment controls.

702.19 The Mayor may approve a petition for alternative control pursuant to § 702.17 if the petition is submitted in accordance with § 702.18.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 702, 32 DCR 565, 619 (February 1, 1985).

703 TERMINAL VAPOR RECOVERY - GASOLINE OR VOLATILE ORGANIC COMPOUND

703.1 The loading of volatile organic compounds or gasoline into any tank truck, trailer, or railroad tank car from any loading facility shall be prohibited unless the loading facility is equipped with a vapor collection and disposal system or its equivalent designed to collect the total organic compound vapors displaced during loading and in good working order and in operation.

703.2 A loading procedure effected through the hatches of a tank truck, trailer, or railroad tank car with a loading arm equipped with a vapor collecting adaptor, a pneumatic hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch. A procedure shall be provided to prevent liquid drainage from the loading device when it is removed from the hatch of any tank truck, trailer, or railroad tank car, or to accomplish complete drainage before removal.

703.3 When loading is effected through means other than hatches, all loading and vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

703.4 The vapor disposal portion of the system shall limit the emissions to the atmosphere to no more than eighty (80) milligrams of total organic compounds per liter of product loaded and shall consist of one (1) of the following:

(a) A vapor-liquid absorber system with a minimum recovery efficiency of ninety percent (90%) by weight of all the hydrocarbon vapors and gases entering the disposal system;

(b) A variable space tank, compressor, and fuel gas system of sufficient capacity to receive all hydrocarbon vapors and gases displaced from tank trucks, trailers and railroad tank cars being loaded; or

(c) Other equipment of at least ninety percent (90%) efficiency; provided, that the equipment is submitted to and approved by the Mayor.

703.5 Compliance with or violation of the emission standards in § 703 shall be determined in accordance with the procedures prescribed in Appendix A of "*Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals*," published by EPA, October 1977, publication numbers EPA-450/2-77-026 and OAQPS No. 1.2-082.

703.6 The vapor collection and liquid loading equipment shall be designed and operated to prevent gauge pressure in the delivery tank from exceeding eighteen inches (18 in.) of water column during product loading.

703.7 No pressure-vacuum vent in the vapor collection and disposal system shall begin to open at a system pressure less than eighteen inches (18 in.) of water column.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 703, 32 DCR 565, 623 (February 1, 1985); as amended by § 2 of the Air pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Amendment Act of 1993, D.C. Law 10-24, 40 DCR 5474, 5486, 5486 (July 30, 1993).

704 STAGE I VAPOR RECOVERY

704.1 The transfer of volatile organic compounds or gasoline from any delivery vessel into any stationary storage container with a capacity greater than two hundred fifty (250) gallons shall occur only if the container is equipped with a submerged fill pipe and the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than ninety percent (90%) by weight of organic compounds in the vapors displaced from the stationary container location.

704.2 The vapor recovery portion of the system shall include either or both of the following:

(a) A vapor return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container; or

(b) A refrigeration-condensation system or equivalent designed to recover no less than ninety percent (90%) by weight of the organic compounds in the displaced vapor.

704.3 If a vapor-tight return system is used to meet the requirements of § 704, the system shall be constructed as to be adapted to retrofit with an absorption system, refrigeration-condensation system, or equivalent vapor removal system, and constructed to anticipate compliance with § 705.

704.4 A delivery vessel shall be subject to the following conditions:

(a) It may be refilled only at facilities equipped with a vapor recovery system or the equivalent which can recover at least ninety percent (90%) by weight of the organic compounds in the vapor displaced from the delivery vessel during refilling;

(b) It shall be leak tested, by any competent person, at least once each year in accordance with the procedures prescribed in Appendix A of "*Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems,*" published by EPA, December 1978, publication numbers EPA-450/2-78-051 and OAQPS No. 119;

(c) The standard for passing the leak test referred to in § 704.4(b) is that a pressure change of no more than three inches (3 in.) of water column occur in five (5) minutes when the delivery vessel has been pressurized to eighteen inches (18 in.) of water column and has been evacuated to six inches (6 in.) of water column;

(d) Any delivery vessel that fails to pass the leak test shall be immediately taken out of service and shall be kept out of service until a subsequent test demonstrates compliance with the standards for passing the test;

(e) Whenever a delivery vehicle is in use, a clear and unequivocal certificate shall be posted, by the person responsible for conducting the test, in a conspicuous location on the delivery vessel identifying the particular delivery vessel tested and indicating compliance with the testing standards; and

(f) It shall be loaded or unloaded only if affirmative action has been taken to ensure that the delivery vessel has a clear and unequivocal certificate indicating that it has been leak tested within the past year in accordance with § 704.4(b) and that the last leak test showed compliance with the standards in § 704.4(c).

704.5 The provisions of § 704 shall not apply to the following:

(a) Any container having a capacity of less than two thousand (2,000) gallons installed prior to March 1, 1974; provided, that the containers are equipped with submerged fill pipes; or

(b) Any transfers made to storage tanks equipped with floating roofs or their equivalent.

704.6 The operation or maintenance of any delivery vessel, or of any part of any liquid delivery system, or vapor collection or recovery system used or designed to be used in connection with the loading or unloading of the delivery vessel, shall be performed in a manner that is vapor-tight or in a manner so that there is no avoidable visible liquid leakage or liquid spillage.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 704, 32 DCR 565, 624 (February 1, 1985).

705 STAGE II VAPOR RECOVERY

705.1 Unless exempted under § 705.3 or 705.4, the transfer of gasoline to any vehicular fuel tank from any stationary storage container shall be prohibited unless the transfer is made through a fill nozzle designed, operated, and maintained as follows:

(a) To prevent the discharge of gasoline vapors to the atmosphere from either the vehicle filler neck or the fill nozzle;

(b) To direct the displaced vapor from the vehicular fuel tank to either of the following:

(1) A system, utilizing a process other than vacuum assist, wherein at least ninety percent (90%) by weight of the organic compounds in the displaced vapors are removed, recovered, or destroyed; or

(2) A system, utilizing a vacuum assist process, wherein at least ninety-six percent (96%) by weight of the organic compounds in the displaced vapors are removed, recovered or destroyed; and

(c) To prevent vehicular fuel tank overfills and spillage.

705.2 A vapor-balance system meeting the specifications set forth in § 705.5 and used in compliance with § 705.6 shall be deemed to be in compliance with the requirements set forth in § 705.1(b)(1).

705.3 All gasoline dispensing facilities available to the general public, or to segments of the general public by virtue of having some membership or military status, having three (3) or less dispensing nozzles and dispensing less than ten thousand (10,000) gallons of gasoline per month, or less than fifty thousand (50,000) gallons of gasoline per month in the case of an independent small business marketer of gasoline, shall be exempt from the requirements of § 705.1.

705.4 All gasoline dispensing facilities available to the general public, or to segments of the general public by virtue of having some membership or military status, having three (3) or less dispensing nozzles and dispensing more than ten thousand (10,000) gallons of gasoline per month, or more than fifty thousand (50,000) gallons of gasoline per month in the case of an independent small business marketer of gasoline shall comply with the requirement of § 705.1 according to the following schedule:

(a) May 15, 1993, in the case of gasoline dispensing facilities for which construction commenced after November 15, 1990;

(b) November 15, 1993, in the case of gasoline dispensing facilities which dispense at least one hundred thousand (100,000) gallons of gasoline per month, based on average monthly sales for the two (2) year period before November 15, 1992;

(c) November 15, 1994, in the case of all other gasoline dispensing facilities;

(d) Any gasoline dispensing facility described under paragraphs (a) and (b) of this subsection shall meet the requirements of paragraph (a); and

(e) Applicability shall be based upon the average monthly throughput determined for the two (2) year period prior to November 15, 1992, and will not include any periods of facility inactivity. Average monthly throughput shall be calculated using a thirty (30) day rolling average.

705.5 All gasoline dispensing facilities available to the general public, or to segments of the general public by virtue of having some membership or military status, may, if desired by the owner thereof, have no more than one (1) nozzle at each facility which does not comply with the requirements of § 705.1; provided, that this exemption shall not be applicable to stations with no self-service islands.

705.6 A vapor balance system shall have the following:

(a) A vapor-tight vapor return hose to conduct the vapors displaced from the vehicular fuel tank to the gasoline dispensing facility's gasoline storage tank(s);

(b) A vapor-tight seal to prevent the escape of gasoline vapors into the atmosphere from the interface between the fill nozzle and the filler neck of the vehicular fuel tank;

(c) A fill nozzle with a built-in no-seal no-flow feature designed to prevent the discharge of gasoline from the nozzle unless the seal described in paragraph (b) of this subsection is engaged;

(d) A fill nozzle with a built-in feature, designed to automatically shutoff the flow of gasoline when the pressure in the vehicular fuel tank exceeds ten (10 in.) inches of water gauge;

(e) A vapor return hose equipped with a device that will automatically shutoff the flow of gasoline through the fill nozzle when gasoline circulates back from the fill nozzle through the vapor hose to the facility's gasoline storage tank(s);

(f) A vapor return hose no longer than nine feet (9 ft.) in length unless the hose is attached to a device designed to keep the hose out of the way of vehicles (when the nozzle is not in use) and to drain the hose of any collected or condensed gasoline; and

(g) A gasoline dispensing system equipped with a device designed to prevent the dispensing of gasoline at any rate greater than eight (8) gallons per minute.

705.7 The use by any person of a fill nozzle which is a part of the vapor balance system shall be prohibited unless the system is maintained in good repair, and unless proper operating practices including, but not limited to, the following practices are followed:

(a) Draining the vapor return hose as often as is necessary, but at least once each operating day, of any collected or condensed gasoline;

(b) Waiting as long as is necessary, but at least three (3) seconds after the shut-off of the fuel, before disconnecting the nozzle from the fill neck, in order to balance the pressure between the vehicular fuel tank and the facility's gasoline storage tank(s); and

(c) After each fuel delivery placing the vapor return hose on an area where vehicles will not ride over the vapor return hose.

705.8 The transfer of gasoline to any vehicular fuel tank from any stationary storage tank shall be prohibited, unless the transfer is made through a fill nozzle designed to automatically shutoff the transfer of gasoline when the vehicular fuel tank is full or nearly full.

705.9 Any additional transfer of gasoline to any vehicular fuel tank from a stationary storage tank after the dispensing system has automatically shut-off the transfer of gasoline by virtue of the vehicular fuel tank being full or nearly full shall be prohibited.

705.10 The operator of a gasoline dispensing facility shall take the actions necessary to ensure that all parts of the system used at the facility for compliance with the section are maintained in good repair, and to ensure that any person, whether attendant, customer, or other, who uses the facility, does so in accordance with proper operating practices and otherwise in compliance with the requirements of this section.

705.11 For purposes of this section, "operator" means any person who leases, operates, manages, supervises, or controls, directly or indirectly, a gasoline dispensing facility.

705.12 The transfer of gasoline to any vehicular fuel tank from any stationary storage tank where a system for the control of gasoline vapors resulting from motor vehicle fueling operations is required shall be prohibited unless the operator posts conspicuously the operating instructions and warnings, in a form and with content duly promulgated by the Mayor, for the system in the gasoline dispensing area. The instructions shall be as follows:

(a) Clearly describe how to fuel vehicles correctly with vapor recovery nozzles utilized at the station;

(b) Include a prominent display of the telephone number of the service station owner or operator for making complaints; and

(c) Include warnings that:

(1) Repeated attempts to continue dispensing, after the system has indicated that the vehicle fuel tank is full, may result in spillage or recirculation of gasoline; and

(2) Breathing gasoline vapors is hazardous to health.

705.13 All vapor control systems (and components thereof) for the control of gasoline vapors resulting from motor vehicle fueling operations including, but not limited to, vapor balance systems and vacuum assist systems, shall meet the requirements for certification and shall be operated in accordance with the standards in effect on the effective date of the District of Columbia Air Pollution Control Act of 1984 as established by the State Fire Marshal for the State of California or the Division of Measurement Standards of the Department of Food and Agriculture of the State of California pursuant to §§ 41956-41958 of the Health and Safety Code of the State of California.

705.14 The requirements and standards, including those specified in §§ 705.6, 705.7, and 705.13 of this subtitle, may be changed by the Mayor through the exercise of administrative rulemaking procedures under the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code §§ 2-501 et seq. (2001)), with the Mayor affording appropriate consideration in the rulemaking process to the following factors:

(a) What other states and governmental authorities have done; and

(b) The effect of proposed changes upon distributors and manufacturers of vapor recovery equipment and upon the owners and operators of stations subject to the Stage II vapor recovery requirements.

705.15 Alternate vapor recovery systems may be used to attain compliance with § 705.1(b) in lieu of the specific requirements stated in that section; provided, that the following occurs:

(a) The alternate system(s) is demonstrated to have at least equivalent results in recovering emissions of volatile organic compounds as application of the requirements of that section; and

(b) The alternate system(s) is approved by the Mayor.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 705, 32 DCR 565, 626 (February 1, 1985); as amended by § 2 of the Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Amendment Act of 1993, D.C. Law 10-24, 40 DCR 5474, 5486 (July 30, 1993).

706 PETROLEUM DRY CLEANERS

706.1 Section 706 shall apply to petroleum solvent washers, dryers, solvent filters, settling tanks, vacuum stills, and other containers and conveyors of petroleum solvent that are used in petroleum solvent dry cleaning facilities.

706.2 Each owner or operator of a petroleum solvent dry cleaning dryer shall do one (1) of the following:

(a) Limit emissions to the atmosphere to an average of three and one-half pounds (3.5 lbs.) of volatile organic compounds per one-hundred pounds (100 lbs.) dry weight of articles dry cleaned; or

(b) Install and operate a solvent recovery dryer in a manner such that the dryer remains closed and the recovery phase continues until the final recovered solvent flow rate of fifty (50) milliliters per minute is attained.

706.3 Each owner or operator of a petroleum solvent filtration system shall do one (1) of the following:

(a) Reduce the volatile organic compound content in all filtration wastes to one pound (1.0 lb.) or less per one hundred pounds (100 lbs.) dry weight of articles dry cleaned, before disposal and exposure to the atmosphere, or

(b) Install and operate a cartridge filtration system, and drain the filter cartridges in their sealed housings for eight hours (8 hrs.) or more before their removal.

706.4 Each owner or operator of a petroleum solvent vacuum still shall store all vacuum still wastes in a manner that minimizes emission of volatile organic compounds to the atmosphere.

706.5 Each owner or operator of a petroleum solvent dry cleaning facility shall repair all petroleum solvent vapor and liquid leaks within three (3) working days after identifying the leaks. If necessary repair parts are not on hand, the owner or operator shall order these parts within three (3) working days, and repair the leaks no later than three (3) working days following the arrival of the necessary parts.

706.6 The Mayor may exempt any facility from any provision of §§ 706.2 through 706.5 if it is demonstrated that hardships justify such an exemption.

706.7 Compliance with § 706.2(a) shall be determined by the following:

(a) Calculating and recording the weight of the volatile organic compounds vented from the dryer emission control device calculated by using EPA Reference Test (40 CFR, Part 60) Methods 1 and 2, and Method 25A published at 45 CFR 83126, December 17, 1980, with the following specifications:

(1) Field calibration of the flame ionization analyzer with propane standards;

(2) Laboratory determination of the flame ionization analyzer response to a given part per million by volume concentration of propane to the response to the same parts per million concentration of the volatile organic compounds to be measured; and

(3) Determination of the weight of volatile organic compounds vented to the atmosphere by the following:

(A) The multiplication of the ratio determined in § 706.7(a)(2) by the measured concentration of volatile organic compound gas (as propane) as indicated by the flame ionization analyzer response output record;

(B) The conversion of the parts per million by volume value calculated in § 706.7(a)(3)(A) into a mass concentration value for the volatile organic compounds present; and

(C) Multiplying the mass concentration value calculated in § 706.7(a)(3)(B) by the exhaust flow rate determined by using EPA Reference Test Methods 1 and 2;

(b) Calculating and recording the dry weight of articles dry cleaned; and

(c) Repeating paragraphs (a) and (b) of this subsection for normal operating conditions that encompass at least thirty (30) dryer loads, which total not less than four thousand (4,000) pounds dry weight, and represent a normal range of variations in fabrics, solvents, load weights, temperatures, flow rates, and process deviations.

706.8 Compliance with § 706.2(b) shall be determined by the owner or operator verifying that the flow rate of recovered solvent from the solvent recovery dryer at the termination of the recovery phase is no greater than fifty (50) millimeters per minute.

706.9 The procedure referred to in § 706.8 shall be conducted one (1) time for a duration of no less than two (2) weeks during which time no less than fifty percent (50%) of the dryer loads

shall be monitored for their final recovered solvent flow rate. The suggested point for measuring the flow rate of recovered solvent is from the solvent-water separator. Near the end of the recovery cycle, the flow of recovered solvent should be diverted to a graduated cylinder. The cycle should continue until the minimum flow of solvent is fifty (50) milliliters per minute. The type of articles cleaned and the total length of the cycle should then be recorded.

706.10 Compliance with § 706.3(a) shall be determined as follows:

(a) Calculate and record the weight of volatile organic compounds contained in at least five (5) two (2) pound samples of filtration waste taken at intervals of at least one (1) week, by employing ASTM Method D322-80 (Gasoline Diluent in Used Gasoline Engine Oils by Distillation);

(b) Calculate and record the total dry weight of articles dry cleaned during the intervals between removal of filtration waste samples, as well as the total mass of filtration waste produced in the same period; and

(c) Calculate and record the weight of volatile organic compounds contained in filtration waste material per one-hundred pounds (100 lbs.) dry weight of articles dry cleaned.

706.11 Compliance with §§ 706.4 through 706.5 requires that each owner or operator make weekly inspections of washers, dryers, solvent filters, settling tanks, vacuum stills, and all containers and conveyors of petroleum solvent to identify perceptible volatile organic compounds vapor or liquid leaks.

706.12 To be in compliance with §§ 706.2 through 706.5 the owner or operator may use an equivalent test procedure or method; provided, that this method or procedure has been previously approved by the Mayor.

706.13 The owner or operator of a petroleum solvent dry cleaning facility subject to this subtitle which is in existence on the effective date of the District of Columbia Air Pollution Control Act of 1984 shall meet the applicable increments of progress contained in the following schedule:

(a) Submit to the Mayor final plans for the emission control equipment no later than June 1, 1985;

(b) Award contracts for the emission control equipment no later than September 1, 1985;

(c) Complete on-site construction or installation of the emission control equipment no later than August 1, 1986; and

(d) Achieve final compliance with the Regulation no later than September 1, 1986.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 706, 32 DCR 565, 630 (February 1, 1985).

707 PERCHLOROETHYLENE DRY CLEANING

707.1 The owner or operator of a perchloroethylene dry cleaning facility subject to this section shall do the following:

(a) Vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device;

(b) Operate the device required by paragraph (a) of this subsection so that it provides a ninety percent (90%) reduction in volatile organic compound emissions or so that it emits no more than one-hundred parts per million (100 ppm) of volatile organic compound from the dryer control device before dilution;

(c) Immediately repair all components found to be leaking liquid volatile organic compounds;

(d) Cook or treat all diatomaceous earth filters so that the residue contains twenty-five (25) pounds or less of volatile organic compounds per one hundred (100) pounds of wet waste material;

(e) Reduce the volatile organic compounds from all solvent stills to sixty (60) pounds or less per one hundred (100) pounds of wet waste material;

(f) Drain all filtration cartridges, in the filter housing, for at least twenty-four (24) hours before discarding the cartridges; and

(g) When possible, dry all drained cartridges without emitting volatile organic compounds to the atmosphere.

707.2 The provisions of §§ 707.1(a) and (b) are not applicable to the following:

(a) Perchloroethylene dry cleaning facilities which are coin operated;

(b) Facilities where an adsorber cannot be accommodated because of inadequate space; or

(c) Facilities with insufficient steam capacity to desorb the adsorbers.

707.3 The Mayor may exclude other facilities if it is demonstrated that other hardships justify an exclusion.

707.4 The owner or operator of a perchloroethylene dry cleaning facility subject to § 707.1(a) or (b) which is in existence on the effective date of the District of Columbia Air Pollution Control Act of 1984 shall meet the applicable increments of progress in the following schedule:

(a) Submit final emission control plans to the Mayor no later than March 1, 1986;

(b) Award contracts, issue purchase orders, or otherwise order the emission control system and process equipment no later than June 1, 1986;

(c) Complete installation of the emission control and process equipment, no later than May 1, 1987; and

(d) Achieve final compliance, determined in accordance with this section no later than June 1, 1987.

707.5 The owner or operator of a perchloroethylene dry cleaning facility subject to this section shall comply with the operational and maintenance provisions of §§ 707.1(c) through (g) by June 1, 1986.

707.6 The owner or operator of a perchlorethylene dry cleaning facility subject to this subtitle may submit to the Mayor, and the Mayor may approve, a proposed alternative compliance schedule; provided, that the following occurs:

(a) The proposed alternative compliance schedule is submitted before January 15, 1986;

(b) The owner or operator provides information showing the need for an alternative schedule;

(c) The alternative compliance schedule contains increments of progress;

(d) Sufficient documentation and certification from appropriate suppliers, contractors, manufacturers, or fabricators is submitted by the owner or operator of the subject facility to justify the dates proposed for the increments of progress; and

(e) Final compliance is achieved as expeditiously as possible prior to December 31, 1987.

707.7 Compliance with §§ 707.1(a), (f), and (g) shall be determined by means of a visual inspection.

707.8 Compliance with § 707.1(c) shall be determined by means of a visual inspection of the following components:

(a) Hose connections, unions, couplings, and valves;

(b) Machine door gaskets and seatings;

(c) Filter head gasket and seating;

(d) Pumps;

(e) Base tanks and storage containers;

(f) Water separators;

(g) Filter sludge recovery;

(h) Distillation unit;

(i) Diverter valves;

(j) Saturated lint from lint basket; and

(k) Cartridge filters.

707.9 Compliance with § 707.1(b) shall be determined by the following:

(a) A test consistent with EPA Guideline Series document, "*Measurement of Volatile Organic Compounds*," EPA-450/2-78-041; or

(b) The proper installation, operation, and maintenance of equipment which has been demonstrated to be adequate to meet the emission limits in § 707.1(b).

707.10 Compliance with §§ 707.1(d) and (e) shall be determined by means of the procedure in the American National Standards Institute paper, "*Standard Method of Test for Dilution of Gasoline Engine Crankcase Oils*."

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 707, 32 DCR 565, 634 (February 1, 1985).

708 SOLVENT CLEANING (DEGREASING)

708.1 Any person who uses solvent cleaning shall utilize a control system for the cleaning, which includes the following equipment:

(a) A container for the solvent and the articles being cleaned;

(b) A cover for the container which can be easily and conveniently used whenever it is not essential that the container be open;

(c) A facility for draining cleaned parts so that the drained solvent is returned to the container; and

(d) A permanent, conspicuous, and easily readable label, which lists each of the applicable operating requirements contained in § 708.2.

708.2 Any person who employs cold solvent cleaning, if the vapor pressure of the solvent is greater than six tenths pounds per square inch (0.6 lb./in.^{2}) absolute at one hundred degrees Fahrenheit (100° F.), or if the solvent is heated above one hundred twenty degrees Fahrenheit (120° F.), shall utilize one (1) of the following control systems:

(a) A freeboard ratio greater than or equal to seventy-five one hundredths (0.75);

(b) A water cover, if the solvent is insoluable in and heavier than water; or

(c) Any other system of equivalent control, such as a refrigerated chiller or carbon absorber of the type specified in § 708.3(b).

708.3 Any person who employs open-top vapor cleaning or conveyorized cleaning, shall utilize and keep in working order the following:

(a) All of the following control systems;

(1) A device designed to prevent heat input to the solvent unless there is adequate coolant to condense the vapors;

(2) A spray safety switch designed to stop solvent spray if the degreaser is not functioning properly;

(3) A vapor level control device designed to stop heat input to the solvent if the vapor level rises above the design level;

(b) One (1) or more of the following control systems or any other system for which it is shown that the overall emissions are reduced in weight by eighty-five percent (85%):

(1) A freeboard ratio greater than or equal to seventy-five one hundredths (0.75);

(2) A refrigerated chiller with the coolant at least forty degrees Fahrenheit (40° F.) or less; and

(3) A carbon adsorption system with a ventilation rate of at least fifty cubic feet per minute (50 cfm.) of conveyor opening area (in the case of conveyorized degreasers) or of the container opening (in the case of open-top vapor degreasers) and an exhaust concentration of no more than twenty-five (25) parts per million by volume hydrocarbons.

708.4 Any person who employs conveyorized degreasers, shall utilize both of the following control systems:

(a) Either a drying tunnel, or another means such as a rotating basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor; and

(b) Entrances and exits should silhouette workloads so that the average clearance between parts and the edge of the degreaser opening is either less than four (4 in.) inches or less than ten percent (10%) of the width of the opening, whichever is less.

