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20 DCMR Chapter 7:

**Volatile Organic Compounds**

**Emissions Reductions**

Technical Support Document

As of 12.30.2011

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## NOTICE OF Proposed RULEMAKING

*Posted: August 13, 2010 (57 DCR 7216, D.C. Register ID 472795)*

*Hearing Date: September 13, 2010*

The Acting Director of the District Department of the Environment (DDOE), pursuant to the authority set forth in sections 5 and 6(b) of the District of Columbia Air Pollution Control Act of 1984, as amended, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§8-101.05 and 8-101.06(b)), section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code §8-151.07(4)), Mayor's Order 98-44, dated April 10, 1998, and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the 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 forty-five (45) days from the date of publication of this notice in the *D.C. Register.*

The proposed regulations are necessary to reduce further volatile organic compound (VOC) emissions in the District. VOCs are precursors to ground-level ozone, a principal component of smog that is formed in the atmosphere in the presence of sunlight. Ground-level ozone is a criteria pollutant under the federal Clean Air Act (CAA). The Washington metropolitan area, which includes the District, is in nonattainment of the National Ambient Air Quality Standards (NAAQS) for eight-hour ground-level ozone. On January 6, 2010, United States Environmental Protection Agency (EPA) proposed a primary health-based ozone standard of between 0.060 and 0.070 parts per million (ppm) measured over eight hours. This is in line with Clean Air Scientific Advisory Committee recommendations, but is considerably lower than the 2008 standard of 0.075 ppm. In 2007 and 2008, the District’s air monitoring stations recorded exceedances of the current NAAQS. The design concentration value (a statistically derived value that describes air quality status relative to the NAAQS) for each year was 0.087 ppm. Therefore, the District is required to adopt measures to reduce ozone levels, including precursor emissions of VOCs.

High levels of ozone cause health problems such as eye and throat irritation; breathing difficulties even for healthy individuals, but especially for those with respiratory problems such as allergies, asthma, bronchitis and emphysema; and leads to greater susceptibility to respiratory infection. When breathed into the lungs, ozone reacts with lung tissue and can harm breathing passages, decrease the lungs’ working-ability, and cause coughing and chest pains.

The proposed regulations were first published in the *D.C. Register* on May 18, 2007, at 54 DCR 4846. Although the comment period officially closed on June 18, 2007, the DDOE continued to respond to and in most cases incorporate comments from the regulated community and EPA during the entire revision period. The comments and DDOE’s responses are incorporated in the explanation of the amendments to each section below.

The proposed regulations incorporate Phase II amendments to model rules designed to reduce ozone in the eastern United States and 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 attain and maintain the eight-hour ozone NAAQS. The District originally adopted Phase I of the OTC VOC model rules in April 2004 and then amended them in December 2004.

In addition to incorporating the OTC model rules, this proposed rulemaking adopts the requirements of several control techniques guidelines (CTGs) published by EPA. In accordance with sections 182(b)(2)(A) and 183(e) of the Clean Air Act (CAA), CTGs contain reasonably available control technology (RACT) level controls for specified product categories. The EPA periodically revises the list of CTG categories to comply with section 183(e) of the CAA. Revisions to the list were issued in 2006 (Group II), 2007 (Group III), and 2008 (Group IV). CTG categories account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer and commercial products in areas that violate the NAAQS for 8-hour ozone. CAA section 183(e)(3)(C) provides that EPA may issue a CTG in lieu of a national regulation for controls that are substantially as effective at reducing VOC emissions from each of the CTG categories. Therefore, the District has incorporated seven relevant CTG requirements into the proposed regulations.

The seven categories of Group II, III, and IV CTGs addressed in the proposed regulations are: flexible packaging and printing (in §§ 710, 770 and 771); large appliance coatings, metal furniture coatings, and miscellaneous metal products and plastic parts coatings (§714); lithographic and letterpress printing (§716); miscellaneous industrial adhesives (§§ 743 to 749); and industrial cleaning solvents (§§ 770 and 771). The District submitted a negative declaration (a letter of certification) for the four remaining Group II, III, and IV CTG categories because no sources in the District were identified: flatwood paneling; paper, film, and foil coatings; auto and light-duty truck assembly coatings; and fiberglass boat manufacturing.

All references to the Mayor were changed to “the Department,” defined as DDOE. DDOE is authorized to implement the proposed regulations in accordance with Mayor's Order 98-44, dated April 10, 1998, and Mayor’s Order 2006-61, dated June 14, 2006.

Specifically, the following changes are being proposed:

The title of §700 was changed from “Organic Solvents” to “Miscellaneous VOCs” to more accurately establish and expand the subject of the regulation. EPA’s definition for “VOC” was incorporated by reference in §799. The definition for “solvent” in §799 was adjusted to reflect the organic nature of the compound, which is often referenced in but is no longer the main focus of the regulation. Since §700 is intended to be a catch-all provision for VOCs not regulated in other sections, §700.1 was amended to extend the catch-all to all subsequent sections in this chapter not previously included in §700.1. The 85 percent overall control efficiency requirement in §700.2 was increased to 90 percent. This change was the result of long deliberation about updating the standard to reduce VOC emissions in light of recent revisions to the ozone NAAQS, and the District does not believe it places an unreasonable burden on the regulated community.

The term “photochemically reactive solvents” in §700.2 was changed to “volatile organic compounds” to reflect the true focus of the chapter. The term “overall capture and control efficiency” was added to the end of §700.2 to clarify the intent of the emissions reduction option.

Section 700.3 on “nonphotochemically reactive solvents” was moved to §708, because nonphotochemically reactive solvents are not technically VOCs. However, the section remains in 20 DCMR Chapter 7 to avoid backsliding (weakening requirements by removing a regulation). The District is considering moving the section to a different chapter at a later time.

The District considered repealing §706 on Petroleum Dry Cleaners, but the Air Quality Division’s Permitting and Enforcement Branch recently conducted a dry cleaner survey, which revealed that very few dry cleaning facilities continue to use petroleum solvent in the District. Therefore, §706 was retained.

Section 707, Perchloroethylene Dry Cleaning, was repealed because perchloroethylene (“perc”), a chemical solvent used in dry cleaning, is no longer defined as a VOC. To avoid backsliding, the federal regulation on perc dry cleaners, which is more stringent than the District’s current rule, will be incorporated by reference in a new air quality chapter pertaining to Air Toxics.

Section 708, Solvent Cleaning, was repealed because all of the standards from §708 are addressed with more detail in OTC’s model rule on solvent cleaning, which are included in §§ 763 through 769.

Section 710, Engraving and Plate Printing, was amended to incorporate the limits listed in Appendix 7-1, and Appendix 7-1 was repealed. Since some of the VOC content limits in §§ 710.5 through 710.9 and 710.12 are for source categories that are also controlled in §716 (e.g. offset lithography heatset, letterpress) but are quantified using different methods (i.e. they impose limits on the percent of alcohol in the solution or overall control efficiency, as opposed to VOC content), language was added to allow requirements from both §§ 710 and 716 to apply as appropriate and to incorporate requirements from the Offset Lithography and Letterpress Printing CTG as appropriate.

The control recommendations and emission limits from the Flexible Package Printing CTG were added to §710.5(h) and (i) and §710.6, since flexible package printing uses both flexographic and rotogravure printing presses, and at least one of the District’s major sources does operate a rotogravure press. The CTG controls are for inks, adhesives, and sealants used in presses with a potential to emit (PTE) 25 tons or more of VOCs per year.

The Flexible Package Printing CTG also includes cleaning recommendations for presses that emit over 15 pounds per day but with a PTE less than 25 tons per year. These requirements were addressed with solvents in §§ 770 to 771.

There was some confusion by EPA as to whether §710 is “a 100 ton per year major non-CTG VOC RACT rule”. The District does not have any sources that emit more than 100 tons per year, so it does not interpret §710 this way. Section 710 states that it is for “an establishment coming within the description of Industry Group 2753 as stated in the 1972 Standard Industrial Classification (SIC) Manual of the Federal Office of Management and Budget…” The 1972 SIC code (or Industry Group code) 2753 is equivalent to the 1987 SIC code 2759, which is defined as “commercial printing, not elsewhere classified.” The District is not aware of threshold limits associated with this SIC code, or the subsequent North American Industry Classification System (NAICS) codes. The District intends for the regulation to apply to relevant commercial printing units, such as the Bureau of Engraving and Printing.

The District considered adding NAICS codes to §710.1 to correspond with the 1972 SIC codes, but decided not to do so. Overlap between SIC and NAICS codes can be complicated, and EPA has not yet fully adopted the practice of using NAICS codes. The District also considered adding SIC or NAICS codes to represent facilities affected by the Flexible Package Printing CTG, but instead included §710.1(b) along with definitions for the affected source categories in §799.

Section 714, Controls and Prohibitions on Gasoline Volatility, is not in the District’s state implementation plan (SIP), and was repealed. As written, the rule was relevant from May 1, 1991, to September 15, 1991. During the early 1990s, the District opted into the federal reformulated gas (RFG) program, which requires states to meet volatility standards to decrease evaporative emissions of gasoline during summer months when ozone levels are typically high. On September 30, 1993, the District adopted the Stage II Vapor Recovery regulations to limit emissions of gasoline at the pump during refueling, alleviating the need for the RFG program.

Section 714 was replaced with a catch-all regulation to address three of EPA’s CTGs for source categories that were not directly incorporated into the body of 20 DCMR Chapter 7, and for which the District did not submit a negative declaration: miscellaneous metal and plastic parts coatings, large appliance coatings, and metal furniture coatings. CTG applicability is based on actual emission thresholds (not PTE) from the aggregation of units within a CTG category.

The catch-all CTG rule requires a presumptive 90 percent overall control efficiency. In §714.3, the term “source” is defined for each CTG category, to identify the entities to be regulated now and into the future. There is a “once in, always in” provision in §714.2, along with work practice and record-keeping requirements in later sections. Record-keeping is necessary because provisions in the SIP must be federally enforceable. Even sources that emit less than 15 pounds per day are asked to maintain records to demonstrate that emissions are below the applicability threshold.

Procedures and schedules are outlined for persons who own, operate or lease a source and would prefer to comply with a different option. A source-specific RACT analysis, as explained in §715, may be conducted. As stated later in §715.4, if a source is major, there is no option and a source-specific RACT analysis must be conducted.

Section 715, Major Source and Case-By-Case RACT, outlines requirements for sources with the theoretical PTE of 25 tons per year or over, the major source threshold under the District’s one-hour ozone SIP, which is the basis for the 8-hour ozone SIP limits. Section 715 explains how to calculate “theoretical potential to emit.” The theoretical PTE for VOC RACT is different than PTE used for new source review because it is calculated before controls and is based on any type of limit, not just operational limits. The maximum potential is calculated for 8,760 hours (the number of hours in a year), except for the purposes of §715.3 (i.e. for sources with a CTG), where the potential maximum operating hours can be less than 8,760 hours for any source or unit subject to a federally enforceable limit on the hours.

Section 715 specifies what is required in a RACT analysis, and how the District will handle source-specific RACT analyses when issuing or modifying permits. The alternative RACT process is intended as a negotiation that can become more burdensome as a source emits more pollution. Any final RACT determination ultimately becomes a SIP revision.

The District considered combining the proposed §§ 700, 714 and 715 to establish a presumptive 90 percent limit for all CTGs, area and major sources regardless of applicability, but instead, decided to maintain much of the existing area source (§700) and RACT (§715) language and add a CTG rule (§714) to avoid confusion.

Section 716 was amended to include requirements from the Offset Lithography and Letterpress Printing CTG and is now titled accordingly. Section 716.1 entails separate applicability thresholds for the existing rule and the CTG. It applies to any person who falls into one or both categories. The effective date in §716.5 was amended because requirements were added or changed, but no standards were made more stringent. Sections 716.5 and 716.6 address dampening or fountain solutions; §§ 716.7 through 716.9 address cleaning solutions; and §§ 716.10 through 716.14 cover dryers or inks and heatset ovens for major sources only. The District was careful to maintain existing regulatory language while integrating the CTG requirements as much as possible to avoid backsliding.

The equation in §716.7(a)(2) was substituted with a similar equation from §747.5, since the definitions better correspond with the components of the equation. Both regulate composite pressure, while the latter equation allows more than one exempt compound to be considered and adds the American Society for Testing and Materials (ASTM) methods.

Sections 714, 715, and 716 do not specify compliance with the District’s new source review (NSR) requirements in §204, but do when a new unit with a PTE 25 tons per year is installed. The RACT requirements do not let a source avoid NSR permitting, and the NSR requirements do not allow a source to avoid RACT requirements.

The National Emission Standards For Hazardous Pollutants For Source Categories that was in §717 will be placed in a new air quality chapter pertaining to Air Toxics. Section 717 was replaced with a section on emissions from “Soil and Groundwater Remediation” facilities. Until now, District policy has been contained in a letter addressed to Steve Giffin of the Exxon Company dated June 19, 1991. The letter included an acceptable health-based risk level for facilities that exceed one (1) pound per day after controls. In the proposed §717, the District shortened the policy to remove any reference to risk but retained the control level of at least 95 percent if emission are greater than one (1) pound per day.

As mentioned above, this rulemaking proposes new VOC standards for certain consumer products in §§ 719 through 737. OTC’s most recent “Consumer Products” model rule was an amendment that added three sections to the model rule from November 29, 2001, which was developed and implemented to address the one-hour ozone standard. DDOE received many comments from the consumer products industry concerning sell through dates for non-compliant products. Although these rules do not contain specific sell through dates, to address industry concerns, the new consumer products standards will not take effect until at least six (6) months after the proposed rule is published (which allows for sell through of non-compliant products). In addition, if a consumer product cannot comply within six (6) months, then the manufacturer can seek an exemption through an alternative control plan agreement, an innovative product exemption, or a variance pursuant to §§ 735 through 737.

The revised “Adhesives and Sealants” model rule was moved from §§ 738 through 743 to §§ 743 through 749. It is based on a RACT determination prepared by the California Air Resources Board (CARB) in 1998 that limits emissions of VOCs from adhesives, sealants and primers. The model rule achieves VOC reductions through two basic components: sale and manufacture restrictions that limit the VOC content of specified adhesives, sealants and primers sold; and use restrictions that apply primarily to commercial or industrial applications. By reducing the availability of higher VOC content adhesives and sealants, the sales prohibition is also intended to address adhesive and sealant usage at area sources. Emissions from residential use of regulated products are addressed through the sales restrictions and simple use provisions.

The District included the requirements of the “Miscellaneous Industrial Adhesives” CTG in §§ 743 to 749. The maximum overall control efficiency option in the adhesives CTG was 85 percent, not 90 percent, and thus could not be accommodated in §714. (See §744.5(a)). The adoption of the CTG is why the language of §744.1 and §744.2 is very similar. However, §744.1 refers to “sell, supply, offer for sale…or manufacture for sale”, based on the model rule, and §744.2 refers to “use or apply,” based on the CTG. The District chose to extend the CTG requirements to sealants and sealant primers, since these materials are covered in the model rule, which is broader in scope than the CTG. Table I of §744.2 contains additions that are in the CTG, but not the model rule, such as limits for motor vehicle glass bonding and adhesives applied to plastic or wood. The term “use” is parsed out in subsequent sections, such as §§ 745.3 and 745.4.

In response to comments from the regulated community, the proposed §745.9 includes a limited exemption for single-ply roofing materials during winter months. Even though very little roofing occurs during the winter in the District, this change was made to address the regulated industries’ concerns, and to maintain consistency with similar rules in other states in the OTC region.

Only one comment from the regulated community was rejected. The U.S. Air Force submitted written comments concerning the applicability of rules pertaining to military HAZMAT (hazardous material) pharmacies and similar facilities where paint, adhesives, and sealants are stored and distributed. They requested that the definition of the term “supplies” or “supply” in §§ 743 to 749 be changed to exempt military HAZMAT pharmacies from the requirement to dispose of dated materials. In consultation with neighboring states that denied the request, the District did not grant an exemption for HAZMAT pharmacies.

The model rule on Portable Fuel Containers (PFCs) and spouts was moved from §§ 735 through 741 to §§ 751 through 758. The OTC revision was developed to address emission reduction shortfalls identified by EPA in plans to attain the one-hour ozone standard. The District has adopted the later version of the OTC rule, because revisions to Chapter 700 were not completed before July 1, 2007. The updated model rule requires spill-proof performance systems, and incorporates slightly more stringent testing, labeling and record-keeping requirements than the previous model rule.

