

# **Attachment E**

## **Revision to Connecticut's State Implementation Plan**

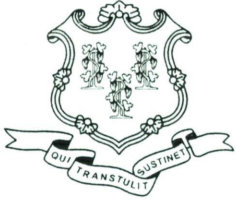
### **Adopted Regulations**

1. 8-Hour Ozone Package
  - a. Amendment of Section 22a-174-20(*l*), Metal Cleaning;
  - b. Adoption of Section 22a-174-40, Consumer Products; and
  - c. Adoption of Section 22a-174-41,  
Architectural and Industrial Maintenance Products.
2. Amendment of Section 22a-174-43, Portable Fuel Container Spillage
3. Amendment of Section 22a-174-24(*i*), 8-Hour Ozone Standard

**Connecticut Department of Environmental Protection  
February 1, 2008**



**CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION**



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



HEARING CERTIFICATION

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the actions listed below were taken regarding three regulatory proposals intended to result in emissions reductions for inclusion in the State's plan to attain and maintain the national ambient air quality standard for 8-hour ozone: an amendment to section 22a-174-20(I) and the adoption of sections 22a-174-40 and 22a-174-41 of the Regulations of Connecticut State Agencies.

- 1) The public hearing was held on June 27, 2006 as announced in the notice of hearing (copy attached);
- 2) In accordance with the notice, materials were available for review in each Air Quality Control Region (AQCR) in Connecticut;
- 3) Copies of the notice were mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published in newspapers as follows:

<u>Newspaper</u>	<u>AQCR</u>	<u>Date</u>
Connecticut Law Journal		May 23, 2006
Connecticut Post (Bridgeport)	43	May 23, 2006
Hartford Courant	42	May 23, 2006
New London Day	41	May 23, 2006
The Register Citizen (Torrington)	44	May 23, 2006

08/22/07  
Date

  
Merrily A. Gere  
Bureau of Air Management

## **Notice of Intent to Amend and Adopt Sections of the Regulations of Connecticut State Agencies and to Revise the State Implementation Plan for Air Quality**

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to amend one existing and adopt two new sections of the Regulations of Connecticut State Agencies (R.C.S.A.). The amended and new sections are described below. The amended and new sections will be submitted to the U.S. Environmental Protection Agency (EPA) for review and approval as revisions to the State Implementation Plan for air quality required by the Clean Air Act Amendments of 1990. The associated emissions reductions will be included in the State's plan to attain and maintain the national ambient air quality standard for 8-hour ozone.

All interested persons are invited to comment on each of the three air quality regulations involved in this proposal. Comments should be submitted to the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut 06106-5127. All comments should be directed to the attention of Patricia Downes and must be received by 4:30 PM on June 30, 2006. Comments may be submitted by post, facsimile to (860) 424-4063 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us).

The three sections of the air quality regulations included in this proposal are as follows:

**R.C.S.A. section 22a-174-20(I) – Metal cleaning:** The amendment to R.C.S.A. section 22a-174-20(I) adds a limitation on the vapor pressure of solvents used in cold cleaning and other requirements to further limit emissions of volatile organic compounds (VOCs) from metal cleaning. The amendment also adds an exemption from a conveyor speed requirement for the owners and operators of continuous web cleaning machines operated with other equipment to control the release of VOCs; and definitions necessary to implement the revised requirements. The limitation and other requirements conform to the Ozone Transport Commission's (OTC's) 2001 Model Rule for Solvent Cleaning. This amended section will be submitted to EPA as a reasonably available control technology (RACT) for VOC in satisfaction of 40 CFR section 51.912.

**R.C.S.A. section 22a-174-40 – Consumer products:** This new section limits VOC emissions from consumer products through VOC content limits developed in 2001 by the OTC as part of a model rule. In addition to the 2001 OTC model rule requirements, the proposed section includes new and revised VOC emissions limits and related provisions for 25 consumer product categories that were adopted by the California Air Resources Board on July 20, 2005. Further information on that California rulemaking proceeding is available at: <http://www.arb.ca.gov/consprod/consprod.htm>. This section will be submitted to EPA as a reasonably available control measure (RACM) in satisfaction of 40 CFR section 51.912.

**R.C.S.A. section 22a-174-41 – Architectural and industrial maintenance coatings:** This new section limits VOC emissions from architectural coatings and industrial maintenance coatings through VOC content limits developed in 2001 by the OTC as part of a model rule. This section will be submitted to EPA as a RACM in satisfaction of 40 CFR section 51.912.

In addition to accepting written comments on each of the three regulations included in this proposal, the Department will also hold the public hearing described below. Any person appearing at the hearing is requested to submit a written copy of his or her statement. However, oral comments will also be made a part of the hearing record and are welcome.

**PUBLIC HEARING**  
**June 27, 2006 at 1:30PM**  
**Department of Environmental Protection, 5th Floor, Holcombe Room**  
**79 Elm Street, Hartford, CT**

Copies of the amended and new sections described above and statements required by section 22a-6(h) of the Connecticut General Statutes (C.G.S.) identifying how each amended and new section differs from applicable federal requirements are available for public inspection during normal business hours and may be obtained from Patricia Downes at the Bureau of Air Management, Planning and Standards Division, 5th Floor, 79 Elm Street, Hartford, CT. Additional copies are also available for review at the Law Reference Desk at the Connecticut State Library, Torrington Public Library, New London Public Library and Bridgeport Public Library. For further information, contact Patricia Downes of the Bureau of Air Management at (860) 424-3027 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us).

The Department is an affirmative action/equal opportunity employer, providing programs and services in a fair and impartial manner. In conformance with the Americans with Disabilities Act of 1990, individuals with disabilities who need information in an alternative format to allow such individuals to benefit from and/or participate in the Department's programs and services should call TDD (860)-424-3000 and make their request to the receptionist. Requests for accommodations to attend the noticed hearing must be made at least two weeks prior to the hearing date to Marcia Z. Bonitto, ADA Coordinator, via electronic mail to [Marcia.Bonitto@po.state.ct.us](mailto:Marcia.Bonitto@po.state.ct.us).