708.5 Any person who employs solvent cleaning shall conform to the following operating requirements:

(a) The degreasing equipment and emission control equipment shall be properly operated and maintained in proper working order;

(b) No solvent shall be allowed to leak from any portion of the degreasing equipment;

(c) No solvent, including waste solvent shall be stored or disposed of so as to cause or allow its evaporation into the atmosphere;

(d) After distillation recovery of waste solvent, solvent residues shall not contain more than ten percent (10%) solvent by volume;

(e) No device designed to cover the solvent shall be removed or opened, unless the person is processing work in the degreaser or performing maintenance on the degreaser;

(f) For cold solvent cleaning, cleaned parts shall be drained for at least fifteen (15) seconds after cleaning or until dripping ceases, whichever is longer;

(g) Only a continuous fluid stream shall be used if a solvent flow is utilized, and the pressure shall not cause any liquid solvent to splash outside of the solvent container; and

(h) Solvent agitation, where necessary, shall be attained through pump recirculation or by means of a mixer. Air agitation of the solvent bath shall not be utilized.

708.6 Any person who employs an open-top vapor degreaser shall minimize solvent carry-out by the following measures:

(a) Rack parts to allow full drainage;

(b) Move parts in and out of the degreaser at less than ten feet (10 ft.) per minute;

(c) Degrease the workload for at least thirty (30) seconds or until condensation ceases, whichever is longer; and

(d) Allow parts to dry within the degreaser until visually dry.

708.7 Any person who employs a conveyorized degreaser shall minimize solvent carry-out by racking parts to allow full drainage and by maintaining vertical conveyer speed at less than ten feet (10 ft.) per minute.

708.8 The provisions of this section do not apply to the following cleaning materials or methods:

(a) Water-solvent emulsions; and

(b) Wipe cleaning.

708.9 After May 1, 1999, no person who owns, operates or leases a cold cleaner shall use any solvent containing volatile organic compounds with vapor pressures in excess of one millimeter of mercury (1 mm Hg) at twenty degrees Celsius (centigrade) (20°C) (or nineteen thousandths pounds per square inch absolute (0.019 psia) at sixty-eight degrees Fahrenheit (680F)) in conjunction with cold cleaners. This section does not apply to any cold cleaner solvent containing less than five weight percent (50%) of volatile organic compounds as determined by EPA Method 24.

708.10 If the solvent subject to § 708.9 is composed of only one volatile organic compound, the vapor pressure shall be determined by ASTM Method D-2879-86 or from a published source such as: Boublik, T., V. Fried and E. Hala, "*The Vapor Pressure of Pure Substances*," Elsevier Scientific Publishing Company, New York (1973), or Perry's *Chemical Engineer's Handbook*, McGraw-Hill Book Company (1984), or *CRC Handbook of Chemistry and Physics*, Chemical Rubber Publishing Company (1986-87), or Lange's *Handbook of Chemistry*, John A. Dean, editor, McGraw-Hill Book Company (1985).

708.11 If the solvent subject to § 708.9 is composed of volatile organic compounds and non-volatile organic compounds, the vapor pressure shall be determined by the following equation:

$$P_{VOC} = \frac{\sum_{I=1}^{n} P_i X_i}{\sum_{I=1}^{n} X_i}$$

where:

P_{VOC} = Total vapor pressure of the volatile organic compound component of the solvent at 20°C, in mm Hg.;

n = Number of volatile organic compounds in the solvent;

I = Subscript denoting an individual volatile organic compound,

P = Vapor pressure of the "I"th volatile organic compound at 20°C determined pursuant to § 709.8(a), in mm Hg; and

x = Mole fraction of the "I"th volatile organic compound of the total solvent.

708.12 If the solvent subject to § 708.9 is composed of only volatile organic compounds, the vapor pressure shall be determined by ASTM Method D-2879-86 or by the equation in § 708.11.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 708, 32 DCR 565, 636 (February 1, 1985); as amended by Final Rulemaking published at 45 DCR 7038, 7041 (October 2, 1998).

709 ASPHALT OPERATIONS

709.1 Except for purposes of roofing, the manufacture, mixing, storage, use, or application of cutback asphalt during the months of April, May, June, July, August, and September shall be prohibited; except, that in specific circumstances, when it is shown to the satisfaction of the Mayor that the prohibition cited in this subsection is unreasonable, liquefied asphalts containing volatile organic compounds may be manufactured, mixed, stored, used, or applied during these months, subject to any conditions which the Mayor may impose to minimize the emissions of volatile organic compounds into the atmosphere.

709.2 In the determination of the unreasonableness of the prohibitions of cutback asphalt, and in the determination of the conditions that the Mayor may impose to minimize the emissions of volatile organic compounds, the Mayor shall take into consideration, among other factors, the following:

(a) The need for long-life storage of the asphalt;

(b) The lack of significant evaporation of volatile organic compounds from the asphalt;

(c) The need to use any particular type of aggregate; and

(d) The weather conditions during the application of the asphalt.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 709, 32 DCR 565, 639 (February 1, 1985).

710 ENGRAVING AND PLATE PRINTING

710.1 Except as provided in § 710.2, it shall be prohibited to operate any printing unit or perform any printing operation in an establishment coming within the description of Industry Group 2753 as stated in the 1972 Standard Industrial Classification Manual of the Federal Office of Management and Budget except in compliance with the requirements of this section.

710.2 If part or all of any printing operation involving volatile organic compound emissions is not specifically controlled by the requirements of this section then the volatile organic compound-related emission operation or part of the operation shall be governed by the other requirements of this subtitle.

710.3 This section shall apply only to the emissions of volatile organic compounds; all provisions of this subtitle other than those restricting the emissions of volatile organic compound apply to the operations regulated by this section.

710.4 The utilization of inks, wiping solutions and dampening solutions in connection with printing units shall be in compliance with the limits on the percentage content of volatile organic compounds of the inks, wiping solutions and dampening solutions for the respective types of printing units and subject to the time deadlines specified in Appendix 7-1 to this chapter.

710.5 Ink usage in connection with all forms of intaglio printing shall be minimized to the extent feasible by routing the inking cylinders or other techniques.

710.6 Volatile organic compound emissions from any heatset oven shall be reduced by ninety percent (90%) through the use of a control device, except in the case of printing units using water-based solvents in the ink used on them.

710.7 The owner or operator of sources to which § 710.6 applies, in order to comply with the requirements of that section, shall adhere to the increments of progress contained in the following schedule:

(a) Submit to the Mayor final plans for the control devices no later than December 31, 1985;

(b) Award contracts for the control devices no later than December 31, 1986;

(c) Complete on-site construction or installation of the control devices no later than November 30, 1987; and

(d) Achieve final compliance with § 710.6 no later than December 31, 1987.

710.8 Alternate volatile organic compound emission reduction systems may be used to attain compliance with §§ 710.4 and 710.6 in place of the specific requirements stated in those sections; provided, that:

(a) The alternate volatile organic compound reduction system(s) is demonstrated to have at least equivalent results in limiting emissions of volatile organic compounds as application of the requirements of those sections; and

(b) The alternate system(s) shall be approved by the Mayor.

710.9 All containers holding volatile organic compound containing materials shall be open only when necessary and openings shall be restricted to the extent feasible.

710.10 The leaking of any solvent or solvent-containing materials from any printing unit or associated equipment shall be prohibited.

710.11 The storage or disposal of any solvent or solvent-containing material, including waste material, in a manner that will cause or allow its evaporation into the atmosphere shall be prohibited.

710.12 To the greatest extent feasible, persons operating printing units and associated equipment shall minimize their use of volatile organic compound-containing materials by restricting wasteful usage and by replacing the material with emulsions or other materials.

710.13 Any person owning or operating an establishment to which § 710.4 is applicable, but within which one (1) or more printing units is demonstrated to be unable to comply or cannot feasibly comply with the requirements of § 710.4, may bring the establishment into compliance by reducing volatile organic compound emissions from other printing units within the establishment as follows:

(a) In a ratio of five (5) units of reduced emissions for each one (1) unit of excess emissions for operations during the months of April, May, June, July, August, and September;

(b) In a ratio of one (1) unit of reduced emissions for each one (1) unit of excess emissions for operations during the months of October, November, December, January, February and March; and

(c) Provided, that the owner or operator demonstrates to the Mayor that:

(1) The reduction ratio is met by the proposed trade;

(2) The Mayor approves the proposed trade; and

(3) The proposed trade is legally enforceable against the owner and operator of the establishment.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 710, 32 DCR 565, 640 (February 1, 1985); as amended by Final Rulemaking published at 36 DCR 2554, 2555 (April 14, 1989).

711 PUMPS AND COMPRESSORS

711.1 Any pump and compressor handling volatile organic compounds shall have mechanical seals or other equivalent equipment approved by the Mayor.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 711, 32 DCR 565, 642 (February 1, 1985).

712 WASTE GAS DISPOSAL FROM ETHYLENE PRODUCING PLANT

712.1 The emission of a waste gas steam from an ethylene producing plant, or source utilizing ethylene as a raw material, into the atmosphere in excess of twenty (20) pounds per twenty-four (24) hour period shall be prohibited, unless the waste gas stream is properly burned at one thousand three hundred degrees Fahrenheit (1,300° F.) for three tenths (0.3) of a second or longer in a direct-flame after burner, or is removed by a method of comparable efficiency approved by the Mayor.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 712, 32 DCR 565, 642 (February 1, 1985).

713 WASTE GAS DISPOSAL FROM VAPOR BLOW-DOWN SYSTEM

713.1 The emission of hydrocarbon gases into the atmosphere from a vapor blow-down system is prohibited unless these gases are burned by smokeless flares, or an equally effective control device approved by the Mayor. This section shall not apply to accidental or emergency emissions of hydrocarbons needed for safe operation of equipment and processes.

SOURCE: Section 3 of the District of Columbia Air Pollution Control Act of 1984, D.C. Law 5-165, § 713, 32 DCR 565, 643 (February 1, 1985).

714 CONTROLS AND PROHIBITIONS ON GASOLINE VOLATILITY

714.1 The purchase, sale, offer for sale, or use of gasoline that has a Reid Vapor Pressure in excess of nine pounds per square inch (9 lbs/in.^{2}) from May 1, 1991, to September 15, 1991, is prohibited.

SOURCE: Section 2 of the Gasoline Reid Vapor Pressure Requirements Act of 1990, D.C. Law 8-238 (January 11, 1991).

715 REASONABLY AVAILABLE CONTROL TECHNOLOGY

715.1 Calculation of source emissions of volatile organic compounds to determine applicability of a regulation of this chapter shall be based on the following:

(a) The theoretical potential to emit (design capacity or maximum production and maximum operating hours, eight thousand seven hundred sixty (8,760) hours per year) before add-on controls; and

(b) All emissions from individual emission sources within the same control technique guideline category shall be summed, except for petroleum/gasoline marketing, in

which emissions from storage tanks, terminals, and loading racks within the same plant/site shall be summed.

715.2 Reasonably available control technology shall be applied if the potential, plant-wide emissions are greater than or equal to fifty (50) tons per year.

715.3 Reasonably available control technology shall be applied if the potential, plant-wide emissions have ever been greater than or equal to fifty (50) tons per year or equal or exceed fifty (50) tons per year in the future.

715.4 For sources for which there is no control technique guideline the requirements of this section shall apply in addition to the following:

(a) Potential emissions from all processes within a plant shall be summed to determine applicability of reasonably available control technology;

(b) Reasonably available control technology shall be evaluated for all process in the plant if potential emissions as determined by this section are greater than or equal to fifty (50) tons per years; and

(c) Reasonably available control technology may not be avoided unless physical or operational limitations on the capacity of the source to emit are enforceable under the Federal Clean Air Act and this chapter.

SOURCE: Section 3 of the Air Pollution Control Act of 1984 National Ambient Air Quality Standards Attainment Amendment Act of 1993, D.C. Law 10-24, 40 DCR 5474, 5487 (July 30, 1993).

716 OFFSET LITHOGRAPHY

716.1 Except as provided in § 710, any offset lithography printing operation in any source which emits, or has the potential to emit, twenty-five (25) or more tons per year of volatile organic compounds is prohibited unless it operates in compliance with the requirements of this section. Calculation of the source emissions shall be pursuant to § 715.

716.2 If part or all of any offset lithography printing operation involving volatile organic compound emissions is not specifically controlled by the requirements of this section, then the volatile organic compound-related emission operation or part of the operation shall be governed by the other requirements of this Subtitle, except as provided for in § 710.

716.3 This section applies only to the emissions of volatile organic compounds; all provisions of this subtitle other than those restricting the emissions of volatile organic compounds apply to the operations regulated by this section.

716.4 After May 1, 1999, no person who owns, operates or leases an offset lithography printing operation shall utilize dampening solutions in conjunction with printing units in excess of the

following limits on the volume percentage content of alcohol of the dampening solutions for the respective types of offset lithography:

(a) For non-heatset web printing, not in excess of zero percent (0%);

(b) For heatset web printing, not in excess of one and six-tenths percent (1.6%) or, if the dampening solution is refrigerated to less than sixty degrees Fahrenheit (60° F.), not in excess of three percent (3%);

(c) For sheet-fed printing, not in excess of five percent (50) or, if the dampening solution is refrigerated to less than sixty degrees Fahrenheit (60° F.), not in excess of eight and five-tenths percent (8.5%).

716.5 Any person subject to § 716.4 shall be considered in compliance with § 716.4 if the only volatile organic compounds in the dampening solution are in non-alcohol additives or alcohol substitutes, so that the concentration of volatile organic compounds in the dampening solution is five weight percent (5%) or less as determined by EPA Method 24. The dampening solution shall not contain any alcohol.

716.6 After May 1, 1999, no person who owns, operates or leases an offset lithography printing operation shall utilize cleaning solutions containing volatile organic compounds in conjunction with printing units in excess of the following limits:

(a) Thirty weight percent (30%) of volatile organic compounds as determined by EPA Method 24; or

(b) Ten millimeters of mercury (10 mm Hg) at twenty degrees Celsius (centigrade) (20 C) of VOC composite partial pressure calculated as follows:

$$PP_c = \frac{\sum_{I=1}^{n}(W_i)(VP_i)/MW_i}{(W_w/MW_w)+(W_e/MW_e)+\sum_{I=1}^{n}(W_i/MW_i)}$$

Where:

W_i = Weight of the "I"th VOC, in grams

W_w = Weight of water, in grams

W_e = Weight of exempt compound, in grams

MW_i = Molecular weight of the "I"th VOC, in grams per gram-mole (g/g-mol)

MW_w = Molecular weight of water, in grams per gram-mole (g/g-mol)

MW_e = Molecular weight of exempt compound, in grams per gram-mole (g/g-mol)

PP_c = VOC composite partial pressure at 20°C, in mm Hg

VP_i = Vapor pressure of the "I"th VOC at 20°C, in mm Hg

716.7 After May 1, 1999, no person who owns, operates or leases an offset lithography printing operation shall permit the emission of volatile organic compounds from any heatset oven unless the volatile organic compound emissions are reduced by ninety percent (90%) by weight overall through the use of a control device or are limited to no greater than twenty parts per million by volume (20 ppmv) as C, whichever is less stringent. Adding diluent air to the exhaust gas stream for the purpose of complying with this provision shall be prohibited:

(a) Any person who owns, operates or leases a heatset web offset lithography printing unit shall install, calibrate, maintain and operate a temperature monitoring device, according to the manufacturer's instructions, at the outlet of the control device. The monitoring temperature shall be set during the testing required to demonstrate compliance with the emission standard in this subsection. Monitoring shall be performed only when the unit is operational;

(b) The temperature monitoring device shall be equipped with a continuous recorder and shall have an accuracy of five tenths degrees Fahrenheit (0.5°F); and

(c) The oven pressure shall be maintained lower than the press room air pressure such that air flows into the oven at all times when the printing unit is operating. A one hundred percent (100%) emissions capture efficiency for the oven shall be demonstrated using an air flow direction measuring device.

716.8 Each person who owns, operates or leases an offset lithography printing operation shall assure that all containers holding volatile organic compound-containing materials shall be open only when necessary and openings shall be restricted to the extent feasible.

716.9 No person who owns, operates or leases an offset lithography printing operation shall allow the leaking of any volatile organic compound or volatile organic compound-containing material from any printing unit or associated equipment.

716.10 No person who owns, operates or leases an offset lithography printing operation shall allow the storage or disposal of any volatile organic compound or volatile organic compound-containing material, including waste material, in a manner that will cause or allow its evaporation into the atmosphere.

716.11 To the greatest extent feasible, persons operating offset lithography printing units and associated equipment shall minimize their use of volatile organic compound containing materials by restricting wasteful usage and by replacing materials with emulsions or other materials.

SOURCE: Final Rulemaking published at 45 DCR 7037, 7042 (October 2, 1998).

717 NATIONAL EMISSION STANDARDS FOR HAZARDOUS POLLUTANTS FOR SOURCE CATEGORIES

717.1 The requirements of 40 CFR Part 63, Subparts A, B, C, D, E, M (Perchloroethylene Dry Cleaning Facilities), N (Chromium Electroplating and Chromium Anodizing Tanks), T (Halogenated Solvent Cleaning) and VVV (Publicly Owned Treatment Works) and Appendix A (Test Methods), as in effect on December 31, 1999, together with the terms used and defined, are hereby adopted by reference for the purpose of implementing National Emission Standards for Hazardous Air Pollutants (NESHAP) for source categories pursuant to the requirements of Section 112 of the federal Clean Air Act, 42 U.S.C. 7412, except that the word "Administrator" as used in the CFR sections shall be taken to mean "Deputy Director of the Environmental Health Administration of the D.C. Department of Health".

SOURCE: Final Rulemaking published at 47 DCR 8638, 8643-44 (October 27, 2000); as amended by Final Rulemaking published at 47 DCR 9686, 9692 (December 8, 2000).

718 MOBILE EQUIPMENT REPAIR AND REFINISHING

718.1 This section applies to any person who sells, supplies, offers for sale, manufactures or applies repair and refinishing or color-matched coatings for or to mobile equipment or mobile equipment components on or after January 1, 2005 in the District of Columbia, except as provided in §718.2.

718.2 This section does not apply where:

(a) The surface coating process is subject to other federal requirements, including, but not limited to, miscellaneous metal parts finishing requirements relating to surface coating processes;

(b) The surface coating process is at an automobile assembly plant; or

(c) The person applies the coatings in a non-commercial facility and does not receive compensation for the application of the coatings.

718.3 Repair and refinishing coatings that contain volatile organic compounds (VOCs) in excess of the limits specified in Table I, including any VOC containing materials added to the

original coating supplied by the manufacturer, shall not be applied to mobile equipment or mobile equipment components:

Table I. Allowable Content of VOCs in Mobile Equipment Repair and Refinishing Coatings *(as applied)*

Coating Type	**Weight**	**Limit***
	(Pounds per gallon)	(Grams per liter)
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multi-colored topcoat	5.7	680
Automotive specialty coating	7.0	840

*Weight of VOC per Volume of Coating (minus water and non-VOC solvents)

718.4 A person who sells, supplies, offers for sale or manufactures mobile equipment repair and refinishing coatings subject to this section shall provide documentation with the product concerning the VOC content of the coatings, in pounds per gallon, calculated in accordance with the equations provided in this section:

(a) The mass of VOC per combined volume of VOC and coating solids, less water and exempt compounds shall be calculated, in pounds per gallon, by the following equation. To convert from grams per liter to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345 x 10^{-3} (lb/gal/g/l):

$$VOC = \frac{(Wv - Ww - Wec)}{(V - Vw - Vec)}$$

where:

VOC = VOC content in grams per liter (g/l) of coating less water and non VOC solvents;
Wv = Mass of total volatiles, in grams;
Ww = Mass of water, in grams;
Wec = Mass of exempt compounds, in grams;
V = Volume of coating, in liters;
Vw = Volume of water, in liters; and
Vec = Volume of exempt compounds, in liters; and

(b) The VOC content of a multi-stage topcoat shall be calculated by the following equation:

$$VOCmulti = \frac{VOCbc + \sum_{i=0}^{M} VOCmci + 2(VOCcc)}{M + 3}$$

where:

VOCmulti	=	VOC content of multistage topcoat, g/*l*;
VOCbc	=	VOC content of basecoat, g/*l*;
VOCmci	=	VOC content of the midcoat(s), g/*l*;
VOCcc	=	VOC content of the clear coat, g/*l*; and
M	=	Number of midcoats.

718.5 A person at a facility subject to the provisions of this section shall use one or more of the following application techniques to apply any repair and refinishing coatings listed in Table I in §718.3:

(a) Flow/curtain coating;

(b) Dip coating;

(c) Roller coating;

(d) Brush coating;

(e) Cotton-tipped swab application;

(f) Electrodeposition coating;

(g) High volume low pressure (HVLP) spraying;

(h) Electrostatic spray;

(i) Airless spray; or

(j) Other coating application methods that the person has demonstrated and the Mayor has determined achieve emission reductions equivalent to HVLP or electrostatic spray application methods.

718.6 The following are exempt from the application equipment requirements listed in §§718.7 and 718.8:

(a) The use of airbrush application methods for stenciling, lettering, and other identification markings;

(b) The application of coatings sold in nonrefillable aerosol containers; and

(c) The application of automotive touch-up repair finish materials.

718.7 Spray guns used to apply mobile equipment repair and refinishing coatings shall be cleaned by any of the following:

(a) Use of an enclosed spray gun cleaning system that is kept closed when not in use;

(b) Use of an unatomized discharge of solvent into a paint waste container that is kept closed when not in use;

(c) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use; or

(d) Use of an atomized spray into a paint waste container that is fitted with a device designed to capture atomized solvent emissions.

718.8 The owner and operator of a facility, subject to the provisions of this section, shall comply with the following housekeeping, pollution prevention and training measures:

(a) Store fresh and used coatings, solvent, and cleaning solvents in nonabsorbent, nonleaking containers;

(b) Close all repairing and refinishing coating containers at all times except when filling or emptying;

(c) Store cloth and paper, or other absorbent applicators, moistened with coatings, solvents, or cleaning solvents in closed, nonabsorbent, nonleaking containers;

(d) Minimize spills during the handling and transfer of coatings, solvents, and cleaning solvents; and

(e) Ensure that a person who applies mobile equipment repair and refinishing coatings is trained in the proper use and handling of the mobile equipment repair and refinishing coatings, solvents and waste products.

719 CONSUMER PRODUCTS – GENERAL REQUIREMENTS

719.1 Sections 719 through 734 apply to any person who sells, supplies, offers for sale, or manufactures consumer products on or after January 1, 2005 for use in the District of Columbia, except as provided in §721.

719.2 For purposes of §§719 through 734 and of any definitions in §799 applicable to §§719 through 734 the District incorporates by reference rules and test methods from the California Air Resource Board (CARB), the South Coast Air Quality Management District (SCAQMD), and the American Society for Testing and Materials (ASTM), where specifically cited. These materials are incorporated in their versions current as of January 1, 2004 unless otherwise indicated in §§719 through 734 and 799.

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719.3 Each part of §§719 through 734 shall be deemed severable, and in the event that any part is held to be invalid, the remainder shall continue in full force and effect.