The “Solvent Cleaning” model rule, moved from §§ 742 through 748 to §§ 763 through 771, was also developed as part of a regional effort to attain and maintain the one-hour ozone standard, address emission reduction shortfalls, and reduce 8-hour ozone levels. Because of applicability issues, requirements from the “Industrial Cleaning Solvents” CTG were added as §§ 770 and 771, instead of within the body of the rule. However, like in the adhesives CTG, the maximum overall control efficiency option in the solvent cleaning CTG was for 85 percent, not 90 percent, and thus could be accommodated in §714. (See §770.5(b) for the 85 percent option.)

The items listed for exemption in §770.9 are included to make the regulation consistent with the solvents CTG, which is intended to address only those categories that are not addressed elsewhere in different CTGs. As §770.9(b) suggests, solvents that are already covered in §§ 710, 714, 716, 718, and 743 through 749 are not to be addressed by the solvents CTG. However, only parts of the flexible printing and packaging CTG are addressed by §710: parts dealing with inks, coatings, and adhesives for sources that emit 25 tons per year. The cleaning materials portion of the flexible printing and packaging CTG for sources that emit over 15 lbs per day, but less than 25 tons per year, are not covered in §710, but are included in §771.1(b); hence, the cleaning portions of the flexible printing and packaging CTG are excluded from §770 (see §770.9(l), (m) and (q)).

The adhesives CTG is indirectly excluded from the miscellaneous metal and plastic parts CTG because §§770.9(b) excludes §714.

The architectural and industrial maintenance (AIM) exclusion in §770.9(n) can also be found in §714.3(a)(2). That is because AIM solvents are excluded separately in both the solvents CTG and the miscellaneous metal product and plastic parts CTG.

The Architectural and Industrial Maintenance Coating model rule, moved from §§ 749 through 754 to §§ 773 through 779, was changed by OTC for similar reasons as the previous rules. As requested through industry comments, the District included limits for materials in the table in §774.10 that the industry anticipates using to repair the steps of the U.S. Capitol, and made related changes to other sections. An additional request by the regulated community to reduce burdensome reporting requirements in §777 was also granted.

Finally, numerous definitions were amended and added to accommodate the proposed revisions to the District’s VOC regulation.

In summary, the following amendments will be submitted to EPA for approval as a revision to the District of Columbia’s State Implementation Plan: (1) amendments to §§ 700, 710, 715, 716 and 799; (2) amendments to or recodification of the rules for certain consumer products, adhesives and sealants, portable fuel containers, solvent cleaning, and architectural and industrial maintenance coatings; (3) the repeal of §§ 707 and 708; and (4) the inclusion of §714, a catch-all regulation to address three of EPA’s CTGs for source categories that were not directly incorporated into the body of the other amended sections. The District does not plan to include the new requirements of §717 in a SIP amendment.

Comments on these proposed rules must be submitted, in writing, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register* to Ms. Jessica Daniels, District Department of the Environment, Air Quality Division, 1200 First Street, NE, 5th Floor, Washington, D.C. 20002 or sent electronically to [jessica.daniels@dc.gov](mailto:jessica.daniels@dc.gov). Copies of the proposed rule may be obtained between the hours of 9:00 A.M. and 5:00 P.M. at the address listed above for a small fee to cover the cost of reproduction or on-line at <http://ddoe.dc.gov>.

## NOTICE OF Proposed RULEMAKING

*Posted: August 12, 2011, at 58 DCR 6954 (D.C. Register ID 1388475)*

*Hearing Date: Monday, September 12, 2011*

The Director of the District Department of the Environment (DDOE or Department), pursuant to the authority set forth in sections 5 and 6(b) of the District of Columbia Air Pollution Control Act of 1984, as amended, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code §§ 8-101.05 and 8-101.06(b)(2008 Repl.)), section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4)(2008 Repl.)), Mayor's Order 98-44, dated April 10, 1998, and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the 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 forty-five (45) days from the date of publication of this notice in the *D.C. Register.*

The proposed regulations are necessary to reduce further volatile organic compound (VOC) emissions in the District. VOCs are precursors to ground-level ozone, a principal component of smog that is formed in the atmosphere in the presence of sunlight. Ground-level ozone is a criteria pollutant under the federal Clean Air Act (CAA). On January 6, 2010, the United States Environmental Protection Agency (EPA) proposed a primary health-based ozone standard of between sixty one-thousandths (0.060) and seventy one-thousandths (0.070) parts per million (ppm) measured over eight (8) hours. This standard follows the Clean Air Scientific Advisory Committee recommendations, but is considerably stricter than the 2008 standard of seventy-five one-thousandths (0.075) ppm.

The Washington Metropolitan area, which includes the District, is in nonattainment of the National Ambient Air Quality Standards (NAAQS) for eight-hour ground-level ozone. In 2007 and 2008, the District’s air monitoring stations recorded exceedances of the current NAAQS. The design concentration value (a statistically derived value that describes air quality status relative to the NAAQS) for each year was eighty-seven one-thousandths (0.087) ppm. Therefore, the District is required to adopt measures to reduce ozone levels, including precursor emissions of VOCs.

High levels of ozone cause health problems such as eye and throat irritation; breathing difficulties, even for healthy individuals, but especially for those with respiratory problems such as allergies, asthma, bronchitis and emphysema; and leads to greater susceptibility to respiratory infection. When breathed into the lungs, ozone reacts with lung tissue and can harm breathing passages, decrease the lungs’ working-ability, and cause coughing and chest pains.

The proposed regulations were first published in the *D.C. Register* on May 18, 2007, at 54 DCR 4846. Although the comment period officially closed on June 18, 2007, the Department continued to respond to and in most cases incorporate comments from the regulated community and EPA during the entire revision period.

In response to significant comments received between 2007 and 2010, a second proposed rulemaking was published in the *D.C. Register* on August 13, 2010, at 57 DCR 7216 (*D.C. Register* ID [472795](http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=472795)). The proposed rulemaking incorporated Phase II amendments to model rules designed to reduce ozone in the eastern United States and promulgated by the Ozone Transport Commission (OTC). The District originally adopted Phase I of the OTC VOC model rules in April 2004 and then amended them in December 2004. In addition, the proposed rulemaking adopted the requirements of control techniques guidelines (CTGs) published by EPA. In accordance with sections 182(b)(2)(A) and 183(e) of the Clean Air Act, CTGs contain reasonably available control technology (RACT) level controls for specified product categories. RACT was incorporated for seven (7) CTG categories. The preamble to the rule proposed in August 2010 contains more detail about the adopted model rules and CTGs.

Most of the comments to the August 2010 proposed rulemaking were submitted by representatives of the printing industry: the Printing and Graphics Association of the Mid-Atlantic (PGAMA), and the United States Department of the Treasury Bureau of Engraving and Printing (BEP). The Department added new printing-related CTG requirements while attempting to retain existing language and regulatory provisions as much as possible. However, as the history and original purpose of the printing sections (§ 710 and § 716) was not well understood by the commenters, and current industry activity and terminology were not well captured by the Department, these changes caused confusion. Thus, clarifications were made that warrant a third proposed rulemaking.

Two detailed “Response to Comments” documents are available on the Department’s website at <http://ddoe.dc.gov/ddoe/site/default.asp>. A summary of the comments and the Department’s responses is provided in the paragraphs below.

Many of the comments from the printing industry were related to confusion as to whether certain sections of § 710 were applicable to all of the printing industry or just to BEP. As discussed in the preamble of the rule proposed in August 2010 and in the first Response to Comments document from October 2010 (Response 4b), § 710 on “Engraving and Plate Printing” was always intended to apply to BEP. The section was initially and is still applicable to “any printing unit [or operation] in an establishment coming within the description of Industry Group 2753 as stated in the 1972 Standard Industrial Classification Manual of the Federal Office of Management and Budget,” or to “commercial printing, not elsewhere classified.” When the regulation was first published, the only facility that met these qualifications was BEP. The District has always interpreted the regulation to apply only to BEP, and has never extended enforcement based on the requirements of the regulation to any other facility.

However, as PGAMA notes, § 710 does contain limits for lithographic and letterpress printing, even though there is a separate § 716 dedicated solely to lithographic and letterpress printing. Nevertheless, despite the history of the regulations and the fact that BEP does engage in lithographic and letterpress printing, moving forward, the District agrees that the regulatory structure is confusing. Thus in response to PGAMA comments, the lithographic and letterpress portions of § 710 have been moved to § 716, while retaining existing applicability provisions of both sections.

The title of § 710 has been changed to reflect more directly a revised focus on “Intaglio, Flexographic, and Rotogravure Printing.” The reference to a 1972 SIC code (quoted above) in the applicability section of § 710.1(a) has been revised to specify simply that the retained parts of § 710 are intended to apply to “intaglio printing units and intaglio printing operations.” Since BEP is the only facility that operates intaglio printing in the District, the intaglio printing aspects of § 710 remain specific to BEP.

The District interprets the applicability provisions of the proposed § 716.1(a) to be just as relevant to BEP as the previous § 710.1(a). The District does not believe it is necessary to retain reference to the 1972 SIC code (from § 710.1(a) of the regulation proposed in August 2010, quoted above) in § 716, because the 1972 code is not exceptionally descriptive and is no longer relevant. The other lithographic and letterpress portions of § 710 that have been moved to § 716 generally maintain that they apply “prior to March 1, 2011” for printing operations “in existence as of December 31, 1985”. The District believes that these descriptors (“prior to March 1, 2011,” and “in existence as of December 31, 1985”) narrow the applicability of the regulations that pertain specifically to BEP.

The moving of provisions from § 710 to § 716 required additional re-codification of both sections.

PGAMA requested that specific methodologies or guidance for estimating potential and actual emissions and material use be added to either § 715 on Major Source and Case-by-Case Reasonably Available Control Technology (RACT) or, as a follow-up, to § 716. The RACT section is not intended to be specific to any one industry, so that request was denied. Instead of including guidance in § 716, the Department will evaluate calculations on a case-by-case basis using the methods presented. The following EPA guidance documents may be useful for identifying methodologies, in addition to the 2006 CTG for Offset Lithographic Printing and Letterpress Printing:

* Potential or actual emissions from printing operations (note that some factors may have been revised by the 2006 CTG): *Technical Support Document for Title V Permitting of Printing Facilities* (<http://epa.gov/ttncaaa1/t5/memoranda/tsd.pdf>)
* Material use:

*1998 Seitz memo on PTE for specific sources* (<http://epa.gov/ttncaaa1/t3/memoranda/lowmarch.pdf>), or

*Potential to Emit (PTE) Guidance for Specific Source Categories, April 14, 1998, Table 3 Guidance for Printing, Publishing and Packaging Operations*

(<http://epa.gov/ttncaaa1/t3/memoranda/tekmarch.pdf>)

A request to change the fifteen pounds per day (15 lb/day) threshold in § 716 to a three (3) tons per twelve (12) month rolling period was denied. The commenter suggested that a lb/day threshold would require daily recordkeeping and would be burdensome to industry. The Department added language that allows for the estimation of actual daily VOC emissions, based on the monthly average. Also, the District added a provision to § 716.25(b) that allows smaller printing operations to demonstrate applicability or compliance by maintaining material use records instead of emissions records. The intent of these changes is to make the recordkeeping requirements less burdensome for smaller operations.

Several printing-related definitions were repealed from § 199 and added to § 799, as a more appropriate location for them, while other definitions in § 799 were revised. The definition for “volatile organic compound” in § 799 was repealed and moved to § 199 to replace the current definition.

A few non-printing related requests were denied. One was a request to change emission limits for several pleasure craft coatings products. As the Department remains unaware of pleasure craft coating activities occurring in the District, the Department does not think it was necessary to revise § 714, which adopts related CTG requirements.

Requests to reconsider a ban on para-dichlorobenzene (PDCB) from solid air fresheners and toilet/urinal products (§ 721) and a ban on specific products containing methylene chloride, perchloroethylene, or trichloroethylene (§§ 727 and 728) were denied. The Department believes that the regulated community has had adequate time to prepare for compliance with the proposed sell-through dates.

Numerous other clarifications requested by the printing industry as well as the representatives of the consumer products industry, the adhesives and sealants industry, the regulated community, and EPA are discussed in both Response to Comments documents and have been made in the proposed rulemaking.

After these revisions were made, all references to “March 1, 2011,” were changed to “January 1, 2012,” to avoid inclusion of a retroactive compliance date and to give the regulated community time to come into compliance. As a result:

The effective date was changed for the VOC limits in the § 720.1 Table of Standards, as well as in §§ 727, 728, and 729. Text added to § 729 was revised to make the section read like §§ 727 and 728. In all three (3) sections, the sell-through date of products that are manufactured through January 1, 2012, is now the beginning of ozone season (May 1, 2012).

The effective date for FIFRA-registered products in §§ 732.11 and 732.12 was changed to one (1) year after the date specified in the § 720.1 Table of Standards, based on the § 722.1 requirement.

The phase-in for single-ply roof membrane installation or repair adhesives, sealant, or adhesive primer is no longer necessary, since the effective date was changed to January 1, 2012. The “effective date” column in the Table of Standards in § 744.2 was deleted.

Dates were changed in §§ 770 and 771, but no additional re-codification was necessary.

Finally, § 100.4 has been amended to allow for use of the metric system since that is the commonly used measurement in VOC controls. Unlike most other air quality regulations, the VOC regulations use the metric system (for example, degrees Celsius), and this form of measurement should be controlling when indicated in chapter 7.

## NOTICE OF FINAL RULEMAKING

*Posted: December 30, 2011, at 58 DCR 011286 (D.C. Register ID* [*1864066*](http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=1864066)*)*

The Director of the District Department of the Environment (DDOE or Department), pursuant to the authority set forth in sections 5 and 6(b) of the District of Columbia Air Pollution Control Act of 1984, as amended, effective March 15, 1985 (D.C. Law 5-165 (DCAPC); D.C. Official Code §§ 8-101.05 and 8-101.06(b)(2008 Repl.)), section 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.07(4)(2008 Repl.)), Mayor's Order 98-44, dated April 10, 1998, and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the adoption of the following amendments to chapter 7 of Subtitle A (Air Quality) of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR). As required by section 6(b) of the DCAPC, prior to the issuance of a Notice of Final Rulemaking, this rulemaking was submitted to the Council of the District of Columbia (Council) for a review period of up to forty-five (45) days. The Notice of Final Rulemaking was introduced in the Council on October 21, 2011, and was passively deemed approved on December 23, 2011.

The regulations are necessary to reduce further volatile organic compound (VOC) emissions in the District. VOCs are precursors to ground-level ozone, a principal component of smog that is formed in the atmosphere in the presence of sunlight. Ground-level ozone is a criteria pollutant under the federal Clean Air Act (CAA).

The Washington Metropolitan area, which includes the District, is in nonattainment of the 2008 National Ambient Air Quality Standards (NAAQS) for eight-hour ground-level ozone of seventy-five one-thousandths (0.075) parts per million (ppm). In 2007 and 2008, the District’s air monitoring stations recorded exceedances of the current NAAQS. The design concentration value (a statistically derived value that describes air quality status relative to the NAAQS) for each year was eighty-seven one-thousandths (0.087) ppm. Therefore, the District is required to adopt measures to reduce ozone levels, including precursor emissions of VOCs.

High levels of ozone cause health problems such as eye and throat irritation; breathing difficulties, even for healthy individuals, but especially for those with respiratory problems such as allergies, asthma, bronchitis and emphysema; and leads to greater susceptibility to respiratory infection. When breathed into the lungs, ozone reacts with lung tissue and can harm breathing passages, decrease the lungs’ working-ability, and cause coughing and chest pains.

Proposed regulations were first published in the *D.C. Register* on May 18, 2007, at 54 DCR 4846. Although the comment period officially closed on June 18, 2007, the Department continued to respond to and in most cases incorporate comments from the regulated community and EPA during the entire revision period.

In response to significant comments received between 2007 and 2010, a second proposed rulemaking was published in the *D.C. Register* on August 13, 2010, at 57 DCR 7216 (*D.C. Register* ID [472795](http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=472795)). The second proposed rulemaking incorporated Phase II amendments to model rules designed to reduce ozone in the eastern United States and promulgated by the Ozone Transport Commission (OTC). The District originally adopted Phase I of the OTC VOC model rules in April 2004 and then amended them in December 2004. In addition, the second proposed rulemaking adopted the requirements of control techniques guidelines (CTGs) published by EPA. In accordance with sections 182(b)(2)(A) and 183(e) of the Clean Air Act, CTGs contain reasonably available control technology (RACT) level controls for specified product categories. RACT was incorporated for seven (7) CTG categories. The preamble to the rule proposed in August 2010 contains more detail about the adopted model rules and CTGs.