The authority to adopt the proposed amendment and new sections is granted by C.G.S. sections 22a-6 and 22a-174. This notice is required pursuant to C.G.S. sections 22a-6 and 4-168 and 40 CFR section 51.102.

May 1, 2006

Date

\_\_\_\_\_  
/s/Gina McCarthy  
Commissioner

## ADMINISTRATIVE REGULATIONS

*Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.*

*A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated May 2, 2006.*

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notice of Intent to Amend and Adopt Sections of the Regulations of Connecticut State Agencies and to Revise the State Implementation Plan for Air Quality

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to amend one existing and adopt two new sections of the Regulations of Connecticut State Agencies (R.C.S.A.). The amended and new sections are described below. The amended and new sections will be submitted to the U.S. Environmental Protection Agency (EPA) for review and approval as revisions to the State Implementation Plan for air quality required by the Clean Air Act Amendments of 1990. The associated emissions reductions will be included in the State's plan to attain and maintain the national ambient air quality standard for 8-hour ozone.

All interested persons are invited to comment on each of the three air quality regulations involved in this proposal. Comments should be submitted to the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut 06106-5127. All comments should be directed to the attention of Patricia Downes and must be received by 4:30 PM on June 30, 2006. Comments may be submitted by post, facsimile to (860) 424-4063 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us).

The three sections of the air quality regulations included in this proposal are as follows:

**R.C.S.A. section 22a-174-20(f) – Metal cleaning:** The amendment to R.C.S.A. section 22a-174-20(f) adds a limitation on the vapor pressure of solvents used in cold cleaning and other requirements to further limit emissions of volatile organic compounds (VOCs) from metal cleaning. The amendment also adds an exemption from a conveyor speed requirement for the owners and operators of continuous web cleaning machines operated with other equipment to control the release of VOCs; and definitions necessary to implement the revised requirements. The limitation and other requirements conform to the Ozone Transport Commission's (OTC's) 2001 Model Rule for Solvent Cleaning. This amended section will be submitted to EPA as a reasonably available control technology (RACT) for VOC in satisfaction of 40 CFR section 51.912.

**R.C.S.A. section 22a-174-40 – Consumer products:** This new section limits VOC emissions from consumer products through VOC content limits developed in

2001 by the OTC as part of a model rule. In addition to the 2001 OTC model rule requirements, the proposed section includes new and revised VOC emissions limits and related provisions for 25 consumer product categories that were adopted by the California Air Resources Board on July 20, 2005. Further information on that California rulemaking proceeding is available at: <http://www.arb.ca.gov/consprod/consprod.htm>. This section will be submitted to EPA as a reasonably available control measure (RACT) in satisfaction of 40 CFR section 51.912.

**R.C.S.A. section 22a-174-41 – Architectural and industrial maintenance coatings:** This new section limits VOC emissions from architectural coatings and industrial maintenance coatings through VOC content limits developed in 2001 by the OTC as part of a model rule. This section will be submitted to EPA as a RACT in satisfaction of 40 CFR section 51.912.

In addition to accepting written comments on each of the three regulations included in this proposal, the Department will also hold the public hearing described below. Any person appearing at the hearing is requested to submit a written copy of his or her statement. However, oral comments will also be made a part of the hearing record and are welcome.

#### PUBLIC HEARING

June 27, 2006 at 1:30PM

Department of Environmental Protection, 5th Floor, Holcombe Room  
79 Elm Street, Hartford, CT

Copies of the amended and new sections described above and statements required by section 22a-6(h) of the Connecticut General Statutes (C.G.S.) identifying how each amended and new section differs from applicable federal requirements are available for public inspection during normal business hours and may be obtained from Patricia Downes at the Bureau of Air Management, Planning and Standards Division, 5th Floor, 79 Elm Street, Hartford, CT. Additional copies are also available for review at the Law Reference Desk at the Connecticut State Library, Torrington Public Library, New London Public Library and Bridgeport Public Library. For further information, contact Patricia Downes of the Bureau of Air Management at (860) 424-3027 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us).

The Department is an affirmative action/equal opportunity employer, providing programs and services in a fair and impartial manner. In conformance with the Americans with Disabilities Act of 1990, individuals with disabilities who need information in an alternative format to allow such individuals to benefit from and/or participate in the Department's programs and services should call TDD (860)-424-3000 and make their request to the receptionist. Requests for accommodations to attend the noticed hearing must be made at least two weeks prior to the hearing date to Marcia Z. Bonitto, ADA Coordinator, via electronic mail to [Marcia.Bonitto@po.state.ct.us](mailto:Marcia.Bonitto@po.state.ct.us).

The authority to adopt the proposed amendment and new sections is granted by C.G.S. sections 22a-6 and 22a-174. This notice is required pursuant to C.G.S. sections 22a-6 and 4-168 and 40 CFR section 51.102.

Gina McCarthy  
Commissioner

EXHIBIT A

**HEARING REPORT**

**Prepared Pursuant to Section 4-168(d) of the  
Connecticut General Statutes and  
Section 22a-3a-3(d)(5) of the Department of Environmental Protection Rules of Practice**

**Regarding the Amendment of Section 22a-174-20(l) and the  
Adoption of Sections 22a-174-40 and 22a-174-41 of the  
Regulations of Connecticut State Agencies**

**Hearing Officers:  
Merrily A. Gere  
Patrice Kelly  
Christopher Mulcahy**

**Date of Hearing: June 27, 2006**

On May 1, 2006, the Commissioner of the Department of Environmental Protection (Commissioner and Department, respectively) signed a notice of intent to amend section 22a-174-20(l) and adopt sections 22a-174-40 and 22a-174-41 of the Regulations of Connecticut State Agencies (R.C.S.A.). Pursuant to such notice, a public hearing was held on June 27, 2006, with the public comment period for the proposed regulatory actions closing on June 30, 2006. The proposed regulatory actions are intended to create ozone precursor emissions reductions that will be included in the State's plan to attain and maintain the national ambient air quality standard for 8-hour ozone.