720 CONSUMER PRODUCTS – VOC STANDARDS

720.1 No person shall sell, supply, offer for sale, or manufacture for sale in the District of Columbia any consumer product that contains VOCs in excess of the limits specified in the following Table of Standards except as provided in §721:

Table of Standards: Effective January 1, 2005

Product Category	Percent VOCs (by weight)
Aerosol Adhesives:	
Mist spray	65
Web spray	55
Special Purpose Spray Adhesives:	
Mounting, automotive engine compartment, and flexible vinyl	70
Polystyrene foam and automotive headliner	65
Polylolefin and laminate repair / Egdebanding	60
Contact	80
Construction, panel, and floor covering	15
General purpose	10
Structural waterproof	15
Air Fresheners:	
Single-phase aerosols	30
Double-phase aerosols	25
Liquids / pump sprays solids / gels	183
Antiperspirants	
Aerosol	40 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
Automotive Brake Cleaners	45

Automotive Rubbing or Polishing Compound	17
Automotive Wax, Polish, Sealant or Glaze Hard paste waxes Instant detailers All other forms	 45 3 15
Automotive Windshield Washer Fluids	35
Bathroom and Tile Cleaners: Aerosols All other forms	 7 5
Bug and Tar Remover	40
Carburetor or Fuel-Injection Air Intake Cleaners	45
Carpet and Upholstery Cleaners: Aerosols Non-Aerosols (dilutables) Non-Aerosols (ready-to-use)	 7 0.1 3.0
Charcoal Lighter Material	see §727
Cooking Spray: Aerosols	 18
Deodorants: Aerosol Non-Aerosol	 0 HVOC 10 MVOC 0 HVOC 0 MVOC
Dusting Aids: Aerosols All other forms	 25 7
Engine Degreasers: Aerosol Non-Aerosol	 35 5
Fabric Protectants	60
Floor Polishes / Waxes: Products for flexible flooring materials Products for nonresilient flooring Wood floor wax	 7 10 90
Floor Wax Strippers: Non-Aerosol	 see §728
Furniture Maintenance Products: Aerosols All other forms except solid or paste	 17 7
General Purpose Cleaners: Aerosols Non-Aerosols	 10 4
General Purpose Degreasers: Aerosols Non-Aerosols	 504
Glass Cleaners:	

Aerosols	12
Non-Aerosols	4
Hair Mousses	6
Hairshines	55
Hairsprays	55
Hair Styling Gels	6
Heavy-Duty Hand Cleaners or Soaps	8
Insecticides:	
Crawling bug (aerosol)	15
Crawling bug (all other forms)	20
Flea and tick	25
Flying bug (aerosol)	25
Flying bug (all other forms)	35
Foggers	45
Lawn and garden (all other forms)	20
Lawn and garden (non-aerosol)	3
Wasp and hornet	40
Laundry Prewashes:	
Aerosols / solids	22
All other forms	5
Laundry Starch Products	5
Metal Polishes / Cleansers	30
Multi-Purpose Lubricants (excluding solid or semi-solid products)	50
Nail Polish Removers	75
Non-Selective Terrestrial Herbicides:	
Non-Aerosols	3
Oven Cleaners:	
Aerosols / pump sprays	8
Liquids	5
Paint Remover or Strippers	50
Penetrants	50
Rubber and Vinyl Protectants:	
Non-Aerosols	3
Aerosols	10
Sealants and Caulking Compounds	4
Shaving Creams	5
Silicone-Based Multi-Purpose Lubricants (excluding solid or semi-solid products)	60
Spot Removers:	
Aerosols	25
Non-Aerosols	8
Tire Sealants and Inflators	20
Undercoatings:	
Aerosols	40

721 CONSUMER PRODUCTS – EXEMPTIONS FROM VOC STANDARDS

721.1 The following are exempt from the Table of Standards in §720:

(a) Any consumer product manufactured in the District of Columbia for shipment and use outside of the District of Columbia;

(b) A manufacturer or distributor who sells, supplies or offers for sale in the District of Columbia a consumer product that does not comply with the VOC standards specified in §720, provided that the manufacturer or distributor meets the requirements of this section and demonstrates that:

(1) The consumer product is intended for shipment and use outside of the District of Columbia; and

(2) The manufacturer or distributor has taken reasonable precautions to ensure that the consumer product is not distributed in the District of Columbia;

(c) Ethanol is exempt from the medium volatility organic compound (MVOC) content standards specified in §720 for antiperspirants or deodorants;

(d) Fragrances up to a combined level of two percent (2%) by weight contained in any consumer product and colorants up to a combined level of two percent (2%) by weight contained in any antiperspirant or deodorant;

(e) Antiperspirants or deodorants that contain VOCs of more than ten (10) carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two (2) millimeters of mercury (mm Hg) or less at twenty degrees Celsius (20^{o}C);

(f) Any LVP-VOC as defined in §799;

(g) Air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs under §799, or exempted under §721.1(f) above;

(h) Air fresheners and insecticides containing at least ninety-eight percent (98%) paradichlorobenzene;

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

(j) Bait station insecticides, which for the purpose of this section, are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the

bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent (5%) active ingredients;

(k) Any consumer product where the manufacturer has been granted an Alternative Control Plan (ACP) Agreement by CARB under the provisions in Subchapter 8.5, Article 4, §§94540-94555, of Title 17 of the California Code of Regulations. This exemption shall be for the period of time that the CARB ACP Agreement remains in effect provided that all ACP Products within the CARB ACP Agreement are listed in the Table of Standards in §720 and the manufacturer complies with §732, Alternative Control Plans;

(l) Any consumer product where the manufacturer has been granted an innovative product exemption by CARB under the Innovative Products provisions in Subchapter 8.5, Article 2, §94511, or Subchapter 8.5, Article 1, §94503.5 of Title 17 of the California Code of Regulations. This exemption shall be for the period of time that the CARB Innovative Products exemption remains in effect provided that all consumer products within the CARB Innovative Products exemption are listed in the Table of Standards in §720 and the manufacturer complies with §733, Innovative Products Exemption; and

(m) Any consumer product where the manufacturer has been granted an alternative control plan agreement, an innovative product exemption or a variance by the Department pursuant to §§732 through 734.

722 CONSUMER PRODUCTS – REGISTERED UNDER FIFRA

722.1 For consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. §136-136y), the effective date of the VOC standards specified in the Table of Standards in §720 is January 1, 2006.

722.2 The requirements of §§729.1 through 729.5, code dating of products, shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. §136).

723 CONSUMER PRODUCTS – PRODUCTS REQUIRING DILUTION

723.1 Consumer products wherein the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use shall comply with the following:

(a) Limits specified in the Table of Standards in §720 shall apply to the product only after the minimum recommended dilution has taken place; and

(b) Minimum recommended dilution shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

723.2 Consumer products wherein the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, shall comply with the limits specified in the Table of Standards in §720, only after the maximum recommended dilution has taken place.

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724 CONSUMER PRODUCTS – OZONE DEPLETING COMPOUNDS

724.1 Consumer products for which standards are specified in the Table of Standards in §720**,** shall not contain any of the following ozone-depleting compounds except as provided in §724.2 and §724.3:

(a) CFC-11 (trichlorofluoromethane);

(b) CFC-12 (dichlorodifluoromethane);

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

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

(e) CFC-115 (chloropentafluoroethane);

(f) Halon 1211 (bromochlorodifluoromethane);

(g) Halon 1301 (bromotrifluoromethane);

(h) Halon 2402 (dibromotetrafluoroethane);

(i) HCFC-22 (chlorodifluoromethane);

(j) HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane);

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

(l) HCFC-141b (1,1-dichloro-1-fluoroethane);

(m) HCFC-142b (1-chloro-1, 1-difluoroethane); and

(n) 1,1,1-trichloroethane, and carbon tetrachloride.

724.2 The requirements of this section shall not apply to any existing product formulation that complies with the Table of Standards in §720 or any existing product formulation that is

reformulated to meet the Table of Standards in §720 provided the ozone depleting compound content of the reformulated product does not increase.

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

725 CONSUMER PRODUCTS – AEROSOL ADHESIVES

725.1 The standards for aerosol adhesives specified in the Table of Standards in §720 apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses.

725.2 To qualify as a special purpose spray adhesive as listed in Table of Standards in §720 the product must meet one or more of the definitions specified in §799, but if the product label indicates that the product is suitable for use on any substrate or application not listed in §799, then the product shall be classified as either a web spray adhesive or a mist spray adhesive as listed in Table of Standards in §720.

725.3 If a product meets more than one of the definitions specified in §799, for special purpose spray adhesive, and is not classified as a web spray adhesive or mist spray adhesive under §799 then the VOC limit should be the lowest applicable VOC limit specified in the Table of Standards in §720.

725.4 No person shall sell, supply, offer for sale, or manufacture for use in District of Columbia any aerosol adhesives that contain methylene chloride, perchloroethylene, or trichloroethylene.

726 CONSUMER PRODUCTS – ANTIPERSPIRANTS OR DEODORANTS

726.1 No person shall sell, supply, offer for sale, or manufacture for sale in the District of Columbia any antiperspirant or deodorant which contains any compound that has been identified by CARB in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 7, §93000, as a toxic air contaminant.

727 CONSUMER PRODUCTS – CHARCOAL LIGHTER MATERIALS

727.1 No person shall sell, supply, or offer for sale any charcoal lighter material product unless at the time of the transaction:

(a) The manufacturer can demonstrate that it has been issued a currently effective certification by CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, §94509(h), of Title 17 of the California Code of Regulations;

(1) This certification remains in effect for the District of Columbia for as long as the CARB certification remains in effect; and

(2) Any manufacturer claiming such a certification on this basis must submit to the Department a copy of the certification decision including the executive order and all conditions established by CARB applicable to the certification;

(b) The manufacturer or distributor has been issued a currently effective certification by the Department pursuant to this section provided that:

(1) The charcoal lighter material meets the formulation criteria and other conditions specified in an applicable Alternative Control Plan (ACP) Agreement issued pursuant to this section; and

(2) The product usage directions for the charcoal lighter material are the same as those provided to the Department pursuant to this section.

727.2 No charcoal lighter material formulation shall be certified under this section unless the applicant for certification demonstrates to the Department's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.020 pound of VOC per start, using the procedures specified in the South Coast Air Quality Management District Rule 1174, Ignition Method Compliance Certification Protocol, dated February 27, 1991 (the South Coast Air Quality Management District Rule 1174 Testing Protocol);

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

(b) The provisions relating to LVP-VOC as defined in §799 and §721.1(f) shall not apply to any charcoal lighter material subject to the requirements of §727.

727.3 For certification of a charcoal lighter material formulation, the application shall be in writing and shall include, at a minimum, the following:

(a) The results of testing conducted pursuant to the procedures specified in South Coast Air Quality Management District Rule 1174 Testing Protocol as required in §727.2;

(b) The exact text and/or graphics that will appear on the charcoal lighter material's principal display panel, label, and any accompanying literature;

(c) Product usage instructions that accurately reflect the quantity of charcoal lighter material per pound that was used in the South Coast Air Quality Management District Rule 1174 Testing Protocol for that product, unless:

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

(2) The charcoal lighter material is already incorporated into the charcoal, including but not limited to certain bag light, instant light, or match light products; and

(d) Any physical property data, formulation data, or other information required by the Department for use in determining when a product modification has occurred and for use in determining compliance with the conditions specified in an Alternative Control Plan (ACP) Agreement issued pursuant to §732.

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727.4 The Department shall comply with the following requirements for approving an application for certification:

(a) Within thirty (30) days of receipt of an application, the Department shall advise the applicant in writing either that the application is complete or that specified additional information is required to make it complete;

(b) Within thirty (30) days of receipt of additional information, the Department shall advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete; and

(c) If the Department finds that an application meets the requirements of this section, then an ACP Agreement shall be issued certifying the charcoal lighter material formulation and specifying such conditions as are necessary to ensure that the requirements of this section are met. The Department shall act on a complete application within ninety (90) days after the application is deemed complete.

727.5 For any charcoal lighter material for which certification has been granted by the Department pursuant to this section, the applicant for certification shall notify the Department in writing within thirty (30) days of:

(a) Any change in the usage directions, or

(b) Any change in product formulation, test results, or any other information submitted pursuant to this section which may result in VOC emissions greater than 0.020 pound of VOC per start.

727.6 If the Department determines that any certified charcoal lighter material formulation results in a VOC emission from the ignition of charcoal that is greater than 0.020 pound of VOC per start, as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol, and the statistical analysis procedures contained therein, the Department

shall revoke or modify the certification as necessary to ensure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.020 pound of VOC per start.

727.7 The Department shall not revoke or modify a certification issued pursuant to this section without first affording the person granted the certification an opportunity for a hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*.

728 CONSUMER PRODUCTS – FLOOR WAX STRIPPERS

728.1 No person shall sell, supply, offer for sale, or manufacture for use in District of Columbia any floor wax stripper unless the following requirements are met:

(a) The label of each non-aerosol floor wax stripper specifies a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of three percent (3%) by weight or less;

(b) The label of each non-aerosol floor wax stripper specifies a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of twelve percent (12%) by weight or less, if the floor wax stripper is also intended to be used for removal of heavy build-up of polish; and

(c) The terms light build-up, medium build-up or heavy build-up are not specifically required on the label, as long as comparable terminology is used.

729 CONSUMER PRODUCTS – LABELING OF CONTENTS

729.1 Each manufacturer of a consumer product subject to §§719 through 728 shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date.

729.2 The date or date-code information shall be displayed on each consumer product container or package no later than nine (9) months prior to the effective date of the applicable standard specified in the Table of Standards in §720.

729.3 The date or date-code information shall be located on the container or inside the cover/cap so that it is readily observable or obtainable by simply removing the cap/cover without disassembling any part of the container or packaging.

729.4 No person shall erase, alter, deface or otherwise remove or make illegible any date or date-code information from any regulated product container without the express authorization of the manufacturer.

729.5 If a code indicating the date of manufacture is used the manufacturer shall provide an explanation of the code to the Department no later than nine (9) months prior to the effective date of the applicable standard specified in the Table of Standards in §720.

729.6 The requirements of §§729.1 through 729.5 shall not apply to:

(a) Products containing no VOCs or containing VOCs at 0.10% by weight or less; and

(b) Consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. §136).

729.7 Notwithstanding the definition of the term product category in §799, if anywhere on the principal display panel of any consumer product, any representation is made that the product may be used as, or is suitable for use as a consumer product for which a lower VOC limit is specified in the Table of Standards in §720, then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners and antiperspirant or deodorant products.

729.8 Both the manufacturer and responsible party for each aerosol adhesive product subject to §§719 through 734 shall comply with §§729.1 through 729.8 and §730 and ensure that all consumer products clearly display the following information on the container for each product:

(a) The aerosol adhesive category as specified in §720 or an abbreviation of the category;

(b) The VOC standard for the product as specified in the Table of Standards in §720, with the following exceptions:

(1) If the product is included in an approved Alternative Control Plan (ACP) pursuant to §732, the product shall be labeled with the term ACP or ACP product; or

(2) If the product is classified as a special purpose spray adhesive, the substrate and /or application or an abbreviation of the substrate / application that qualifies the product as special purpose shall be displayed; and

(c) An explanation of the abbreviation used pursuant to paragraph (a) must be filed with the Department before the abbreviation is used;

(d) The information required in this section, shall be displayed on the product container such that it is readily observable without removing or disassembling any portion of the product container or packaging. For the purposes of this

subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging; and

(e) No person shall remove, alter, conceal, or deface the information required in this section prior to final sale of the product.

730 CONSUMER PRODUCTS – REPORTING REQUIREMENTS

730.1 Any person who sells, supplies, offers for sale, or manufactures consumer products for use in the District of Columbia shall comply with the following reporting requirements:

(a) Upon ninety (90) days written notice, the Department may require any responsible party to report information for any consumer product or products the Department may specify including but not limited to all or part of the following information:

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

(2) Any claim of confidentiality made pursuant to applicable District of Columbia confidentiality requirements in 20 DCMR 106;

(3) The product brand name for each consumer product subject to reporting and upon request by the Department;

(4) The product category to which the consumer product belongs pursuant to the Table of Standards in §720;

(5) The applicable product form as a Household Product, Industrial & Institutional Product, or both;

(6) Separate District of Columbia sales calculated in VOC pounds per year, to the nearest pound, and the method used to calculate District of Columbia sales for each product form;

(7) For registrations submitted by two (2) companies, an identification of the company which is submitting relevant data separate from that submitted by the responsible party. All registration information from both companies shall be submitted by the date specified in paragraph (a) of this section;

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

(A) Total Table B compounds;

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

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

(D) Total of all non-carbon-containing compounds;

(E) Total fragrance;

(F) For products containing greater than two percent (2%) by weight fragrance the percent of fragrance that are LVP-VOCs; and the percent of fragrance that are all other carbon-containing compounds; and

(G) Total Paradichlorobenzene;

(9) For each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstracts Service (CAS) number, of the following:

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(A) Each Table B compound; and

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

(10) If applicable, the weight percent comprised of propellent for each product; and

(11) If applicable, an identification of the type of propellent indicating whether it is Type A, Type B, Type C, or a blend of each type;

(b) In addition to the requirements of subparagraph (a)(9) of this subsection, the responsible party shall report or arrange to have reported to the Department the net percent by weight of each ozone-depleting compound that is:

(1) Listed in §724.1; and

(2) Contained in a product subject to reporting under paragraph (a) of this subsection in any amount greater than 0.1 percent by weight;

(c) All information submitted by responsible parties pursuant to this subsection shall be handled in accordance with the District of Columbia confidentiality requirements in 20 DCMR 106; and

(d) Consumer products that contain perchloroethylene or methylene chloride shall comply with the following special reporting requirements:

(1) The requirements of this subsection shall apply to all responsible parties for consumer products that are subject to the Table of Standards in §720 and contain perchloroethylene or methylene chloride;

(2) For the purposes of this subsection, a product contains perchloroethylene or methylene chloride if the product contains 1.0 percent or more by weight, exclusive of the container or packaging, of either perchloroethylene or methylene chloride;

(3) For each consumer product that contains perchloroethylene or methylene chloride, the responsible party shall report the following information for products sold in District of Columbia during each calendar year, beginning with the year 2005, and ending with the year 2010:

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

(B) The product category to which the consumer product belongs pursuant to the Table of Standards in §720;

(C) The applicable product form(s), as a Household Product, Industrial & Institutional Product, or both;

(D) For each product form listed in subparagraph (d)(3)(C) of this subsection, the total sales in the District of Columbia during the calendar year, to the nearest pound in VOCs, exclusive of the container or packaging, and the method used for calculating the District of Columbia sales; and

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

(4) The information specified in subparagraph (d)(3) of this subsection shall be reported for each calendar year by March 1 of the following year. The first report shall be due on March 1, 2006, for calendar year 2005. A new report is due on March 1 of each year thereafter, until March 1, 2011, when the last report is due.

731 CONSUMER PRODUCTS – TEST METHODS

731.1 Testing to determine compliance with the requirements of §§720 through 734 shall be performed using CARB Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, and as last amended on

September 3, 1999, incorporated herein by reference. The requirements of Sections 3.5, 3.6, and 3.7 of CARB Method 310 define a process for the initial determination of VOC content, the determination of LVP-VOC status of compounds and mixtures, and the final determination of VOC content, and are incorporated in paragraphs (a) through (c) of this subsection as follows:

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(a) Pursuant to Section 3.5 of CARB Method 310, Initial Determination of VOC Content, the manufacturer or responsible party shall determine the VOC content pursuant to Sections 3.2 and 3.3 of CARB Method 310. Only those components with concentrations equal to or greater than 0.1 percent by weight shall be reported:

(1) Pursuant to Section 3.5.1 of CARB Method 310, using the appropriate formula specified in Section 4 of CARB Method 310, the manufacturer or responsible party shall make an initial determination of whether the product meets the applicable VOC standards specified in CARB regulations. If initial results show that the product does not meet the applicable VOC standards, the Department may require additional testing to confirm the initial results;

(2) Pursuant to Section 3.5.2 of CARB Method 310, if the results obtained under Section 3.5.1 of CARB Method 310 show that the product does not meet the applicable VOC standards, the Department shall request that the product manufacturer or responsible party supply product formulation data. The manufacturer or responsible party shall supply the requested information. Information submitted to the Department may be claimed as confidential; such information will be handled in accordance with the District o Columbia confidentiality requirements in 20 DCMR 106;

(3) Pursuant to Section 3.5.3 of CARB Method 310, if the information supplied by the manufacturer or responsible party shows that the product does not meet the applicable VOC standards, then the Department will take appropriate enforcement action; and

(4) Pursuant to Section 3.5.4 of CARB Method 310, if the manufacturer or responsible party fails to provide formulation data as specified in Section 3.5.2 of CARB Method 310, the initial determination of VOC content under Section 3.5 of CARB Method 310 shall determine if the product is in compliance with the applicable VOC standards. This determination may be used to establish a violation of District of Columbia regulations;

(b) Pursuant to Section 3.6 of CARB Method 310, Determination of the LVP-VOC Status of Compounds and Mixtures, Section 3.6 of CARB Method 310 does not

apply to antiperspirants and deodorants or aerosol coating products because there is no LVP-VOC exemption for these products;

(1) Pursuant to Section 3.6.1 of CARB Method 310, Formulation Data, if the vapor pressure is unknown, the following ASTM methods may be used to determine the LVP-VOC status of compounds and mixtures: ASTM D 86-96 (April 10, 1996), ASTM D 850-93 (April 15, 1993), ASTM D 1078-97 (July 10, 1997), ASTM D 2879-97 (April 10, 1997), as modified in Appendix B to Method 310, ASTM D 2887-97 (April 10, 1997) and ASTM E 1719-97 (March 10, 1997);

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(2) Pursuant to Section 3.6.2 of CARB Method 310, LVP-VOC Status of Compounds or Mixtures, the Department will test a sample of the LVP-VOC used in the product formulation to determine the boiling point for a compound or for a mixture;

(A) If the boiling point exceeds two hundred sixteen degrees Celsius (216^{o}C), the compound or mixture is an LVP-VOC;

(B) If the boiling point is less than 216^{o}C, then the weight percent of the mixture that boils above 216^{o}C is an LVP-VOC;

(C) The Department will use the nearest five percent (5%) distillation cut that is greater than 216^{o}C as determined under Section 3.6.1 of CARB Method 310 to determine the percentage of the mixture qualifying as an LVP-VOC; and

(3) Pursuant to Section 3.6.3 of CARB Method 310, Reference Method for Identification of LVP-VOC Compounds and Mixtures, if a product does not qualify as an LVP-VOC under Section 3.6.2 of CARB Method 310, the manufacturer or responsible party will test a sample of the compound or mixture used in a products formulation utilizing one or both of the following: ASTM D 2879-97, as modified in Appendix B to Method 310, and ASTM E 1719-97, to determine if the compound or mixture meets the CARB requirements in Subchapter 8.5, §94508(78)(A) of Title 17 of the California Code of Regulations; and

(c) Pursuant to Section 3.7 of CARB Method 310, Final Determination of VOC Content, if a product's compliance status is not satisfactorily resolved under Sections 3.5 and 3.6, the manufacturer or responsible party must conduct further analyses and testing as necessary to verify the formulation data;

(1) Pursuant to Section 3.7.1 of CARB Method 310, if the accuracy of the supplied formulation data is verified and the product sample is determined to meet the applicable VOC standards, then no enforcement action for a violation of the VOC standards will be taken;

(2) Pursuant to Section 3.7.2 of CARB Method 310, if the Department is unable to verify the accuracy of the supplied formulation data, then the Department will request that the product manufacturer or responsible party supply information to explain the discrepancy; and

(3) Pursuant to Section 3.7.3 of CARB Method 310, if there exists a discrepancy that cannot be resolved between the results of CARB Method 310 and the supplied formulation data, then the results of CARB Method 310 shall take precedence over the supplied formulation data. The results of CARB Method 310 shall then determine if the product is in compliance with the applicable VOC standards, and may be used to establish a violation of District of Columbia regulations.

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731.2 Alternative methods that are shown to accurately determine the concentration of VOCs in a subject product or its emissions may be used upon approval of the Department.

731.3 Testing to determine compliance with the requirements of §§731 through 734 may also be demonstrated through calculation of the VOC content from records of the amounts of constituents used to make the product pursuant to the following criteria:

(a) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product 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 (3) years;

(b) For the purposes of this section, the VOC content shall be calculated according to the following equation:

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

where,

A = total net weight of unit, excluding container and packaging;

B = total weight of all VOCs, as defined in §799, per unit;

C = total weight of VOCs exempted under §721, per unit;

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

731.4 Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90 (May 25, 1990).

731.5 Compliance determinations for charcoal lighter material products shall comply with the following:

(a) Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174; and

(b) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D86-90 (Sept. 28, 1990).

731.6 No person shall create, alter, falsify, or otherwise modify records in such a way that the records do not accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and any other test, processes, or records used in connection with product manufacture.

732 CONSUMER PRODUCTS – ALTERNATIVE CONTROL PLANS

732.1 This section provides an alternative method to comply with the Table of Standards specified in §720. This alternative is provided by allowing responsible parties the option of voluntarily entering into separate alternative control plan (ACP) Agreements for consumer products, identified in §§719 through 728.

732.2 Any manufacturer claiming an ACP Agreement on the basis of having been granted an ACP Agreement by CARB under the provisions in Subchapter 8.5, Article 4, §§94540-94555, of Title 17 of the California Code of Regulations, must submit to the Department a copy of the CARB ACP decision including the executive order and all conditions established by CARB applicable to the exemption.

732.3 Manufacturers that have been granted an ACP Agreement under the ACP provision in Subchapter 8.5, Article 4, §§94540-94555, of Title 17 of the California Code of Regulations, based on California specific data, or that have not been granted an exemption by the CARB may apply to the Department for an ACP Agreement in accordance with §732.4.