Most of the comments to the August 2010 proposed rulemaking were submitted by representatives of the printing industry: the Printing and Graphics Association of the Mid-Atlantic (PGAMA), and the United States Department of the Treasury Bureau of Engraving and Printing (BEP). The Department added new printing-related CTG requirements while attempting to retain existing language and regulatory provisions as much as possible. However, as the history and original purpose of the printing sections (§ 710 and § 716) was not well understood by the commenters, and current industry activity and terminology were not well captured by the Department, these changes caused confusion. Thus, clarifications were made that warranted a third proposed rulemaking.

The third proposed rulemaking was published in the *D.C. Register* on August 12, 2011, at 58 DCR 6954 (*D.C. Register* ID 1388475). Many of the comments received on the third proposed rulemaking were specific in nature, and can be addressed by observing variance or other generic alternative provisions already included in the rulemaking. The preamble to the third proposed rule contains a summary of the comments and the Department’s responses. The Office of the Attorney General (OAG) confirmed that three (3) non-substantive clarifications would not require DDOE to republish a fourth proposed rulemaking before proceeding to publishing the final rulemaking. Specifically, a line was added to §708 to retain the intent of the existing regulation. As requested by a commenter and intended, one phrase in §744.2 was moved and supplemented to clarify that §744.2 is linked to §744.1. Finally, the definition of “architectural coating” was supplemented to include the full definition language from the OTC model rule, as requested and intended.

**Response to Comments**

**Documents**

**Proposed VOC Regulations (20 DCMR Chapter 7)**

Summary of Responses to EPA Comments

*(As of August 18, 2009)*

| **DATE** | **TOPIC** | **COMMENT/CONCERN** | **RESPONSE** |
| --- | --- | --- | --- |
| 7-15-08 | Miscellaneous Industrial Adhesives CTG | There may be differences between the CTG and the model rule concerning limits or definitions for wood, plastic solvent welding (except ABS), plastic adhesive primer, etc; also, the CTG does not address sealants | 744.2 + definitions – CTG limits have been incorporated into model rule draft (743 to 749); 744.5 includes 85% option |
| Industrial Cleaning Solvents CTG | Does the model rule (763 to 769) adequately cover all batch and in-line vapor cleaning units subject to the CTG? | N/A – EPA determined that CTG and model rule (763 to 769) are similar enough; 770.9(b) |
| 10-24-08 | Proposed section 700 to address CTG requirements using a presumptive 90% overall control efficiency as RACT | Consider accounting for new businesses or technologies | 714.4 defines CTG categories; 714.5 says what persons must do if reg applies to them |
| Include a schedule or plan and how we’d deal with source-specific RACT, in case 90% is not reasonable | 714.6 includes option for CTG sources that do not want to meet presumptive 90%; 715.5 through 715.7 includes schedule and procedural plan for source-specific RACT analyses |
| To put a source-specific RACT in a SIP, DDOE would need to start with an enforceable document (permit, consent decree or compliance order) or regulatory provision | 715.7(b) |
| Consider adding a catch-all about work practice standards | 714.5(c) |
| Make sure that new sources that attain 90% are not supposed to be attaining more than 90%; do not trump NSR, especially where control requirements are graduated (e.g. if a new press with a PTE>25tpy is installed, make sure the change still triggers NSR and does not get the facility out of NSR by complying with the CTG requirements) **or vice versa**; make sure NSR does not trump CTG requirements | 710.3, 714.2 and 716.1 make provisions for NSR (§204) |
| 2-2-09 | EPA Memo on RACT for Cleaning in Flexible Package Printing | N/A in 714 because 90% is not an option for the CTG category | 710 applies for sources > 25 tpy;  770.1 and 770.9 apply for sources > 15 lb/day & < 25 tpy |
| 3-18-09 | Industrial Cleaning Solvents CTG | Concern that presumptive 90% would apply a more stringent requirement to a vaster universe of cleaning solvents without the g/liter or 8 mm VP options | 770.4(a) to (c); 770 and 771 – The CTG requirements are now incorporated into additions to the model rule (763 to 769) with an 85% option |
| Offset Lithographic & Letterpress Printing CTG | Avoid the appearance of backslides where total emissions of VOCs from all operations (vs per operation) >25 tpy; make sure the regulated community does not change: fountain (litho) & cleaning (litho & letterpress) =>15lb/day; 90-95% only if >25 tpy; dampening – 30 vs 70%; CURRENT REG MUST REMAIN IN PLACE | 716; 716.9 – see adjustments to address applicability; most of the existing language has been maintained |
| 3-26-09 | 714 on Gasoline Volatility | 714 is not in DC’s SIP; DC opted into the Fed RFG program in the early 1990s, so the reg is no longer needed | 714 – *REPEALED* |
| Proposed 706 on Soil & Groundwater Remediation | For RACT purposes, consider putting all but 706.2(c) on cancer risk in the SIP – could get SIP credit; then might need to edit exclusionary language in 700 | SVE chapter was moved to 717 so that it’s past sections 701 to 713, as previously referenced in 700; exclusionary language in 700 has been avoided; 717 on SVE will not be added to the SIP; reference to cancer risk has been removed |
| 3-27-09 | Proposed 700 on CTGs & RACT | Add language to preamble about recodification, etc | Ok – see revised preamble |
| Does “source” mean the same as “emission units” (stationary sources only) and their emissions? What’s the intent? | 700.2 (and 714.1, etc) clarifies intent (“from any combination of…”); 700 is a catch-all for all of Chapter 7 |
| The original exclusion in 700 was for 701 to 713, so applicability may be a big issue; EPA cannot approve an exclusion without seeing the specifics – it would look like EPA is approving future amendments; do not inadvertently exclude someone from a CTG requirement if it is more stringent than the reg or vice versa – timing between release of CTG and adoption of reg can become an issue; make sure CTG source emissions are regulated by a rule before excluding CTG sources from the determination of whether the emissions count towards a source being a major non-CTG source of VOCs | 700 is intended to be a catchall for the entire chapter, not just 701 to 713 – the language has been changed accordingly; “Source” is now defined per CTG category in 714.4 + definitions, which contain exclusionary language per CTG category to clarify what’s applicable and what is not; 714.2 contains “once in always in” language to avoid accidental automatic backsliding |
| VOC emissions under 718 (MERR) and 773-778 (AIM) do not count as misc metal and plastic parts coatings when used for those purposes; aerosol coating and janitorial cleaning should be excluded too | 714.4(a)(1) to (4); aerosol coating is already be excluded in 718; janitorial cleaning is excluded in 770.9 |
| 2.7 tons per year does not add much to 15 lb/day threshold | Removed references to 2.7 tpy |
| Add abbreviation for “CTG” | See definitions |
| Much of the content of 715 on major source RACT should not be lost; there needs to be a way to determine whether the emissions count towards a source being a major non-CTG source of VOCs | Retained existing language in 715 to avoid confusion; 715.1(a) has been updated to be consistent with the meaning of 715.3 |
| Need definition for RACT | See definitions – check definition for RACT – it’s circular |
| Is the Mayor still the official in the DCMR who’s identified as the decision-maker, or should it be DDOE? | References to the Mayor have been changed accordingly to “the Department” |
| Decide on what’s required for the RACT proposal – a plan approval application? Prescontruction permit? Application for operating permit amendment? | 715.5; 715.7(b) |
| Proposed 710 on Engraving and Plate Printing (BEP) | How do litho/letterpress printing limits from the Appendix fall under the CTG? Do they fall within the CTG exclusions? (CHECK BEP PERMIT) | 710.11 addresses potential overlap for heatset ovens; otherwise, N/A – 710 addresses VOC content limits; the CTG and 716 cover % alcohol (dampening solution) & control efficiency, inlet VOC concentration, or enforceable PTE limits (inks); 710.5, 710.7, and 710.8 include a phrase to ensure that both 710 and 716 limits are followed |
| Do the flexography and gravure parts fall under the flexographic printing CTG? If yes, then how does the PTE of the individual presses stack up vs the CTG’s 25 tpy threshold? (CHECK BEP PERMIT) | 710.5(h)(1)-(4), 710.5(i)(1)-(4) plus 710.6 are intended to address the CTG for major sources; 770 and 771 on Miscellaneous industrial Solvents address the CTG for applicable sources (>15 lb/day) that are not major (<25 tpy), since flexible and gravure cleaning materials are not otherwise addressed and cannot fit in 714 because of the presumptive 90% |
| 3-31-09 | 716 on Offset Lithography and Letterpress Printing | The current §716 still has value; must keep current provisions for those facilities subject to it | Retained existing language in 716 as much as possible |
| Be careful about applicability (>25 tpy vs >15 lb/day) to avoid backsliding; if any facility is having problems meeting the current limits, then DDOE should know by now | 716 – see adjustments to address applicability |
| May need to add definitions to 799 and/or add “or letterpress” to existing definitions (e.g. def for “fountain solution” vs “dampening solution”) – SEE SAMPLES | Added “or letterpress” to 716 + definitions, where specifically appropriate |
| 4-21-09 | Handout on Region III’s Goals + Overview and General Background | Implement CTGs to meet the CAA requirements | DDOE used a default approach (presumptive 90% in 714 & 715) to address 3 CTGs, but also incorporated the requirements of 4 CTGs (710, 716, 743-749, 770-771) with attention to detail |
| Ensure that no SIP relaxations occur; this is why the exclusion list was added to the draft 700; be sure that current requirements are kept in place | Existing language was maintained as much as possible to avoid confusion; CTG categories are defined in 714.4; clarified understanding of what’s in SIP vs not in SIP and why clarity is important; for example: 716.6 – retained both the 30% and 70% to prevent a SIP relaxation |
| National rules focus on manufacturers, importers, retailers, etc VS CTGs focus on end users only!! Be careful when mixing the two…especially within the proposed 700 – this is another reason why the exclusion list was added to the draft 700 | 710 & 716 include emission limits and options; 743-749, & 770-771include 85% and options; 714 contains presumptive 90%; + definitions; DDOE carefully addressed applicability issues when incorporating CTGs into reg |
| Note: need to meet minimum CTG rqrmts; graduated applicability levels are typically based on cost; diff applicability levels may apply to diff aspects of a source | See above |
| 4 options: (1) detailed regs per CTG; (2) neg decs with comment period; (3) proposed 700 approach, although there are problems with who’s under it and who isn’t; or (4) add definitions to address exclusions, but only target specific CTG categories | Chose #1, #2, and #4 |
| 5-12-09 | Fiberglass boats | N/A – neg dec | Ok; could add NESHAP to Ch 16 |
| Adhesives and Sealants Model Rule & Miscellaneous Industrial Adhesives CTG | CHECK VERSION OF MODEL RULE USED BY KK vs CC vx JD | Final version used was identified as “last printed on 10-10-06” |
| Consider adding limits to chart to address CTG (especially since “use or apply” is in our reg already); add definitions for new categories | 744.2 – additions were made to Table 1 + definitions |
| Make sure it’s okay to combine manuf/etc with end use | 744.1 (sell, supply, offer for sale, or manufacture for sale) and 744.2 (use, apply) were kept separate |
| Compare exemptions in model rule vs CTG (CTG exempts some categories from limits, but not work practices or application methods) | OK – ongoing |
| Can’t use the term “this rule”, since DCRM does not have a rule structure | Replaced references to “this rule” with “§§ 743 to 749” |
| Be careful not to create an exemption from an exemption | 745.9 and 745.10 – Adjusted wording |
| EPA added a draft section on “application methods” + definitions to address CTG | 749 – Added section + added/revised definitions |
| 5-13-09 | Industrial Cleaning Solvents CTG | EPA added 2 draft sections + definitions to address CTG | 770 and 771 – Added sections + added/revised definitions; 770.4(c) was added to include the 85% option; 770.9(b) was expanded to include language from the CTG; 770.9(l) only addresses cleaning materials, so remains separate from the 25tpy limits for flexography and gravure in 710; see 770.9(g) and (m) for additional exemptions under the Flexible Printing CTG – the CTG is covered within the Industrial Cleaning Solvents CTG requirements |
| Add definitions | OK |
| 5-15-09 | Meeting w/EPA | Adhesives & sealants – issue with CTG is categorization; rule is broader in scope than the CTG (e.g. plastic pipe welding) | 743 to 749 revisions include both model rule and CTG requirements; see 744.2 |
| Solvent cleaning – issue w/CTG = metal degreasing | 763 through 769 remains separate from 770 and 771 |
| Fiberglass boats – we could adopt the NESHAP by reference (in Ch 16) | Neg dec + adopt NESHAP |
| SIP everything but the SVE section; move past 713 if possible | New SVE chapter is 717 |
| SIP amendment would go beyond 713; intent was for 700 to be a catch-all | 700 has been corrected to be a proper catch-all |
| Case-by-case RACT section – we can revamp it during the next round of ozone SIPs | 715 has been revised |
| Keep sections on CTGs and RACT separate | 714 (CTGs) and 715 (RACT) are separate and have been revised |
| Still need to add definitions from EPA document | Check definitions |
| Make sure that testing, recordkeeping and reporting, monitoring procedures, etc (IBRd/ Ch 5) are in SIP | 20 DCMR Ch 5 is in the SIP |
| Incorporate more language from original 715 in RACT chapter; 715 doesn’t say what RACT actually is; if NSR or CTG, 715 should not apply (??) | See above |
| Do not need dates in regs – then don’t need regulatory amendment | Will likely include dates because sources will want dates |
| 7-17-09 | 716 on printing | Check applicability | See revised 716 |

**Proposed VOC Regulations (20 DCMR Chapter 7)**

Summary of Responses to EPA Comments – Round 2

*(As of October 30, 2009)*

| **DATE** | **TOPIC** | **EPA COMMENT/CONCERN** | **DDOE RESPONSE** |
| --- | --- | --- | --- |
| August | Neg decs, etc | If, instead of doing neg decs, we want to adopt NESHAPs as RACT in the SIP (fiberglass boats, flatwood paneling), we need to check the CTG to see what it requires and identify any potential issues | Will probably do neg dec at this point – need to get reg moving |
| If we do not adopt Chapter 16 at the same time as the VOC reg, enforceability would be the issue | OK – should be able to adopt both at same time |
| The PFC rule needs a review – there is a reference to “Secretary of State” in there | October 26 discussion |
| There are two definitions for “flow coating”, so the rules to which each applies need to be referred to | OK – fixed per EPA suggestion |
| September 19 | Miscellaneous Industrial Solvent Cleaning | 770.9 – Delete (b)(1) through (4); most refer to duplicates of other items in 770.9 | OK |
| 770.9 – Add new items (n) through (t) to make consistent with CTG and proposed (b)(1) through (4) | Missed “q” so new items are actually (n) through (s)  L, M, S – part of the flexible packaging and printing CTG is addressed in 710, so is referenced in “b”; see October 8 comments (below)...  N – The AIM rule is not referenced in “b”, but the exclusion is already in 714.4(a)(2), and 714 is referenced in “b” – DELETE – BUT, per discussion on 10-16-09, KEEP – 770 and 714.4(a) are exclusive, so the exemption needs to occur twice  - Also, DELETE 714.4(a)(3) - it is not necessary to exclude 770 and 771 because they already exclude 714  O – Gravure operations are addressed broadly in 710 (even before introduction of fp&p CTG elements); 710 is referenced in “b” – DELETE |
| 770.9(g), (j), (k) – adjust wording to make more consistent with definitions | OK |
| Add definitions to 799 | OK |
| 771 addresses cleaning and handling | Removed 771.1(a), since 714 already contains the work practice conditions in 771.2, and to make interpretation easier for the reader |
| 771.1(c) – flexible packaging and printing – some of the fp&p CTG is addressed in 710 (>25 tpy), but the other portion related to cleaning materials (and >15 lb/day) is not; therefore, it is appropriate to refer to fp&p in 771.1 – KEEP |
| September 23 | Adhesives & Sealants | DC will need to pick a new date in lieu of May 1, 2009 | The change will occur upon completion of a final draft – at this point, it will probably be June 1, 2010 |
| Change category names in table to make them consistent with definitions | OK |
| 745.1(g) – where is it from? – check CARB rule and add definition for “polyester bonding putties” and “fiberglass parts” | Section is from page 16 of the CTG –DO NEG DEC & DELETE |
| 745.2 – change wording to make consistent with definitions | OK |
| 746.1 – add comma | OK |
| 747.1 – add term | OK |
| 799 – modify, add, and/or underline definitions | OK |
| September 27 | Draft Sections 714 and 715 (CTGs and RACT) | 714.1 – add language about the aggregation of units within a CTG category; link to 714.4 | OK – see revision per 10-26-09 discussion; “§714.3” and “facility” are only mentioned once |
| CC is checking to see if both 714.2 and 714.3 are necessary – see October 8 comments below | OK – combined 714.3 with 714.2 and renumbered section, but removed reference to Federal CAA and added “provisions of this section…or is federally enforceable” |
| 714.4 – editorial suggestions | OK |
| 714.4(a)(4) – new heavier vehicles should be included here because they are not addressed elsewhere due to the neg dec for the auto and light duty truck CTG | DELETED 714.4(a)(4) – per discussion, since we’re doing a neg dec for the auto & light-duty coatings CTG, the exclusion is not needed; the category would be covered under the misc mp&pp CTG |
| 714.5 – adjust language; part (c) is not the same as (a) and (b), which involve the coating process; (c) occurs outside of the coating process; it is very difficult to quantify the impact of work practices, so (c) cannot be its own alternative; part (d) is not straight-forward and would require a “determination of equivalency” or another analysis | Since 714.7 requires work practices (the requirement is a result of the solvents CTG), it is not necessary to include (c) in 714.5. Then, part (d) does not make sense – it does not make sense to require both (a) and (b).  Therefore, AQD deleted options (c) and (d). |
| Add 714.7 to address the solvent CTG requirement for 714 categories in 714 (instead of requiring sources to find the requirements in 770 and 771) | Only certain work practices would need to be followed, so “as applicable” was as added to 714.7 |
| Add 714.8 – a facility still has to tell us what they’re doing to meet requirements if they follow a CTG, but without the extensive financial analysis, as required in 715 | OK – adjusted order of section; removed definition for RACT in the reg, since RACT definition is in 799 |
| Keep 714.9 – EPA prefers that sources below the CTG threshold keep adequate records to show the exemption applies | See below |
| 771.1 – remove (a), since 714 already contains work practice requirements | OK – also, the work practice “VOC containing materials” presumably includes cleaning materials |
| September 30 | Sections 710 and 716 on printing | 710.3 – do not need to refer to NSR (204), based on discussion | OK |
| 710.5 – adjust wording | OK |
| 716.1 – see 710.3 comment | Will keep reference to 710 “as is” because…why not |
| 716.4 – adjust wording | OK |
| 716.6 – check “one of” wording, since the phrase starts with “no person”; does it make sense? | OK – made a revision that is different than the suggested revision |
| 716.7 and 716.8 – make terms consistent with definitions | OK |
| 716.9 – the inclusion of part (a)(3) opens a can of worms because it says, “a person may be granted by the Department an enforceable limit…” | KEEP – incorporated contents as a new 716.11; see below |
| 799 – add/check definitions – there seem to be differences between the current DCMR and the current SIP | Parts of the last round of VOC revisions may not have been SIP’d, but they will be SIP’d this round |