**I. Hearing Report Content**

As required by section 4-168(d) of the Connecticut General Statutes (C.G.S.), this report describes the regulatory actions proposed for hearing; the principal reasons in support of the proposed actions; the principal considerations presented in oral and written comments in opposition to the proposed actions; all comments made and responses thereto regarding the proposed actions; and the final wording of the proposal. Commenters are identified in Attachment 1.

This report also includes statements in accordance with C.G.S. section 22a-6(h).

**II. Federal Standards Analysis in Compliance with Section 22a-6(h) of the General**

## Statutes

Pursuant to the provisions of C.G.S. section 22a-6(h), the Commissioner is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a proposed regulation or amendment that differ from *applicable* federal standards or procedures (*i.e.*, federal standards and procedures that apply to *the same persons* under the proposed state regulation or amendment). The Commissioner must distinguish any such provisions either on the face of such proposed regulation or amendment or through supplemental documentation accompanying the proposed regulation or amendment. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under Title 4, Chapter 54 of the C.G.S. and make such explanation publicly available at the time of the notice of public hearing required under C.G.S. section 4-168.

In accordance with the requirements of C.G.S. section 22a-6(h), the following statement was available at the time of the notice of the public hearing and was entered into the administrative record in the matter of the proposed regulatory actions identified below:

### **Amendment of R.C.S.A. Section 22a-174-20(l)**

This amendment improves Section 20(l) by adding a limitation on the vapor pressure of solvents used in cold cleaning and additional operating practices to further limit emissions of volatile organic compounds (VOCs) from metal cleaning. Some of the operating practice requirements of this amendment are equivalent to certain requirements of 40 Code of Federal Regulations (CFR) 63, subpart T, which establishes a Federal maximum achievable control technology (MACT) standard for chlorinated solvent vapor degreasers. However, in contrast to the MACT, which is intended to control hazardous air pollutants such as methylene chloride, perchloroethylene and trichloroethylene, the purpose of this amendment is to control VOC emissions to assist Connecticut to attain the national ambient air quality standard for 8-hour ozone. The most significant component of the amendment is the limitation on the vapor pressure of solvents used in cold cleaning for which there is no analogous federal standard or procedure.

### **Adoption of R.C.S.A. Section 22a-174-40**

The Department has performed a comparison of the proposed section with applicable analogous federal provisions, namely standards and procedures in 40 CFR 59, Subpart C (the Federal Rule). The Federal Rule, which became effective in December 1998, regulates 24 categories representing 48 percent of the national consumer products inventory and reduces VOC emissions from those product categories by about 20 percent. To further reduce VOC emissions from consumer products, in 2001 the Ozone Transport Commission (OTC) developed a model rule for states in the Northeast region to adopt. That OTC model rule serves as the basis of the proposed section. To the OTC model rule, the proposed section adds additional product categories and VOC limits, which are based on consumer product requirements adopted on July 20, 2005 by the California Air Resources Board (CARB). The Federal Rule specifies VOC limits for a number of consumer product categories and is similar in format to the proposed section. However, there are significant differences between the rules, as follows:

- The Federal Rule applies to nationwide consumer product manufacturers, importers and distributors while the proposed section applies to any person "who sells, supplies, offers

for sale or manufactures for sale in the State of Connecticut on or after May 1, 2008 any consumer product for use in the State of Connecticut."

- The Federal Rule does not regulate all of the product categories included in the proposed section.
- For the categories that are regulated under both rules, many of the proposed section's emission limits are more stringent than the federal limits.
- All of the VOC limits in the Federal Rule have an effective date of December 10, 1998, whereas the VOC limits in the proposed section are effective on May 1, 2008 for most regulated product categories.

#### **Adoption of R.C.S.A. Section 22a-174-41**

The Department has performed a comparison of proposed R.C.S.A. section 22a-174-41 with applicable analogous federal provisions, namely standards and procedures in 40 CFR 59, Subpart D (the Federal AIM Rule). The Federal AIM Rule, which became effective in December 1998, specifies VOC limits for a number of coating categories and is similar in format to proposed R.C.S.A. section 22a-174-41. However, there are significant differences between the rules, as follows:

- The Federal AIM Rule applies to nationwide architectural coating manufacturers, importers and distributors while R.C.S.A. section 22a-174-41 applies to any person "who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut on or after May 1, 2008 any architectural coating for use in the State of Connecticut and to any person who applies or solicits the application of any architectural coating within the State of Connecticut on or after May 1, 2008."
- The definitions for the regulated coating categories differ in some respects between the two rules.
- For the categories that are regulated under both rules, all of R.C.S.A. section 22a-174-41 limits are at least as stringent and many of R.C.S.A. section 22a-174-41's limits are more stringent than the Federal AIM Rule limits.
- All of the VOC limits in the Federal AIM Rule have an effective date of December 10, 1998, whereas the VOC limits in R.C.S.A. section 22a-174-41 are effective on May 1, 2008 for most regulated product categories.

### **III. Summary and Text of the Proposal**

This proposal consists of three regulatory actions: the amendment of R.C.S.A. section 22a-174-20(l) and the adoption of R.C.S.A. sections 22a-174-40 and 22a-174-41, which are summarized in Section II of this report.

The text of the proposed regulatory actions is located in Attachment 2 to this report.

### **IV. Principal Reasons in Support of the Proposal**

The primary purpose of the proposed regulatory action is to reduce ozone precursor emissions and thereby assist the state with the goal of demonstrating attainment of the federal 8-hour ozone national ambient air quality standard (NAAQS), as required by the Clean Air Act. Although currently mandated controls will achieve significant emission reductions over the next five to ten years, additional emission reductions beyond current requirements will be necessary to maintain



the 8-hour ozone NAAQS. Thus, following adoption, the proposed regulatory actions will be submitted to EPA as part of demonstration of how the state will attain the ozone 8-hour standard of 0.08 parts per million by 2009.