732.4 An application for a ACP shall be submitted in writing to the Department by the responsible ACP party and shall contain all of the following information:

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

(b) A statement that the responsible ACP party is a small business or a one-product business, as defined in §799;

(c) A listing of the exact product brand name, form, available variations including but not limited to flavors, scents, colors, and sizes, and applicable product categories for each distinct product that is proposed for inclusion in the ACP;

(d) A demonstration to the satisfaction of the Department that the enforceable sales records used by the responsible ACP party to track product sales for each proposed ACP product identified in paragraph (c) of this subsection, meet the minimum criteria of seventy five percent (75%) of the gross District of Columbia sales as specified in subparagraph (d)(5) of this subsection. To provide this demonstration, the responsible ACP party shall meet all of the following requirements:

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

(2) Determine the enforceable sales of each product using enforceable sales records as defined in §799;

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

(4) Calculate the percentage of the gross District of Columbia sales, as defined in §799, that is comprised of enforceable sales; and

(5) Determine which ACP products have enforceable sales that are seventy-five percent (75%) or more of the gross District of Columbia sales. Only ACP products meeting this criteria shall be allowed to be sold in District of Columbia under an ACP;

(e) For each of the ACP products identified in subparagraph (d)(5) of this subsection include:

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

(2) The VOC content and LVP content for each product for two (2) different time periods, as follows:

(A) At the time the application for an ACP is submitted; and

(B) At any time within the four (4) years prior to the date of submittal of the application for an ACP, if either the VOC or

LVP contents have varied by more than plus/minus ten percent (± 10%) of the VOC or LVP contents reported in subparagraph (e)(2)(A) of this subsection;

(f) A written commitment obligating the responsible ACP party to date code every unit of each ACP product approved for inclusion in the ACP. The commitment shall require the responsible ACP party to display the date-code on each ACP product container or package no later than five (5) working days after the date an approved ACP is signed by the Department;

(g) An operational plan covering all the products identified under subparagraph (d)(5) of this subsection for each compliance period that the ACP will be in effect. The operational plan shall contain all of the following:

(1) An identification of the compliance periods and dates for the responsible ACP party to report the information required by the Department in the ACP Agreement approving an ACP;

(A) The length of the compliance period shall be chosen by the responsible ACP party provided, however, that no compliance period shall be longer than three hundred sixty-five (365) days; and

(B) The responsible ACP party shall also choose the dates for reporting information such that all required VOC content and enforceable sales data for ACP products shall be reported to the Department at the same time and at the same frequency;

(2) An identification of specific enforceable sales records to be provided to the Department for enforcing the provisions of §§719 through 734 and the ACP Agreement approving an ACP. The enforceable sales records shall be provided to the Department no later than the compliance period dates specified in subparagraph (g)(1) of this subsection;

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

(4) For each ACP product, all VOC content levels which will be applicable for the ACP product during each compliance period;

(5) The plan shall also identify the specific method(s) by which the VOC content will be determined and the statistical accuracy and precision

including repeatability and reproducibility, calculated for each specified method;

(6) A detailed demonstration showing the combination of specific ACP reformulations or surplus trading, if applicable, that is sufficient to ensure that the ACP emissions will not exceed the ACP limit for each compliance period that the ACP will be in effect, the approximate date within each compliance period that such reformulations or surplus trading are expected to occur, and the extent to which the VOC contents of the ACP products will be reduced by, but not limited to, ACP reformulation or surplus trading;

(A) This demonstration shall use the equations specified in §799 for projecting the ACP emissions and ACP Limits during each compliance period; and

(B) This demonstration shall also include all VOC content levels and projected enforceable sales for all ACP products to be sold in the District of Columbia during each compliance period;

(7) A certification that all reductions in the VOC content of a product will be real, actual reductions that do not result from changing product names, mischaracterizing ACP product reformulations that have occurred in the past, or any other attempts to circumvent the provisions of §§719 through 734;

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

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

(10) A reconciliation of shortfalls plan that commits the responsible ACP party to completely reconcile any shortfalls in any and all cases, even, to the extent permitted by law, if the responsible ACP party files for bankruptcy protection. The plan for reconciliation of shortfalls shall contain:

(A) A clear and convincing demonstration of how shortfalls of up to 5%, 10%, 15%, 25%, 50%, 75% and 100% of the applicable ACP Limit will be completely reconciled within ninety (90) days from the date the shortfall is determined;

(B) A listing of the specific records and other information that will be necessary to verify that the shortfalls were reconciled as specified in this paragraph; and

(C) A commitment to provide any record or information requested by the Department to verify that the shortfalls have been completely reconciled; and

(h) A declaration, signed by a legal representative for the responsible ACP party, stating that all information and operational plans submitted with the ACP application are true and correct.

732.5 In accordance with the time periods specified in §732.7, the Department shall issue an ACP Agreement approving an ACP application that meets the requirements of §§719 through 734. The Department shall specify such terms and conditions as are necessary to ensure that the emissions from the ACP products do not exceed the emissions that would have occurred if the ACP products subject to the ACP had met the VOC standards specified in the Table of Standards in §720. The ACP Agreement shall also include:

(a) Only those ACP products for which the enforceable sales are at least seventy five percent (75%) of the gross District of Columbia sales, as determined in §732.4(d);

(b) A reconciliation of shortfalls plan meeting the requirements of §732.4(g)(10); and

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(c) Operational terms, conditions, and data to be reported to the Department to ensure that all requirements of §§719 through 734 are met.

732.6 The Department shall not approve an ACP submitted by a responsible ACP party if the Department determines upon review of the responsible ACP party's compliance history with past or current ACPs or the requirements for consumer products in §§719 through 728 that the responsible ACP party has a recurring pattern of violations and has consistently refused to take the necessary steps to correct those violations.

732.7 The Department shall take appropriate action on an ACP application within the following time periods:

(a) Within thirty (30) days of receipt of an ACP application, the Department shall inform the applicant in writing that either:

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

(2) The application is deficient, and identifies the specific information required to make the application complete;

(b) Within thirty (30) days of receipt of additional information provided in response to a determination that an ACP application is deficient, the Department shall inform the applicant in writing that either:

(1) The additional information is sufficient to make the application complete, and the application is accepted for filing; or

(2) The application is deficient, and identifies the specific information required to make the application complete;

(c) The Department shall act to approve or disapprove a complete application within ninety (90) days after the application is deemed complete; and

(d) Before the end of each time period specified in this section, the Department and the responsible ACP party may mutually agree to a longer time period to take the appropriate action.

732.8 All information specified in the ACP Agreement shall be maintained by the responsible ACP party for a minimum of three (3) years and shall meet the following requirements:

(a) Such records shall be clearly legible and maintained in good condition during this period; and

(b) The records specified in §732.4 shall be made available to the Department:

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

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

(3) Within a time period mutually agreed upon by both the Department and the responsible ACP party.

732.9 Failure to meet any condition of an applicable ACP Agreement shall constitute a single, separate violation for each day until such requirement or condition is satisfied, unless otherwise provided in paragraphs (a) through (h) of this subsection:

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(a) False reporting of any information contained in an ACP application, or any supporting documentation or amendments thereto, shall constitute a single, separate violation for each day that the approved ACP is in effect;

(b) Any exceedance during the applicable compliance period of the VOC content specified for an ACP product and which is included in the ACP Agreement approving an ACP shall constitute a single, separate violation for each ACP

product which exceeds the specified VOC content that is sold, supplied, offered for sale, or manufactured for use in the District of Columbia;

(c) Any of the following actions shall each constitute a single, separate violation for each day after the applicable deadline until the requirement is satisfied:

(1) Failure to report data to the Department including but not limited to missing data or failure to report data accurately in writing regarding the VOC content, LVP content, enforceable sales, or any other information required by any deadline specified in the applicable ACP Agreement;

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

(3) Failure to completely implement the reconciliation of shortfalls plan that is set forth in the ACP Agreement, within thirty (30) days from the date of written notification of a shortfall by the Department; and

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

(d) False reporting or failure to report any of the information specified in §732.10(j), or the sale or transfer of invalid surplus reductions, shall constitute a single, separate violation for each day during the time period for which the surplus reductions are claimed to be valid;

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(e) Except as provided in §732.9(f), any exceedance of the ACP limit for any compliance period that the ACP is in effect shall constitute a single, separate violation for each day of the applicable compliance period. The Department shall determine whether an exceedance of the ACP limit has occurred as follows:

(1) If the responsible ACP party has provided all required information for the applicable compliance period specified in the ACP Agreement approving an ACP, then the Department shall determine whether an exceedance has occurred using the enforceable sales records and VOC content for each ACP product, as reported by the responsible ACP party for the applicable compliance period; and

(2) If the responsible ACP party has failed to provide all the required information specified in the ACP Agreement for an applicable compliance period, the Department shall determine whether an exceedance of the ACP limit has occurred as follows:

(A) For the missing data days, the Department shall calculate the total maximum historical emissions, as specified in §799;

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

(C) The ACP emissions for the entire compliance period shall be the sum of the total maximum historical emissions, determined pursuant to subparagraph (e)(2)(A) of this subsection, and the emissions determined pursuant to subparagraph (e)(2)(B) of this subsection;

(D) The Department shall calculate the ACP limit for the entire compliance period using the ACP standards applicable to each ACP product and the enforceable sales records specified in subparagraph (e)(2)(B) of this subsection. The enforceable sales for each ACP product during missing data days, as specified in subparagraph (e)(2)(A) of this subsection, shall be zero (0); and

(E) An exceedance of the ACP limit has occurred when the ACP emissions, determined pursuant to subparagraph (e)(2)(C) of this subsection exceeds the ACP limit, determined pursuant to subparagraph (e)(2)(D) of this subsection;

(f) If a violation specified in paragraph (e) of this section occurs, the responsible ACP party may, pursuant to this paragraph, establish the number of violations as calculated according to the following equation:

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NEV = (ACP Emissions - ACP Limit) x 1 Violation/40 Pounds

where,

NEV = number of ACP Limit violations;
ACP Emissions = the ACP Emissions for the compliance period;
ACP Limit = the ACP Limit for the compliance period; and

The responsible ACP party may determine the number of ACP Limit violations pursuant to this paragraph only if it has provided all required information for the applicable compliance period, as specified in the ACP Agreement approving the ACP. By choosing this option, the responsible ACP party waives any and all legal objections to the calculation of the ACP limit violations pursuant to this subsection;

(g) In assessing the amount of penalties for any violation occurring pursuant to paragraphs (a) through (f) of this section, the circumstances identified in applicable District of Columbia health and safety laws and regulations shall be taken into consideration; and

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(h) The responsible ACP party is fully liable for compliance with the requirements of this subsection, even if the responsible ACP party contracts with or otherwise relies on another person to carry out some or all of the requirements of this subsection.

732.10 The Department shall issue surplus reduction certificates which establish and quantify, to the nearest pound of VOC reduced, any surplus reductions achieved by a responsible ACP party operating under an ACP. All surplus reductions shall be calculated by the Department at the end of each compliance period within the time specified in the approved ACP. Surplus reductions can be bought from, sold to, or transferred to a responsible ACP party operating under an ACP, according to the following provisions:

(a) Surplus reduction certificates shall not constitute instruments, securities, or any other form of property;

(b) For the purposes of this regulation, VOC reductions from sources of VOCs other than consumer products subject to the VOC standards specified in the Table of Standards in §720 may not be used to generate surplus reductions;

(c) Surplus reductions are valid only when generated by a responsible ACP party, and only while that responsible ACP party is operating under an approved ACP;

(d) Surplus reductions are valid only after the Department has issued an ACP Agreement pursuant to §732;

(e) Surplus reductions issued by the Department may be used by the responsible ACP party who generated the surplus until the reductions expire, are traded, or until the ACP is canceled pursuant to §732.17;

(f) Surplus reductions cannot be applied retroactively to any compliance period prior to the compliance period in which the reductions were generated;

(g) Only small or one-product businesses selling products under an approved ACP may purchase surplus reductions, except as provided in §732.10(h)(2). An increase in the size of a small business or one-product business shall have no effect on surplus reductions purchased by that business prior to the date of the increase;

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(h) While valid, surplus reductions can be used only for the following purposes:

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

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(2) To be traded for the purpose of reconciling another responsible ACP party's shortfalls, provided such reconciliation is part of the reconciliation of shortfalls plan approved by the Department pursuant to §732.4(g)(10);

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

(j) At least five (5) working days prior to the effective date of transfer of surplus reductions, both the responsible ACP party that is selling surplus reductions and the responsible ACP party that is buying the surplus reductions shall, either together or separately, notify the Department in writing of the transfer. The notification shall include all of the following:

(1) The date the transfer is to become effective;

(2) The date the surplus reductions being traded are due to expire;

(3) The amount in pounds of VOCs of surplus reductions that are being transferred;

(4) The total purchase price paid by the buyer for the surplus reductions;

(5) The contact persons, names of the companies, street and mail addresses, and phone numbers of the responsible ACP parties involved in the trading of the surplus reductions; and

(6) A copy of the District of Columbia issued surplus reductions certificate, signed by both the seller and buyer of the certificate, showing transfer of all or a specified portion of the surplus reductions;

(A) The copy shall show the amount of any remaining non-traded surplus reductions, if applicable, and their expiration date; and

(B) The copy shall indicate that both the buyer and seller of the surplus reductions fully understand the conditions and limitations placed upon the transfer of the surplus reductions and accept full responsibility for the appropriate use of such surplus reductions as provided in this section; and

(k) Surplus reduction credits shall only be traded between ACP parties for consumer products.

732.11 The use of limited-use surplus reduction credits for early reformulations of ACP products shall comply with the following provisions:

(a) For the purposes of this section, early reformulation means an ACP product that is reformulated to result in a reduction in the product's VOC content, and which is sold, supplied, or offered for sale in the District of Columbia for the first time during the one-year (365 day) period immediately prior to the date wherein the application for a proposed ACP is submitted to the District. Early reformulation does not include any reformulated ACP product that is sold, supplied, or offered for sale in the District of Columbia more than one year prior to the date on which the ACP application is submitted to the Department;

(b) If requested in the application for an ACP, the Department shall, upon approval of the ACP, issue surplus reduction credits for early reformulations of ACP products, provided that all of the following documentation has been submitted to the satisfaction of the Department:

(1) Accurate documentation showing that the early reformulation reduced the VOC content of the ACP product to a level that is below the pre-ACP VOC content of the product, or below the applicable VOC standard specified in the Table of Standards in §720, whichever is the lesser of the two;

(2) Accurate documentation demonstrating that the early reformulated ACP product was sold in District of Columbia retail outlets within the time period specified in paragraph (a) of this section;

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(3) Accurate sales records for the early reformulated ACP product that meet the definition of enforceable sales records as defined in §799, and which demonstrate that the enforceable sales for the ACP product are at least seventy-five percent (75%) of the gross District of Columbia sales for the product, as specified in §732.4(d); and

(4) Accurate documentation for the early reformulated ACP product that meets the requirements specified in §732.4;

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

$$SR = Enforceable\ Sales\ x\ \frac{((VOC\ Content\ )_{initial}\ (VOC\ Content\ )_{final})}{100}$$

where,

SR = Surplus Reductions for the ACP product, expressed to the nearest pound;

Enforceable Sales = the Enforceable Sales for the early reformulated ACP product, expressed to the nearest pound of ACP product;

VOC $Content_{initial}$ = the Pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in §720, whichever is the lesser of the two, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product;

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VOC $Content_{final}$ = the VOC Content of the early reformulated ACP product after the early reformulation is achieved, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product; and

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

(1) Surplus reduction credits shall be used solely to reconcile the responsible ACP party's shortfalls, if any, generated during the first

compliance period occurring immediately after the issuance of the ACP Agreement approving an ACP, and shall not be used for any other purpose;

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

(3) Except as provided in this section, surplus reduction credits shall be subject to all requirements applicable to surplus reductions and surplus trading, as specified in §732.10.

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732.12 At the end of each compliance period, the responsible ACP party shall make an initial calculation of any shortfalls occurring in that compliance period, as specified in the ACP Agreement approving the ACP. Upon receipt of this information, the Department shall determine the amount of any shortfall that has occurred during the compliance period, and shall notify the responsible ACP party of this determination;

(a) The responsible ACP party shall implement the reconciliation of shortfalls plan as specified in the ACP Agreement approving the ACP, within thirty (30) days from the date of written notification of a shortfall by the District;

(b) All shortfalls shall be completely reconciled within ninety (90) days from the date of written notification of a shortfall by the Department, by implementing the reconciliation of shortfalls plan specified in the ACP Agreement approving the ACP; and

(c) All requirements specified in the ACP Agreement approving an ACP, including all applicable ACP limits, shall remain in effect while any shortfalls are in the process of being reconciled.

732.13 For modifications to the ACP that do not need Department pre-approval, the responsible ACP party shall notify the Department, in writing, of any change in an ACP product's name, formulation, form, function, applicable product categories, VOC content, LVP content, date-codes, or recommended product usage directions, no later than fifteen (15) days from the date such a change occurs. For each modification, the notification shall fully explain the following:

(a) The nature of the modification;

(b) The extent to which the ACP product formulation, VOC content, LVP Content, or recommended usage directions will be changed;

(c) The extent to which the ACP emissions and ACP limit specified in the ACP Agreement will be changed for the applicable compliance period; and

(d) The effective date and corresponding date-codes for the modification.

732.14 Modifications to the enforceable sales records or reconciliation of shortfalls plan specified in the ACP Agreement approving the ACP require Department pre-approval and shall comply with the following requirements:

(a) Any such proposed modifications shall be fully described in writing and forwarded to the Department;

(b) The responsible ACP party shall clearly demonstrate that the proposed modifications will meet the requirements of §§719 through 734; and

(c) The Department shall act on the proposed modifications using the procedure set forth in §732.7. The responsible ACP party shall meet all applicable requirements of the existing ACP until such time that any proposed modification is approved in writing by the Department.

732.15 Except as otherwise provided in §§732.13 and 732.14, the responsible ACP party shall notify the Department, in writing, of any information learned of by the responsible ACP party which may alter any of the information submitted pursuant to the requirements of §732. The responsible ACP party shall provide such notification to the Department no later than fifteen (15) working days from the date such information is known to the responsible ACP party.

732.16 The District may modify the ACP under the following conditions:

(a) If the District determines that:

(1) The enforceable sales for an ACP product are no longer at least seventy-five percent (75%) of the gross District of Columbia sales for that product;

(2) The information submitted pursuant to the approval process set forth in §732 is no longer valid; or

(3) The ACP meets all requirements of §§719 through 734 and that the ACP emissions will not exceed the ACP limit;

(b) If the responsible ACP party has had an opportunity for a public hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*., to determine if the ACP should be modified; and

(c) If any applicable VOC standards specified in the Table of Standards in §720 are modified by the California Air Resources Board (CARB) in a future rule

making, the Department shall modify the ACP limit specified in the ACP Agreement approving an ACP to reflect the modified ACP VOC standards as of their effective dates.

732.17 An ACP shall remain in effect until or unless the following occurs:

(a) The ACP reaches the expiration date specified in the ACP Agreement;

(b) The ACP is modified by the responsible ACP party and approved by the Department, as provided in §§732.13 and 732.14;

(c) The ACP is modified by the Department, as provided in §732.16;

(d) The ACP includes a product for which the VOC standard specified in the Table of Standards in §720 is modified by the Department in a future rule making, and the responsible ACP party informs the Department in writing that the ACP will terminate on the effective date of the modified standard; or

(e) The ACP is cancelled pursuant to §732.18.

732.18 The Department shall cancel an ACP if any of the following circumstances occur:

(a) The responsible ACP party demonstrates to the satisfaction of the Department that the continuation of the ACP will result in an extraordinary economic hardship;

(b) The responsible ACP party violates the requirements of the approved ACP, and the violation results in a shortfall that is twenty percent (20%) or more of the applicable ACP limit, meaning that the ACP Emissions exceed the ACP Limit by 20.0% or more;

(c) The responsible ACP party fails to meet the requirements of §732.12 within the time periods specified in §732.12; or

(d) The responsible ACP party has demonstrated a recurring pattern of violations and has consistently failed to take the necessary steps to correct those violations.

732.19 The Department shall not cancel an ACP pursuant to §732.18 without first affording the responsible ACP party an opportunity for a public hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq.*, to determine if the ACP should be canceled.

732. 20 The responsible ACP party for an ACP that is canceled pursuant to this section and who does not have a valid ACP to immediately replace the canceled ACP shall meet all of the following requirements:

(a) All remaining shortfalls in effect at the time of ACP cancellation shall be reconciled in accordance with the requirements of §732.12; and

(b) All ACP products subject to the ACP shall be in compliance with the applicable VOC standards in the Table of Standards in §720 immediately upon the effective date of ACP cancellation.

732.21 Any violations incurred pursuant to §732.9 shall not be cancelled or in any way affected by the subsequent cancellation or modification of an ACP pursuant to §§732.13 through 732.18.

732.22 The information required by §732.4 (a), §732.4(b), and §732.10(j) is public information that may not be claimed as confidential. All other information submitted to the Department to meet the requirements of this regulation shall be handled in accordance with the District of Columbia confidentiality requirements in 20 DCMR 106.

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732.23 A responsible ACP party may transfer an ACP to another responsible ACP party, provided that all of the following conditions are met:

(a) The Department shall be notified, in writing, by both responsible ACP parties participating in the transfer of the ACP and its associated ACP Agreement;

(1) The written notifications shall be postmarked at least five (5) working days prior to the effective date of the transfer and shall be signed and submitted separately by both responsible parties; and

(2) The written notifications shall clearly identify the contact persons, business names, mail and street addresses, and phone numbers of the responsible parties involved in the transfer; and

(b) The responsible ACP party to which the ACP is being transferred shall provide a written declaration stating that the transferee shall fully comply with all requirements of the ACP Agreement.

733 CONSUMER PRODUCTS – INNOVATIVE PRODUCTS EXEMPTION

733.1 Any manufacturer claiming an exemption from the Table of Standards in §720 based on a CARB Innovative Products exemption under the Innovative Products provisions in Subchapter 8.5, Article 2, §94511, or Subchapter 8.5, Article 1, §94503.5 of Title 17 of the California Code of Regulations, must submit to the Department a copy of the CARB Innovative Product exemption decision, including the executive order and all conditions established by CARB applicable to the exemption.

733.2 Manufacturers of consumer products that have been granted an Innovative Products exemption based on California specific data, or that have not been granted an exemption by CARB may apply for an Innovative Products exemption from the District of Columbia if the product meets the following criteria:

(a) The manufacturer demonstrates by clear and convincing evidence that due to some characteristic of the product formulation, design, delivery systems or other factors, the use of the product will result in less VOC emissions as compared to:

(1) The VOC emissions from a representative consumer product which complies with the VOC limits specified in the Table of Standards in §720; or

(2) The calculated VOC emissions from a noncomplying representative product, if the product had been reformulated to comply with the VOC limits specified in the Table of Standards in §720; and

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

$E_R = E_{NC} \times VOC_{STD} \div VOC_{NC}$

where,

E_R = The VOC emissions from the noncomplying representative product, had it been reformulated;

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

VOC_{STD} = The VOC limit specified in the Table of Standards in §720;

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VOC_{NC} = The VOC content of the noncomplying product in its current formulation;

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

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(c) For the purposes of this section, representative consumer product means a consumer product that meets all of the following criteria:

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(1) The representative product shall be subject to the same VOC limit in the Table of Standards in §720 as the innovative product;

(2) The representative product shall be of the same product form as the innovative product, unless the innovative product uses a new form that does not exist in the product category at the time the application is made; and

(3) The representative product shall have at least similar efficacy as other consumer products in the same product category based on tests generally accepted for that product category by the consumer products industry;

(d) To apply for an innovative products exemption under this section, a manufacturer shall submit a written application to the Department, which includes:

(1) The supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage; and

(2) Any information necessary to enable the Department to establish enforceable conditions for granting the exemption including the VOC content for the innovative product and test methods for determining the VOC content;

(e) The Department shall comply with the following process in responding to applications for exemptions:

(1) All information submitted by a manufacturer pursuant to paragraph (d) shall be handled in accordance with the District of Columbia confidentiality requirements in 20 DCMR 106;

(2) Within thirty (30) days of receipt of the exemption application the Department shall determine whether an application is complete;

(3) Within ninety (90) days after an application has been deemed complete, the Department shall determine whether, under what conditions, and to what extent, an exemption from the requirements of §720 will be permitted;

(A) The applicant and the Department may mutually agree to a longer time period for reaching a decision; and

(B) Additional supporting documentation may be submitted by the applicant before a decision is reached;

(4) The Department shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from the product will meet the emissions reductions specified in subparagraph (a)(1), and that such emissions reductions can be enforced; and

(5) In granting an exemption for a product, the Department shall establish conditions that are enforceable;

(A) These conditions shall include the VOC content of the innovative product, dispensing rates, application rates and any other parameters determined by the Department to be necessary;

(B) The Department shall also specify the test methods for determining conformance to the conditions established; and

(C) The test methods shall include criteria for reproducibility, accuracy, sampling and laboratory procedures;

(f) For any product for which an exemption has been granted pursuant to this section, the manufacturer shall notify the Department in writing within thirty (30) days of any change in the product formulation or recommended product usage directions, and shall also notify the Department within thirty (30) days if the manufacturer learns of any information which would alter the emissions estimates submitted to the Department in support of the exemption application;

(g) If the VOC limits specified in the Table of Standards in §720 are lowered for a product category through any subsequent rulemaking, all innovative product exemptions granted for products in the product category shall have no force and effect as of the effective date of the modified VOC standard, except those innovative products that have VOC emissions less than the applicable lowered VOC limit and for which a written notification of the product's emissions status versus the lowered VOC limit has been submitted to and approved by the Department at least sixty (60) days before the effective date of such limits; and

(h) If the Department believes that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in this section, the Department may modify or revoke the exemption as necessary to ensure that the product will meet these criteria. The Department shall not modify or revoke an exemption without first affording the applicant an opportunity for a public hearing held in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*.