| **DATE** | **TOPIC** | **DDOE Question** | **EPA Comment** | **DDOE Response** |
| --- | --- | --- | --- | --- |
| October 8 | DDOE submitted a list of remaining questions to EPA | 708 – do we need to keep the section on “nonphotochemically reactive solvents”? | Deletion would probably be seen as a potential backslide | OK – we’ll keep the section for now, even though they’re not VOCs |
| 710 – is the term “plate” in the title of the section appropriate? | Probably depends on facility which necessitated the need for 710; is not an EPA issue | OK |
| 710.1 – we may propose NAICS codes that correspond with the 1972 SIC codes – is that okay? (THEN, we decided not to)  (DC still thinks that SICs will be harder to implement as time goes on; once NAICS are incorporated into AFS, it may be easier to transition from SIC codes to NAICS) | Per discussion – make sure SIC codes include flexible package and printing presses; see below | Did not include NAICS codes because of DC’s recent experience with NSR draft – EPA suggested it is not necessary to do so |
| 710.2 – is this section necessary, since we’ve added “in addition to any applicability requirements in 716” in 710.5, 710.8, etc.? | Probably not, as long as each and every previous requirement in 710 is prefaced (to avoid backslide) | Keep 710.2 |
| 710 – just to clarify, we do not think this section is RACT for 100 tpy major sources | See provided history of the reg – it’s based on a DC commitment from 1988, and would probably only become an issue if we need to re-evaluate non-CTG source-specific RACT based on PTE | OK |
| 714.2 and 714.3 – are both necessary? | Try combining; note that the difference between actual and PTE threshold requirements | OK – 10-26-09 discussion led to agreement that 714.3 is not necessary, since DC does not have separate localities or NESHAPs which could result in situations where 714.3 would make sense |
| 714.4(a)(3) – do 770 and 771 cover “aerosol coatings” (per CTG, page 6), or is the aerosol exclusion elsewhere? | Part of the aerosols CTG requirement is covered by the 90% capture & control efficiency (714.1), and the rest by 714.7 or 770 & 771 or national rules, etc…see notes | OK |
| Follow-up: 770 & 771 – Should there be more CTG exemptions (gel coats…)? | Not if do neg dec for fiberglass boats | OK |
| 714.4 – are caps appropriate? | Not necessary, at least per EPA | OK |
| 714.9 – should section be struck or not? | Keep record-keeping requirements provide proof that sources fall below threshold so 714 does not apply; this is important because the CTG thresholds are based on actual emissions, not PTE or a design or physical characteristic; in fact, **for the SIP**, provisions need to be enforceable, so may need to make sure record-keeping requirements that enable EPA to make an informed decision are added to 710, 716 and 770 too  FYI: in MD, any facility that emits VOCs from CTG categories are applicable to control requirements! | See below  Per 10-30-09 discussion – since wording offered per PA example is vague, decided that maintaining records “upon request” is not too burdensome; per EPA, such facilities are probably already subject to a NESHAP already (historical context: there was a RACT fix-up or sweep, so affected facilities may already be maintaining records?) |
| 714.8 – do sources need to submit a work practice plan? (the rqrmt was removed) | No; 714.7 requirement to do work practices should be fine | OK – also, work practices are difficult to monitor and enforce |
| 715.1(a) – is just saying “PTE” okay? | See provided history of the reg and suggested changes | We intend for 715.1 to apply to the section, not the chapter, and do not want to add another definition for PTE (it’s already defined in Title V and Ch. 1); plus, DC will probably never have a source that EPA is trying to consider with the proposed scenario; we do not want to overcomplicate the rule for the industry regulated by DC; instead, if a large VOC emitter came to DC, we could interpret RACT and deal with any ambiguity through the permitting process – please see suggested changes |
| Per 10-30 conversation – Include a “once in, always in” provision tailored to the CTG requirements to address 715.1 change from “chapter” to “section | 710 – see 710.1(b)(1)  714 – 714.2 used as model  715 – n/a  716 – see 716.2  770 – see 770.2 |
| 715.2 – is this section supposed to refer to “theoretical PTE”? | See provided history of the reg and suggested changes – there’s a difference between PTE for NSR, and PTE for VOC RACT (i.e. after vs before controls; any vs operational limits)  Include a “once in, always in” provision tailored to the CTG requirements to address 715.1 change from “chapter” to “section” | Per conversation on 10-27-09, it’s okay to simply delete 715.3 – We do not believe that it is necessary to include “in the future” in 715.2, even though it was in 715.3; the reg is applicable once a facility reaches the limits, period |
| 715.2 (after comments) – Should we add a definition for “federally enforceable” to substitute: “Federal Clean Air Act (42 U.S.C. 7401 et seq.)” | OK | Added def in 799 |
| 715.7(a) – can’t we delete reference to the definition for RACT? | Yes – definition is in 799 |  |
| 715.7(d) – which is the most up-to-date version of the OAQPS manual? | Change reference to 2002 version (sixth edition) | OK |
| 716.6 – the equation and definitions do not match! | Use formula from 747.5; both regulate composite pressure, and 747.5 equation would allow more than one exempt compound to be considered and adds the ASTM methods in the defs of components | OK – changed equation |
| 716.6(b) – do you mean “one” or “both”? | Depends on phrasing – intent is one or the other | OK |
| 716.9(b) – DDOE staff would like to include section b…but would it be okay to do so without the time limits? | Provision remains optional; if do so, make sure timing allows for EPA to approve source-specific SIP provisions prior to or with approval of 716, because EPA cannot enforce “b” until it’s in the SIP; could place in preamble | If the provision is in the preamble, it would not be enforceable; (a) conflicts with PAL of NSR, but perhaps only if the threshold was 50 tpy and not 25 tpy – KEEP as 716.11  Per 10-30-09 discussion – any SIP revision per (now) 716.12(c) would theoretically occur before the reg is active, so keep part (c); *before reg is published, determine if any DC sources will be affected and coordinate with them!* |
| 716.9 (no 716.11) – Why does “once in, always in” apply here – doesn’t that throw out PAL of NSR? | The two provisions do not mesh together – if you go through NSR, the permit is federally enforceable because of operational or physical changes; this is different than imposing VOC RACT on existing sources |
| 716.11 – is it safe to assume the CTG intends to cover both offset lithographic and letterpress printing? It just refers to “heatset presses” for this requirement | Yes – the CTG’s use of the word “press” was intended in the context of what was being controlled in the first place | OK |
| 744.2 – does the 500 limit work for “plastic cement welding”, even if the OTC rule and CTG both include a limit of 510? | The CTG has 500 for “plastic solvent welding”, and the OTC rule has 510 for a similar “plastic cement welding”; EPA is not concerned about a 10 g/l difference | Will stick with 500 limit, since EPA is not concerned about minor differences |
| 745.1(g) – this section can be deleted if we do a neg dec for fiberglass boats, correct? | Yes – correct | OK – deleted 745.1(g) |
| 770.4(c) – any ideas on how to word the phrase to make it make sense – am not having any luck | See EPA suggestion | OK |
| 770.5 – Is section repetitive with 770.2? Are both necessary? | 770.2 IBRs a method, and 770.5 dictates what the method is used for; per discussion with EPA, it may be okay to delete 770.2, since Method 24 is already IBR’d in Ch. 2 or 5, but check DC’s administrative requirements | Both need to be kept; 770.2 is IBR’d elsewhere in Chapter 7, but the IBR does not specifically mention Method 24. |
| 770.5 needs to be articulated – is (c) supposed to apply to both (a) and (b)?? – YES; see proposed language |
| 700.2 – to clarify meaning, the term “overall uncontrolled VOC emissions” was changed to “uncontrolled VOC emissions are reduced by at least…90% overall capture and control efficiency” |
| 770.9 – Aren’t some of the exclusions (parts l, m, n, p, s) already referenced in part b? | Check CTGs  P – Probably should o | P – Deleted – See September 18 comments (above)  N – KEEP – See September 18 comments (above)  L, M, S – the inks, coatings, and adhesives portions of the CTG for sources >25 tpy is covered in 710, so are addressed in b and should be deleted from 770.9…but the cleaning material portions for sources >15 lb/day are not AND SHOULD NOT BE EXEMPT because they should be addressed by the solvents CTG (and thus by 770 and 771) – DELETE – BUT, per discussion on 10-16-09, there are no vapor requirements (770.4) in the fp&p CTG, so it is not necessary for 770.4 to apply to fp&p cleaning materials – KEEP L, M, S |
|  | L & M & S – Need to make sure the SIC codes in 710.1 include sources impacted by the Flexible P&P CTG (per discussion – and then delete l & m?) or, per discussion, could consider a neg dec for flexible p&p with an exception | Do not need SICs in 710; instead, facility descriptions are written out in 799 definitions for “flexible package…” |
| For now, will not consider neg dec with an exception |
| 771 – check solvents CTG | 771.2 – Per discussion on 10-16-09, delete “used in processes subject to 770.9” – doesn’t make sense to be subject to 770 and 770.9 | OK – and keep 771.1(b) to address the portion of the fp&p CTG that is not addressed in 710 |
| 777.1 to 777.6 – edited language to make each section consisten |
| 770 & 771 – is the 85% requirement from the CTG included? | The 85% requirement is in 770.4(c) | OK |
| 770.6 – changed the reference in part (c) from 708.11 to 770.6(b) |
| 773 to 778 – is the 85% requirement from the CTG included? |  | 773 to 778 is very specific to AIM categories; no CTG applies here |
| 799 – Is there a better definition for RACT, since the previously suggested definition is circular? | The suggested definition for RACT is the same definition used in the District’s 715.7, which is the same definition used by EPA since 1978 | OK |
| October 26 | PFCs |  | Dates indicate that second version of OTC model rule (for rules adopted after July 1, 2007) was not adopted | OK – see corrected version; this takes care of improper references to “Secretary of State” |
| Consumer Products |  | Adoption looks okay |  |
| October 29 | Follow-up to 10-26 discussion – requirements for actual emissions vs PTE |  | See accepted recordkeeping provision for CTG rules having a 15 lb/day actual emissions cutoff | 710 – n/a; no rkdkpg provisions necessary b/c no 15 lb/day cutoff  714 – see 714.1 and 714.8  715 – n/a  716 – see 716.1(b) and (c) and 716.18  770 – see 770.1 and 770.10; see 771.1 and 771.3 |
| Provided a conceptual outline for rules with theoretical 25 tpy PTE thresholds | 710 – see 710.6; calculations of PTE should be made pursuant to 715  714 – n/a  715 – see 715.1 through 715.3  716 – see 716.1(a); calculations of PTE should be made pursuant to 715  770 – n/a |
| Applicability sections of CTG rules will need to be modified to require sources claiming they are below the 15 lb/day threshold to keep minimum records | 710 – n/a  714 – see 714.1(b) and 714.8(b)  715 – n/a  716 – see 716.1(c) and 716.18 (b)  770 – see 771.1(c) and 771.3(b) |
| October 30 | Wrap-up | 745.3 and 745.4 – Less than 15 lb/day exempts from all standards (could emit 100 lbs/day), so what’s the value of a 200 lb/yr exemption (ex: exempts small auto body shops) | There may be situations where a stronger limit is needed (200 lb/yr is more stringent that 15 lb/day, which would equate to about 5400 lb/yr)  DC could craft a different applicability for a specific industry (like auto body shops); if do so, consider both sections & any meshing with MERR; be careful not to mix time frames, and be careful about recordkeeping (daily requirement would be more burdensome than monthly) | OK with model rule as written for now |

**Proposed VOC Regulations (20 DCMR Chapter 7)**

Summary of Responses to Public Comments

*As of January 2010*

*All comments were received after the official close of the initial comment period. All commenters have been added to a special listserv and will be sent the proposed rule when published in the DC Register.*