Each element of this proposal results from a regional process coordinated by the Ozone Transport Commission (OTC). This regional process focused on the preparation of materials for use in 1-hour and 8-hour ozone NAAQS attainment planning by the OTC member states. These materials included model rules to regulate products, activities and stationary sources to reduce ozone precursor emissions. Such model rules were prepared in both 2001 – 2002 for 1-hour ozone NAAQS purposes and 2005-2006 for 8-hour ozone NAAQS purposes. The 2001 OTC model rules and, in the case of consumer products, the 2006 OTC model rule, were developed by a workgroup of OTC state regulatory staff, including the Department, in a multi-year effort. Representatives of the regulated manufacturers participated in the Model Rule development process. The OTC model rules provide a regulatory template that can be adopted by any state, thereby promoting regional consistency and improved manufacturer compliance. Therefore, consistency with the requirements of the OTC model rules was a major factor guiding the development of each of the proposed regulatory sections and amendment. The Commissioner, via signature on resolutions and memorandums of understanding, has committed with other states in the OTC to seek adoption of regulations based on these OTC model rules.

In addition to assisting in ozone attainment planning efforts, some elements of this proposal also support other environmental goals. For example, by addressing the environmental impacts of consumer products, the proposed versions of R.C.S.A. sections 22a-174-40 and 22a-174-41 are consistent with a 2006 environmental initiative of the Department, which focuses on assisting individuals and organizations to decrease their “environmental footprint.”

## **V. Principal Considerations in Opposition to the Proposal**

No comments opposed moving the proposed amendment and new sections forward for approval and promulgation. Some comments suggested technical revisions to certain portions of the proposed amendment and new sections.

Many of the comments submitted were focused on the achievement of regional consistency and recommended close adherence to the provisions of the OTC Model Rules, and, where applicable, CARB rules. A detailed discussion of the comments and responses is set out for each element of this proposal in the next section of this report.

## **VI. Summary of Comments**

All comments submitted are summarized below with the Department's responses. Commenters are identified by abbreviation in this section and are identified fully in Attachment 1 to this report. Comments are addressed separately for each of the three regulatory actions included in this proposal. When changes to the proposed text are indicated in response to comment, new text is in bold font and deleted text is in strikethrough font.

### **Amendment of R.C.S.A. Section 22a-174-20(l)**

The amendment to R.C.S.A. Section 22a-174-20(l) (Section 20(l)), which is intended to reduce VOC emissions from solvent cleaning, is based upon the Ozone Transport Commission (OTC)

Model Rule for solvent cleaning, which a number of OTC states have already adopted. The cornerstone of this amendment is a reduction in the solvent vapor pressure standard for cold cleaners from 33 mmHg to 1.0 mmHg.

**20(I) - 1. Comment:** BAE Systems is in favor of the proposed regulation. The addition of new subdivisions (7) and (8) will provide a means for BAE Systems to maintain compliance.

**Response:** The Department notes BAE Systems' support of the proposed regulation.

**20(I) - 2. Comment:** Section 20(I)(3)(J)(i) requires that material usage be tracked by "product number or vendor identification number." Woodard & Curran and CBIA request that this section be changed to be consistent with record keeping systems already in place at many facilities in Connecticut, namely the record keeping requirements in Section 22a-174-20(aa). Specifically, they request that the Department replace the phrase "product number or vendor identification number" with "a description of the solvent including the solvent name."

**Response:** The Department should change Section 20(I)(3)(J)(i) to take into account the record keeping systems already in place for many facilities while providing sufficient information for compliance determinations. Specifically, Section 20(I)(3)(J)(i) should be revised as follows:

- (i) The type of solvent used, including ~~the product or vendor identification number~~ a **description of the solvent and the solvent name,**

In conjunction with the revision to Section 20(I)(3)(J)(i), the Department should revise Section 20(I)(9)(B), which specifies the information a solvent supplier must provide to a purchaser, as follows:

- (B) The type of solvent including ~~the product or vendor identification number~~ a **description of the solvent and the solvent name,**

**20(I) - 3. Comment:** Proposed Section 20(I)(3)(J) would require the owner or operator of a cold cleaning unit to maintain records of certain information regarding the solvent used, including the "type of solvent," "vapor pressure," "percent VOC content" and "the amount added to each unit on a monthly basis." The intent is apparently to enable calculation of VOC emissions, reduction of which is the focus of the requirements.

However, Section 20(I)(3)(J)(ii) would further require the owner or operator to record the "name and address of the solvent vendor." While we recognize that such a provision is included in the OTC Model Rule, it is not clear what relevance this information would have for calculating or limiting VOC emissions, on top of the other requirements for emissions-relevant information such as vapor pressure, amounts added, etc. (Woodard & Curran, CBIA, and UTC) A requirement to keep records of solvent vendor names and addresses also would be operationally burdensome for larger facilities that receive solvent from a large and shifting cast of vendors. In addition, this requirement, coupled with the proposed Connecticut-specific provision to keep records on "the amount of solvent added to each unit on a monthly basis" has the potential to be construed as requiring the name and address of a solvent vendor to be maintained on a per-unit basis. Such an interpretation would be impractical at a large, complex facility and would

promote non-compliance, with limited or no benefit in advancing the VOC emissions control purpose of the regulation. (UTC)

Woodard & Curran, CBIA, and UTC request that Section 20(l)(3)(J)(ii) be deleted.

UTC requests that, if Section 20(l)(3)(J)(ii) is not deleted, the Department confirm that the requirement is intended to require the owner or operator to maintain the information received from its solvent vendors in accordance with proposed Section 20(l)(9)(A) and is not intended to apply on a unit-by-unit basis to cold cleaners at the owner's or operator's facility.

**Response:** Based on the comment, the Department has determined that it is not necessary to retain Section 20(l)(3)(J)(ii) for consistency with the OTC Model Rule for Solvent Cleaning since the information required is readily available. The name and address of the solvent manufacturer is listed on a solvent's Material Safety Data Sheet (MSDS). The Occupational Safety and Health Administration requires operators of solvent cleaners to have MSDS on hand for the solvents they use.

For the aforementioned reasons, the Department should delete proposed Section 20(l)(3)(J)(ii) from the final text of the amendment and the remaining subclauses should be re-labeled, as follows:

~~(ii)~~ — ~~The name and address of the solvent vendor,~~

~~(iii)~~ **(ii)** The vapor pressure of the solvent in mmHg measured at 20 degrees Celsius (68 degrees Fahrenheit),

~~(iv)~~ **(iii)** The percent VOC content by weight, and

~~(v)~~ **(iv)** The amount of solvent added to each unit on a monthly basis.