734 CONSUMER PRODUCTS – VARIANCE REQUESTS

734.1 Any person who cannot comply with the requirements set forth in §720, and §§722 through 728 because of extraordinary reasons beyond the person's reasonable control may apply in writing to the Department for a variance according to the following requirements:

(a) The variance application shall include:

(1) The specific grounds upon which the variance is sought;

(2) The proposed date by which compliance with the provisions of §§720, and 722 through 728 will be achieved; and

(3) A compliance report reasonably detailing the methods by which compliance will be achieved;

(b) Upon receipt of a variance application containing the information required in paragraph (a), the Department shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in §§720 and 722 through 728 is necessary and will be permitted according to the following requirements:

(1) A hearing shall be initiated no later than seventy-five (75) days after receipt of a variance application;

(2) Notice of the time and place of the hearing shall:

(A) Be sent to the applicant by certified mail not less than thirty (30) days prior to the hearing;

(B) Be submitted for publication in the District of Columbia Register and sent to every person who requests such notice, not less than thirty (30) days prior to the hearing; and

(C) State that the parties may, but need not be, represented by counsel at the hearing;

(3) At least thirty (30) days prior to the hearing, the variance application shall be made available to the public for inspection; and

(4) Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered;

(c) Information submitted to the Department by a variance applicant may be claimed as confidential, and such information shall be handled in accordance with the District of Columbia confidentiality requirements in 20 DCMR 106. The Department may consider such confidential information in reaching a decision on a variance application;

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(d) No variance shall be granted unless all of the following findings are made:

(1) Because of reasons beyond the reasonable control of the applicant, requiring compliance with §§720 and 722 through 728 would result in extraordinary economic hardship;

(2) The public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance; and

(3) The compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible;

(e) Any variance order issued by the Department shall specify a final compliance date by which the requirements of §§720 and 722 through 728 will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to ensure timely compliance, and such other conditions that the Department, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of applicable District of Columbia health and safety laws and regulations;

(f) 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; and

(g) Upon the application of any person, the Department may review, and for good cause, modify or revoke a variance from requirements of §§720 and 722 through 728 after holding a public hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*.

735 PORTABLE FUEL CONTAINERS AND SPOUTS – GENERAL REQUIREMENTS

735.1 The requirements of §§735 through 741 apply to any person who sells, supplies, offers for sale, or manufactures a portable fuel container or spout on or after January 1, 2005 in the District of Columbia, except as provided in §737.

735.2 For purposes of §§736 through 741 and of any definitions in §799 applicable to §§736 through 741 the District incorporates by reference rules and test methods from the Code of Federal Regulations (CFR), the California Air Resources Board (CARB), and Title 13, California Code of Regulations, sections 2250-2298, where specifically cited. These materials are incorporated in their versions current as of January 1, 2004, unless otherwise indicated in §§736 through 741 and 799.

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735.3 Each part of §§735 through 741 shall be deemed severable, and in the event that any part is held to be invalid, the remainder continues in full force and effect.

736 PORTABLE FUEL CONTAINERS AND SPOUTS –PERFORMANCE STANDARDS

736.1 A portable fuel container shall meet all of the following Performance Standards for Spill-Proof systems, except as provided in §737:

(a) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows;

(b) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel;

(c) Has only one opening for both filling and pouring; and

(d) Provides a fuel flow rate and fill level of:

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

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

(B) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase “Low Flow Rate” in type of thirty-four (34) point or greater on each spill-proof system or label affixed to the product, and on the accompanying package, if any;

(2) Not less than one (1) gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25

inches below the top of the target fuel tank opening; or

(3) Not less than two (2) gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons;

(e) Does not exceed a permeation rate of 0.4 grams per gallon per day; and

(f) Is warranted by the manufacturer for a period of not less than one (1) year against defects in materials and workmanship.

736.2 A spout shall meet all of the following performance standards for spill-proof spouts, except as provided in §737:

(a) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows;

(b) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel;

(c) Provides a fuel flow rate and fill level of:

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

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

(B) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase “Low Flow Rate” in type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed to the spout;

(2) Not less than one (1) gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or

(3) Not less than two (2) gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons; and

(d) Is warranted by the manufacturer for a period of not less than one (1) year

against defects in materials and workmanship.

736.3 The manufacturer of portable fuel containers or spouts shall perform compliance tests in accordance with §739 to show that their product meets the performance standards of §§736 through 741 prior to allowing the product to be offered for sale in the District of Columbia. The manufacturer must maintain records of these compliance tests for as long as the product is available for sale in the District of Columbia and make those test results available to the Department within sixty (60) days of request.

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736.4 Compliance with the performance standards in this section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and District of Columbia statutes and regulations, including but not limited to, fire codes, safety codes, and other safety regulations.

737 PORTABLE FUEL CONTAINERS AND SPOUTS – EXEMPTIONS FROM PERFORMANCE STANDARDS

737.1 The following shall be exempt from compliance with §§735 through 736:

(a) Any portable fuel container or spout manufactured in the District of Columbia for shipment, sale, and use outside of the District of Columbia;

(b) A manufacturer or distributor who sells, supplies, or offers for sale in the District of Columbia, a portable fuel container or spout that does not comply with the performance standards specified in §736, as long as the manufacturer or distributor can demonstrate that:

(1) The portable fuel container or spout is intended for shipment and use outside of the District of Columbia; and

(2) The manufacturer or distributor has taken reasonable prudent precautions to ensure that the portable fuel container or spout is not distributed in the District of Columbia;

(c) Paragraph (b) of this subsection does not apply to portable fuel containers or spouts that are sold, supplied, or offered for sale by any person to retail outlets in the District of Columbia;

(d) Safety cans meeting the requirements of Chapter 17, Title 29, Part 1926 Subpart F of the Code of Federal Regulations;

(e) Portable fuel containers with a nominal capacity less than or equal to one (1) quart;

(f) Rapid refueling devices with nominal capacities greater than or equal to four

(4) gallons, provided such devices are designed for use in officially sanctioned off-highway motorcycle competitions or either create a leak-proof seal against a stock target fuel tank or are designed to operate in conjunction with a receiver permanently installed on the target fuel tank;

(g) Portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine;

(h) Portable fuel containers and spouts that have been granted a consumer product exemption by the Department pursuant to §740, or a variance pursuant to §741; and

(i) Portable fuel containers and spouts that have been granted an exemption by the CARB Consumer Product Regulation, under the Innovative Products provisions in Subchapter 8.5, Article 2, §94511, or Subchapter 8.5, Article 1, §94503.5 of Title 17 of the California Code of Regulations. This exemption shall continue for the period of time that the CARB Innovative Products exemption remains in effect, provided that the manufacturer complies with §740.

738 PORTABLE FUEL CONTAINERS AND SPOUTS – LABELING REQUIREMENTS

738.1 Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with §736.1 must clearly display the following on each spill-proof system:

(a) The phrase “Spill-Proof System”;

(b) A date of manufacture or date code; and

(c) A representative code identifying the portable fuel container or spout as subject to and complying with §736.1.

738.2 Each manufacturer of a spout subject to and complying with §736.2 must clearly display the following on the accompanying package, or spout sold without packaging, on either the spout or a label affixed to the spout:

(a) The phrase “Spill-Proof Spout”;

(b) A date of manufacture or date code; and

(c) A representative code identifying the spout as subject to and complying with §736.2.

738.3 Each manufacturer subject to §738.1 or §738.2 shall file an explanation of both the date code and representative code with the Department no later than three (3) months after the effective date of this regulation or within three (3) months of production, and within three (3) months after any change in coding.

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738.4 Each manufacturer subject to §738.1 or §738.2 shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.

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738.5 Each manufacturer of a spout subject to §738.2 shall clearly display the make, model number, and size of only those portable fuel containers the spout is designed to accommodate and can demonstrate compliance with §736.1 on the accompanying package, or for spouts sold without packaging, on either the spout, or a label affixed to the spout.

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738.6 Manufacturers of portable fuel containers not subject to or not in compliance with §736 shall not display the phrase “Spill-Proof System” or “Spill-Proof Spout” on the portable fuel container or spout, respectively, on any sticker or label affixed to the product, or on any accompanying package.

738.7 Each manufacturer of a portable fuel container or spout subject to and complying with §736 that due to its design or other features cannot be used to refuel one (1) or more on-road motor vehicle must clearly display the phrase “Not Intended For Refueling On-Road Motor Vehicles” in type of thirty-four (34) point or greater on each of the following:

(a) For a portable fuel container or portable fuel container and spout sold together as a spill-proof system, on the system or on a label affixed thereto, and on the accompanying package, if any; and

(b) For a spill-proof spout sold separately from a spill-proof system, on either the spill-proof spout, or a label affixed thereto, and on the accompanying package, if any.

739 PORTABLE FUEL CONTAINERS AND SPOUTS – TESTING PROCEDURES

739.1 Testing to determine compliance with §736.2 shall be performed by using the following test procedures:

(a) Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts, adopted by CARB on July 6, 2000;

(b) Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems

And Spill-Proof Spouts, adopted by CARB on July 6, 2000; and

(c) Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems and Spill-Proof Spouts, adopted by CARB on July 6, 2000.

739.2 Testing to determine compliance with §736.1 shall be performed by using all test procedures in §739.1 and Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems, adopted by CARB on July 6, 2000.

739.3 Alternative testing methods that are shown to be accurate, precise, and appropriate may be used upon written approval of the Department.

740 PORTABLE FUEL CONTAINERS AND SPOUTS – INNOVATIVE PRODUCT EXEMPTION

740.1 Any manufacturer claiming an exemption on the CARB Innovative Products basis shall submit to the Department, upon request, a copy of the CARB exemption decision, including but not limited to, the executive order, and all conditions established by CARB applicable to the exemption.

740.2 The District may exempt a portable fuel container or spout from one (1) or more of the requirements of §736 if a manufacturer demonstrates by clear and convincing evidence that, due to the product's design, delivery system, or other factors, the use of the product will result in cumulative VOC emissions below the highest emitting representative spill-proof system or representative spill-proof spout in its product category as determined from applicable testing;

(a) For the purposes of this subsection, representative spill-proof system or a representative spill-proof spout means a portable fuel container or spout or both portable fuel container and spout which, at the time of exemption, meets the performance standards specified in §736;

(b) A manufacturer shall submit an application in writing to the Department for an innovative product exemption claimed under this section according to the following requirements:

(1) The application must include the supporting documentation that quantifies the emissions from the innovative product, including the actual physical test methods used to generate the data;

(2) The applicant must provide any information necessary to enable the Department to establish enforceable conditions for granting the exemption; and

(3) All information including proprietary data submitted by a manufacturer pursuant to this section shall be handled in accordance with the District of Columbia confidentiality requirements in 20 DCMR 106;

(c) Within thirty (30) days of receipt of the exemption application the Department shall determine whether an application is complete as provided in the applicable District of Columbia laws or regulations;

(d) Within ninety (90) days after an application has been deemed complete, the Department will determine whether, under what conditions, and to what extent, an exemption from the requirements of §736 will be permitted;

(1) The applicant and the Department may mutually agree to a longer time period for reaching a decision;

(2) An applicant may submit additional supporting documentation before a decision has been reached; and

(3) The Department shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from use of the product will meet the performance standards specified in §736, and that such emissions reductions can be enforced;

(e) In granting an innovative product exemption for a portable fuel container or spout, the Department shall specify the test methods for determining conformance to the conditions established. The test methods may include criteria for reproducibility, accuracy, and sampling and laboratory procedures;

(f) For any portable fuel container or spout for which an innovative product exemption has been granted pursuant to this section, the manufacturer shall notify the Department in writing at least thirty (30) days before the manufacturer changes a product's design, delivery system, or other factors that may effect the VOC emissions during recommended usage. The manufacturer shall notify the Department within thirty (30) days after the manufacturer learns of any information that would alter the emissions estimates submitted to the Department in support of the exemption application;

(g) If the Performance Standards specified in §736 are amended for a product category, all innovative product exemptions granted for products in the product category, except as provided in this subsection, have no force and effect as of the effective date of the amended performance standards; and

(h) If the Department believes that a portable fuel container or spout for which an exemption has been granted no longer meets the criteria for an innovative product specified in this section, the Department may hold a public hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*., prior to a final determination.

741 PORTABLE FUEL CONTAINERS AND SPOUTS – VARIANCE

741.1 Any person or manufacturer who cannot comply with the requirements set forth in §736, due to extraordinary reasons beyond the person's reasonable control, may apply in writing to the Department for a variance. The variance application shall include the following information:

(a) The specific grounds upon which the variance is sought;

(b) The proposed dates by which compliance with the provisions of §736 will be achieved; and

(c) A compliance report detailing the methods by which compliance will be achieved.

741.2 No variance shall be granted by the Department unless all of the following findings are made:

(a) Due to circumstances beyond the reasonable control of the applicant, required compliance with §736 would result in extraordinary economic hardship;

(b) The public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the variance; and

(c) The compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.

741.3 Any approval of a variance by the Department shall specify a final compliance date wherein compliance with the requirements of §736 will be achieved. Any approval of a variance shall contain a condition that specifies increments of progress necessary to ensure timely compliance, and such other conditions that the Department, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of this regulation.

741.4 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.

741.5 Upon the application of any person, the Department may review, and for good cause,

modify or revoke a variance from requirements of §736 after holding a public hearing in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code § 2-501 *et seq*.

742 SOLVENT CLEANING – GENERAL REQUIREMENTS

742.1 Sections 742 through 748 shall apply to any person who sells, supplies, offers for sale, or manufactures any solvent on or after January 1, 2005 for use in the District of Columbia.

742.2 For purposes of §§742 through 748 and any of the definitions in §799 applicable to §§742 through 748 the District incorporates by reference rules and test methods from the California Air Resource Board (CARB), the South Coast Air Quality Management District (SCAQMD), and the American Society for Testing and Materials (ASTM), where specifically cited. These materials are incorporated in their versions current as of January 1, 2004, unless otherwise indicated in §§736 through 741 and 799.

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742.3 Each part of §§742 through 748 shall be deemed severable, and in the event that any part is held to be invalid, the remainder shall continue in full force and effect.

743 SOLVENT CLEANING – COLD CLEANING

743.1 This section applies to all cold cleaning machines that process metal parts and contain more than one (1) liter of VOC. The provisions of this subsection shall not apply if the owner and operator of the cold cleaning machine demonstrates, and the District approves in writing, that compliance with this section will result in unsafe operating conditions:

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(a) Immersion cold cleaning machines shall have a freeboard ratio of 0.75 or greater, unless the machines are equipped with covers that are kept closed, except when parts are being placed into or are being removed from the machine;

(b) Immersion cold cleaning machines and remote reservoir cold cleaning machines shall:

(1) Have a permanent, conspicuous label summarizing the operating requirements in paragraph (c) of this section; and

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(2) Be equipped with a cover that shall be closed at all times except during cleaning of parts or the addition or removal of solvent. For remote reservoir cold cleaning machines that drain directly into the

solvent storage reservoir, a perforated drain with a diameter of not more than six (6) inches shall constitute an acceptable cover;

(c) Cold cleaning machines shall be operated in accordance with the following procedures:

(1) Waste solvent shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container;

(2) Cleaned parts shall be drained at least fifteen (15) seconds or until dripping ceases, whichever is longer;

(A) Parts having cavities or blind holes shall be tipped or rotated while the part is draining; and

(B) During the draining, tipping or rotating, the parts shall be positioned so that solvent drains directly back to the cold cleaning machine;

(3) Flushing of parts using a flexible hose or other flushing device shall be performed only within the freeboard area of the cold cleaning machine. The solvent spray shall be a solid fluid stream, not an atomized or shower spray, at a pressure that does not exceed ten (10) pounds per square inch gauge (psig);

(4) The owner or operator shall ensure that when the cover is open, the cold cleaning machine is not exposed to drafts greater than forty (40) meters per minute (132 feet per minute), as measured between one (1) and two (2) meters (3.3 and 6.6 feet) upwind, and at the same elevation as the tank lip;

(5) Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the cold cleaning machine;

(6) When a pump-agitated solvent bath is used, the agitator shall be operated to produce a rolling motion of the solvent with no observable splashing of the solvent against the tank walls or the parts being cleaned. Air agitated solvent baths may not be used;

(7) Spills during solvent transfer and use of the cold cleaning machine shall be cleaned up immediately, and the wipe rags or other absorbent materials shall be immediately stored in covered containers for disposal or recycling;

(8) Work area fans shall be located and positioned so that they do not blow across the opening of the degreaser unit; and

(9) The owner or operator shall ensure that the solvent level does not exceed the fill line;

(d) Any solvent for use in a cold cleaning machine shall not have a vapor pressure of 1.0 millimeters of mercury (mm Hg) or greater, measured at twenty degrees Celsius (20^{o}C) containing volatile organic compounds;

(e) A person who sells or offers for sale any solvent containing volatile organic compounds for use in a cold cleaning machine shall provide the following written information to the purchaser:

(1) The name and address of the solvent supplier;

(2) The type of solvent including the product or vendor identification number; and

(3) The vapor pressure of the solvent measured in millimeters of mercury (mm Hg) at twenty degrees Celsius (20^{o}C); and

(f) A person who operates a cold cleaning machine shall maintain for not less than two (2) years and shall provide to the Department, on request, the information specified in paragraph (e) or, an invoice, bill of sale, certificate that corresponds to a number of sales, Material Safety Data Sheet (MSDS), or other appropriate documentation acceptable to the Department that may be used to comply with this section.

744 SOLVENT CLEANING – BATCH VAPOR CLEANING

744.1 This section applies to batch vapor cleaning machines that process metal parts.

(a) Batch vapor cleaning machines shall be equipped with:

(1) Either a fully enclosed design, or a working and downtime mode cover that completely covers the cleaning machine openings when in place, is free of cracks, holes and other defects, and can be readily opened or closed without disturbing the vapor zone;

(A) If the solvent cleaning machine opening is greater than ten (10) square feet, the cover must be powered; and

(B) If a lip exhaust is used, the closed cover shall be below the level of the lip exhaust;

(2) Sides that result in a freeboard ratio greater than or equal to 0.75;

(3) A safety switch (thermostat and condenser flow switch) which shuts off the sump heat if the coolant is not circulating;

(4) A vapor up control switch which shuts off the spray pump if vapor is not present;

(5) An automated parts handling system which moves the parts or parts baskets at a speed of eleven (11) feet (3.4 meters) per minute or less when the parts are entering or exiting the vapor zone. If the parts basket or parts being cleaned occupy more than fifty percent (50%) of the solvent/air interface area, the speed of the parts basket or parts shall not exceed three (3) feet per minute;

(6) A device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils;

(7) A vapor level control device that shuts off the sump heat if the vapor level in the vapor cleaning machine rises above the height of the primary condenser;

(8) Each vapor cleaning machine shall have a primary condenser;

(9) Each vapor cleaning machine that uses a lip exhaust shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber such that the concentration of organic solvent in the exhaust does not exceed one hundred (100) parts per million (ppm); and

(10) A permanent, conspicuous label summarizing the operating requirements found in paragraph (d) of this section;

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(b) In addition to the requirements in paragraph (a) of this section, the operator of a batch vapor cleaning machine with a solvent/air interface area of thirteen (13) square feet or less shall use one of the following devices or strategies:

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(1) A working mode cover, freeboard ratio of 1.0, and superheated vapor;

(2) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent’s boiling point and superheated vapor;

(3) A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point;

(4) Reduced room draft, freeboard ratio of 1.0, and superheated vapor;

(5) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and reduced room draft;

(6) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and a freeboard ratio of 1.0;

(7) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and dwell. Dwell shall be not less than thirty-five percent (35%) of the dwell time determined for the part or parts;

(8) Reduced room draft, dwell and a freeboard ratio of 1.0;

(9) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed one hundred (100) ppm at any time; and

(10) A freeboard ratio of 1.0, superheated vapor and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed one hundred (100) ppm at any time;

(c) In addition to the requirements of paragraph (a), the operator of a batch vapor cleaning machine with a solvent/air interface area of greater than thirteen (13) square feet shall use one of the following devices or strategies:

(1) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point, a freeboard ratio of 1.0 and superheated vapor;

(2) Dwell and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point, and reduced room draft. Dwell shall be not less than thirty-five percent (35%) of the dwell time determined for the part or parts;

(3) A working mode cover and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and superheated vapor;

(4) Reduced room draft, freeboard ratio of 1.0 and superheated vapor;

(5) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point, reduced room draft and superheated vapor;

(6) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point, reduced room draft and a freeboard ratio of 1.0; or

(7) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point, superheated vapor, and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed one hundred (100) ppm at any time; and

(d) Batch vapor cleaning machines shall be operated in accordance with the following procedures:

(1) Waste solvent, still bottoms and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief but does not allow liquid solvent to drain from the container;

(2) Cleaned parts shall be drained at least fifteen (15) seconds or until dripping ceases, whichever is longer;

(A) Parts having cavities or blind holes shall be tipped or rotated while the part is draining; and

(B) A superheated vapor system shall be an acceptable alternate technology;

(3) Parts baskets or parts shall not be removed from the batch vapor cleaning machine until dripping has ceased;

(4) Flushing or spraying of parts using a flexible hose or other flushing device shall be performed within the vapor zone of the batch vapor cleaning machine or within a section of the machine that is not

exposed to the ambient air. The solvent spray shall be a solid fluid stream, not an atomized or shower spray;

(5) When the cover is open, the batch vapor cleaning machine shall not be exposed to drafts greater than forty (40) meters per minute (132 feet per minute), as measured between one (1) and two (2) meters (3.3 and 6.6 feet) upwind and at the same elevation as the tank lip;

(6) Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the batch vapor cleaning machine;

(7) Spills during solvent transfer and use of the batch vapor cleaning machine shall be cleaned up immediately or the machine shall be shut down. Wipe rags or other absorbent materials shall be immediately stored in covered containers for disposal or recycling;

(8) Work area fans shall be located and positioned so that they do not blow across the opening of the batch vapor cleaning machine;

(9) During startup of the batch vapor cleaning machine the primary condenser shall be turned on before the sump heater;

(10) During shutdown of the batch vapor cleaning machine, the sump heater shall be turned off and the solvent vapor layer allowed to collapse before the primary condenser is turned off;

(11) When solvent is added to or drained from the batch vapor cleaning machine, the solvent shall be transferred using threaded or other leak proof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface;

(12) The working and downtime covers shall be closed at all times except during parts entry and exit from the machine, during maintenance of the machine when the solvent has been removed, and during addition of solvent to the machine; and

(13) If a lip exhaust is used on the open top vapor degreaser, the ventilation rate shall not exceed twenty (20) $m^3/min/m^2$ (65 $ft^3/min/ft^2$) of degreaser open area, unless a higher rate is necessary to meet federal Occupational Safety & Health Administration (OSHA) requirements.

745 SOLVENT CLEANING – IN-LINE VAPOR CLEANING

745.1 This section applies to in-line vapor cleaning machines.

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(a) In-line vapor cleaning machines shall be equipped with:

(1) Either a fully enclosed design, or a working and downtime mode cover that completely covers the cleaning machine openings when in place, is free of cracks, holes and other defects, and can be readily opened or closed without disturbing the vapor zone;

(2) A safety switch (thermostat and condenser flow switch) that shuts off the sump heat if the coolant is not circulating;

(3) Sides that result in a freeboard ratio greater than or equal to 0.75;

(4) A vapor up control switch;

(5) An automated parts handling system that moves the parts or parts baskets at a speed of eleven (11) feet (3.4 meters) per minute or less when the parts are entering or exiting the vapor zone. If the parts basket or parts being cleaned occupy more than fifty percent (50%) of the solvent/air interface area, the speed of the parts basket or parts shall not exceed three (3) feet per minute;

(6) A device that shuts off the sump heat if the sump liquid solvent level drops to the sump heater coils;

(7) A vapor level control device that shuts off the sump heat if the vapor level in the vapor cleaning machine rises above the height of the primary condenser;

(8) A permanent, conspicuous label summarizing the operating requirements in §745.1(c);

(9) A primary condenser; and

(10) Each machine that uses a lip exhaust shall be designed and operated to route all collected solvent vapors through a properly operated and maintained carbon adsorber such that the concentration of organic solvent in the exhaust does not exceed one hundred (100) parts per million (ppm);

(b) In addition to the requirements in paragragh (a) of this section, the operator of an in-line vapor cleaning machine shall use one of the following devices or strategies:

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(1) A freeboard ratio of 1.0 and superheated vapor;

(2) A freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point and a freeboard ratio of 1.0;

(3) Dwell and a freeboard refrigeration device operated to ensure that the chilled air blanket temperature is no greater than thirty percent (30%) of the solvent's boiling point. Dwell shall be not less than thirty-five percent (35%) of the dwell time determined for the part or parts; or

(4) Dwell and a carbon adsorber which reduces solvent emissions in the exhaust to a level not to exceed one hundred (100) ppm at any time. Dwell shall be not less than thirty-five percent (35%) of the dwell time determined for the part or parts; and

(c) In-line vapor cleaning machines shall be operated in accordance with the following procedures:

(1) Waste solvent, still bottoms, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container;

(2) Parts shall be oriented so that the solvent drains freely from the parts;

(A) Cleaned parts shall be drained at least fifteen (15) seconds or until dripping ceases, whichever is longer; and

(B) Parts having cavities or blind holes shall be tipped or rotated while the part is draining;

(3) Parts baskets or parts shall not be removed from the in-line vapor cleaning machine until dripping has ceased;

(4) Flushing or spraying of parts using a flexible hose or other flushing device shall be performed within the vapor zone of the in-line vapor cleaning machine or within a section of the machine that is not exposed to the ambient air. The solvent spray shall be a solid fluid stream, not an atomized or shower spray;

(5) Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the in-line vapor cleaning machine;

(6) Spills during solvent transfer and use of the in-line vapor cleaning machine shall be cleaned up immediately, and the wipe rags or other

absorbent materials shall be immediately stored in covered containers for disposal or recycling;

(7) Workplace fans shall not be used near the degreaser opening unless a higher rate is necessary to meet federal Occupational Safety & Health Administration (OSHA) requirements;

(8) During startup of the in-line vapor cleaning machine the primary condenser shall be turned on before the sump heater;

(9) During shutdown of the in-line vapor cleaning machine, the sump heater shall be turned off and the solvent vapor layer allowed to collapse before the primary condenser is turned off;

(10) Spraying operations shall be done in the vapor zone or within a section of the machine that is not exposed to the ambient air;

(11) When solvent is added to or drained from the in-line vapor cleaning machine, the solvent shall be transferred using threaded or other leak proof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface; and

(12) Minimize openings during operation so that entrances and exits silhouette workloads with an average clearance between the parts and the edge of the degreaser opening of less than ten (10) cm (4 in) or less than ten percent (10%) of the width of the opening.