| **PERSON/ CONTACT INFO** | **QUESTIONS/ COMMENTS** | **DDOE RESPONSE** |
| --- | --- | --- |
| Ann Meiner  U.S Department of Commerce  301-975-2921 | Concerned about application to foreign products – discussed applicability and what companies need to do. | Responded to questions about variances, sell through provisions, and exceptions; no changes required |
| Dylan Fuge  Latham & Watkins  202-637-2391 | Calling on behalf of clients to clarify some issues | Responded to questions regarding the applicability to cosmetic products, sell through provisions, variances, and compliance/enforcement; no changes required |
| John Hoertz  U.S. Air Force, Regional Environmental Officer  404-562-4210 | Submitted written comments concerning the applicability of the rules on military HAZMAT pharmacies (they distribute many paints, adhesives, and sealants under the VOC rules). Requested that military HAZMAT pharmacies be exempt, or not considered/defined as “suppliers.” Sent comments to AQD to discuss. | Responded to questions about sell through dates, retailers, consumer products applicability and labeling, and coding for adhesives. However, DDOE decided not to grant an exception to military HAZMAT pharmacies.  MD is not granting the same exemption request, but VA did grant the exemption. |
| Joe Yost  Consumer Specialty Products Association (CSPA)  202-833-7325 | Questions about different consumer products VOC standards, exemptions, and sell through periods. | Responded to questions; no changes required |
| Doug Raymond  Represents Honeywell, Dupont, AGC, etc. | Questions about VOC definition and sell through dates for electronic cleaners. | Responded to questions; no changes required |
| Marnie Moore  Larkin Hoffman, PC  952-835-3800 | Questions about VOC standards for different consumer products, exemptions and sell through dates. | Responded to questions; no changes required. Will seek variances for certain products. |
| ? | Consider adding California’s enhanced vapor recovery (EVR) standards | The new rule states that vapor system technology (VST) Phase II EVR Systems should be at least 95 percent efficient and not exceed 0.38 lbs hydrocarbons per 1000 gallons of gas transferred. The current regulation refers to 90 percent efficiency (not vacuum assist) and 96 percent efficiency (with vacuum assist). No action was taken. |
| Kathy Prunti  EPDM Roofs  301-654-5090  Bill Schneider  ERA (EPDM Roofing Association)  717-245-7000 | Concerns about single ply adhesives, primers, and sealants. Limits too low and cannot be maintained in colder climates | DDOE requested information to aid in decision-making on roofing request. Seth Barna of OTC was able to fax a copy of a confidential memo from EPDM to OTC, which contained information on roofing in DC.  The proposed phase-in (sunset provision) is similar to the approach being taken by other OTC states. No change was required. |
| Frances Woo  Personal Care Products Council  202-466-0495 | Reporting requirements for date codes on consumer products  The Proposed Rule, 20 DCMR 732.7,  says that manufacturers must provide an explanation of the date code no later 12 months before the applicable standard goes into effect.  Since the rules are proposed to take effect on January 1, 2009, the date code reports are due now | Our rules were not final at the time of the call.  Several other states have not finalized the rules either, even though the date code explanations were due by January 1, 2008.  Although we cannot officially make them file the date code explanations before the rule is final, it would be easier for the manufacturers to file them all at once.  So, Ms. Woo was calling to let us know that we should be expecting some date code reports in accordance with the proposed rule. No action was taken. |
| David F. Darling, P.E.  Director, Environmental Affairs  National Paint and Coatings Association  202-462-6272 | The DC AIM rule (Section 753) requires annual reports for clear brushing lacquers; rust preventatives; primer sealer undercoaters; perchloroethylene/methylene chloride; recycled paint and bituminous roof coatings. NPCA requested on behalf of their members a waiver from these burdensome "automatic" annual reporting requirements. These requirements originated from the CARB 2000 AIM Suggested Control Measure and were subsequently included in the OTC "model rule", but only two OTC states actually adopted the requirements. In October 2007, CARB deleted the requirements from the 2007 AIM SCM. | Change to reporting requirements was made in response to comments |
| Christopher Dugan  Printing Industries of America | Asked whether we’re adopting regs based on the 2006 CTG for lithographic printing.  His concern is that he has talked to many states that are developing regs and from what he has seen and heard there have been variations in interpretations of the CTGs. IPA is working with EPA to develop a model rule based on the CTG, hoping that states will use the model rule and so have consistency between states.  The model rule language should be done before the end of the year but he doesn’t know when EPA will be able to get it into the FR.  He thinks he’ll be able to share the model with us informally, before it appears in the FR. | Told him we were just beginning to develop the regulations; no action was taken. |
| CRC Industries | Called to discuss what DDOE is doing about the consumer products rules compliance date; she has seen several states’ recently proposed rules (maybe IL and DE) and they are putting in a May 2009 kind of time frame | At the time of the comment, the compliance dates were still to be determined (TBD); date will be later than May 2009 |
| Michael S. Graboski  American Rental Association | ARA’s members are stores that rent tools and equipment for contractors and the general public. They are trying to understand various regulations related to PFCs. EPA has implemented a national regulation covering low permeation spill proof containers for gasoline diesel, etc. The rule is directed at manufacturers and does not place any requirements on cans that were purchased prior to January 1, 2009. How will in-use fuel containers be regulated in DC? (For example: a member rents chainsaws. To protect his equipment, he provides a fuel can containing two cycle oil-gas mixture. Are the fuel cans exempt, or are they subject to enforcement?)  In response to the word “supply” in the PFC model rule, Graboski contacted CARB, and they told him the rule applies only to manufacturers. (CARB’s email stated: “Although the California Regulation concerning Portable Fuel Containers has been in place since 2001, our requirements are similar to that of EPAs.  The Regulation applies to the sale of these containers.  In-use applications are not addressed.”) | The chainsaw company can continue to use existing PFCs that are already in-use, but they cannot obtain new PFCs that do not meet the requirements of the regulations unless they meet the exemptions in section 737 of the current rule (753 in the proposed rule); no action taken |
| Brian Dolansky  Simon Roofing | Asked a general question about the District’s AIM rule and when we expect to finalize it | Responded to question; no action taken |
| R. Ciemniecki  Bel-Ray Company, Inc. | Asked a general question about DC’s consumer products regulation | Responded to question; no action taken |
| ? | DDOE Director received a call asking about the adhesives and sealants rule | No information for follow-up |
| Heidi McAuliffe  National Paint and Coatings Association  202-719-3986 | NPCA indicated a problem with the industrial adhesives rule stemming from the OTC Model Rule. In the OTC Model Rule, there is a very clear and definite sell-through for the “sale, supply, and offer for sale” of products manufactured prior to the effective date of the rule. But, there is no similar sell-through for the “use and application” of adhesives products that are manufactured prior to the effective date. The product, if manufactured prior to the effective date, is compliant when it is manufactured or sold, but becomes non-compliant when it is used or applied. One problem that is apparent is that there will be a product on the retail shelves that will likely have to be discarded and added to the hazardous wastestream. | Parts of rule are applicable 6 months after final rule is published (e.g. see §744.2) to address this concern |
| Neal Mohlmann  Bureau of Engraving and Printing | DDOE provided BEP with a copy of the lithographic and letterpress printing CTG. BEP said they’d have difficulty complying with the CTG portion on letterpresses, since they use solvents with vapor pressures greater than 10mm of Hg and/or they may be considered greater than 70%VOC. They do not think that they can meet the yearly 110 gallon limit for these solvents.  BEP’s Web heatset Offset Press 043 (PID 10) meets the conditions that do not require emission control because the total emissions are well below 25 tpy, which would enable them to remove the control device.  Intaglio is not specifically addressed in the CTG, but intaglio presses are cold-set, sheet fed. The same rational about VOC emissions applies equally to intaglio as with other cold-set, sheet fed presses (see pages 14-15 of the CTG). If DDOE agrees, then this could be reflected in new regulations. | DDOE responded that preliminarily, we do not plan to apply the CTG to intaglio printing. We plan to keep it covered by 20 DCMR 710, which would only be slightly modified (mainly to incorporate the referenced appendix directly, rather than as a reference). We are modifying 20 DCMR 716 to cover letterpress printing as well as lithography and to take into account the CTG’s requirements for both. |
| Joe  Zenex International (Cleveland, OH) | Called about chlorinated solvents; are we adopting the consumer products model rule? | We are adopting OTC’s model rule; no action taken |
| Bill Geibel  Printing Industries of America  412-259-1779 | Called about printing and sent draft lithographic printing and letterpress printing model rules; would be interested in commenting on any draft VOC reg related to L&L printing | Added Mr. Geibel to VOC listserv |

**20 DCMR Chapter 7, Proposed VOC Regulations**

**Comment Period: August 13, 2010, to September 13, 2010**

***(As of October 19, 2010)***

**Response to Comments\***

*\* Please note that comments in this document are paraphrased*

1. **Kathie J. Tryson, Willert Home Products, September 8**

*Comment 1a:* Willert objects to the prohibition of paradichlorobenzene (PDCB) solid air fresheners and toilet/urinal care products in the District. They request that the current Consumer Products exemption in §721 be maintained and expanded to include the new category of Toilet/Urinal Care products. See suggested revision to §721(h).

*Response 1a:* The OTC Model Rule does not grant the requested exemption, and the Department is not aware of others states that have granted the requested exemption. Therefore, the Department does not find reason to grant the exemption.

*Comment 1b:* If the exemption is not maintained, Willert requests that the new regulation clarify that the amended VOC standards do not apply to products manufactured before the effective date, as indicated by the date code on the product

*Response 1b:* MDE’s regulation[[1]](#footnote-2) includes a one-year sell-through for products containing PDCB that were manufactured before January 1, 2009. VDEQ’s regulation does not currently address PDCB in toilet/urinal care products.

The Department will retain the current exemptions as written in §721 for insecticides and solid air fresheners that contain PDCB, but will adopt language in §729 to include a one-year sell-through for solid air fresheners or toilet/urinal care products manufactured before March 1, 2011, as requested and considered “optional” under the OTC Model Rule.

1. **Jim Sell, American Coatings Association (ASA), September 13**

*Comment 2a:* The emission limits for VOCs from extreme gloss, high gloss, and antifoulant coatings recommended in the Misc. Metal and Plastic Parts Coatings CTG are too low, considering performance requirements of pleasure craft coatings; they present technological and feasibility challenges.

*Response 2a:* The Department left a message with ACA and did limited research, but remains unaware of any pleasure craft coating activities in the District, so does not find cause to revise §714, which adopts the Miscellaneous Metal Product and Plastic Parts Surface Coatings CTG.

1. **Thomas F. Myers, Personal Care Products Council, September 13**

*Comment 3a:* Revise §719 to be consistent with the OTC model rule. DDOE’s rule omits an important reference to the exemption section (§721) of the rule; simply adding a phrase will provide much needed clarity

*Response 3a:* DDOE added an applicability section (§719) to the model rule. Section 721 only allows for exemptions from the Table of Standards in §720. Section 720.1 begins with the phrase, “Except as provided in §§ 721, ...,” so the Department believes the regulation is clear as written and already addresses the commenter’s concern.

*Comment 3b:* Include a provision from the OTC Model Rule that products manufactured before the effective date of the new VOC limits may still be sold in the District in order to avoid any confusion about potential sell-through limitations.

*Response 3b:* Both MDE’s regulation[[2]](#footnote-3) and VDEQ’s regulation[[3]](#footnote-4) do include a sell-through provision similar to OTC Model Rule Section 3d. Please note, however, that the addition of the sell-through provision is only intended to remove any possible ambiguity regarding the sale of products manufactured before the effective date; the commenter acknowledges that §719.1 does firmly state that the VOC limits apply to products **manufactured on or after** the effective date specified in the Table of Standards.

To clarify the intent of the regulation, as requested by the commenter, §§ 720.2 and 720.3 have been added to include the sell-through provisions of the OTC Model Rule.

*Comment 3c:* PCPC recommends clarifying which consumer products are included in an ACP. Amend the rule to ensure that a manufacturer with an approved ACP in California that includes one or more products not regulated in the District (i.e. if it is not in the §720, the Table of Standards) would not inadvertently be denied an ACP in the District

*Response 3c:* See Response 6e. The Department has revised §§ 721.1(l) and 735.2 to address the commenter’s concern.

*Comment 3d:* Provide a reasonable time for companies to explain date codes. PCPC suggests removing the “twelve months prior” language in §732.7 to allow companies more time to comply with the date code reporting requirements, among other approaches.

*Response 3d:* The OTC Model Rule has been proposed by states throughout the region, and §732.7 was initially posted for public comment as written in 2007, so the Department does not believe it is unreasonable to require date code explanations by March 1, 2011. The language of §732.7 has been revised to remove the “twelve months before” requirement, as suggested.

*Comment 3e:* PCPC urges DOE to consider applying §732.7 date code reporting requirements to only those companies that have not previously submitted a date code explanation.

*Response 3e:* The Department believes this is a reasonable request and has revised §732.7 to indicate that manufacturers who have previously submitted a date code explanation for a consumer product do not have to do so again.

1. **Kerry C. Stackpole, Printing and Graphics Association Mid-Atlantic (PGAMA), September 13**

*Comment 4a:* §708.1 – PGAMA requests that the section on nonphotochemically reactive solvents be removed from Chapter 7 because it appears to be setting a limit on chemicals that are exempt from the definition of VOC.

*Response 4a:* The Department still believes that removal of §708.1 at this time would be considered backsliding. Although in the preamble, we say that “nonphotochemically reactive solvents are not technically VOCs,” it is possible that there may be VOCs that are nonphotochemically reactive. For example, there are compounds (e.g., acetone, methylene chloride, perchloroethylene) that were considered to be VOCs until industry was able to prove that they were negligibly photochemically reactive. Only then did EPA move them to the list of exempt compounds. EPA’s definition of VOC, which is incorporated by reference in §799, refers to “virtually any compound of carbon” except those that are considered to be exempt.

Section 708.1 does not regulate compounds that are exempt from the definition of VOC. Rather, it controls VOCs that are nonphotochemically reactive but are also not exempted from the definition of VOC.

*Comment 4b:* Section710 is confusing and needs revision. The title of the section, “Engraving and Plate Printing,” does not clearly identify that the section’s requirements can also apply to other printing operations. The section appears to be dedicated to a specialty printing process called intaglio.

*Response 4b:* Section 710 preserves existing provisions that are part of the District’s SIP. As mentioned in the preamble, Section 710 has a history and, “the District intends for the regulation to apply to relevant commercial printing units.” To be more specific, in 1985, §710 was submitted to EPA for approval into the District’s SIP. The purpose of the regulation was to adopt a RACT rule for sources in the District not subject to a CTG, and one of the non-CTG source categories identified was engraving and plate printing. The Department had and still is aware of only one source in this source category: the Bureau of Engraving and Printing (BEP). When EPA approved §710 into the District’s SIP in 1992, they noted that the approval addressed, “the District’s non-CTG regulation for heat set intaglio, non-heatset paperwipe intaglio, nonheatset cylinder-wipe intaglio, offset lithography for both heatset and nonheatset, letterset and letterpress printing operations.” At the time, BEP was engaging in these types of printing operations.

The commenter is correct to note that the section addresses intaglio printing, which is typically used to print paper money and other similar securities. It is not a common process, but does occur in the District. But, the section does not only address intaglio.

The Department agrees that the title of §710 is no longer accurate. After much contemplation, it has been decided to move the parts of §710 that refer to lithographic and letterpress printing to §716, as suggested by PGAMA. As a result, §710 will apply to three specific types of printing: intaglio, flexographic, and rotogravure. The title of §710 has been changed to reflect the content of the proposed amendment.

*Comment 4c:* §710.1 – Flexographic and rotogravure printing should not be included in the applicability section because they are not the same process used for Engraving and Platemaking Printing.

*Response 4c:* As mentioned in the preamble, control recommendations and emission limits from the Flexible Package Printing CTG were added to §710 and will remain there. As noted in Response 4b, however, the title of the section has been revised to more accurately reflect the content of the revised amendment.

*Comment 4d:* §710.1(b) – The section does not refer to lithographic printing, but includes the phrase “petroleum ink oil,” which is a VOC component of ink used only in lithographic printing.

*Response 4d:* PGAMA is correct to note that §710.1(b) refers to flexographic and rotogravure printing, neither of which use “petroleum ink oil.” The phrase, which refers to an ink used only in lithographic printing, has been deleted from the section.

*Comment 4e:* §710 – There are several additional requirements addressing fountain solutions and inks used in lithographic printing, but it is not clear how the requirements are to be applied since there is an entire section, §716, dedicated to controlling emissions from lithographic printing.

*Response 4e:* See Response 4b for additional perspective on §710, a regulation originally designed to address operations at BEP. Lithographic printing occurs at BEP. This is why lithographic printing was addressed in both §710 and §716.

As with any regulation, if a source meets the applicability requirements of a section, the source must meet the regulatory requirements of that section (i.e. both sections). Nonetheless, the comment has been addressed, and the regulation simplified, by the move of parts of §710 to §716.

*Comment 4f:* §§ 710.9 and 716.5 [§716.6 after recodification] – The sections set out different requirements for the allowable VOC content in lithographic printing operations. Section 716.5 [§716.6] is consistent with the CTG; §710.9 needs to be deleted. There is no information in §710 or §716 that guides the printer as to which requirement takes precedence.

*Response 4f:* When revising the regulations, the Department tried to maintain existing provisions as much as possible. Once a regulation is adopted into a state implementation plan (SIP), elements cannot simply be deleted. This is why §710.9, which applies after December 31, 1987, and was part of the previous regulation (as part of Appendix 7-1), remains in the proposed regulation.

As PGAMA points out, both §§ 710.9(a) and 716.5(b)(3) [§716.6 after recodification] do address VOC content used in heatset offset web lithography printing. The Department would like to point to subtle distinctions between the sections. Section 710.9 was intended to apply to the VOC content of dampening solutions at BEP since 1987. Section 716.5 [§716.6] only applies after March 1, 2011, and VOC content is only a factor IF an alcohol substitute is used to achieve an equivalent level of control as §§ 716.5(b)(1) or (2) [§716.6]. The limits in §§ 716.5(b)(1) and (2) [§716.6] address alcohol content of dampening solution, not VOC content. In other words, technically, there are separate requirements for allowable VOC content, versus alcohol content of the dampening solution.

Upon reflection on apparent confusion by the printing industry about references to both §716 and §§710, the Department has moved parts of §710 (including §710.9) to §716, and added clarifying language. Specifically, note that §710.9 has been moved to §716.5 [§716.6], and is applicable “prior to March 1, 2011” for units “in existence as of December 31, 1985”, in contrast to §716.6 (the previous §716.5), which is applicable “after March 1, 2011”.

*Comment 4g:* Section710.1(b) refers to conditions in §710.2 that need to be met, but §710.2 does not contain any conditions to be met.

*Response 4g:* Section 710.1 begins with the phrase, “Except as provided in §710.2, it shall be prohibited to operate…” Section 710.1(b) does not directly refer to §710.2.

Section 710.2 contains language from the existing regulation; it retains existing regulatory provisions. It means that if conduct occurring in relation to a printing operation is not regulated by §710, §710 does not exclude that conduct from regulation elsewhere. For example, the handling of miscellaneous clean-up and VOC materials at operations subject to §710.1(b) are subject to §§ 770 and 771; the conditions in §§ 770 and 771 would also need to be met.