In addition, subsection (l)(9)(A), which requires solvent sellers to provide this same information to purchasers, should be deleted and the remaining subparagraphs should be re-lettered, as follows:

(9) On and after May 1, 2008, any person who sells or offers for sale any solvent containing VOCs for use in a cold cleaning machine shall provide to the purchaser the following information:

~~(A)~~ ~~The name and address of the solvent supplier;~~

~~(B)~~**(A)** The type of solvent including a description of the solvent and the solvent name,

~~(C)~~**(B)** The vapor pressure of the solvent measured in mmHg at 20 degrees Celsius (68 degrees Fahrenheit); and

~~(D)~~**(C)** The percent VOC content by weight.

**20(l) - 4. Comment:** Section 20(l)(7)(D) provides an exemption for low-VOC content solvents, defined as “solvents containing less than or equal to five percent (5%) VOCs by weight.” This exemption would apply only to the solvent pressure limit in the proposed Section 20(l)(3)(K). Solvents with less than 5% VOCs, or apparently any level of VOCs at all, would still be subject to all other provisions of the regulation. By contrast the OTC Model Rule for Solvent Cleaning and the rules of many OTC states completely exempt solvents with VOC content less than or equal to 5% VOC by weight from the regulations. UTC and CBIA both request that the proposed regulation be revised to be consistent with the OTC Model Rule. UTC urges the Department to revise Sections 20(l)(3) and 20(l)(7) as follows:

(l)(3) Except as provided [for] in [subdivision] subdivisions (l)(6), (l)(7), and (l)(8) of this section, the owner or operator of any cold cleaning unit with an internal volume greater than two (2) liters and using solvents containing greater than five percent (5%) VOCs by weight shall meet the requirements of this subdivision.

\*\*\*\*\*

(l)(7) Subsection (l)(3)(K) of this section shall not apply to the owner or operator of any of the following cold cleaning units:

- (A) Used for special and extreme solvent metal cleaning;
- (B) For which the owner or operator has submitted and received approval from the Commissioner of a demonstration that compliance with subsection (l)(3)(K) of this section will result in unsafe operation conditions; or
- (C) Located in a permanent total enclosure equipped with control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater, [; or
- (D) Using solvents containing less than or equal to five percent (5%) VOCs by weight.]

If the Department declines to adopt these revisions, UTC requests that the Department quantify and explain the marginal benefits and costs of subjecting low-VOC content solvents to the full scope of the cold cleaning regulation and confirm that the benefits exceed the costs.

**Response:** For the reasons stated in comment and to achieve consistency with the OTC Model Rule for Solvent Cleaning and similar rules in surrounding states, the Department should revise proposed Section 20(l) to exempt solvents containing less than or equal to five percent (5%) VOCs by weight from all requirements. There is no clear or convincing evidence that requiring owners and operators of cold cleaning units using low-VOC solvents to meet other requirements of Section 20(l) will lead to an appreciable reduction in VOCs. Sections 20(l)(3) and 20(l)(7) should be revised as follows:

(l)(3) Except as provided [for] in [subdivision] subdivisions (l)(6), (l)(7) and (l)(8) of

this section, the owner or operator of any cold cleaning unit with an internal volume greater than two (2) liters and using solvents containing greater than five percent (5%) VOCs by weight shall meet the requirements of this subdivision.

\*\*\*\*\*

(l)(7) Subsection (l)(3)(K) of this section shall not apply to the owner or operator of any of the following cold cleaning units:

- (A) Used for special and extreme solvent metal cleaning;
- (B) For which the owner or operator has submitted and received approval from the Commissioner of a demonstration that compliance with subsection (l)(3)(K) of this section will result in unsafe operating conditions; **or**
- (C) Located in a permanent total enclosure equipped with control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater; ~~or~~ .
- ~~(D) Using solvents containing less than or equal to five percent (5%) VOCs by weight.~~

Cold cleaning owners and operators using low-VOC content solvents are strongly encouraged to use all applicable work practice requirements in 20(l).

**20(l) - 5. Comment:** Section 20(l)(3)(K) specifies that the vapor pressure for a solvent used on or after May 1, 2008 not exceed 1.0 mmHg. However, when this regulation becomes effective, the current requirement in 20(l)(6)(B) that restricts vapor pressure to 33 mmHg will be deleted. If the regulation is promulgated before May 1, 2008, there will be a gap in the requirement to the limit vapor pressure of solvent used for cold cleaning. (Woodard & Curran) Rather than deleting Section 20(l)(6)(B), Woodard & Curran recommend that this section should remain with “until April 30, 2008,” inserted at the beginning of the sentence.

**Response:** To avoid leaving a regulatory gap in the requirement to limit the vapor pressure of solvent used for cold cleaning, the Department should revise Section 20(l)(6)(B), as follows:

- (B) **Prior to April 30, 2008,** the solvent used in the cold cleaner must not have a vapor pressure that exceeds 4.3kPa (33mm Hg or 0.6 PSI) measured at 38° C (100° F) or be heated above 50° C (120° F);

**20(l) - 6. Comment:** Section 20(l)(3)(M) requires that a facility “clean any paint or coating application equipment in accordance with the requirements listed in Section 22a-174-3b(d)(1)(C) (Section 3(b)(d)) of the Regulations of Connecticut State Agencies, ” which specifically applies to automotive refinishing operations. Section 3b(d)(1)(C) does not allow for common solvent recycling/reuse operations performed by many manufacturers. For example, Section 3b(d)(1)(C)(iv) allows equipment cleaning to take place “in a system that atomizes spray into a

paint waste container that is fitted with a device designed to capture atomized solvent emissions.” This would prevent a facility from atomizing the spray into a solvent waste container prior to recovery and recycle or disposal, or into a container that could simply be used to collect the solvent for reuse during the cleaning of paint application equipment in the future. (Woodard & Curran; CBIA) Woodard & Curran and CBIA are in favor of omitting Section 20(l)(3)(M) from the proposed regulations. If not omitted, Woodard & Curran propose that the wording in Section 20(l)(3)(M) be revised to allow for the collection of the solvent in any container for reuse or disposal.

