

DEPARTMENT OF HEALTH  
ENVIRONMENTAL HEALTH ADMINISTRATIONNOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in sections 5 and 6 of The District of Columbia Air Pollution Control Act of 1984 ("the Act"), as amended (effective March 15, 1985, D.C. Law 5-165; D.C. Official Code §8-101.06), and Mayor's Order 98-44 (dated April 10, 1998) hereby gives notice of his intent to adopt the following amendments to Chapter 7, of Subtitle A: Air Quality, of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR) in not less than fifteen (15) days from the date of publication of this notice in the *D.C. Register* pursuant to D.C. Official Code §2-505(a).

The proposed rules are necessary steps to further reduce volatile organic compound (VOC) emissions in the District. The proposed rules incorporate model rules to help reduce ozone in the eastern United States promulgated by the Ozone Transport Commission (OTC), an entity created by the federal Clean Air Act (42 U.S.C. 7506a). Since VOCs are precursors to ozone, all members of the OTC: Virginia, The District of Columbia, Maryland, Pennsylvania, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine, have drafted similar rules as part of a regional strategy to reduce ozone. The proposed rules establish thirty-six (36) new sections in 20 DCMR Chapter 7, and amend 20 DCMR 799, Definitions, by adding approximately two hundred eighty five (285) new definitions to Chapter 7. Specifically, section 718 pertains to Mobile Equipment Repair & Refinishing; sections 719 through 734 pertain to Consumer Products; sections 735 through 741 pertain to Portable Fuel Containers and Spouts; sections 742 through 748 pertain to Solvent Cleaning; and sections 749 through 754 pertain to Architectural & Industrial Maintenance Coatings.

There is good cause for a shortened notice of publication in the *D.C. Register* because early implementation of the proposed rules will help the District meet federal requirements for the National Ambient Air Quality Standards (NAAQS) prior to the ozone season. In addition, there is good cause for a shortened notice of publication in the *D.C. Register* because the public has already had an opportunity to submit written comments and testify at a public hearing on this matter. The proposed rules have been available for public review since June 7, 2003 at the offices of the Environmental Health Administration (EHA), 51 N Street, NE, Room 6051, Washington, D.C. 20002; on the DC Government website at <http://airquality.dc.gov>; and at the following D.C. Public Library branches: 901 G Street, NW; Connecticut Avenue & McKinley Street, NW; 37<sup>th</sup> Street & Alabama Avenue, SE; Wisconsin Avenue & R Street, NW; and 18<sup>th</sup> Street & Rhode Island Avenue, NE. On July 9, 2003, a public hearing was held in the Old City Council Chambers in One Judiciary Square, 441 4<sup>th</sup> Street, NW, Washington, D.C., to provide interested parties an opportunity to comment on the proposed rules. Notice of this hearing was published in a general circulation newspaper, and approximately forty (40) people attended the hearing. The substance of the rules has not changed since they

were made available for public comment, only the numbering and formatting to meet rulemaking requirements.

**TITLE 20 DCMR (ENVIRONMENT) (FEBRUARY 1997), SUBTITLE A: AIR QUALITY, CHAPTER 7, VOLATILE ORGANIC COMPOUNDS is amended by adding new sections 718 through 754 to read as follows:**

**718 MOBILE EQUIPMENT REPAIR AND REFINISHING**

- 718.1 This section applies to any person who sells, supplies, offers for sale, manufacturers 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 (Pounds per gallon)	Limit* (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 manufacturers 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  $8.345 \times 10^{-3}$  (lb/gal/g/l):

$$\text{VOC} = \frac{(W_v - W_w - W_{ec})}{(V - V_w - V_{ec})}$$

where:

VOC = VOC content in grams per liter (g/l) of coating less water and non VOC solvents;

$W_v$  = Mass of total volatiles, in grams;

$W_w$  = Mass of water, in grams;

$W_{ec}$  = Mass of exempt compounds, in grams;

$V$  = Volume of coating, in liters;

$V_w$  = Volume of water, in liters; and

$V_{ec}$  = Volume of exempt compounds, in liters; and

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

$$\text{VOC}_{\text{multi}} = \frac{\text{VOC}_{\text{bc}} + \sum_{i=0}^M \text{VOC}_{\text{mci}} + 2(\text{VOC}_{\text{cc}})}{M + 3}$$

where:

$\text{VOC}_{\text{multi}}$  = VOC content of multistage topcoat, g/l;

$\text{VOC}_{\text{bc}}$  = VOC content of basecoat, g/l;

$\text{VOC}_{\text{mci}}$  = VOC content of the midcoat(s), g/l;

$\text{VOC}_{\text{cc}}$  = 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 techniques listed in §718.5(g) & (h):
- (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 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, including subsequent amendments.
- 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
Polyolefin 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	45
Instant detailers	3
All other forms	15
Automotive Windshield Washer Fluids	35
Bathroom and Tile Cleaners:	

Aerosols	7
All other forms	5
Bug and Tar Remover	40
Carburetor or Fuel-Injection Air Intake Cleaners	45
Carpet and Upholstery Cleaners:	
Aerosols	7
Non-Aerosols (dilutables)	0.1
Non-Aerosols (ready-to-use)	3.0
Charcoal Lighter Material	see §727
Cooking Spray:	
Aerosols	18
Deodorants:	
Aerosol	0 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
Dusting Aids:	
Aerosols	25
All other forms	7
Engine Degreasers:	
Aerosol	35
Non-Aerosol	5
Fabric Protectants	60
Floor Polishes / Waxes:	
Products for flexible flooring materials	7
Products for nonresilient flooring	10
Wood floor wax	90
Floor Wax Strippers:	
Non-Aerosol	see §728
Furniture Maintenance Products:	
Aerosols	17
All other forms except solid or paste	7
General Purpose Cleaners:	
Aerosols	10
Non-Aerosols	4
General Purpose Degreasers:	
Aerosols    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 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°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, the limits specified in the Table of Standards in §720 shall apply to the product only after the maximum recommended dilution has taken place.