*Comment 4h:* To avoid confusion, lithographic and other types of printing should not be regulated under §710. All requirements for lithographic and letterpress printing should be contained in §716.

*Response 4h:* See Response 4b. The Department has moved the lithographic and letterpress portions of §710 to §716.

*Comment 4i:* Section 710.2 implies that if a printer is subject to §710, then it is not subject to any other section of the VOC requirements.

*Response 4i:* See Response 4g. Section 710.2 contains language from the existing regulation, retains existing regulatory provisions, and actually states the opposite – that “if part or all of any printing operation” is not controlled by §710, then it shall be subject to other sections. The *implication*, according to the commenter, is not stated and is not correct.

*Comment 4j:* §710.3 – The section serves no clear purpose, so should be deleted.

*Response 4j:* Section 710.3 contains language from the existing regulation; it retains existing regulatory provisions. It is intended to clarify that §710 as a whole only regulates certain operations at a facility or plant in which certain types of printing are conducted and does not excuse other ancillary operations from other applicable provisions. For example, an ancillary operation involving the use of a cold cleaning machine at any operation subject to §710 would also be subject to §§ 763 through 769.

*Comment 4k:* §710.4 – The section serves no clear purpose, so should be deleted to avoid confusion.

*Response 4k:* As mentioned in the preamble, §710.4, which refers to §§ 710.5 through 710.9, incorporates and retains the provisions of Appendix 7-1 from the existing regulation.

*Comment 4l:* §710.5 – The VOC content limits for lithographic inks are not required by the CTG, so must be deleted.

*Response 4l:* Section 710.5 contains language from the existing regulation. The limits for lithographic inks apply to BEP, the only facility which meets the applicability criteria of §710.1(a). It does not matter that the limits are not part of the CTG guidance.

*Comment 4m:* §710.6 – The section refers to PTE calculations in §715, but does not specify what specific part of §715 is being referred to. Consider suggested revision.

*Response 4m:* As suggested, the reference to §715 has been changed to §715.1.

*Comment 4n:* §710.8 – The reference to §716 is not necessary; consider suggested revision.

*Response 4n:* Since publication of the proposed regulation, the Department has learned that “wiping solution” is unique to intaglio printing, so reference to §716 does not make sense in this context. The suggested revision has been made.

*Comment 4o:* §710.9 – The section is confusing and unnecessary and should be deleted.

*Response 4o:* See Response 4f. Section 710.9 was intended to apply to BEP. It retains existing provisions, which are part of the SIP, and cannot simply be deleted. It applies to dampening solutions used in offset lithographic printing operations. The section has been moved to §716 to minimize confusion. Note that the “new” §716.5 (which states “prior to March 1, 2011”) applies only to major sources.

*Comment 4p:* §710.17 [§710.15 after recodification] – The section serves no clear purpose and should be deleted or revised to remove references to “emulsions,” as suggested.

*Response 4p:* §710.17 [§710.15 after recodification] contains language from the existing regulation to retain existing regulatory provisions. The Department has since learned that the source that §710 initially applied to, BEP, no longer uses emulsions, but does not believe it is necessary to revise the section because it already refers to “emulsions or other materials.”

Also, the section begins with the phrase, “To the greatest extent feasible.” The Department does not believe it is necessary to add, “when technologically and economically feasible,” to the end of the sentence, as suggested.

*Comment 4q:* §715 – Appropriate retention factors and capture efficiency factors specific to lithographic printing need to be included in the rule, as suggested.

*Response 4q:* Section 715 applies to major sources only – those with a theoretical PTE of 25 tpy or more. The Department has no intention of making the section specific to any specific industry, so does not agree that printing specifics need to be added to the rule.

*Comment 4r:* §715 – The section needs to be revised to recognize EPA guidance on how to calculate actual and potential emissions from printing operations.

*Response 4r:* See Response 4q.

*Comment 4s:* §716.1(a) – The section needs to be clarified; does the threshold apply on a facility-wide basis or per press? Consider suggested revision.

*Response 4s:* This applicability provision is part of the SIP in force prior to the amendment. However, the commenter has a point.

The definition of “source” can be found in 20 DCMR 199: “any property, real or personal, which emits or may emit any air pollutant. For purposes of sources affecting non-attainment areas and permits for the sources under §204 of this subtitle, the term includes both plants and each individual piece of process equipment.”

The definition of “printing operation” can be found in 20 DCMR 199: “each operation used in connection with printing, including, but not limited to, the printing itself, ink manufacture, ink mixing, preparing, and packaging the printed product and disposal of the waste.”

The Department intends for §716.1(a) to apply to any such printing operation (i.e. the press and its associated processes) that meets the threshold, as suggested, and has deleted the words “that is part of any source” to clarify this intent.

*Comment 4t:* §716.1(b) and (c) – The thresholds should be changed from 15 lb/day to 3 tpy, as suggested; a 15 lb/day threshold would require daily recordkeeping, which would be burdensome.

*Response 4t:* The Department does not believe it is necessary to change the form of the threshold, which was suggested in the Offset Lithographic and Letterpress Printing CTG, which did go through a public notice and comment period. The rule is an ozone season rule. This is why there is a per day standard; a per year standard would not sufficiently control emissions during ozone season.

*Comment 4u:* §716.3 – The CTG does not support regulating coating operations at lithographic printing operations, so consider suggested revision.

*Response 4u:* Section 716.3 retains existing provisions in the SIP.

The Lithographic and Letterpress Printing CTG (pages 7 and 8) explains that varnishes are unpigmented offset lithographic inks, and they generate about the same emissions as offset lithographic inks. Coatings used on offset lithographic presses are predominantly waterbased or radiation cured, and generate minimal VOC emissions. EPA recommends that varnishes and coatings used on offset lithographic presses be considered part of the printing process, and not be considered as a separate process.

See the definition for “printing operation” in Response 4s. By using the term “printing operation” instead of “printing press” in 716.3, the Department believes that varnishes and coatings are already included as part of the operations “specifically controlled by the requirements of this section.”

*Comment 4v:* §716.5 [§716.6 after recodification] and §710.9 – See Comment 4o.

*Response 4v:* See Responses 4f and 4o.

*Comment 4w:* §716.5(b) and (c) [§716.6 after recodification] – The phrasing of the sections is confusing and appears contradictory; consider suggested revisions.

*Response 4w:* The language was retained from the previous regulation and the CTG. The language is not contradictory, but is somewhat repetitive. Parts (b) and (c) are best read with the opening phrase of §716.5 [§716.6 after recodification] – if the limit in (b) or (c) is exceeded, then option (1) is to go below the limit in (b) or (c).

*Comment 4x:* §716.7 [§716.8 after recodification] – Clarify if the “source” is an individual press or an entire facility; consider suggested revision.

*Response 4x:* See Response 4s. The term “in any source” in part (a) has been deleted to avoid confusion.

*Comment 4y:* §716.9 [§716.10 after recodification] – The exemption should apply to §716.7(a) and (b); consider suggested revision.

*Response 4y:* Section 716.7(a) [§716.8 after recodification] is part of the previous regulation, and refers to limits after May 1, 1999. Section 716.7(b) is an amendment, and refers to limits after March 1, 2011. The exemption in §716.9 only applies to the amendment, so the Department disagrees with the commenter and will not make the suggested revision.

*Comment 4z:* §716.14 [§716.20 after recodification] – The CTG does not require continuous monitoring; this should be indicated in the rule, as suggested.

*Response 4z:* Again, the language is from the existing regulation, so is in the SIP. Section 716.14 [§716.20 after recodification] applies only to persons to which §716.10 [§716.16 after recodification] applies, and §716.10 [§716.16] applies only to major sources. Only major sources are required to monitor continuously, and even then, only when a unit is operational (see part b).

*Comment 4aa:* §716.18 [§716.24 after recodification] – The section serves no clear purpose and should be deleted or revised to remove references to “emulsions,” as suggested.

*Response 4aa:* See Response 4p.

*Comment 4bb:* §716.19 [§716.25 after recodification] – An alternative applicability determination needs to be provided that allows the printer to simply track material use and calculate emissions; note additional threshold request and suggested revisions.

*Response 4bb:* See Response 4t. The reporting requirements were suggested in the Offset Lithographic and Letterpress Printing CTG, which did go through a public notice and comment period.

Section 716.19 [§716.25 after recodification] states that smaller sources only need to maintain records that *demonstrate* that emissions are below the applicability threshold; it does not say how this needs to be done. Nonetheless, the Department has added a phrase, “or that material use is beneath a threshold that meets the compliance requirements,” to emphasize this point.

1. **Jamie Pierce, Walter Reed Army Medical Center, September 13**

*Comment 5a:* Section 715.2, states that, “RACT shall be applied if the theoretical potential plant-wide emissions are, *or have ever been*, greater than or equal to twenty-five (25) tons per year.” There is no mention of the time period that “or have ever been” applies to. WRAMC has been in operation since 1908, and at one time had a gasoline station on site. What is the time period this refers to?

*Response 5a:* The revised §715 retains language from the existing provision.

The Department believes that it is reasonable to conclude that “*or have ever been*” applies as long as the Clean Air Act threshold of 25 tons per year (tpy) has been in effect. Our understanding is that the 25 tpy threshold went into effect as a result of the Act’s 1990 Amendments. In other words, a gas station on site operated prior to 1990 is no longer a concern to the Department for purposes of RACT.

*Comment 5b:* WRAMC has emergency generators on site. WRAMC’s Title V permit item 3.c states, “each of the generators must operate less than 500 hours per any consecutive twelve month period.” Does this constitute an “operational limitation” since the Title V permit is “federally enforceable”? See additional discussion.

*Response 5b:* As much as possible, the Department tried to retain the language of the previous version of §715 on RACT. Section 715.3(c) is directly from the previous version of §715.

The Department intends for §715 to apply to major sources only, based on a source’s theoretical potential to emit before add-on controls. Emergency generators that operate less than 500 hours in a year are not a part of the Title V permit. The Department believes the 500-hour limit does constitute an “operational limit”. RACT can be avoided for emergency generators that operate less than 500 hours a year.

*Comment 5c:* See suggested revision to §715.3(c) to change “may not be avoided unless” to “is not applicable if”.

*Response 5c:* The suggested revision has been made.

1. **D. Douglas Fratz, Joseph T. Yost, Consumer Specialty Productions Association (CSPA), September 13**

*Comment 6a:* CSPA supports consistent consumer products regulations throughout the OTC; therefore, CSPA offers general support for the Department’s proposed amendment.

*Response 6a:* N/A

*Comment 6b:* The Department should revise §719 to be consistent with the parallel provision in the OTC model rule; it omits important reference to the exemption section in §721. See suggested revision.

*Response 6b:* See Response 3a. The exemption in question can be found in §720.1.

*Comment 6c:* CSPA supports the proposed effective date for the new VOC limits set forth in §720. Member companies have already taken the necessary actions to reformulate their products to comply with comparable final regulations. CSPA cautions that other companies (that are not CSPA members) need a more reasonable amount of time to ensure that their products comply.

*Response 6c:* The Department agrees that March 1, 2011, is a reasonable effective date because neighboring states have adopted similar regulations prior to this date. (For example, the effective date in Maryland was January 1, 2009[[4]](#footnote-5).) Companies that ship to those states should have reformulated products, and should be fully aware of the OTC Model Rule and the fact that other states in the OTC and the Department have agreed to adopt it.

*Comment 6d:* The Department should include the provision of the OTC model rule that provides a clear and unambiguous statement that the VOC limits apply to products manufactured on or after a specified effective date. See suggested revision.

*Response 6d:* See Response 3b. The Department has added provisions to §720 to remove any possible ambiguity, in response to requests by several commenters.

*Comment 6e:* CSPA recommends that the Department consider a reasonable technical amendment to §§ 721.1(l) and 735.2 clarifying which product are included in an Alternative Control Plan. (1 – Before granting an ACP, CARB carefully weighs the environmental benefits against the environmental deficits. 2 – As currently drafted, the Department’s proposed ACP provision may have the unintended effect of limiting the environmental benefits.) See discussion and suggested revision.

*Response 6e:* See Response 3c. The requested changes to §§ 721.1(l) and 735.2 have been made. Also, note that §735.3 already allows manufacturers granted an ACP in California (e.g. regardless of limits in the Table of Standards) to apply to the Department for an ACP Agreement.

The Department has revised the ACP requirements as suggested to clarify which ACP products within a CARB ACP Agreement must be contained in the Table of Standards. The intended effect is to ensure that a manufacturer with an approved ACP in California that may include one or more products not regulated in the District, but which is still producing a net environmental benefit, would not inadvertently be denied an ACP in the District.

*Comment 6f:* CSPA recommends that the Department consider eliminating §§ 727 and 728 since the proposed regulatory action will produce minimal, if any, reductions in VOC emissions. (These sections were considered “optional” provisions of the OTC model rule.) Two of the three chemical compounds of concern (methylene chloride and perchloroethylene) are exempted from the definition of “VOCs”, since these compounds have very low photochemical reactivity.

*Response 6f:* The Department anticipates stricter ozone standards in the future, and does not agree that banning the use of such products containing methylene chloride, perchloroethylene, or trichloroethylene is unwarranted. As noted by the commenter, nine states have promulgated final OTC-based regulations that include the “optional” prohibition in the same seven consumer product categories. Please note there is a sell-through period for all seven categories.

*Comment 6g:* In the alternative, if the Department retains the restrictions in the final rule, the Department should revise §§ 727 and 728 to be consistent with parallel provisions in the OTC model rule and final regulations promulgated by OTC states. (1 – The Department should cite the effective date of the prohibitions contained in §727.1. 2 – While three states impose no sell-through limit, the OTC Model Rule and final regulations promulgated by five states provide a three-year sell-through period). See discussion and suggested revisions.

*Response 6g:* 1 – The effective date listed in the OTC Model Rule was January 1, 2009. The Department’s regulation will not go into effect until much later, so companies have had adequate time to anticipate potential regulation, effective upon promulgation. Nonetheless, the wording “effective March 1, 2011” has been added to §727.1.

2 – The current sell-through dates in the proposed amendment (e.g. in §§ 727.2, 727.3, 728.2, and 728.3, as of January 1, 2012; in §§ 727.3(b) and 728.3(b), as of June 30, 2011) are consistent with the dates in the OTC Model Rule and in the neighboring state of Maryland, so the Department does not believe it is necessary to extend the sell-through period another three years. The commenter acknowledges that the current sell-through date was included in the text of the Department’s 2007 proposed regulation. (At the time, the sell-through period was three years. That does not require that the sell-through period continue to be three years.)

*Comment 6h:* The Department should provide a more reasonable amount of time for companies to comply with the requirements of §732.7. The suggested revision limits only a company’s duty to provide an explanation of the date-code, and will not change the requirement for companies to comply with the applicable VOC limits on March 1, 2011. See suggested revision.

*Response 6h:* See Response 3d. The suggested revision to §732.7 has been made.

*Comment 6i:* CSPA urges the Department to clarify that this requirement applies only to manufacturers that have not previously filed an explanation of their date-codes.

*Response 6i:* See Response 3e.A revision to §732.7 has been made.

*Comment 6j:* The Department needs to make a technical correction to the effective date for FIFRA-regulated products in §§ 732.11 and 732.12. See suggested revision.

*Response 6j:* The Department agrees that this technical error was inadvertent and that a correction is necessary to maintain consistency with §722.1; the suggested revisions to §§ 732.11 and 732.12 have been made. See Response 9a.

1. **Heidi McAuliffe, American Coatings Association (ACA), September 13**

*Comment 7a:* Consumer products –DDOE should incorporate the sell-through language from the OTC model rule for consumer products. (When the OTC revised the Model Rule in 2006, they clarified the intent of the language in §719.1 and how that language interfaces with the date-code requirement.)

*Response 7a:* See Responses 3b and 6d.Sections 720.2 and 720.3 have been added to address this comment made by several commenters.

*Comment 7b:* Consumer products –The sell-through period for contact adhesives (§727.2) and adhesive removers (§728.2) should be consistent with the OTC Model Rule’s sell-through period. Nowhere in the Model Rule is there any type of sell-through that is less than one year. ACA urges DDOE to re-evaluate the issue and use the proposed option in the OTC Model Rule as a basis for new language. See suggested options.

*Response 7b:* See Responses 6f and 6g. The Department believes these sell-through dates are reasonable, particularly since Maryland[[5]](#footnote-6) and other states in the region have adopted the same sell-through date. Being in the same nonattainment area, it would not be beneficial for the District to have a different sell-through date. Although the sell-through will be for less than one year by the time the rule is in effect, the final sell-through date was in the model rule, and was included in the Department’s proposed regulation.