UTC requests that the Department clarify the relationship between the requirements of Section 3b(d)(1)(C) and other provisions of Section 20(l)(3). Section 3b(d)(1)(C) requires application equipment to be cleaned using one of four alternative methods. Three of these methods require that the device or solvent container being used remain closed when not in use; the fourth requires a device designed to capture atomized solvent emissions. By contrast, other provisions in proposed Section 20(l)(3) provide that the covers for cold cleaning units must always be closed when the device is not in use. It appears that cleaning paint or coating application equipment would be subject to Section 20(l)(3)(M) and not also to potentially redundant or conflicting requirements elsewhere in Section 20(l)(3). (UTC) UTC is also concerned that Section 20(l)(3) could become a “trap for the unwary,” by creating an additional set of requirements outside of Section 3b(d) for sources that utilize Section 3b(d) permit-by-rule.

Separating out the cleaning of paint or coating application equipment would also be appropriate to ensure that the proposed revisions did not end up setting standards that differ from the Aerospace Maximum Achievable Control Technology (MACT) standards at 40 CFR Part 63, Subpart GG. To avoid potential confusion, it would be helpful to state separately at the end of Section 20(l)(3) the provision that is currently in Section 20(l)(3)(M), as follows (UTC):

[M] A unit that is used to clean any paint or coating application equipment shall not be subject to subsections 20(l)(3)(A) – (L), and shall be operated in accordance with the requirements listed in section 22a-174-3b(d)(1)(C) of the Regulations of Connecticut State Agencies. (UTC)

**Response:** Section 3b(d)(1)(C) was written exclusively for the auto refinishing industry, not for broad application to all users that clean surface coating equipment using cold cleaners. In addition, a sampling of regulations for solvent cleaning adopted in other OTC states (New York, New Jersey, Maine and Delaware) do not specifically address the cleaning of surface coating equipment. For regional consistency and to avoid the creation of potentially confusing requirements with no clear air quality benefit, the Department should delete Section 20(l)(3)(M) from the final version of this amendment, as follows:

~~(M) — Clean any paint or coating application equipment in accordance with the requirements listed in section 22a-174-3b(d)(1)(C) of the Regulations of Connecticut State Agencies.~~

**20(l) - 7. Comment.** Nutmeg Chrome Corporation comments that a solvent with no environmental impact could be available with a vapor pressure greater than 1.0 MM Hg. Nutmeg Chrome thinks that this restriction should be defined more clearly. Similarly, CBIA

comments that requiring solvents used on or after May 1, 2008 not exceed 1.0 mmHg is an extremely significant ratcheting down of the existing standard of 33 mmHg currently required under Section 20(l)(6)(B). CBIA members are unsure of the cost and impact on their operations given the cost and availability of the technology required. CBIA requests that the Department provide information it considered on the availability and cost of the required technology in proposing this new standard.

**Response:** The Department understands that solvents and equipment suitable for compliance with the vapor pressure standard and other requirements of the proposed amendment are available at a reasonable cost. The OTC Model Rule for Solvent Cleaning was developed in 2000 – 2001 based upon regulatory requirements effective at that time in Maryland and Delaware. Since 1996, these states have required, in all their serious and severe nonattainment area counties, the same vapor pressure limit, 1.0 mmHg, proposed in Section 20(l)(3)(K). Furthermore, many OTC states have already adopted regulations limiting the solvent vapor pressure for cold cleaning machines to 1.0 mmHg.

Most cold cleaning machines and solvents are provided to users through contract with regional and national companies. When contacted in the development of the OTC Model Rule for Solvent Cleaning, these companies indicated that multiple solvents and cold cleaners are available to meet the solvent vapor pressure limit of 1.0 mmHg.

**20(l) - 8. Comment.** Nutmeg Chrome Corporation requests clarification on how the changes to Section 20(l) relate to the halogenated solvent cleaning machine MACT under Section 112 of the Clean Air Act.

**Response:** The amendment to Section 20(l) and the halogenated solvent cleaning MACT are independent requirements that serve different purposes. Revisions to Section 20(l) are intended to reduce VOC emissions from solvent cleaning as part of the Department's plan for Connecticut to meet EPA's 8-hour ozone NAAQS. The halogenated solvent cleaning machine MACT is designed to reduce air toxics emissions from solvent cleaning processes. A solvent cleaning process may be subject to both Section 20(l) and the halogenated solvent cleaning machine MACT, if among other things the solvent contains both a non-exempt VOC and a halogenated solvent. Alternatively, either provision may apply independently.

**20(l) - 9. Comment.** Under Sections 20(l)(7) and 20(l)(8), cold-cleaning units used for "special and extreme solvent metal cleaning" would be eligible for limited exemptions from certain requirements of Section 20(l). CBIA and UTC support this recognition that flexibility is needed for certain products for which even limited contamination can destroy the value of the product.

To better achieve the goals of this provision and to avoid potential under-inclusion, CBIA and UTC request that subsection (A) of the definition of special and extreme metal cleaning in Section 20(l)(1) be revised as follows:

(A) In the manufacturing and rework of ~~electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors~~ components used in aerospace service; or other extreme environments . . .

Alternatively, the commenters request that the Department confirm that subsection (C) would by its terms cover aerospace components (UTC) or other components for use in extreme environments (UTC, CBIA), all of which are invariably covered by rigorous military or commercial specifications that require extremely accurate and quality-controlled manufacturing and quality standards that rule out the potential for any excess contamination. (UTC)

If the Department declines to adopt either of these approaches, CBIA and UTC request that the Department quantify and explain the rationale for selecting 1.0 mm Hg as the vapor pressure standard and, particularly, the marginal benefits and costs in Connecticut of using this particular figure. CBIA and UTC understand that this standard was incorporated into the OTC Model Rule, but requests specific discussion as to whether the marginal benefits exceed the marginal costs in Connecticut at this time.

Subsection (C) is in need of a minor edit to reference both the manufacture and rework of the relevant products, as subsection (A) does (UTC):

- (C) In the manufacture and rework of high precision products for which contamination must be minimized in accordance with a customer or other specification...