746 SOLVENT CLEANING – AIRLESS AND AIR-TIGHT CLEANING

746.1 This section applies to airless cleaning machines and air-tight cleaning machines that process metal parts.

(a) The operator of each machine shall maintain a log of solvent additions and deletions for each machine including the weight of solvent contained in activated carbon or other absorbent materials used to control emissions from the cleaning machine;

(b) The operator of each machine shall demonstrate that the emissions from each machine, on a three (3) month rolling average, are equal to or less than the allowable limit determined by the use of Table I in this section or the following equation if the volume of the cleaning machine exceeds 2.95 cubic meters:

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$$EL = 330\ (vol)^{0.6}$$

where:

EL = the three-month rolling average monthly emission limit (kilograms/month);

vol = the cleaning capacity of machine (cubic meters);

Table I. Emission Limits for Cleaning Machines Without A Solvent/Air Interface

Cleaning Capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)
0.00	0	1.00	330	2.00	500
0.05	55	1.05	340	2.05	508
0.10	83	1.10	349	2.10	515
0.15	106	1.15	359	2.15	522
0.20	126	1.20	368	2.20	530
0.25	144	1.25	377	2.25	537
0.30	160	1.30	386	2.30	544
0.35	176	1.35	395	2.35	551
0.40	190	1.40	404	2.40	558
0.45	204	1.45	412	2.45	565
0.50	218	1.50	421	2.50	572
0.55	231	1.55	429	2.55	579
0.60	243	1.60	438	2.60	585
0.65	255	1.65	446	2.65	592
0.70	266	1.70	454	2.70	599
0.75	278	1.75	462	2.75	605
0.80	289	1.80	470	2.80	612
0.85	299	1.85	477	2.85	619
0.90	310	1.90	485	2.90	625

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Cleaning Capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (m^3)	3-Month rolling average monthly emission limit (kilograms/month)
0.95	320	1.95	493	2.95	632

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(c) The operator of each machine shall operate the machine in conformance with the manufacturer's instructions and good air pollution control practices;

(d) The operator of each machine equipped with a solvent adsorber shall measure and record the concentration of solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube designed to measure a concentration of one hundred (100) parts per million (ppm) by volume of solvent to air at an accuracy of plus or minus twenty-five (25) ppm by volume. This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the adsorber;

(e) The operator of each machine equipped with a solvent adsorber shall maintain and operate the machine and adsorber system so that emissions from the adsorber exhaust do not exceed one hundred (100) ppm by volume measured while the solvent cleaning machine is in the working mode and is venting to the adsorber;

(f) The machine shall be equipped with a permanent, conspicuous label summarizing the operating requirements in paragraph (g) of this section;

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(g) Airless cleaning machines and air-tight cleaning machines shall be operated in accordance with the following procedures:

(1) Waste solvent, still bottoms, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container;

(2) Parts shall be oriented so that the solvent drains freely from the parts;

(A) Cleaned parts shall be drained at least fifteen (15) seconds or until dripping ceases, whichever is longer; and

(B) Parts having cavities or blind holes shall be tipped or rotated while the part is draining;

(3) Parts baskets or parts shall not be removed from the in-line vapor cleaning machine until dripping has ceased;

(4) Sponges, fabric, wood, leather, paper products and other absorbent materials shall not be cleaned in the airless cleaning machines and air-tight cleaning machines;

(5) Spills during solvent transfer and use of the airless cleaning machines and air-tight cleaning machines shall be cleaned up immediately, and the wipe rags or other absorbent materials shall be immediately stored in covered containers for disposal or recycling;

(6) Work area fans shall be located and positioned so that they do not blow across the airless cleaning machine and air-tight cleaning machine;

(7) Spraying operations shall be done in the vapor zone or within a section of the machine that is not exposed to the ambient air; and

(8) Solvents shall be transferred using threaded or other leak proof couplings and the end of the pipe in the solvent sump shall be located beneath the liquid solvent surface when solvent is added to or drained from the airless cleaning machine and air-tight cleaning machine.

747 SOLVENT CLEANING – ALTERNATIVE COMPLIANCE

747.1 As an alternative to complying with the provisions of §§743 through 746, the operator of a solvent cleaning machine may demonstrate compliance with paragraphs (a) or (b) in this section. The operator shall maintain records sufficient to demonstrate compliance. The records shall include, at a minimum, the quantity of solvent added to and removed from the solvent cleaning machine, the dates of the addition and removal and shall be maintained for not less than two (2) years;

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(a) If the cleaning machine has a solvent/air interface, the owner or operator shall:

(1) Maintain a log of solvent additions and deletions for each solvent cleaning machine; and

(2) Ensure that emissions from each solvent cleaning machine are equal to or less than the applicable emission limit presented in Table II of this section;

Table II. Emission limits for Batch Vapor and In-Line Solvent Cleaning Machines with a Solvent/Air Interface

Solvent Cleaning Machine Three (3) Month Rolling Average Monthly Emission Limit:	(kg/m^2/month)	(lb/ft^2/month)
Solvent cleaning machines Batch vapor	150	30.7
Existing in-line solvent cleaning machines	153	31.3
New in-line solvent cleaning machines	99	20.2

(b) If the cleaning machine is a batch vapor cleaning machine and does not have a solvent/air interface, the owner or operator shall:

(1) Maintain a log of solvent additions and deletions for each solvent cleaning machine; and

(2) Ensure that the emissions from each solvent cleaning machine are equal to or less than the appropriate limits as described in paragraphs (c) and (d) of this section. Each owner or operator of a batch vapor or in-line cleaning machine shall demonstrate compliance with the applicable three (3) month rolling average monthly emission limit on a monthly basis;

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(c) For cleaning machines with a cleaning capacity that is less than or equal to 2.95 cubic meters, the emission limit shall be determined using Table I in §746 or the equation in paragraph (d) of this section. If the table is used, and the cleaning capacity of the cleaning machine falls between two cleaning capacity sizes, then the lower of the two emission limits applies;

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(d) For cleaning machines with a cleaning capacity that is greater than 2.95 cubic meters, the emission limit shall be determined using the following equation;

$$EL = 330\ (vol)^{0.6}$$

where:

EL = the 3-month rolling average monthly emission limit (kilograms/month);

vol = the cleaning capacity of machine (cubic meters);

(e) Each owner or operator of a batch vapor or in-line solvent cleaning machine shall demonstrate compliance with the applicable three (3) month rolling average monthly emission limit on a monthly basis. If the applicable three (3) month rolling average emission limit is not met, an exceedance has occurred. All exceedances shall be reported to the District within thirty (30) days of the determination of the exceedance; and

(f) The owner or operator of a batch vapor or in-line solvent cleaning machine shall maintain records and determine compliance in accordance with the following;

(1) On the first operating day of every month ensure that the solvent cleaning machine system contains only clean liquid solvent;

(A) This includes, but is not limited to, fresh unused solvent, recycled solvent and used solvent that has been cleaned of soils;

(B) A fill line must be indicated during the first month the measurements are made;

(C) The solvent level within the machine must be returned to the same fill-line each month, immediately prior to calculating monthly emissions; and

(D) The solvent cleaning machine does not have to be emptied and filled with fresh unused solvent prior to the calculations;

(2) Using the records of all solvent additions and deletions for the previous monthly reporting period, determine solvent emissions using one of the following equations:

(A) For cleaning machines with a solvent/air interface:

$$E = \frac{SA - LSR - SSR}{AREA}$$

where:

E = the total halogenated HAP solvent emissions from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per square meter of solvent/air interface area per month);

SA = the total amount of halogenated HAP liquid solvent added to the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month);

LSR = the total amount of halogenated HAP liquid solvent removed from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month);

SSR = the total amount of halogenated HAP solvent removed from the solvent cleaning machine in solid waste during the most recent monthly reporting period (kilograms of solvent per month) determined from tests conducted using EPA reference method 25d or by engineering calculations included in the compliance report;

Area = the solvent/air interface area of the solvent cleaning machine (square meters); or

(B) For cleaning machines without a solvent/air interface:

$E = SA - LSR - SSR$

where:

E = the total halogenated HAP solvent emissions from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month);

SA = the total amount of halogenated HAP liquid solvent added to the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month);

LSR = the total amount of halogenated HAP liquid solvent removed from the solvent cleaning machine during the most recent monthly reporting period (kilograms of solvent per month);

SSR = the total amount of halogenated HAP solvent removed from the solvent cleaning machine in solid waste during the most recent monthly reporting period (kilograms of solvent per month)

determined from tests conducted using EPA reference method 25d (40 C.F.R. 60) or by engineering calculations included in the compliance report; and

(3) Determine the monthly rolling average, EA, for the 3-month period ending with the most recent reporting period using one of the following equations:

(A) For cleaning machines with a solvent/air interface:

$$EA = \frac{\sum_{j=1}^{3} E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three (3) monthly reporting periods, (kilograms of solvent per square meter of solvent/air interface area per month);

E = halogenated HAP solvent emissions for each month (j) for the most recent three (3) monthly reporting periods (kilograms of solvent per square meter of solvent/air interface area);

j=1 = the most recent monthly reporting period;

j=2 = the monthly reporting period immediately prior to j=1;

j=3 = the monthly reporting period immediately prior to j=2; or

(B) For cleaning machines without a solvent/air interface:

$$EA = \frac{\sum_{j=1}^{3} E}{3}$$

where:

EA = the average halogenated HAP solvent emissions over the preceding three (3) monthly reporting periods (kilograms of solvent per month);

E = halogenated HAP solvent emissions for each month (j) for the most recent three (3) monthly reporting periods (kilograms of solvent per month);

j=1 = the most recent monthly reporting period;

j=2 = the monthly reporting period immediately prior to j=1;

j=3 = the monthly reporting period immediately prior to j=2.

748 SOLVENT CLEANING – RECORDKEEPING AND MONITORING

748.1 The operator of a solvent cleaning machine subject to §§743 through 746 shall conduct monitoring and record keeping as follows:

(a) If a freeboard refrigeration device is used to comply with these standards, the owner or operator shall use a thermometer or thermocouple to measure the temperature at the center of the air blanket during the idling mode. Measurements and recordings shall be made weekly;

(b) If a superheated vapor system is used to comply with these standards, the owner or operator shall use a thermometer or thermocouple to measure the temperature at the center of the superheated solvent vapor zone while the solvent cleaning machine is in the idling mode. Measurements and recordings shall be made weekly;

(c) If a cover (working-mode, downtime-mode, and/or idling-mode cover) is used to comply with these standards, the owner or operator shall conduct a visual inspection to determine if the cover is opening and closing properly, completely covers the cleaning machine openings when closed, and is free of cracks, holes, and other defects. Observations and recordings shall be made weekly;

(d) If dwell is used, the owner or operator shall determine the actual dwell time by measuring the period of time that parts are held within the freeboard area of the solvent cleaning machine after cleaning. Observations and recordings shall be made monthly;

(e) The owner or operator shall determine the hoist speed by measuring the time it takes for the hoist to travel a measured distance. The speed is equal to the distance in meters divided by the time in minutes (meters per minute). Measurements and recordings shall be made monthly;

(f) The owner or operator of a batch vapor or in-line solvent cleaning machine complying using reduced room draft, maintained by controlling room parameters including but not limited to redirecting fans, and closing doors and windows, shall conduct monitoring and record the results as follows:

(1) Initially measure the wind speed within six (6) inches above the top of the freeboard area of the solvent cleaning machine in accordance with the following:

(A) Determine the direction of the wind current by slowly rotating a velometer or similar device until the maximum speed is located;

(B) Orient a velometer in the direction of the wind current at each of the four corners of the machine;

(C) Record the reading for each corner; and

(D) Average the values obtained at each corner and record the average wind speed;

(2) Record the room parameters established during the initial compliance test to achieve the reduced room draft;

(3) Quarterly monitor the wind speed in accordance with subparagraph (f)(1) of this section; and

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(4) Weekly monitor the room parameters as specified in this section;

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(g) If an enclosure, full or partial, is used to achieve reduced room draft, the owner or operator shall conduct an initial monitoring test and, thereafter, monthly monitoring tests of the wind speed within the enclosure by slowly rotating a velometer inside the entrance to the enclosure until the maximum speed is located and record the maximum wind speed. The owner or operator shall also conduct a monthly visual inspection of the enclosure to determine if it is free of cracks, holes and other defects; and

(h) If a carbon adsorber is used to comply with these standards, the owner or operator shall measure and record the concentration of halogenated HAP solvent in the exhaust of the carbon adsorber weekly with a colorimetric detector tube;

(1) This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the carbon adsorber;

(2) The exhaust concentration shall be determined using a colorimetric detector tube designed to measure a concentration of one hundred (100) parts per million by volume of solvent in air to an accuracy of plus or minus twenty–five (25) parts per million (ppm) by volume; and

(3) The concentration shall be determined through a sampling port for monitoring within the exhaust outlet that is easily accessible and located at least eight (8) stack or duct diameters downstream and two (2) stack or duct diameters upstream from any flow disturbance such as a bend, expansion, contraction, or outlet; downstream from no other inlet.

749 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – GENERAL REQUIREMENTS

749.1 Sections 749 through 754 apply to any person who supplies, sells, offers for sale, manufactures, applies or solicits the application of any architectural coating on or after January 1, 2005 within the District of Columbia, except as provided in §751.

749.2 For purposes of §§749 through 754 and of any definitions in §799 applicable to §§749 through 754 the District incorporates by reference rules and test methods from the United States Environmental Protection Agency (U.S. EPA), the Code of Federal Regulations (CFR), the California Air Resource Board (CARB), the South Coast Air Quality Management District (SCAQMD), the Bay Area Air Quality Management District (BAAQMD), and the American Society for Testing and Materials (ASTM), where specifically cited. These materials are incorporated in their versions current as of January 1, 2004, unless otherwise indicated in §§749 through 754 and 799.

749.3 Each part of §§749 through 754 shall be deemed severable, and in the event that any part is held to be invalid, the remainder shall continue in full force and effect.

750 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – STANDARDS

750.1 No person shall manufacture, blend, supply, sell, offer for sale, apply or solicit the application of any architectural coating with a VOC content in excess of the corresponding limit specified in Table I of this section, except as provided in subsections 750.2, 750.3, 750.8, and 750.10.

750.2 The most restrictive VOC content limit shall apply 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 anyone acting on their behalf, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table I of this section. This provision does not apply to the following coating categories:

(a) Lacquer coatings (including lacquer sanding sealers);

(b) Metallic pigmented coatings;

(c) Shellacs;

(d) Fire-retardant coatings;

(e) Pretreatment wash primers;

(f) Industrial maintenance coatings;

(g) Low-solids coatings;

(h) Wood preservatives;

(i) High-temperature coatings;

(j) Temperature-indicator safety coatings;

(k) Antenna coatings;

(l) Antifouling coatings;

(m) Flow coatings;

(n) Bituminous roof primers;

(o) Specialty primers, sealers, and undercoaters;

(p) Thermoplastic rubber coating and mastic;

(q) Calcimine recoaters;

(r) Impacted immersion coatings;

(s) Nuclear coatings; and

(t) Concrete surface retarders.

750.3 A coating manufactured prior to the effective date specified for that coating in Table I of this section, may be sold, supplied, or offered for sale after the specified effective date. In addition, a coating manufactured before the effective date specified for that coating in Table I of this section may be applied at any time, both before and after the specified effective date, so long as the coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date code required by §752.1(a).

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750.4 All architectural coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use;

(a) These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers; and

(b) Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

750.5 No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in Table I of this section.

750.6 No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in Table I of this section.

750.7 For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table I of this section, the VOC content limit shall be determined by classifying the coating as a flat coating or a non-flat coating, based on its gloss, as defined in §799, and the corresponding flat or non-flat coating limit shall apply.

750.8 A manufacturer, seller, or user may petition the Department to apply an industrial maintenance coating with a VOC content greater than 340 g/1 if all of the following conditions are met:

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(a) The industrial maintenance coating is applied outside the ozone season, normally May through September every year;

(b) The petition submitted to the Department shall contain the following information, as applicable: job requirements and descriptions, volume of coating, maximum VOC content, and a certification that a complying coating meeting the job performance requirements is not available; and

(c) If the Department grants written approval, such approval shall contain volume and VOC limit conditions. Until written approval is granted by the

Department and received by the petitioner, all provisions of this rule shall apply.

750.9 The Department shall not approve any petition under §750.8 if the approvals previously granted by the Department during the calendar year, when combined with the petition under consideration, would result in excess VOC emissions for that calendar year which would be greater than five percent (5%) of the annual emission reduction achieved within the District of Columbia from implementing the January 1, 2005 VOC limit for industrial maintenance coatings. Coatings subject to this provision shall be sold only if an approved petition (or a copy of it) is provided prior to the sale. Coatings subject to this provision shall not be available to the general public.

750.10 Notwithstanding the provisions of §750.1, a person or facility may add up to ten percent (10%) by volume of VOC to a lacquer to avoid blushing of the finish during days with relative humidity greater than seventy percent (70%) and temperature below sixty-five degrees Fahrenheit (65°F), at the time of application, provided that the coating contains acetone and no more than five hundred fifty (550) grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

Table I. VOC Content Limits for Architectural Coatings.[1]

Coating Category	**VOC Content Limit** (Grams VOC per liter)[2]
Flat Coatings	100
Non-flat Coatings	150
Non-flat- High Gloss Coatings	250
Specialty Coatings	
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
Calcimine Recoater	475
Clear Wood Coatings	
• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
• Varnishes	350

[1] Limits are expressed 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. Manufacturers maximum recommendation means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

[2] Conversion factor: one pound VOC per gallon (U.S.) = 119.95 grams per liter.

Concrete Curing Compounds	350
Concrete Surface Retarders	780
Conversion Varnish	725
Dry Fog Coatings	400
Faux Finishing Coatings	350
Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350
Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
Industrial Maintenance Coatings	340
Impacted Immersion Coatings	780
Low-Solids Coatings[3]	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
Nuclear Coatings	450
Pre-Treatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stain	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
Thermoplastic Rubber Coatings and Mastics	550
Traffic Marking Coatings	150
Waterproofing Sealers	250

[3] Units for this coating are grams of VOC per liter (pounds of VOC/gallon) of coating, including water and exempt compounds

Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

751 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – EXEMPTIONS

751.1 Sections 749 through 754 do not apply to:

(a) Any architectural coating that is sold or manufactured for use outside of the District of Columbia or for shipment to other manufacturers for reformulation or repackaging;

(b) Any aerosol coating product; or

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

752 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – LABELING REQUIREMENT

752.1 A manufacturer of any architectural coating shall list the following information on the coating container (or label) in which the coating is sold or distributed:

(a) The date the coating was manufactured, or a date code representing the date, shall be indicated on the label, lid, or bottom of the container. If the manufacturer uses a date code for any coating, the manufacturer shall file an explanation of each code with the Department;

(b) A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. 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 must specify that the coating is to be applied without thinning;

(c) Either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer;

(1) VOC content shall be displayed in grams of VOC per liter of coating; and

(2) VOC content displayed shall be calculated using product formulation data, or shall be determined using the test methods and equations in §754.1(a), §754.1 (b) and §754.2;

(d) In addition to the information specified in §752.1(a), (b), and (c), each manufacturer of any industrial maintenance coating shall display on the label or the lid of the container in which the coating is sold or distributed one or more of the descriptions listed in subparagraphs (1) through (3):

(1) "For industrial use only;"

(2) "For professional use only;" or

(3) "Not for residential use" or "Not intended for residential use;"

(e) The labels of all clear brushing lacquers shall prominently display the statements "For brush application only," and "This product must not be thinned or sprayed;"

(f) The labels of all rust preventive coatings shall prominently display the statement "For Metal Substrates Only;"

(g) The labels of all specialty primers, sealers, and undercoaters shall prominently display one or more of the descriptions listed in subparagraphs (1) through (5):

(1) For blocking stains;

(2) For fire-damaged substrates;

(3) For smoke-damaged substrates;

(4) For water-damaged substrates; or

(5) For excessively chalky substrates;

(h) The labels of all quick dry enamels shall prominently display the words "Quick Dry" and the dry hard time; and

(i) The labels of all non-flat, high-gloss coatings shall prominently display the words "High Gloss."

753 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – REPORTING REQUIREMENTS

753.1 Any manufacturer of clear brushing lacquers shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the Department. The report shall specify the number of gallons of clear brushing lacquers sold in the

District of Columbia during the preceding calendar year, and shall describe the method used by the manufacturer to calculate District of Columbia sales.

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753.2 Any manufacturer of rust preventive coatings shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the Department. The report shall specify the number of gallons of rust preventive coatings sold in the District of Columbia during the preceding calendar year, and shall describe the method used by the manufacturer to calculate District of Columbia sales.

753.3 Any manufacturer of specialty primers, sealers, and undercoaters shall, on or before April 1 of each calendar year beginning in the year 2005, submit an annual report to the Department. The report shall specify the number of gallons of specialty primers, sealers, and undercoaters sold in the District of Columbia during the preceding calendar year, and shall describe the method used by the manufacturer to calculate District of Columbia sales.

753.4 Any manufacturer of architectural coating that contains perchloroethylene or methylene chloride shall, on or before April 1 of each calendar year beginning with the year 2005 report to the Department the following information for products sold in the District of Columbia during the preceding year:

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

(b) The product category listed in Table I in §750 to which the coating belongs;

(c) The total sales in the District during the calendar year to the nearest gallon; and

(d) The volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.

753.5 Any manufacturer of recycled coatings must submit a letter to the Department certifying their status as a recycled paint manufacturer. The manufacturer shall, on or before April 1 of each calendar year beginning with the year 2005, submit an annual report to the Department. The report shall include, for all recycled coatings, the total number of gallons distributed in the District of Columbia during the preceding year, and shall describe the method used by the manufacturer to calculate District of Columbia distribution.

753.6 Any manufacturer of bituminous roof coatings or bituminous roof primers shall, on or before April 1 of each calendar year beginning with the year 2005, submit an annual report to the Department. The report shall specify the number of gallons of bituminous roof coatings or bituminous roof primers sold in the District of Columbia during the preceding calendar year, and shall describe the method used by the manufacturer to calculate District of Columbia sales.

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754 ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATING – TESTING REQUIREMENTS

754.1 For the purpose of determining compliance with the VOC content limits in Table I in §750, the VOC content of a coating shall be determined by using the procedures described below in paragraphs (a) or (b), as appropriate. The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured as follows:

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(a) With the exception of low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water and exempt compounds. Determine the VOC content using the following equation:

$$\text{VOC Content} = \frac{(Ws - Ww - Wec)}{(Vm - Vw - Vec)}$$

where,

VOC content = grams of VOC per liter of coating;
Ws = weight of volatiles, in grams;
Ww = weight of water, in grams;
Wec = weight of exempt compounds, in grams;
Vm = volume of coating, in liters;
Vw = volume of water, in liters;
Vec = volume of exempt compounds, in liters; and

(b) For low solids coatings, determine the VOC content 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. Determine the VOC content using the following equation:

$$\text{VOC Content (ls)} = \frac{(Ws - Ww - Wec)}{(Vm)}$$

where,

VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating;
Ws = weight of volatile, in grams;
Ww = weight of water, in grams;
Wec = weight of exempt compounds, in grams;
Vm = volume of coating, in liters.