*Comment 7c:* Consumer products –In §732.7, adjust the date that the date-code report is required to be submitted. ACA recommends that such a submittal be provided to DDOE within six months after the effective date or after the rule becomes final.

*Response 7c:* See Responses 3d and 6h.

*Comment 7d:* Adhesives and sealants – There are several entries in the Table (§744.2) that are not in the OTC Model Rule but are in EPA’s CTG. There is some concern that there has not been sufficient opportunity to discuss the definitions of these categories and proposed limits.

*Response 7d:* The Department chose to incorporate the CTG limits, which have been through EPA public notice and comment. (See 73 Fed. Reg. 40230 for the public notice; EPA-HQ-OAR-2008-0460-0036 of the docket for a response to comments.) Definitions have been added to §799 or adjusted to accommodate the CTG. The Department anticipates that the OTC will likely discuss these limits and definitions in a future rulemaking, and will consider revising the regulation as necessary when a future model rule becomes available.

*Comment 7e:* In the Table in §744.2, it appears there may be a typographical error in the VOC limit for plastic cement welding adhesives. In the OTC Model Rule and the CTG, the limit is 510 grams per liter. In the proposed regulation, it’s 500.

*Response 7e:* The VOC limit for plastic cement welding adhesives was not a typographical error, but the Department now agrees that a limit of 510 gram per liter for the category is reasonable, so the suggested change to the Table in §744.2 has been made.

During internal review, it was noted that the OTC term “plastic cement welding adhesive” means the same as the CTG term “plastic solvent welding adhesive.” In the table, references to “plastic solvent welding” were changed to “plastic cement welding.” In the adhesives section of the table (Category 1), four types of plastic cement/solvent welding adhesives are mentioned: ABS welding, CPVC welding, PVC welding, and “other plastic cement/solvent welding”. The limits for ABS, CPVC, and PVC welding were maintained. The “other plastic cement/solvent welding” category was replaced with “plastic cement welding (except ABS, CPVC, and PVC)”. The Department initially proposed 500 for plastic cement welding (except ABS, CPVC, and PVC) to offset the 490 limit for CPVC and the 510 limit for PVC.

1. **David Kaczka, Bureau of Engraving and Printing (BEP), September 13**

*Comment 8a:* Is §710.5(e) [§716.11(b) after recodification] intended to apply to non-heatset offset lithography?

*Response 8a:* Yes, the clarification has been made to §710.5(e) [§716.11(b) after recodification].

*Comment 8b:* Is §710.9(b) [§716.5(a) after recodification] intended to apply to specific non-heatset offset lithography printing methods, or to all non-heatset printing methods? If it is just specific methods, these should be added.

*Response 8b:* The intent is for §710.9(b) [§716.5(a) after recodification] to apply to non-heatset offset lithography printing methods. The clarification has been made to §710.9(b) [§716.5(a)].

*Comment 8c:* Section 710.12 [§716.14 after recodification] appears to be inconsistent with and potentially in conflict with §716.10 [§716.16 after recodification]. Section 710.12 [§716.14] effectively requires controls for all heatset ovens (at a facility to which §710.1(a) or (b) applies). Sections 716.10 through 716.14 [§§ 716.16 through 716.20 after recodification] apply to heatset web offset lithography or heatset web letterpress printing operations with a theoretical PTE of more than 25 tons per year of VOC before controls; the sections could arguably be considered less stringent than §710.12 [§716.14]. Refer to BEP recommendations to include a *de minimis* threshold for controls in §710.12 [§716.14].

*Response 8c:* Aside from the part referring to §716, §710.12 [§716.14 after recodification] retains existing provisions. Note that §710.13 [§716.15] provides alternatives to complying with §710.12 [§716.14].

The Department believes that §710.12 [§716.14] was intended to apply to major sources only, as suggested by the applicability section in §710.1(a) (see preamble for an explanation). The Department interprets “any heatset oven” to mean any dryer at a heatset web offset lithography or heatset web letterpress printing operation. To respond to one of the commenter’s follow-up questions, in other words, §710.12 [§716.14] is not intended to apply to dryers at smaller heatset intaglio printing operations.

[NOTE: The recodified §716.14 is kept separate from §716.16(a) because §716.14 only applies to dryers at BEP, while §716.11 applies to inks at BEP. Section 716.16 applies to both dryers and inks.]

*Comment 8d:* Section 716.5(a) [§716.6 after recodification] for non-heatset and coldset web printing is unclear. BEP recommends modifying the text to make it similar to that found in §716.5(b)(3) [§716.6]. They would like an alternative option “to achieve an equivalent level of control” for fountain or dampening solutions used in non-heatset or coldset web printing, in case in the future they decide to operate such a press with an alcohol substitute that does not contain VOCs.

*Response 8d:* The current dampening and fountain solution options in §716.5 [§716.6 after recodification], are those suggested by EPA in the Offset Lithography and Letterpress Printing CTG (page 15). But, the Department does not see harm in adding an option to achieve an equivalent level of control to §716.5(a) [§716.6]. The suggested revision has been made.

1. **Chris Cripps, U.S. Environmental Protection Agency, Region 3, September 13**

*Comment 9a:* The one major comment has to do with proposed §§ 732.11 and 732.12. Now that January 1, 2010, is in the past (it was not during EPA’s review of the draft), the proposed regulation would be retroactively applicable. EPA believes the Department needs to look long and hard at its authorization if any to promulgate a retroactive rule. A retroactive rule could impair or impede EPA’s ability to approve the rule into the SIP if the Department lacks express authorization.

*Response 9a:* See Response 6j. The Department has noted the error and has changed the “January 1, 2010” to “March 1, 2012.”

*Comment 9b:* In §732.13(c), a cross citation is made to §732.12. Please note comments and check for proper citation.

*Response 9b:* Agreed; the reference to §732.12 has been changed to §732.13(a).

*Comment 9c:* In §735.10(e), a cross citation is made to §735.17. Please note comments and check for proper citation.

*Response 9c:* The Department intended to adopt the OTC Model Rule as written, which does refer to §735.17. The coinciding section of the OTC Model Rule, however, is prefaced with a title that this proposed regulation does not include: “Cancellation of an ACP.”

Based on our reading, §735.10(e) refers to three situations: the expiration or trade of surplus reductions or the cancellation of the ACP. It does not solely refer to the cancellation of the ACP. All three situations are addressed in §735.17. Minor adjustments have been made to §735.10(e) to clarify this intent.

*Comment 9d:* In §735.11(b)(4), cross citations are made to §§ 735.4(g)(3) and 735.4(g)(4). Please note comments and check for proper citation.

*Response 9d:* The OTC Model Rule reference to section 11(c)(1)(vii)(d) is equivalent to §735.4(g)(4) and (5). Changes have been made to reflect the intended reference.

*Comment 9e:* To be consistent with other provisions, §744.4 could be prefaced, as suggested.

*Response 9e:* In §744.4, the Department accurately adopted the language of the OTC Model Rule. Nonetheless, the preface, “Except as provided in §§ 744.5 *and 745*” has been added. Adding “and §745” was not suggested by the commenter, but this approach is consistent with that in §744.2. The Department agrees that §744.5 refers to both §§ 744.2 and 744.4. Section 745 lists additional exemptions for both surface preparation and cleanup solvents, and adhesives and sealants and their primers. So, adding the entire preface is appropriate.

*Comment 9f:* Likewise, §744.5 should include “surface preparation” and “cleanup solvents” in its listing of standards, as suggested.

*Response 9f:* The Department understands the point, but is not convinced that the suggested change would continue to reflect the intent of the OTC Model Rule, so would prefer to keep the section as written. Section 744.5 provides the option to use add-on equipment to control the use of adhesives, sealants, adhesive primers, and sealant primers. It does not state that add-on equipment can be used with surface preparation and cleanup solvents; it only implies that the provisions of §744.4 can be met by using add-on controls.

*Comment 9g:* Section 745.4 provides for a “use” exclusion from the provisions of §§ 744.1 and 744.4, but the prohibition in §744.1 is not a “use” provision. See suggested revision.

*Response 9g:* The Department accurately adopted the language of the OTC Model Rule, but agrees with EPA’s comment. As suggested, the Department has changed the reference to §744.1 to §744*.2*.

*Comment 9h:* Section 765.3 sets emission control requirements “in addition to the requirements of §765.1.” Please note comments and see suggested citation revision.

*Response 9h:* Agreed; the Department has changed the reference from §765.1 to §765.2.

*Comment 9i:* The third sentence of §778.2 should make a provision to clearly not preclude the use of methods identified in §778.5(h). Note comment and see suggested revision.

*Response 9i:* The Department added language to §778.2 to more directly reflect the language of the OTC Model Rule (i.e. to refer to §§ 778.5(j) and 778.5(h)(3), where SCAQMD Methods are adopted by reference). There is no clear need to reference all of §778.5(h) in §778.2, since parts (1) and (2) of §778.5(h) incorporate BAAQMD Methods by reference, and BAAQMD Methods are not referred to in §778.2.

*Comment 9j:* The first sentence of §778.5 ought to be amended. Note comment and see suggested revision.

*Response 9j:* The Department added language to more directly reflect the language of the OTC Model Rule, and to clarify that test methods in §778.5 shall be used to test coatings subject to the provisions of the entire AIM rule (§§ 773 to 778), not just “this section.”

*Comment 9k:* Note comments about several cross citations in the definitions (§799) and see suggested revisions.

*Response 9k:* a. Coatings – both definitions are very similar, so instead of prefacing one with the

suggested revision, one of the two definitions has been deleted. Formatting has been fixed as well.

1. The suggested revision to the definition for “exempt compound” has been made.
2. ASTM methods are mentioned in §773.2, but are incorporated by reference more directly in §778.5. Citations have been changed to §778.5 in the following definitions: fire-resistive coating; fire-retardant coating; flat coating; pre-treatment wash primer; and specialty primer, sealer, and undercoater. Citations to §778.5 have been added to the following definitions: non-flat coating, non-flat high gloss coating, quick-dry enamel, quick-dry primer sealer and undercoater.

d. See Response 9k(c).

**20 DCMR Chapter 7, Proposed VOC Regulations**

**Comment Period: August 13, 2010, to September 13, 2010**

***(As of March 7, 2011)***

**Printing and Graphics Association Mid-Atlantic (PGAMA),**

**October 26 Comments/Response**

*Comment 1:* The commenter acknowledges changes made to §§ 710 and 716.

*Response 1:* N/A

*Comment 2:* (Similar to Comments 4q and 4r in the 10/2010 Response to Comments (RTC) document.)

If DDOE has no intention of making §715 specific to any industry, then EPA-approved capture efficiency and retention factors specific to the printing industry should be included in a new §716.26, as suggested. The appropriate factors need to be formalized in the rule to save administrative time and costs for DDOE and the printing industry.

In addition, guidance should be included that recognizes EPA’s guidance on how to calculate actual and potential emissions.

*Response 2:* The Department would prefer to evaluate proposed methodologies for calculating potential and actual emissions on a case-by-case basis during the permitting process, so will not adopt the proposed §716.26. The suggested EPA guidance will be mentioned in the preamble to the rule, but the Department may not adopt the suggested methodologies when they are deemed unfit in a particular situation.

The methodology for determining theoretical PTE, proposed as §716.26(a), is an alternative to the methodology in §715.1. As it is currently proposed (i.e. after Response 3(b) is in effect), §716.1(a) refers to the methodology in §715.1, as it did prior to the recent amendments. However, the Department would consider any calculations based on EPA guidance presented to it.

The retention factors and capture efficiencies presented as §716.26(b) through (d) for determining actual emissions do not address what happens to VOC over time. For example, inks used to print money may continue to release VOC after production. Again, the Department would consider any calculations or methodologies based on EPA guidance presented to it. Evaluating them on a case-by-case basis would allow the Department to consider all factors relevant to a specific source at the time of review.

*Comment 3:* Despite edits, §716.1(a) is still confusing. See suggested revisions.

1. If emissions are based on the *printing operation*, it is unclear why the section requires calculation of the *source*’s theoretical PTE.
2. The section should refer to the method of calculating theoretical PTE emissions in §715*.1*.
3. The previous requirement was based on a threshold of 25 tpy theoretical PTE, and the current requirements are based on a threshold of 3 tpy actual emissions. Since the current requirement is more stringent, DDOE should indicate that (a) applies prior to March 2011.

*Response 3:* a. As noted in Response 4s of the 10/2010 RTC document, the Department intends for §716.1(a) to apply to any printing operation (i.e. the press and its associated processes) that meets the description and threshold. A printing operation includes the plant and the individual pieces of equipment, plus each operation used in connection with printing. However, a printing operation may be part of a larger source. The Department would like to clarify but maintain the original intent of the section: if a stationary source is major, then any printing operation that is part of that source is also major, even if that printing operation alone does not emit VOCs in amounts that exceed the threshold. The suggested clarification was not adopted. Instead, the term “that is part of any source” was added back to the section, and the term “stationary” was added to that phrase.

The term “stationary source” is defined in §199 as, “a building, structure, facility, installation, or group of buildings, structures, facilities or installations that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act or this Title.”

b. In §716.1(a), reference to §715.1, more specifically, has been added.

c. In light of clarifications made in Response 3a, the suggestion that theoretical PTE requirements exist only “prior to March 1, 2011” is not correct. Any printing operation that is part of a major stationary source must comply with the requirements of §716.

*Comment 4:* As stated in the previous PGAMA letter (Comment 4t in the 10/2010 RTC document), the 15 lb/day threshold in §716.1(b) and (c) is technically and economically burdensome to small printing operations. PGAMA requests the equivalent threshold of 3 tons per 12-month rolling period, an option contained in the 2006 CTG, be used in this rule. Note that the previously existing RACT rule was based on an *annual* PTE, therefore, the 12-month rolling period is equally valid.

*Response 4:* The CTG gives States the option of choosing an applicability level “that they determine [is] appropriate considering the facts and circumstances of the sources in their particular nonattainment areas.” The 15 lb/day applicability limit for actual VOC emissions is used throughout the Department’s VOC regulation, not just in §716. It would be inconsistent to change the requirement for printing operations subject to §716.

Response 4t in the 10/2010 RTC document notes that the Department’s main concern is emissions during ozone season. The goal of this section is to avoid the potential situation where a source or printing operation emits VOCs during one month of a year, and closes the rest of the year. This is difficult to check with a yearly threshold.

PGAMA has expressed concern that a daily standard would require daily recordkeeping. Daily calculations would be inaccurate, since materials are generally ordered in bulk and used over periods of time.

The Department acknowledges that §716.1(b) and (c) state that 15 lb/day “or an equivalent level” are acceptable. According to the CTG, an equivalent applicability level would be 450 lb/month (15 lb/day \* 30 days), or 3 tons on a 12-month rolling basis (450 lb/month \* 12 mo/year \* 1 ton/2000 lbs = 2.7 tons/year). The emissions levels in the CTG are based on averages.

The recordkeeping provision in §716.25 does not specifically state that the daily standard requires daily recordkeeping, although records must “clearly demonstrate” compliance in a time frame “consistent with the averaging period of the standard.” To clarify this intent, in §§716.1(b) and (c), the Department has replaced the phrase “or at an equivalent level” with “on a monthly average basis.” It would be acceptable to record monthly emissions or material use levels to derive a daily estimate that meets the daily threshold (e.g. to gather monthly records and divide by the number of days per month, instead of going through the trouble of obtaining daily records). Monthly record-keeping would allow for a more accurate estimation of monthly or ozone season emissions than yearly averages.

*Comment 5:* It is essential that §716.3 state that lithographic coatings are not regulated elsewhere, since they are not specifically regulated in §716. See suggested revision.

*Response 5:* The commenter has a point; although the intent of the regulation was discussed in Response 4u of the 10/2010 RTC document, lithographic coatings and varnishes are not “*specifically*controlled by the requirements of this Section” or by the definition of “printing operation” in §199.

As suggested, to further clarify the intent of the regulation, the definition of “printing operation” in §199 has been revised and subsequently moved to §799 to apply more specifically to VOC emissions.

*Comment 6:* Section 716.6(a) was changed in a way that makes it redundant. See suggested revision.

*Response 6*: The suggested revision has been made.

*Comment 7:* The 30 percent limit in §716.8(a) should be deleted. It was based on a limit proposed in a 1993 draft CTG. Materials that meet that limit were tested but were deemed ineffective, so are not being used by the industry. The 2006 CTG did not include this limit. The suggested changes would create a level of control equal to the previous limit.

*Response 7:* As noted by the commenter, in the 2006 CTG, EPA suggests that “water-miscible cleaning materials with less than 30 weight percent VOC were developed and tested for offset lithographic printing in the early 1990’s…[but] did not provide adequate performance and therefore they are not being used by the offset lithographic printing industry today.”