In addition, it would be appropriate for the definition of “special and extreme solvent metal cleaning” to include a reference to research and development that supports present or potential future manufacturing and rework of the products covered by the definition, but that is not manufacturing in and of itself. This goal might be accomplished by adding the following subsection (E) to the definition, as follows (UTC, CBIA):

- (E) Research and development work in support of any present or potential future activities or products covered by the foregoing subsections (A) through (D) above.

**Response:** The Department added provisions for “special and extreme solvent metal cleaning” to Section 20(l)(1) to take into account precisely the circumstances described in comment. The plain language of subsection (C) of the definition of “special and extreme solvent metal cleaning” covers the manufacture and rework of aerospace components or other similar high precision products for use in extreme environments, which are covered by rigorous military or commercial specifications that require extremely accurate and quality controlled manufacturing and quality standards without the potential for any excess contamination.

With regard to UTC’s comment concerning the addition of the word “rework” to subsection (C) of the definition of “special and extreme metal cleaning,” the Department should add that word as recommended since it is within the scope of activities to which subsection (C) is intended to apply.

With regard to the recommendation to include research and development activities precedent to the manufacturing included in the definition, the Department agrees that is an appropriate addition and within the original intent of the definition. That addition is not anticipated to undermine the VOC emissions reductions achieved since the VOC emissions from research and



development activities are expected to be minimal compared to the manufacturing activities exempted in Section 20(l)(1)(A) through (C).

Accordingly, the Department should revise the definition of “special and extreme solvent metal cleaning” in Section 20(l)(1), as follows, to include research, development and rework activities:

"Special and extreme solvent metal cleaning" means the use of a cold cleaning unit to clean metal parts as indicated in one of the following subparagraphs:

- (A) In the **research, development, manufacturing manufacture** and rework of electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors used in aerospace service;
- (B) In the **research, development, manufacture and rework** of ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds or oxygen in concentrations greater than twenty-three percent (23%);
- (C) In the **research, development, manufacture and rework** of high precision products for which contamination must be minimized in accordance with a customer or other specification; or
- (D) Exposed to ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds or oxygen in concentrations greater than twenty-three percent (23%).

**20(l) - 10. Comment.** Section 20(l)(3)(C) would require waste solvent to be collected and stored in closed containers. This provision is consistent with the OTC Model Rule. However, while the Model Rule also provides that the closed containers may contain a device that allows pressure relief and prohibits liquid solvent to drain from the container, the proposed amendment retains a specific percentage cap from the current version of Section 20(l) for evaporation from disposal of waste solvent or from transfer of waste solvent to another party. (UTC, CBIA)

The percentage standard has created practical difficulties for facilities and regulators alike in attempting to quantify the precise amount of evaporation. (UTC and CBIA) As a result, the 20% standard has been of little practical value and the source of needless compliance uncertainty (particularly for Title V facilities) since it was first adopted in Connecticut. By contrast, the requirements of the Model Rule -- to allow pressure relief devices and to prohibit draining -- are relatively straightforward. (UTC, CBIA)

CBIA and UTC therefore request the Department to instead adopt the standards of the Model Rule on this point, as follows:

- (C) [Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, in a manner such that greater than 20 percent of the waste degreasing solvent, (by weight) can evaporate into the atmosphere.] Waste degreasing solvent shall be collected and stored in closed containers. ~~Evaporation from disposal of waste degreasing solvent or from~~

the transfer of waste solvent to another party shall be limited to less than 20% of the waste solvent, by weight. The closed containers may contain a device that allows pressure relief, but does not allow liquid solvent to drain from the container.

**Response:** The Department should revise Section 20(l)(3)(C) and replace the requirement that not more “than 20 percent of the waste degreasing solvent, (by weight) can evaporate into the atmosphere” with a work practice standard that serves the purpose of the twenty percent evaporation limit but is more readily implemented. Adopting the language of the OTC Model Rule will specify that proper waste handling procedures are to be used. Because this provision is clear and easily implemented, it will likely result in VOC emission reductions at least equivalent to the twenty percent limit. Therefore, Section 20(l)(3)(C) should be revised, as follows:

(C) [Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, in a manner such that greater than 20 percent of the waste degreasing solvent, (by weight) can evaporate into the atmosphere.] **Collect and store waste**~~Waste solvent shall be collected and stored~~ in closed containers. ~~Evaporation from disposal of waste degreasing solvent or from the transfer of waste solvent to another party shall be limited to less than 20% of the waste solvent, by weight.~~ **Closed containers used for storing waste solvent may contain a device that allows pressure relief but does not allow liquid solvent to drain from the container.**

**20(l) - 11. Comment.** CBIA and UTC believe the proposed amendment should better recognize the existence of industry-specific emission requirements as acceptable compliance alternatives. Where solvent cleaning is already subject to MACT requirements, or a permit or order requiring use of Reasonably Available Control Technology (RACT) that implements a Control Technique Guideline (CTG) adopted by EPA, CBIA and UTC believe it would be appropriate to provide that compliance with the MACT standard or the RACT permit or order is an acceptable alternative to the proposed revisions to R.C.S.A. Section 20(l)(3).

For example, in contrast to proposed Section 20(l), which would apply generically to any type of manufacturing operations, the MACT standard for Aerospace Manufacturing and Rework Facilities at 40 CFR Part 63, Subpart GG was developed specifically for aerospace manufacturing operations. The Aerospace MACT standard sets forth VOC content limitations for the majority of coatings and cleaners used by the aerospace industry to comply with MACT. In setting these aggressive standards, EPA recognized the unique safety and performance obligations of the aerospace industry. As a result, EPA set VOC content limitations for a small number of low-use, specialty coatings and cleaners. By contrast, the OTC Model Rule on which proposed Section 20(l) is based is generic to a wide range of industries and applications. Moreover, proposed Section 20(l) fails to account for the technological and safety advances dependent on the use of specialty coatings and cleaners in the aerospace industry. (UTC, CBIA)

It apparently was not the intent of the Department to propose regulations for VOCs that are different than the Aerospace MACT, since the analysis presented by the Department as required by CGS 22a-6(h) does not identify the Aerospace MACT as a federal rule that the proposed regulations would differ from. Accordingly, it would be appropriate to add the following

subsection to the proposed regulations (UTC):

- (10) This subsection (l) shall not apply to metal cleaning that is subject to the National Emission Standard for Hazardous Air Pollutants for Aerospace Manufacturing or Rework Facilities, at 40 CFR Part 63, Subpart CG.