754.2 To determine the physical properties of a coating in order to perform the calculations in §754.1, the reference method for VOC content is U.S. EPA Method 24**,** except as provided in §§754.3 and 754.4. An alternative method to determine the VOC content of coatings is SCAQMD Method 304-91 (Revised February 1996)**.** The exempt compounds content shall be determined by SCAQMD Method 303-91 (Revised August 1996)**.** To determine the VOC content of a coating, the manufacturer may use U.S. EPA Method 24, or an alternative method, as provided in §754.3, formulation data, or any other reasonable means for predicting that the coating has been formulated as intended including but not limited to quality assurance checks and record keeping. However, if there are any inconsistencies between the results of a Method 24 test and any other means for determining VOC content, the Method 24 results will govern, except when an alternative method is approved as specified in §754.3. The Department may require the manufacturer to conduct a Method 24 analysis.

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754.3 Alternative test methods demonstrated to provide results that are acceptable for purposes of determining compliance with §754.2, after review and approved in writing by the Department and the U.S. EPA, may also be used.

754.4 Analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to a modification of U.S. EPA Method 24 in 40 CFR 59, Subpart D, Appendix A. This method has not been approved for methacrylate multi-component coatings used for purposes other than traffic marking coatings or other classes of multi-component coatings;

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754.5 The following test methods shall be used to test coatings subject to the provisions of this section:

(a) The flame spread index of a fire-retardant coating shall be determined by the ASTM Designation E 84-99, Standard Test Method for Surface Burning Characteristics of Building Materials, (see §799, fire-retardant coating);

(b) The fire-resistance rating of a fire-resistive coating shall be determined by ASTM designation E 119-98, Standard Test Methods for Fire Tests of Building Construction Materials, (see §799, fire-resistive coating);

(c) The gloss of a coating shall be determined by ASTM Designation D 523-89 (1999), Standard Test Method for Specular Gloss, (see §799, flat coating, non-flat coating, non-flat - high-gloss coating, and quick dry enamel);

(d) The metallic content of a coating shall be determined by SCAQMD Method 318-95, Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, SCAQMD Laboratory Methods of Analysis for Enforcement Samples, (see §799, metallic pigmented coating);

(e) The acid content of a coating shall be determined by ASTM Designation D 1613-96, Standard Test Method for Acidity in Volatile Solvents and Chemical

Intermediates Used in Paint, Varnish, Lacquer and Related Products, (see §799, pre-treatment wash primer);

(f) The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM Designation D 1640-95, Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, (see §799, quick dry enamel and quick-dry primer, sealer, and undercoater). The tack free time of a quick-dry enamel coating shall be determined by the Mechanical Test Method of ASTM Designation D 1640-95;

(g) The chalkiness of a surface shall be determined using ASTM Designation D 4214-98, Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films, (see §799, specialty primer, sealer, and undercoater);

(h) The following compounds are exempt from the test methods above and shall be analyzed by the following alternative methods:

(1) Compounds that are cyclic, branched, or linear, completely methylated siloxanes, shall be analyzed as exempt compounds for compliance with §754 by BAAQMD Method 43, Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials, BAAQMD Manual of Procedures, Volume III, adopted November 6, 1996, (see §799, volatile organic compound, and §754.2);

(2) Parachlorobenzotrifluoride shall be analyzed as an exempt compound for compliance with §754 by BAAQMD Method 41, Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride, BAAQMD Manual of Procedures, Volume III, adopted December 20, 1995, (see §799, volatile organic compound, and §754.2); and

(3) Compounds exempt under U.S. EPA Method 24, which shall be analyzed by SCAQMD Method 303-91 Revised 1993), Determination of Exempt Compounds, SCAQMD Laboratory Methods of Analysis for Enforcement Samples, (see §799, volatile organic compound, and §754.2);

(i) The VOC content of a coating shall be determined by U.S. EPA Method 24 as it exists in 40 CFR Part 60, Appendix A, Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings, (see §754.2);

(j) Alternatively, the VOC content of coatings may be analyzed by either U.S. EPA Method 24 or SCAQMD Method 304-91 (Revised 1996), Determination

of Volatile Organic Compounds (VOC) in Various Materials, SCAQMD Laboratory Methods of Analysis for Enforcement Samples, (see §754.2); and

(k) The VOC content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR part 59, Subpart D, Appendix A, Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings, (September 11, 1998), (see §754.4).

799 DEFINITIONS

799.1 The meanings ascribed to the definitions and abbreviations appearing in §199 of Chapter 1 shall apply to the terms and abbreviations in this chapter. In addition the following terms and phrases used in this chapter shall have the meanings set forth in this section unless the text or context of a particular section, subsection or paragraph provides otherwise.

ACP agreement – the document signed by the Department which includes the conditions and requirements of the ACP, and which allows manufacturers to sell ACP products in District of Columbia.

ACP emissions – consist of the following:

(a) The sum of the VOC emissions from every ACP product subject to an ACP Agreement approving an ACP, during the compliance period specified in the ACP agreement, expressed to the nearest pound of VOC; and

(b) Calculated according to the following equation:

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

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

where,

(1) For all products except for charcoal lighter material products:

$$VOC\ Content = \frac{((B\ \ C)\ x\ 100)}{A}$$

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

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

C = total weight of all exempted VOCs per unit, as specified in §721; or

(2) For charcoal lighter material products only:

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

Certified Emissions = the emissions level for products approved by the Department under §727, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH_2 per start; and

Certified Use Rate = the usage level for products approved by the Department under §727, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

ACP limit – consist of the following:

(a) The maximum allowable ACP Emissions during the compliance period specified in an ACP Agreement approving an ACP, expressed to the nearest pound of VOC; and

(b) Calculated according to the following equation:

$$ACP\ Limit = (Limit\ )_1 + (Limit\ )_2 + \ldots + (Limit\ )_N$$

where,

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

Enforceable Sales = the total amount of an ACP product sold for use in District of Columbia, during the applicable compliance period specified in the ACP Agreement approving an ACP, as determined through enforceable sales records, expressed to the nearest pound, excluding container and packaging;

ACP Standard = either the ACP product's Pre-ACP VOC Content, or the applicable VOC standard specified in §720, whichever is the lesser of the two;

Pre-ACP VOC Content = the lowest VOC content which the ACP product had between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Department, based on either the data on the product obtained from the March 12, 1991

CARB Consumer Products Survey, or other accurate records available to the Department, whichever yields the lowest VOC content for the product; and

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

ACP product – any consumer product subject to the VOC standards specified in §720, except those products that have been exempted under §721, or exempted as Innovative Products under §733.

ACP reformulation or ACP reformulated – the process of reducing the VOC content of an ACP product, within the period that an ACP is in effect, to a level which is less than the current VOC content of the product.

ACP standard – either the ACP product's pre-ACP VOC content or the applicable VOC standard specified in §720, whichever is the lesser of the two.

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

(a) The applicable VOC Standard specified in §720, for all ACP products except for charcoal lighter material; and

(b) For charcoal lighter material products only, the VOC Standard shall be calculated according to the following equation:

$$VOC\ Standard = \frac{(0.020\ pound\ CH_2\ per\ start\ x\ 100)}{Certified\ Use\ Rate}$$

where,

0.020 = the certification emissions level for the District of Columbia-approved product, as specified in §727; and

Certified Use Rate = the usage level for products approved by the District of Columbia under §727, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start.

Adhesive – consist of the following:

(a) For the purposes of §§719 through 734:

(1) Any product that is used to bond two (2) surfaces together other than by mechanical means;

(2) Does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate; and

(3) For contact adhesive; construction, panel, and floor covering adhesive; and general purpose adhesive, does not include units of product, less packaging, which consist of more than one (1) gallon. This limitation does not apply to aerosol adhesives; and

(b) For the purposes of §§749 through 754**,** any product that is used to bond two (2) surfaces together other than by mechanical means.

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

Aerosol adhesive – an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

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

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

Aerosol product – consist of the following:

(a) A pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force; and

(b) Does not include pump sprays.

Agricultural use – consist of the following:

(a) The use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop;

(b) Does not include the sale or use of pesticides in properly labeled packages or containers that are intended for home use, use in structural pest control, industrial use, or institutional use; and

(c) For the purposes of this definition:

(1) Home use refers to use in a household or its immediate environment;

(2) Structural pest control refers to a use requiring a license under the applicable ` District of Columbia pesticide licensing requirement;

(3) Industrial use refers to use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites; and

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

Air freshener – consist of the following:

(a) Any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air;

(b) Includes spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize shall not constitute a claim of air freshening; and

(c) Does not include products that are used on the human body, products that function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional/industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution.

Airless cleaning system - a solvent cleaning machine that is automatically operated and seals at a differential pressure of 0.50 pounds per square inch gauge (psig) or less, prior to the introduction of solvent or solvent vapor into the cleaning chamber and maintains differential pressure under vacuum during all cleaning and drying cycles.

Airless spray – a spray coating method wherein the coating is atomized by forcing it through a small nozzle opening at high pressure. The coating is not mixed with air before exiting from the nozzle opening.

Air-tight cleaning system – a solvent cleaning machine that is automatically operated and seals at a differential pressure no greater than 0.50 pounds per square inch gauge (psig), prior to the introduction of solvent or solvent vapor into the cleaning chamber and during all cleaning and drying cycles.

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

All other forms – all consumer product forms for which no specific VOC standard is specified including but not limited to solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

Alternative control plan or ACP – any emissions averaging program approved by the District of Columbia pursuant to the provisions of this regulation.

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

Antifouling coating – a coating labeled formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating must be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136 *et seq*.) and with the District of Columbia Department of Health, Environmental Health Administration, Toxic Substances Division (20 DCMR Chapters 20-25).

Antimicrobial hand or body cleaner or soap – consist of the following:

(a) A cleaner or soap that is designed to reduce the level of microorganisms on the skin through germicidal activity including but not limited to anti-microbial hand or body washes/cleaners, food-handler hand washes, healthcare personnel hand washes, pre-operative skin preparations, and surgical scrubs; and

(b) Does not include prescription drug products, antiperspirants, astringent/toner, deodorant, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent, including antimicrobial, heavy-duty hand cleaner or soap, medicated astringent/medicated toner, and rubbing alcohol.

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

Antique motor vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year that has been maintained in or restored to a condition that is substantially in conformance with manufacturer specifications.

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

Architectural coating – consist of the following:

(a) A coating to be applied to stationary structures at the site of installation, to appurtenances at the site of installation, to portable buildings at the site of installation, or to pavements or curbs;

(b) Does not include coatings applied in shop applications or to non-stationary structures including but not limited to airplanes, ships, boats, railcars, and automobiles; and

(c) Does not include adhesives.

ASTM – the American Society for Testing and Materials.

Astringent/toner – consist of the following:

(a) Any product not regulated as a drug by the United States Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores including but not limited to clarifiers and substrate-impregnated products; and

(b) Does not include any hand, face, or body cleaner or soap product, medicated astringent/medicated toner, cold cream, lotion, or antiperspirant.

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

Automotive elastomeric coating – a coating designed for application over surfaces of flexible mobile equipment and mobile equipment components, such as elastomeric bumpers.

Automotive hard paste wax – an automotive wax or polish which is designed to protect and improve the appearance of automotive paint surfaces, is a solid at room temperature, and contains zero percent (0%) water by formulation.

Automotive impact-resistant coating – a coating designed to resist chipping caused by road debris.

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

Automotive jambing clearcoat – a fast-drying, ready-to-spray clearcoat applied to surfaces such as door jams and trunk and hood edges to allow for quick closure.

Automotive lacquer – a thermoplastic coating applied directly to bare metal surfaces of mobile equipment and mobile equipment components which dries primarily by solvent evaporation, and which is resoluble in its original solvent.

Automotive low-gloss coating – a coating that exhibits a gloss reading less than or equal to twenty-five (25) on a sixty (60) degree glossmeter.

Automotive multi-colored topcoat – a topcoat that exhibits more than one (1) color, is packaged in a single container, and camouflages surface defects on areas of heavy use, such as cargo beds and other surfaces of trucks and other utility vehicles.

Automotive pretreatment – a primer that contains a minimum of 0.5% acid, by weight, that is applied directly to bare metal surfaces of mobile equipment and mobile equipment components to provide corrosion resistance and to promote adhesion of subsequent coatings.

Automotive primer-sealer – a coating applied to mobile equipment and mobile equipment components prior to the application of a topcoat for the purpose of providing corrosion resistance, promoting adhesion of subsequent coatings, promoting color uniformity, and promoting the ability of the undercoat to resist penetration by the topcoat.

Automotive primer-surfacer – a coating applied to mobile equipment and mobile equipment components prior to the application of topcoat for the purpose of filling surface imperfections in the substrate, providing corrosion resistance, or promoting adhesion of subsequent coatings.

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

Automotive specialty coating – coatings including but not limited to elastomeric coatings, adhesion promoters, low gloss coatings, bright metal trim repair coatings, jambing clearcoats, impact resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, weld-through primers applied to automotive surfaces and lacquer topcoats applied to a classic motor vehicle or to an antique motor vehicle.

Automotive topcoat – a coating or series of coatings applied over an automotive primer-surfacer, automotive primer-sealer or existing finish on the surface of mobile equipment and mobile equipment components for the purpose of protection or beautification.

Automotive touch-up repair – the application of automotive topcoat finish materials to cover minor finishing imperfections equal to or less than one (1) inch in diameter.

Automotive wax, polish, sealant or glaze – consist of the following:

(a) A product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces including but 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; and

(b) Does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

Automotive windshield washer fluid – consist of the following:

(a) Any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield; and

(b) Does not include fluids placed by the manufacturer in a new vehicle.

Batch vapor cleaning machine – consist of the following:

(a) A vapor cleaning machine in which individual parts or a set of parts move through the entire cleaning cycle before new parts are introduced into the cleaning machine including but not limited to solvent cleaning machines including ferris wheel cleaners or cross rod machines, that clean multiple loads simultaneously and are manually loaded; and

(b) Does not include machines which do not have a solvent/air interface, such as airless and air-tight cleaning systems.

Bathroom and tile cleaner – consist of the following:

(a) A product designed to clean tile or surfaces in bathrooms; and

(b) Does not include products specifically designed to clean toilet bowls or toilet tanks.

Bitumens – 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 or as residues from the distillation of crude petroleum or coal.

Bituminous roof coating – a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

Bituminous roof primer – a primer that incorporates bitumens that is labeled and formulated exclusively for roofing.

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

Bug and tar remover – a product designed to remove biological-type residues including but not limited to insect carcasses and tree sap and, road grime, including but not limited to road tar, roadway paint markings, and asphalt from painted motor vehicle surfaces without causing damage to the finish.

Calcimine recoater – a flat solventborne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

CARB – the California Air Resources Board.

Carbon adsorber – a bed of activated carbon into which an air/solvent gas-vapor stream is routed and which adsorbs the solvent on the carbon.

Carburetor or fuel-injection air intake cleaners – consist of the following:

(a) A product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages; and

(b) Does not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

Carpet and upholstery cleaner – consist of the following:

(a) A cleaning product designed for the purpose of eliminating dirt and stains on 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 including but is not limited to products that make fabric protectant claims; and

(b) 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.

Charcoal lighter material – consist of the following:

(a) Any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition; and

(b) Does not include electrical starters and probes, metallic cylinders using paper tinder, natural gas, propane, or fat wood.

Classic motor vehicle – a motor vehicle, but not a reproduction thereof, manufactured at least fifteen (15) years prior to the current year, which has been maintained in or restored to a condition that is substantially in conformity with manufacturer specifications and appearance.

Clear brushing lacquers – clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, which are intended exclusively for application by brush and which are labeled as specified in §752.

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

Coating – consist of the following:

(a) A material applied onto or impregnated into a substrate for protective, decorative, or functional purposes; and

(b) Includes but not limited to, paints, varnishes, sealers, and stains.

Cold cleaning machine – consist of the following:

(a) A device or piece of equipment, containing and/or using an unheated liquid which contains greater than five percent (5%) volatile organic compound or five percent (5%) hazardous air pollutant (hap) by weight, where parts are placed to remove dirt, grease, oil or other contaminants and coatings, from the surfaces of the parts or to dry the parts; and

(b) Does not include machines which do not have a solvent/air interface, such as airless and air-tight cleaning systems.

Colorant – any concentrated pigment dispersion in water, solvent, and/or binder that is added to an architectural coating after packaging in sale units to produce the desired color or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

Compliance period – the period of time, not to exceed one (1) year, for which the ACP limit and ACP emissions are calculated and for which compliance with the ACP limit is determined, as specified in the ACP Agreement approving an ACP.

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

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

Construction, panel, and floor covering adhesive – consists of the following:

(a) Any one-component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

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

(2) Floor or wall coverings including but not limited to wood or simulated wood covering, carpet, carpet pad or cushion, vinyl-backed carpet, flexible flooring material, non-resilient flooring material, mirror tiles and other types of tiles, and artificial grass; and

(b) Does not include floor seam sealer.

Consumer – consist of the following:

(a) Any person who purchases, or otherwise acquires any consumer product or a new portable fuel container or spout for personal, family, household, or institutional use; and

(b) Does not include persons acquiring a consumer product or a portable fuel container or spout for resale.

Consumer product – consist of the following:

(a) A chemically formulated product used by household and institutional consumers including but not limited to detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, home, lawn, and garden products, disinfectants, sanitizers, aerosol paints, and automotive specialty products; and

(b) Does not include other paint products, furniture coatings, or architectural coatings.

Contact adhesive – consist of the following:

(a) An adhesive designed for application to both surfaces to be bonded together, is allowed to dry before the two (2) surfaces are placed in contact with each other, forms an immediate bond that is impossible or difficult to reposition after both adhesive-coated surfaces are placed in contact with each other, and does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces; and

(b) Does not include rubber cements that are primarily intended for use on paper substrates.

Contact person – a representative that has been designated by the responsible ACP party for the purpose of reporting or maintaining any information specified in the ACP Agreement approving an ACP.

Container/packaging – the part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended including but not limited to any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

Conversion varnish – consist of the following:

(a) A clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product; and

(b) Produces a hard, durable, clear finish designed for professional application to wood flooring. The film formation is the result of an acid-catalyzed condensation reaction, affecting a transetherification at the reactive ethers of the amino resins.

Crawling bug insecticide – consist of the following:

(a) Any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including but not limited to mites, silverfish or spiders; and

(b) Does not include products designed to be used exclusively on humans or animals, or any house dust mite product;

(1) A house dust mite product is a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, and does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods; and

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

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

Day – unless other wise indicated refers to calendar days.

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

Department – the District of Columbia Department of Health.

Device – consist of the following:

(a) Any instrument or contrivance other than a firearm which is designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than humans and other than bacteria, virus, or other microorganisms on or in humans or other living animals; and

(b) Does not include equipment used for the application of pesticides when sold separately.

Disinfectant – consist of the following:

(a) Any product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is

registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. §136 *et seq*.);

(b) Does not include products designed solely for use on human or animals, products designed for agricultural use, products designed solely for use in swimming pools, therapeutic tubs, or hot tubs; and

(c) Does not include products that, as indicated on the principal display panel or label, are primarily designed for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

District of Columbia sales – the net pounds of product, less packaging and container, per year in District of Columbia for either the year immediately prior to the year that the registration is due or, if that data is not available, any consecutive twelve (12) month period commencing no earlier than two (2) years prior to the due date of the registration. If direct sales data for District of Columbia is not available, sales may be estimated by prorating national or regional sales data by population.

Distributor – any person to whom a consumer product or portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

Double phase aerosol air freshener – an aerosol air freshener with the liquid contents in two (2) or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

Dry cleaning fluid – consist of the following:

(a) Any non-aqueous liquid product designed and labeled exclusively for use on fabrics which are labeled for dry clean only, including but not limited to clothing, draperies; or S-coded fabrics;

(1) 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; and

(2) S-coded fabric is an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee; and

(b) Does not include spot remover or carpet and upholstery cleaner.

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

Dusting aid – consist of the following:

(a) A product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating; and

(b) Does not include products that consist entirely of compressed gases for use in electronic or other specialty areas.

Dwell – holding parts within the freeboard area of a solvent cleaning machine but above the solvent vapor zone. This action is necessary after cleaning to allow solvent to drain from the parts or parts baskets back into the solvent cleaning machine.

Dwell time – the period of time between when a parts basket is placed in the vapor zone of a batch vapor or in-line vapor cleaning machine and when solvent dripping ceases.
This period of time is determined by placing a basket of parts in the vapor zone and measuring the amount of time between when the parts are placed in the vapor zone and dripping ceases.

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

Enforceable sales – the total amount of an ACP product sold for use in District of Columbia, during the applicable compliance period specified in the ACP Agreement approving an ACP, as determined through enforceable sales records, expressed to the nearest pound, excluding product container and packaging.

Enforceable sales record – a written, point-of-sale record or any other District of Columbia-approved system of documentation from which the mass, in pounds, less product container and packaging, of an ACP product sold to the end user in District of Columbia during the applicable compliance period can be accurately documented including but not limited to the following types of records:

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

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

(c) Any other accurate product sales records approved by the Department as meeting the criteria specified in this section.

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

Exempt compound – a compound identified as exempt under the definition of volatile organic compound (VOC). Exempt compounds content of a coating shall be determined by U.S. EPA

Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91 (Revised February 1993), incorporated by reference in §754.2.

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Fabric protectant – consist of the following:

(a) 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; and

(b) Does not include waterproofers, products designed for use solely on leather, or products designed for use solely on fabrics that are labeled for dry clean only and sold in containers of ten (10) fluid ounces or less.

Facial cleaner or soap – consist of the following:

(a) A cleaner or soap designed primarily to clean the face including but not limited to facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms; and

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

Fat wood – consist of the following:

(a) Pieces of wood kindling with high naturally-occurring levels of sap or resin which enhance ignition of the kindling; and

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

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

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

(a) The fire-resistive coating and the testing agency must be approved by District of Columbia building code officials; and

(b) The fire-resistive coating shall be tested in accordance with ASTM Designation E 119-98, incorporated by reference in §754.

Fire-retardant coating – a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency approved by District of Columbia building code officials for use in bringing building and construction materials into compliance with federal and District of Columbia building code requirements.

(a) The fire-retardant coating and the testing agency must be approved by District of Columbia building code officials.

(b) The fire-retardant coating shall be tested in accordance with ASTM Designation E 84-99, incorporated by reference in §754.

Flat coating – a coating that is not defined under any other definition in this rule and that registers gloss less than fifteen (15) on an eighty-five (85) degree meter or less than five (5) on a sixty (60) degree meter according to ASTM Designation D 523-89 (1999), incorporated by reference in §754.

Flea and tick insecticide – consist of the following:

(a) Any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs; and

(b) Does not include products that are designed to be used exclusively on humans or animals and their bedding.

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

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

Floor polish or wax – consist of the following:

(a) 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 replenished; and

(b) Does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coatings in §§749 through 754.

Floor seam sealer – any product designed and labeled exclusively for bonding, fusing, or sealing seams between adjoining rolls of installed flexible sheet flooring.

Floor wax stripper – consist of the following:

(a) A product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax; and

(b) Does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

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

Flying bug insecticide – consist of the following:

(a) Any insecticide product that is designed for use against flying insects or other flying arthropods including but not limited to flies, mosquitoes, moths, or gnats;

(b) Does not include "wasp and hornet insecticide," products that are designed to be used exclusively on humans or animals, or any moth-proofing product; and

(c) 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.

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

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

Freeboard ratio – consist of the following:

(a) For a cold cleaning machine, the distance from the liquid solvent to the top edge of the cold cleaning machine divided by the width of the cold cleaning machine; and

(b) For an operating batch vapor cleaning machine or an in-line vapor cleaning machine, the distance from the top of the solvent vapor layer to the top edge of the vapor cleaning machine divided by the width of the vapor cleaning machine.

Freeboard refrigeration device – a set of secondary coils mounted in the freeboard area of a solvent cleaning machine that carries a refrigerant or other chilled substance to provide a chilled air blanket above the solvent vapor. A solvent cleaning machine's primary condenser that is capable of maintaining a temperature in the center of the chilled air blanket at not more than thirty

(30) percent of the solvent boiling point and is both a primary condenser and a freeboard refrigeration device.

Fuel – all fuels subject to any provision of 20 DCMR Chapter 9, and Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250 - 2298, except for Sections 2292.5, 2292.6, and 2292.7.

Deleted: DCMT

Furniture maintenance product – consist of the following:

(a) A wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors; and

(b) Does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish including but not limited to stains, sanding sealers and lacquers.

Furniture coating – any paint designed for application to room furnishings including but not limited to: cabinets, kitchen, bath and vanity; tables; chairs; beds; and sofas.