Even though the 30 percent limit has been in the rule for years and is in the SIP, the Department does not believe that removal of the 30 percent requirement would constitute backsliding if facilities realistically cannot meet the requirement. Section 716.8(a) has been revised to delete option 1, but retain option 2. Major sources are still required to meet the composite vapor pressure requirement in part (a). Operations that emit over 15 lb/day VOC on a monthly average basis may comply with either the 70 percent limit or the vapor pressure requirement.

*Comment 8:* If the Department agrees to the suggested changes in §716.8, reference to part (b) in §716.10 needs to be edited.

*Response 8:* The Department is retaining part (b) in §716.8.

*Comment 9:* The suggested clarifications about continuous monitoring should be made to §716.20: (1) while continuous temperature monitoring of a unit in operation is required, continuous monitoring of the negative air pressure flow into the dryer is not; and (2) temperature data recordings can take place every 15 minutes.

*Response 9:* The suggested revisions appear to clarify inherent requirements of the CTG and related technical documents.

According to the June 2007 TSD for Title V Permitting of Printing Facilities ([www.epa.gov/ttncaaa1/t5/memoranda/tsd.pdf](http://www.epa.gov/ttncaaa1/t5/memoranda/tsd.pdf), page 53), referred to in the CTG, temperature monitoring devices are required to, “collect at least 4 evenly-spaced temperature readings per hour of process operation in order to have a valid hour of data.” The request to clarify that temperature recordings take place “every 15 minutes” has been granted.

The same TSD document (page D-23) suggests that the dryer system and airflow are integral to press design. A press will not operate correctly if dryer airflow is not above a level specified by the manufacturer. According to the CTG for lithographic and letterpress printing (page 19), EPA does not recommend conducting a capture efficiency test because as long as the dryer is operated at negative pressure (in other words, is working properly), it can be assumed that the capture efficiency is 100 percent. These documents verify that continuous monitoring of dryer airflow is not required. Please disregard the part of Response 4z in the 10/2010 RTC document that states that “only major sources are required to monitor continuously.” If a recorder breaks, it is possible to go into manual mode. But, the Department would prefer to ensure that the equipment is functioning properly. Instead of using the suggested language, the following phrase has been added: “pursuant to a periodic monitoring strategy approved by the Department.”

*Comment 10:* In §716.25, the commenter acknowledges that the regulation includes the option to determine applicability by using material use thresholds approved by EPA. To further aid small operations, PGAMA requests that the DDOE include the suggested specific material use thresholds to demonstrate that emissions are below the applicability threshold. As an alternative, PGAMA requests that a formal guidance document be issued by the DDOE, approving the suggested thresholds.

*Response 10:* As mentioned in Response 4bb in the 10/2010 RTC document and referred to in Responses 2 above, the Department does allow the use of material use thresholds to determine applicability, but prefers to evaluate calculations on a case-by-case basis. The suggested EPA guidance is mentioned in the preamble to the proposed rule, but the Department may choose to not adopt the suggested methodologies when they are deemed unfit in a particular situation.

*Comment 11:* PGAMA offered definitions and revisions to definitions to facilitate the understanding of this rule.

*Response 11:* PGAMA’s comment encouraged the Department to examine the use and placement of numerous printing-related definitions in both §199 and §799.

The definition for “wipe cleaning” in §199 has been repealed, since it is no longer used anywhere in Subtitle A.

Some definitions that occurred in §199 have been repealed and added to §799, since §799 is a more appropriate location for them:

* Control technique guideline;
* Cylinder-wipe;
* Heatset;
* Inking cylinder;
* Intaglio;
* Letterpress;
* Letterset;
* Offset printing process;
* Paper-wipe;
* Photochemically reactive solvent;
* Plate;
* Printing;
* Printing operation;
* Printing unit;
* Water-based solvent;
* Wiping solution.

The following definitions have been added to or revised in §799 based on comments:

* Alcohol;
* Alcohol substitutes;
* Cleaning solution;
* Fountain solution;
* Fountain solution reservoir;
* Heatset;
* Heatset dryer;
* Lithography;
* Non-heatset;
* Printing operation;
* Sheet-fed;
* VOC composite partial vapor pressure.

The definition of “offset” was not adopted, but instead was incorporated into the existing definition of “offset printing operation.” Likewise, the proposed definition of “press” was incorporated into the existing definition of “printing press.” The term “unit” was not adopted because there is similar existing term, “printing unit.”

The following definitions in §199 could not be repealed or moved to §799 because they are currently referred to in Appendix 5-1 only:

* Dampening solution;
* Flexography;
* Gravure;
* Ink;
* Offset lithography

The definition for “volatile organic compound” in §799, which references the Federal definition of the term, was repealed and moved to replace the definition in §199.

**20 DCMR Chapter 7: Proposed VOC Regulations**

**COMMENT PERIOD: August 12, 2011, TO September 12, 2011**

**Response to Comments\***

***(As of September 2011)***

*\* Please note that some of the comments in this document are paraphrased*

1. **Daniel B. Pourreau, Ph.D., Lyondell Chemical Company, August 18**
2. **Daniel B. Pourreau, Ph.D., Lyondell Chemical Company, September 9**

*Comment a:* The Lyondell Chemical Company supports the language of the third VOC proposed rulemaking, and the changes to the VOC definition in particular.

*Comment b:* Lyondell Chemical Company supports the proposed revision to the VOC definition in §199. This change harmonizes the District’s VOC definition with the federal definition and that of 49 other states, including the 13 OTC states.

*Response a, b:* Thank you for the comments.

1. **John Ferraro, Roof Coatings Manufacturers Association**

*Comment c:*    RCMA agrees with ACA’s suggestion *[see #5, comment f]* that manufacturers should be allowed 180 days to respond to the information requested in the reporting requirements under §§ 777.1 through 777.6.

*Response c:*  See Response f.

*Comment d:*    RCMA also agrees with ACA’s suggestion *[see #5, comment i]* that exemptions under §775.1 should be applied to both architectural and industrial maintenance coatings.

*Response d:*  See Response i.

1. **John Hopewell, American Coatings Association, September 12**

*Comment e:* On page 4 of the proposal, it states [that the request to change emission limits for several pleasure craft coatings products] was denied. The ACA strongly urges the District to follow the Georgia Environmental Protection Department (GA EPD), which will make a negative declaration in the SIP with response to the Pleasure Craft CTG (EPA Miscellaneous Metal and Plastic Parts CTG, Sept. 2008). The GA EPD acknowledged ACA comments and noted the uncertainty of the technological feasibility in the pleasure craft CTG and, additionally, found that since there were no affected sources in the nonattainment area, there was no need to adopt the CTG.

*Response e:* The Miscellaneous Metal and Plastic Parts CTG applies to pleasure craft, but also to other metal and plastic components of the following types of products and the products themselves: fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products. The Department does not plan to submit a negative declaration for the CTG.

Since the Department remains unaware of pleasure craft coatings activity in the District, and since pleasure craft coatings limits are not specifically delineated through the “blanket” adoption of the CTG, it would be burdensome to revise limits specific to the pleasure craft industry at this time. The Department appreciates the comment, recognizes that feasibility of the technology requirements in the pleasure craft CTG is uncertain, and welcomes any source that may be applicable in the future to propose an alternative compliance option, in accordance with §§ 714.4 or 714.6.

1. **David Darling, P.E., American Coatings Association, September 12, 2011**

*Comment f:* ACA suggests allowing a coatings manufacturer 180 days to respond to a request under §§ 777.1 to 777.6, consistent with other State AIM rules.

*Response f:* Under §§ 777.1 through 777.6, the Department requires a report “upon request”. Since there is no specific time provided for a response, the Department is not opposed to working with the manufacturer to determine what a reasonable amount of time would be when requesting a report.

*Comment g:* ACA supports the proposed revision to §700.1.

ACA is concerned that the proposed §708.1 requirement would apply to all sources including AIM coatings. Even if compliant AIM coatings are used, it’s possible that a large painting project could result in a discharge of nonphotochemically reactive solvents; as such, ACA suggests including language.

*Response g:* The suggested clarification, which retains the intent of the existing regulation, has been added in §708.1.

*Comment h:* Consistent with other AIM rules, ACA suggests including high gloss coatings in §774.7.

*Response h:* The suggested changes are unnecessary because a “non-flat high gloss coating” is a type of non-flat coating, and non-flat coatings are addressed in §774.7. The proposed language already addresses non-flat high gloss coatings.

*Comment i:* Consistent with other AIM rules, ACA suggests the exemptions in §775.1 (for §§ 773 through 778) apply to both architectural and industrial maintenance coatings.

Response i: The suggested changes are unnecessary because an “industrial maintenance coating” is a type of architectural coating, and architectural coatings are addressed in §775.1. The proposed language already applies the exemptions to both architectural and industrial maintenance coatings.

*Comment j, k:* ACA suggests changes to §778.2 to include more recent test methods for exempt solvents, and edits to §778.5.

*Response j, k:* Note that §778.3 allows for the use of alternative test methods when a request to use an alterative test is made and then approved. The suggested changes have not been made to §§ 778.2 or 778.5.

*Comment l:* ACA suggests that combining all of the definitions from all of the rules in §700 is confusing and makes the rule unnecessarily complex, especially in cases where the definitions could potentially overlap. ACA suggests including definitions specific to each rule within the actual rule (including all AIM definitions within the AIM rule).

Note that the definition for “exempt compound” refers to the definition of “VOC”, but VOC is not defined in Section 799.

*Response l:* The District’s standard rulemaking procedure is to place definitions at the end of chapters.

Definitions of terms that apply to more than one Chapter can be found in Chapter 1. For example, “VOC” is defined in §199. Note the proposed revision to the definition of VOC on page 5 of the third proposed rulemaking.

*Comment m:* Many of the test methods in §799 refer to dated ASTM Methods. ACA suggests the District utilize the more up-to-date ASTM Methods cited in the most recent OTC AIM Model Rule that was adopted on June 3, 2010.

Also, see the suggested change to the definition of “architectural coating”.

*Response m:* The clarifying revision to the definition of “architectural coating” has been made.

It is unnecessary to revise the definitions in §799 because §778.3 allows for the use of alternative test methods when a request to use an alternative test method is made and approved.

The rulemaking to adopt the 2002/2006 OTC model rules was first proposed in 2007. The OTC model rule that the commenter refers to as “adopted on June 3, 2010,” is still in draft form. (On June 3, 2010, OTC member States signed an MOU to continue to work with interested stakeholders and pursue state-specific rulemakings to reduce emissions from the AIM coatings sector, among others, but the revised AIM rule has not been finalized.) The Department will consider adopting updates only when both this proposed VOC rulemaking, which adopts older model rules, and the revised OTC AIM Model Rule are final.

*Comment n:* As ACA described in our comment letter dated January 5, 2011, cleaning solvents that meet the stringent content limit of 50 g/L and/or a composite vapor pressure of less than or equal to 8 mm Hg would not allow effective cleaning at coatings, inks, adhesive and resin manufacturing operations. ACA recommends that the District exempt coatings, inks, adhesives and resin manufacturing operations from §700 or adopt the “Wisconsin Language” solvent cleaning provisions, as included.

*Response n:* The Department remains unaware of coatings, inks, adhesives, and resin manufacturing operations in the District.

If such an operation does come to the District and is unable to comply with the limits in §770.5(a) or §770.5(b), note that it would be possible to propose alternative RACT under §715.

The Department anticipates revisiting the commenter’s concerns during adoption of the 2009/2010 OTC model rules.

1. **Marcia Y. Kinter, Specialty Graphic Imaging Association, September 12**

*Comment o:* Under §770.9, the commenter requests that cleaning operations associated with digital printing operations be exempted. The Miscellaneous Industrial Solvent Cleaning Operations CTG does not identify digital printing as meeting the applicability requirements. When the CTG was released in 2006, EPA did not address emerging industry sectors. In the CTG, EPA states that, “the recommendations contained in this CTG are based on data and information currently available to EPA. These general recommendations may not apply to a particular situation based upon the circumstances of a specific source.”

Since 2006, digital technologies have been included in both solvent cleaning and graphic arts air pollution control standards in California. So that the burgeoning technology is not crippled, SGIA recommends that digital operations be exempted from the state’s proposed regulations for cleaning solvents.

*Response o:* If the CTG adopted in §770 is applicable to the digital technologies industry, and if such an operation does come to the District and is unable to comply with §770, note that it would be possible to propose alternative RACT under §715.

1. **Heidi K. McAuliffe, American Coatings Association, September 12, 2011**

*Comment p:* The standards in §744.1 and §744.2 must work together – the standards should apply to those products manufactured after January 1, 2012, and the use and application should also be tied to products manufactured after January 1, 2012. See the suggested language. Without this language, users and applicators may find themselves out of compliance and feel compelled to dispose of this product, creating unnecessary waste and emissions.

*Response p:* The suggested clarification (i.e., changing the placement of the applicable date) has been made.

*Comment q:* The proposed rule indicates that the DDOE is proposing a sell-through period for contact adhesives and adhesive removers that contain chlorinated compounds that is less than one year. Such a provision is in direct contrast with the OTC Model Rule.

This is not a new comment. The previous response that the sell-through date was in the model rule, and was included in the proposed regulation has very little impact on multinational companies when they are distributing products in the marketplace.

The OTC Model Rule provides for two options to employ when considering the sell-through period, and nowhere is there any type of sell-through that is less than one year. A nine-month sell-through is basically no sell-through at all. ACA urges DDOE to re-evaluate the issue.

*Response q:* The Department first proposed this rulemaking, which adopts 2002/2006 OTC model rules, in 2007. The second proposed rulemaking with these same standards was published in 2010. Thus, the regulated industry has had adequate notice about the implementation of lower VOC standards. The Department urges any retail establishments with products remaining on their shelves to transfer the products to jurisdictions in areas in attainment of EPA ozone standards.

As an alternative, any person who cannot comply with the Consumer Products requirements may request a variance under §737.

1. **Joseph Yost, Consumer Specialty Products Association, September 12**

*Comment r:* CSPA supports the majority of amendments that the Department included in the third proposed rulemaking.

*Response r:* Thank you for the comment.

*Comment s:* There is a legitimate need to formulate low-flammable general purpose degreaser products. There are limited situations when the use of perchloroethylene, methylene chloride, or trichloroethylene (i.e. chlorinated compounds) is necessary to produce low-flammability general purpose degreaser products that can be used by facilities’ maintenance operations in which ignition sources may be present. There is a workplace safety concern that a spark from such ignition sources could cause a fire if it comes into contact with flammable vapors. Therefore, CSPA recommends that the Department withdraw the restrictions on general purpose degreasers in §727 of the final regulation.

*Response s:* Any person who cannot comply with the Consumer Products requirements may request a variance under §737.

*Comment t:* CSPA urges the Department to provide a more adequate amount of time for manufacturers and retailers to comply with the prohibitions and requirements set forth as §§ 727 and 728 to ensure that existing stock of non-compliant products are removed from store shelves in the District of Columbia.

The Department should provide a more adequate effective date for the new prohibitions.

The Department should provide a three-year sell-through period for products manufactured before the effective date for the new prohibition. See the suggested text.

*Response t:* Please refer to Response q.

**Additional Notes**

On March 24, 2011, a negative declaration was submitted to EPA for the following categories of sources of volatile organic compounds (VOCs) for which EPA issued a control technique guideline (CTG) document in calendar years 2006, 2007 and 2008:

* Auto and light-duty truck assembly coatings;
* Fiberglass boat manufacturing materials;
* Paper, film and foil coatings; and
* Flatwood paneling.

This negative declaration was submitted to fulfill the requirement that, in the absence of sources in these source categories, the District of Columbia revise its State Implementation Plan (SIP) or submit a negative declaration for these categories pursuant to Section 182(b)(2)(A) of the Clean Air Act.

1. <http://www.dsd.state.md.us/comar/comarhtml/26/26.11.32.10.htm> [↑](#footnote-ref-2)
2. <http://www.dsd.state.md.us/comar/comarhtml/26/26.11.32.04.htm> [↑](#footnote-ref-3)
3. <http://www.deq.state.va.us/air/pdf/airregs/4503.pdf> [↑](#footnote-ref-4)
4. <http://www.dsd.state.md.us/comar/comarhtml/26/26.11.32.04.htm> [↑](#footnote-ref-5)
5. Contact adhesives: <http://www.dsd.state.md.us/comar/comarhtml/26/26.11.32.08.htm>; adhesive removers: <http://www.dsd.state.md.us/comar/comarhtml/26/26.11.32.09.htm> [↑](#footnote-ref-6)