**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 §727.4(b).

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;

- (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 Abstract Services (CAVES) number, of the following:
- (A) Each Table B compound; and
  - (B) Each LVP-VOC that is not a fragrance;
- (10) If applicable, the weight percent comprised of propellant for each product; and
- (11) If applicable, an identification of the type of propellant 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 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-VOL 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:

- (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 of 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);
  - (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°C), the compound or mixture is an LVP-VOC;

- (B) If the boiling point is less than 216°C, then the weight percent of the mixture that boils above 216°C is an LVP-VOC;
  - (C) The Department will use the nearest five percent (5%) distillation cut that is greater than 216°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) 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.

- 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 ( $\pm 10\%$ ) 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 §733.4(10); and

- (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 (i) of this subsection:

- (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(a)(9), 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;
- (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 subsection occurs, the responsible ACP party may, pursuant to this paragraph, establish the number of violations as calculated according to the following equation:

$$NEV = (ACP \text{ Emissions} - ACP \text{ Limit}) \times 1 \text{ Violation}/40 \text{ Pounds}$$

where,

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 subsection, the

circumstances identified in applicable District of Columbia health and safety laws and regulations shall be taken into consideration; and

- (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 subparagraph (8)(B) of this subsection. 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;

- (h) While valid, surplus reductions can be used only for the following purposes:
  - (1) To adjust either the ACP emissions of either the responsible ACP party who generated the reductions or the responsible ACP party to which the reductions were traded, 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
  - (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 subsection;
  - (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:

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

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<sub>initial</sub> = the Pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in §719.2, whichever is the lesser of the two, expressed to the nearest 0.1 pounds of VOC per 100 pounds of ACP product;

VOC Content<sub>final</sub> = 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 subsection, surplus reduction credits shall be subject to all requirements applicable to surplus reductions and surplus trading, as specified in §732.10.

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(a)(9) 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.

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:

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

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;
- $\text{VOC}_{STD}$  = The VOC limit specified in the table of standards in §720;
- $\text{VOC}_{NC}$  = The VOC content of the noncomplying product in its current formulation;

- (b) If a manufacturer demonstrates that the equation in paragraph (a) of this subsection 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;
- (c) For the purposes of this subsection, representative consumer product means a consumer product that meets all of the following criteria:
  - (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;
- (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, manufactures, or uses 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 the District incorporates by reference rules and test methods from Code of Federal Regulations (CFR) and the California Air Resources Board (CARB), where specifically cited, including subsequent amendments.
- 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 §741 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.

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 this section 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.
- 738.4 Each manufacturer subject to §739.1 and §739.2 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.
- 738.5 Each manufacturer of a spout subject to §739.2 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.
- 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 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, including subsequent amendments.

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 subsection 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:

- (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 subsection; and
  - (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°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°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 subsection;
- (b) In addition to the requirements in paragraph (a) of this subsection, 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:
- (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)  $\text{m}^3/\text{min}/\text{m}^2$  (65  $\text{ft}^3/\text{min}/\text{ft}^2$ ) 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 subsection applies to in-line vapor cleaning machines.

- (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 paragraph (a) of this subsection, the operator of an in-line vapor cleaning machine shall use one of the following devices or strategies:
- (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 subsection or the following equation if the volume of the cleaning machine exceeds 2.95 cubic meters:

$$EL = 330 (\text{vol})^{0.6}$$

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 <sup>3</sup> )	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (M <sup>3</sup> )	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (M <sup>3</sup> )	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

Cleaning Capacity (M <sup>3</sup> )	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (M <sup>3</sup> )	3-Month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (M <sup>3</sup> )	3-Month rolling average monthly emission limit (kilograms/month)
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
0.95	320	1.95	493	2.95	632

- (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 subsection;
- (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 subsection. 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;

- (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 <sup>2</sup> /month)	(lb/ft <sup>2</sup> /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 subsection. 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;
- (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 subsection. 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;

- (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;

$$EL = 330 (\text{vol})^{0.6}$$

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 of the wind speed in accordance with subparagraph (f)(1) of this subsection; and
- (4) Weekly monitor the room parameters as specified in this subsection;
- (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;
  - (A) This test shall be conducted while the solvent cleaning machine is in the working mode and is venting to the carbon adsorber;
  - (B) 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
  - (C) The concentration shall be determined through a sampling port for monitoring within the exhaust outlet that is easily accessible and located at least 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, manufacturers, 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 the District incorporates by reference rules and test methods from the United States Environmental Protection Agency (U.S. EPA), 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, including subsequent amendments.

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. Subsection 750.2 does not apply to any coating that does not display the date or date code required by §752.1(a).

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.