Gel – a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, including but not limited to jelly.

General purpose adhesive – consist of the following:

(a) Any non-aerosol adhesive designed for use on a variety of substrates;

(b) Does not include:

(1) Contact adhesives;

(2) Construction, panel, floor covering adhesives;

(3) Adhesives designed exclusively for application on one specific category of substrates including but not limited to substrates that are composed of similar materials, including but not limited to different types of metals, paper products, ceramics, plastics, rubbers, or vinyls; and

(4) Adhesives designed exclusively for use on one specific category of articles including but not limited to articles that may be composed of different materials but perform a specific function, including but not limited to gaskets, automotive trim, weather-stripping, or carpets.

General purpose cleaner – consist of the following:

(a) A product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations including but not limited to

products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces; and

(b) Does not include general purpose degreasers and electronic cleaners.

General purpose degreaser – consist of the following;

(a) Any product designed to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts;

(b) Does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, metal polish/cleanser, products used exclusively in solvent cleaning tanks or related equipment, or products that are sold exclusively to establishments which manufacture or construct goods or commodities and labeled not for retail sale; and

(c) Solvent cleaning tanks or related equipment include, but are not limited to cold cleaners, vapor degreasers, conveyorized degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

General-use hand or body cleaner or soap – consist of the following:

(a) A cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils including but not limited to hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps; and

(b) Does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, hand dishwashing detergent including but not limited to antimicrobial, heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

Glass cleaner – consist of the following:

(a) A cleaning product designed primarily for cleaning surfaces made of glass; and

(b) Does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

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

Gross District of Columbia sales – the estimated total District of Columbia sales of an ACP product during a specific compliance period expressed to the nearest pound, based on either of the

following methods, whichever the responsible ACP party demonstrates to the satisfaction of the Department will provide an accurate District of Columbia sales estimate:

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

(b) Any other documented method that provides an accurate estimate of the total current District of Columbia sales of the ACP product.

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

Hair shine – consist of the following:

(a) Any product designed for the primary purpose of creating a shine when applied to the hair including but is not limited to dual-use products designed primarily to impart a sheen to the hair; and

(b) Does not include hair spray, hair mousse, hair styling gel, spray gel, or products whose primary purpose is to condition or hold the hair.

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

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

Heavy-duty hand cleaner or soap – consist of the following:

(a) A product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer’s ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water; and

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

Herbicide – a pesticide product designed to kill or retard a plant’s growth, but excludes products that are for agricultural use, or restricted materials that require a permit for use and possession.

High-temperature coating – a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above two-hundred and four

degrees Celsius (204°C or 400°F).

High volatility organic compound (HVOC) – any volatile organic compound that exerts a vapor pressure greater than eighty (80) millimeters of mercury (mm Hg) when measured at twenty degrees Celsius (20^{o}C).

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

Immersion cold cleaning machine – a cold cleaning machine in which the parts are immersed in the solvent when being cleaned.

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

Industrial maintenance coating – a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions listed as follows and labeled as set forth in §752:

(a) Immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;

(b) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(c) Repeated exposure to temperatures above one-hundred and twenty-one degrees Celsius (121°C or 250°F);

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

(e) Exterior exposure of metal structures and structural components.

In-line vapor cleaning machine – a vapor cleaning machine that uses an automated parts handling system, typically a conveyor, to automatically provide a supply of parts to be cleaned. In-line vapor cleaning machines are fully enclosed except for the conveyor inlet and exit portals.

Insecticide – consist of the following:

(a) A pesticide product that is designed for use against insects or other arthropods; and

(b) Does not include products that are for agricultural use, for a use that requires a structural pest control license under applicable District of Columbia laws or regulations, or restricted materials that require a permit for use and possession.

Insecticide fogger – any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

Institutional product or industrial and institutional (I&I) product – consist of the following:

(a) A consumer product that is designed for use in the maintenance or operation of an establishment that manufactures, transports, sells goods or commodities, provides services for profit; or is engaged in the nonprofit promotion of a particular public, educational, or charitable cause including but not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies; and

(b) Does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

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

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

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

Laundry starch product – a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric including but not limited to fabric finish, sizing, and starch.

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

Liquid – consist of the following:

(a) A substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D-4359-90; and

(b) Does not include powders or other materials that are composed entirely of solid particles.

Low-solids coating – a coating containing 0.12 kilograms or less of solids per liter (one (1) pound or less of solids per gallon) of coating material.

Lubricant – consist of the following:

(a) A product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms; and

(b) Does not include automotive power steering fluids, products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes, two cycle oils or other products designed to be added to fuels, products for use on the human body or animals, products that are sold exclusively to establishments which manufacture or construct goods or commodities, and products labeled not for retail sale.

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

LVP-VOC – consist of the following:

(a) A chemical compound or mixture that contains at least one (1) carbon atom and meets one of the following:

(1) Has a vapor pressure less than 0.1 mm Hg at twenty degrees Celsius (20^{o}C), as determined by CARB Method 310;

(2) Is a chemical “compound” with more than twelve (12) carbon atoms, or a chemical “mixture” comprised solely of “compounds” with more than twelve (12) carbon atoms, and the vapor pressure is unknown;

(3) Is a chemical “compound” with a boiling point greater than two-hundred and sixteen degrees Celsius (216^{o}C), as determined by CARB Method 310; or

(4) Is the weight percent of a chemical “mixture” that boils above two-hundred and sixteen degrees Celsius (216^{o} C), as determined by CARB Method 310;

(b) Chemical compound means a molecule of definite chemical formula and isomeric structure, and

(c) Chemical mixture means a substrate comprised of two or more chemical compounds.

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

Manufacturer – any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a consumer product or portable fuel container or spout or both portable fuel container and spout.

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

Medicated astringent /medicated toner – consist of the following:

(a) Any product regulated as a drug by the FDA that is applied to the skin for the purpose of cleaning or tightening pores including but not limited to clarifiers and substrate-impregnated products; and

(b) Does not include hand, face, or body cleaner or soap products, astringent/toner," cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

Medium volatility organic compound (MVOC) – any volatile organic compound that exerts a vapor pressure greater than two (2) millimeters of mercury (mm Hg) and less than or equal to eighty (80) mm Hg when measured at twenty degrees Celsius (20^{o}C).

Metallic pigmented coating – a coating containing at least forty-eight (48) grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with SCAQMD Method 318-95, incorporated by reference in §754.

Metal polish /cleanser – consist of the following:

(a) Any product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action;

  (1) Includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals; and

  (2) To improve the appearance is to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny; and

(b) Does not include automotive wax, polish, sealant or glaze, wheel cleaner, paint remover or stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

Missing data days – the number of days in a compliance period for which the responsible ACP party has failed to provide the required enforceable sales or VOC content data to the Department, as specified in the ACP Agreement approving an ACP.

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

Mobile equipment – equipment which may be driven or is capable of being driven on a roadway including but not limited to automobiles, trucks, truck cabs, truck bodies, truck trailers, buses, motorcycles, utility bodies, camper shells, mobile cranes, bulldozers, street cleaners, golf carts, ground support vehicles, used in support of aircraft activities at airports, and farm equipment.

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

Multi-purpose dry lubricant – any lubricant which is designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly), or polytetrafluoroethylene or closely related fluoropolymer (teflon) on surfaces, and designed for general purpose lubrication, or for use in a wide variety of applications.

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

Multi-purpose solvent – consist of the following:

(a) 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;

(b) Includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories; and

(c) Does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

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

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

Nominal capacity – the volume indicated by the manufacturer that represents the maximum recommended filling level.

Non-aerosol product – any consumer product that is not dispensed by a pressurized spray system.

Non-carbon containing compound – any compound that does not contain any carbon atoms.

Non-flat coating – a coating that is not defined under any other definition in this rule and that registers a gloss of fifteen (15) or greater on an eighty-five (85) degree meter and five (5) or greater on a sixty (60) degree meter according to ASTM Designation D 523-89 (1999), incorporated by reference in §754.

Non-flat high gloss coating – a non-flat coating that registers a gloss of seventy (70) or above on a sixty (60) degree meter according to ASTM Designation D 523-89 (1999), incorporated by reference into §754.

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Nonindustrial use – any use of architectural coatings except in the construction or maintenance of any of the following:

(a) Facilities used in the manufacturing of goods and commodities;

(b) Transportation infrastructure, including highways, bridges, airports and railroads;

(c) Facilities used in mining activities, including petroleum extraction; and

(d) Utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.

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

Non-selective terrestrial herbicide – a terrestrial herbicide product that is toxic to plants without regard to species.

Nuclear coating – a protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials;

(a) These coatings must be resistant to long-term (service life) cumulative radiation exposure in accordance with ASTM Method D 4082-89, Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants; and

(b) Relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed in accordance with ASTM Method D 3912-80 (Reapproved 1989), Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants.

One-product business – a responsible ACP party that sells, supplies, offers for sale, or manufactures for use in District of Columbia:

(a) Only one (1) distinct ACP product, sold under one (1) product brand name, which is subject to the requirements of §720; or

(b) Only one (1) distinct ACP product line subject to the requirements of §720, in which all the ACP products belong to the same product category(ies) and the VOC Contents in the products are within ninety-eight (98) percent and one-hundred and two (102) percent of the arithmetic mean of the VOC Contents over the entire product line.

Outboard engine – a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

Oven cleaner – any cleaning product designed to clean and to remove dried food deposits from oven walls.

Paint – any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose including but not limited to the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

Paint remover or stripper – consist of the following:

(a) Any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate; and

(b) Does not include multi-purpose solvents, paint brush cleaners, products designed and labeled exclusively to remove graffiti, and hand cleaner products that claim to remove paints and other related coatings from skin.

Penetrant – consist of the following:

(a) A lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes; and

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

Permeation – means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.

Pesticide – consist of the following:

(a) Any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; and

(b) Does not include any substance, mixture of substances, or device that the United States Environmental Protection Agency does not consider to be a pesticide.

Portable fuel container – any container or vessel with a nominal capacity of ten (10) gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.

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

Pre-ACP VOC content – the lowest VOC content of an ACP product between January 1, 1990 and the date on which the application for a proposed ACP is submitted to the Department, based on either the data on the product obtained from the March 12, 1991 CARB Consumer Products Survey, or other accurate records available to the Department, whichever yields the lowest VOC content for the product.

Pre-Treatment Wash Primer – a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Designation D 1613-96, incorporated by reference into §754.5(e), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

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

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

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

Product category – the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the District of Columbia.

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

Propellant – a liquefied or compressed gas that is used in whole or in part, such as a co-solvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

Pump spray – 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.

Quick-dry enamel – a non-flat coating that is labeled as specified in §752.1(h) and that is formulated to have the following characteristics:

(a) Is capable of being applied directly from the container under normal conditions with ambient temperatures between sixteen degrees Celsius (16ºC) and twenty-seven degrees Celsius (27° C) (60º and 80°F);

(b) When tested in accordance with ASTM Designation D 1640-95, incorporated by reference in §754, sets to touch in two (2) hours or less, is tack free in four (4) hours or less, and dries hard in eight (8) hours or less by the mechanical test method; and

(c) Has a dried film gloss of seventy (70) or above on a sixty (60) degree meter.

Quick-dry primer sealer and undercoater – a primer, sealer, or undercoater that is dry to the touch in thirty (30) minutes and can be re-coated in two (2) hours when tested in accordance with ASTM Designation D 1640-95, incorporated by reference in §754.

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

Reconciliation of shortfalls plan – the plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the Department pursuant to §732.

Recycled coating – an architectural coating formulated such that not less than fifty (50) percent of the total weight consists of secondary and post-consumer coating, with not less than ten (10) percent of the total weight consisting of post-consumer coating.

Reduced room draft – decreasing the flow or movement of air across the top of the freeboard area of a solvent cleaning machine to less than fifty (50) feet per minute (15.2 meters per minute) by methods including but not limited to redirecting fans and/or air vents, moving a machine to a corner where there is less room draft, or constructing a partial or complete enclosure.

Remote reservoir cold cleaning machine – a machine in which liquid solvent is pumped to a sink-like work area that immediately drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

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

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

Responsible ACP party – the company, firm or establishment that is listed on the ACP product's label. If the label lists two (2) or more companies, firms, or establishments, the responsible ACP

party is the party that the ACP product was manufactured for or distributed by, as noted on the label.

Restricted materials – pesticides established as restricted materials under applicable District of Columbia laws or regulations.

Retailer – any person who owns, leases, operates, controls, sells, supplies, or offers consumer products for sale directly to consumers or supervises a retail outlet.

Retail outlet – any establishment at which consumer products or portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale directly to consumers.

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

Roof coating – consist of the following:

(a) A non-bituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation; and

(b) Does not include metallic pigmented roof coatings.

Rubber and vinyl protectant – consist of the following:

(a) Any 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; and

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

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

Rust preventive coating – a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in §752.1(f).

Sanding sealer – consist of the following:

(a) A clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings; and

(b) Does not include sanding sealers that also meet the definition of a lacquer.

SCAQMD – South Coast Air Quality Management District.

Sealant and caulking compound – consist of the following:

(a) Any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces;

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

(1) Removable caulking compounds are compounds which temporarily seals windows or doors for three to six month time intervals, and

(2) Clear/paintable/water resistant caulking compounds are compound that contains no appreciable level of opaque fillers or pigments, transmits most or all visible light through the caulk when cured, is paintable, and is immediately resistant to precipitation upon application; and

(c) Does not include units of product, less packaging, which weigh more than one pound and consist of more than sixteen (16) fluid ounces.

Sealer – a coating labeled and formulated for application to a substrate for one or more of the following purposes:

(a) To prevent subsequent coatings from being absorbed by the substrate; or

(b) To prevent harm to subsequent coatings by materials in the substrate.

Secondary coating (rework) – consist of the following:

(a) A fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value; and

(b) Does not include excess virgin resources of the manufacturing process.

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

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

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

Shop application – application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process including but not limited to original equipment manufacturing coatings.

Shortfall – consist of the following:

(a) The ACP emissions minus the ACP limit when the ACP emissions were greater than the ACP limit during a specified compliance period, expressed to the nearest pound of VOC; and

(b) Does not include emissions occurring prior to the date that the ACP Agreement approving an ACP is signed by the Department.

Silicone-based multi-purpose lubricant – consist of the following:

(a) Any lubricant which is designed and labeled to provide lubricity primarily through the use of silicone compounds including but not limited to polydimethylsiloxane, and designed and labeled for general purpose lubrication, or for use in a wide variety of applications; and

(b) Does not include products designed and labeled exclusively to release manufactured products from molds.

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

Small business – shall have the same meaning as defined in applicable District of Columbia laws and regulations.

Solicit – to require for use or to specify, by written or oral contract.

Solid – a substance or mixture of substances that, either whole or subdivided, is not capable of visually detectable flow as determined under ASTM D 4359-90, incorporated by reference.

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Solvent/air interface – the location of contact between the concentrated solvent vapor layer and the air:

(a) This location of contact is defined as the mid-line height of the primary condenser coils; and

(b) For a cold cleaning machine, it is the location of contact between the liquid solvent and the air.

Solvent cleaning machine – a device or piece of equipment that uses solvent liquid or vapor to remove contaminants, including but not limited to dirt, grease, oil, and coatings, from the surfaces of materials. Types of solvent cleaning machines include but are not limited to batch vapor cleaning machines, in-line vapor cleaning machines, immersion cold cleaning machines, remote reservoir cold cleaning machines, airless cleaning systems and air-tight cleaning systems.

Solvent cleaning machine automated parts handling system – a mechanical device that carries all parts and parts baskets at a controlled speed from the initial loading of soiled or wet parts through the removal of the cleaned or dried parts.

Solvent cleaning machine down time – the period when a solvent cleaning machine is not cleaning parts and the sump heating coils, if present, are turned off.

Solvent cleaning machine idle time – the period when a solvent cleaning machine is not actively cleaning parts and the sump heating coil, if present, is turned on.

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

(a) Mounting adhesive – an aerosol adhesive designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork;

(b) Flexible vinyl adhesive – an aerosol adhesive designed to bond flexible vinyl to substrates. Flexible vinyl means a nonrigid polyvinyl chloride plastic with at least five (5) percent, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 or from product formulation data;

(c) Polystyrene foam adhesive – an aerosol adhesive designed to bond polystyrene foam to substrates;

(d) Automobile headliner adhesive – an aerosol adhesive designed to bond together layers in motor vehicle headliners;

(e) Polyolefin adhesive – an aerosol adhesive designed to bond polyolefins to substrates;

(f) Laminate repair/edgebanding adhesive – consist of the following:

(1) An aerosol adhesive designed for the touch-up or repair of items laminated with high pressure laminates including but not limited to lifted edges, delaminates, or for the touch-up, repair, or attachment of edgebanding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals; and

(2) High pressure laminate means sheet materials which consist of paper, fabric, or other core material that have been laminated at temperatures exceeding two-hundred and sixty-five degrees Fahrenheit (265º F), and at pressures between one-thousand (1,000) and one-thousand four-hundred (1,400) pounds per square inch (psi); and

(g) Automotive engine compartment adhesive - an aerosol adhesive designed for use in motor vehicle under-the-hood applications that require oil and plasticizer resistance, as well as high shear strength, at temperatures of two-hundred to two-hundred and seventy-five degrees Fahrenheit (200 - 275º F).

Specialty primer, sealer, and undercoater – a coating labeled as specified in §752.1(g) and that is formulated for application to a substrate to seal fire, smoke or water damage, to condition excessively chalky surfaces, or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four (4) or less as determined by ASTM Designation D 4214-98, incorporated by reference in §754.5(g).

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Spill proof spout – any spout that complies with all of the performance standards specified in §736.2.

Spill-proof system – any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in §736.1.

Spot remover – consist of the following:

(a) Any product designed to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal; and

(b) Does not include dry cleaning fluid, laundry prewash, carpet and upholstery cleaner, or multi-purpose solvent.

Spout – any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.

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

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

Stick product – any 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.

Structural waterproof adhesive – in accordance with the Federal Consumer Products Regulation, 40 C.F.R. 59 Subpart C, an adhesive whose bond lines are resistant to conditions of continuous

immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181 (Type 1, Grade A), and MIL-A-4605 (Type A, Grade A and Grade C).

Superheated vapor system – a system that heats the solvent vapor to a temperature of ten degrees Fahrenheit (10º F) above the solvent's boiling point. Parts are held in the superheated vapor before exiting the machine to evaporate the liquid solvent on the parts.

Surplus reduction – the ACP limit minus the ACP emissions when the ACP limit was greater than the ACP emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in §732.11 this term does not include emissions occurring prior to the date that the ACP Agreement approving an ACP is signed by the Department.

Surplus trading – the buying, selling, or transfer of Surplus Reductions between responsible ACP parties.

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

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

Table B compound – any carbon-containing compound listed as an exception to the definition of VOC.

Target fuel tank – any receptacle that receives fuel from a portable fuel container.

Temperature-indicator safety coating – a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above two-hundred and four degrees Celsius (204°C) or four hundred degrees Fahrenheit (400°F).

Terrestrial – to live on or grow from land.

Thermoplastic rubber coating and mastic – 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 – an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

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

Total maximum historical emissions (TMHE) – consist of the following:

(a) The total VOC emissions from all ACP products for which the responsible ACP party has failed to submit the required VOC content or enforceable sales records. This term shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP has failed to provide the required VOC Content or Enforceable Sales records; and

(b) Shall be expressed to the nearest pound and calculated according to the following calculation:

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

$$MHE = \left(\frac{Highest\ VOC\ Content\ x\ Highest\ Sales}{100\ x\ 365}\right)\ x\ Missing\ Data\ Days$$

where,

Highest VOC Content = the maximum VOC content which the ACP product has contained in the previous five (5) years, if the responsible ACP party has failed to meet the requirements for reporting VOC Content data (for any portion of the compliance period), as specified in the ACP Agreement approving the ACP, or the current actual VOC Content, if the responsible ACP party has provided all required VOC Content data (for the entire compliance period), as specified in the ACP Agreement;

Highest Sales = the maximum one (1) year Gross District of Columbia Sales of the ACP product in the previous five (5) years, if the responsible ACP party has failed to meet the requirements for reporting Enforceable Sales records (for any portion of the compliance period), as specified in the ACP Agreement approving the ACP, or the current actual one (1) year Enforceable Sales for the product, if the responsible ACP party has provided all required Enforceable Sales records (for the entire compliance period), as specified in the ACP Agreement approving the ACP;

Missing Data Days = the number of days in a compliance period for which the responsible ACP party has failed to provide the required Enforceable Sales or VOC Content data as specified in the ACP Agreement approving an ACP; and

1, 2, ..., N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required Enforceable Sales or VOC Content data as specified in the ACP Agreement approving an ACP.

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

Type A propellent – a compressed gas such as CO_2, N_2, N_2O, or compressed air that is used as a propellent, and is either incorporated with the product or contained in a separate chamber within the product's packaging.

Type B propellent – any halocarbon that is used as a propellent including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

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

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

Undercoating – any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound including but not limited to rubberized, mastic, or asphaltic products.

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

Vapor cleaning machine – consist of the following:

(a) A solvent cleaning machine that boils liquid solvent, generating a vapor, or that heats liquid solvent that is used as part of the cleaning or drying cycle; and

(b) Does not include machines which do not have a solvent/air interface, such as airless and air-tight cleaning systems.

Vapor cleaning machine primary condenser – a series of circumferential cooling coils on a vapor cleaning machine through which a chilled substance is circulated or recirculated to provide continuous condensation of rising solvent vapors, and thereby, create a concentrated vapor zone.

Vapor up control switch – a thermostatically controlled switch that shuts off or prevents condensate from being sprayed when there is no vapor. On in-line vapor cleaning machines the switch also prevents the conveyor from operating when there is no vapor.

Varnish – a clear or semi-transparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

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Volatile organic compound (VOC) – consist of the following:

(a) Any compound containing at least one atom of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and excluding the following:

(1) methane;

(2) methylene chloride (dichloromethane);

(3) 1,1,1-trichloroethane (methyl chloroform);

(4) trichlorofluoromethane (CFC-11);

(5) dichlorodifluoromethane (CFC-12);

(6) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

(7) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);

(8) chloropentafluoroethane (CFC-115);

(9) chlorodifluoromethane (HCFC-22);

(10) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);

(11) 1,1-dichloro-1-fluoroethane (HCFC-141b);

(12) 1-chloro-1,1-difluoroethane (HCFC-142b);

(13) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

(14) trifluoromethane (HFC-23);

(15) 1,1,2,2-tetrafluoroethane (HFC-134);

(16) 1,1,1,2-tetrafluoroethane (HFC-134a);

(17) pentafluoroethane (HFC-125);

(18) 1,1,1-trifluoroethane (HFC-143a);

(19) 1,1-difluoroethane (HFC-152a);

(20) cyclic, branched, or linear completely methylated siloxanes; and

(21) the following classes of perfluorocarbons:

(A) cyclic, branched, or linear, completely fluorinated alkanes;

(B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;

(D) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, and

(b) The following low-reactive organic compounds that have been exempted by the U.S. EPA:

(1) acetone;

(2) ethane;

(3) methyl acetate;

(4) parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene); and

(5) perchloroethylene (tetrachloroethylene).

VOC content – consist of the following:

(a) For the purpose of §§719 through 734**,** except for charcoal lighter products, the total weight of VOC in a product expressed as a percentage of the product weight, exclusive of the container or packaging, as determined pursuant to §731.1 through 731.3;

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Deleted: and (b)

(b) For charcoal lighter material products only:

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

Certified Emissions = the emissions level for products approved by the District of Columbia under §727, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound CH_2 per start;

Certified Use Rate = the usage level for products approved by the District of Columbia under §727, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (Feb. 27, 1991), expressed to the nearest 0.001 pound certified product used per start; and

(c) For the purpose of §§749 through 754**,** the weight of VOC per volume of coating, calculated according to the procedures specified in §754.1.

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

Waterproofer – consist of the following:

(a) A product designed and labeled exclusively to repel water from fabric or leather substrates; and

(b) Does not include fabric protectants.

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

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

Wax – consist of the following:

(a) A material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics); and

(b) Includes but is not limited to substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin including but not limited to ozocerite and paraffin, and synthetic polymers such as polyethylene.

Web spray adhesive – any aerosol adhesive that is not a mist spray or special purpose spray adhesive.

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

Wood preservative – a coating labeled and formulated to protect exposed wood from decay or insect attack, that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 *et seq*.) and with the District of Columbia Department of Health, Environmental Health Administration, Toxic Substance Division (20 DCMR Chapters 20-25).

Working day – a day other than Saturday, Sunday, a legal holiday, or day on which the Department is officially closed.

Working mode cover – any cover or solvent cleaning machine design that allows the cover to shield the cleaning machine openings from outside air disturbances while parts are being cleaned in the cleaning machine. A cover that is used during the working mode is opened only during parts entry and removal.

Year – unless otherwise indicated refers to the calendar year.