As for the CTG, the “Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations” CTG (EPA-453/R-97-004) provides that “The presumptive RACT requirements for the aerospace component and vehicle cleaning and coating operations are described in the following sections. The operations covered by this CTG shall not be subject to another CTG. The operations and applications exempted under this CTG shall not be subject to another CTG.” *Id.*, & 4.0 (emphasis supplied). (UTC)

The Department would not be breaking new ground in adopting such a compliance option. New Hampshire, which has adopted the basic OTC Model Rule, already provides for compliance with a RACT Order as an alternative means of complying with its cold cleaning requirements. See N.H. Code of Admin. Rules Env-A 1204.47 (“As an alternative to the control system options specified in Env-A 1204.44, ... solvent metal cleaning operations may satisfy those requirements by complying with the RACT order provisions in Env-A 1204.05 and Env-A 1204.06.”). Including such an alternative in Connecticut’s cold cleaning rule would prevent redundant regulation, and avoid the need for parties which have already implemented one compliance system under DEP order from having to overlay and intertwine that system with additional requirements. Therefore, UTC recommends adding the following subdivision:

- (11) As an alternative to the requirements specified in this section (l), metal cleaning operations may satisfy those requirements by complying with a permit or order which meets the requirements of RCSA 22a-174-32(d)(7).

**Response:** The commenter suggests the addition of an exception from the requirements of section 20(l)(3) for sources with solvent cleaning activities subject to MACT or RACT requirements.

The Department should not add the requested exemption as RACT or MACT requirements are not necessarily good substitutes for the requirements of subsection (l)(3). The requirements of subsection (l)(3) represent an update to the RACT level of control for cleaning metal using solvent established by EPA’s CTG, “Control of Volatile Organic Emissions from Solvent Metal Cleaning,” EPA-450/2-77-022, November 1977. Other CTGs, which may have once represented a RACT level of control and which may address metal cleaning in part, are neither specific to metal cleaning activities nor recent. Similarly, compliance with MACT requirements is not a suitable substitute for RACT in this instance because MACT requirements do not regulate the same activity to achieve the same environmental result. While MACT requirements are intended to control or limit toxic emissions, proposed Section 20(l) is intended to control VOC emissions.

Furthermore, such an exception is not necessary. The Department has already addressed the special cleaning needs of the aerospace industry and for manufacture of other high performance products with the limited exceptions afforded by subsections (l)(7) and (8).

**20(l) - 12. Comment.** Connecticut is proposing to include a two-liter exemption for cold cleaners. It is not clear why this exemption is necessary. (EPA) The state's existing solvent-cleaning rule, which has been approved into Connecticut's State Implementation Plan (SIP), does not include such an exemption. Although the proposed rule includes some new requirements for cold cleaners, the exemption applies to both the new and existing requirements. The OTC Model Rule for Solvent Cleaning, upon which the new requirements are based, includes a one-liter exemption. Therefore, EPA recommends that Connecticut delete the proposed two-liter exemption, consistent with the state's SIP-approved rule. Alternatively, if the state feels that an exemption is necessary due to the new requirements that are being proposed, Connecticut should include a one-liter (rather than a two-liter) exemption, consistent with the OTC Model Rule. (EPA)

**Response.** The two-liter exemption was proposed to provide relief to a small number of machine shops and other facilities that engage in the limited cleaning of individual parts using small amounts of solvent that do not meet the proposed vapor pressure limit. Reducing the size of the exempted containers to one-liter should be sufficient to address such limited circumstances and better serve the goal of VOC emissions reductions.

The Department should revise the final text of Section 20(l)(3), as follows:

(l)(3) Except as provided [for] in [subdivision] subdivisions (l)(6), (l)(7) and (l)(8) of this section, the owner or operator of any cold cleaning unit with an internal volume greater than ~~two (2) liters~~ one (1) liter shall meet the requirements of this subdivision.

**20(l) - 13. Comment.** Connecticut's proposed rule includes a new 1.0 mm Hg vapor-pressure requirement for cold cleaning solvents, as well as an exemption from this requirement for certain operations such as "special and extreme solvent metal cleaning." This is consistent with the requirements that have been previously adopted by other states, such as New York and Maine. Connecticut's proposed rule, however, also exempts "special and extreme solvent metal cleaning" from the rule's requirements regarding the use of a solvent spray and minimizing drafts across the top of the cold cleaning unit. It is not clear why this exemption is necessary since these requirements (without the exemption) are already part of Connecticut's SIP-approved solvent cleaning rule. (EPA)

**Response:** The Department appreciates EPA's attention to this provision and offers the following explanation to justify the exemption. The exemption in Section 20(l)(8) was included because the Department is aware of a limited number of manufacturers that, due to the specifications of the parts being cleaned, must spray solvent during the cold cleaning of these parts. The exemption is designed to provide for these unusual circumstances for which typical cleaning procedures are inapplicable or destructive to the part, while placing appropriate constraints in this flexibility.

For example, BAE Systems, performs precision cleaning in the manufacturing of gyroscopes and inertial reference units (IRUs) for military and aerospace navigation. Gyroscopes and IRUs provide stabilization and target guidance information to aerospace missiles, rockets and fixed wing and rotary aircraft. Spraying is needed for precision cleaning, in some cases, because particle removal using ultrasonic equipment cannot be used on complex assemblies containing

precision bearings, surface mounted components, permanent magnets and other vibration sensitive components found in gyroscopes. Isopropyl alcohol (IPA) was determined by BAE Systems to be the solvent of choice for spray applications because it is able to remove small quantities of ionic, particulate and organic contamination from small complex parts, without compatibility issues. These parts tend to be relatively small. A gyroscope is on average only 1 inch in diameter and 2 inches long.

In this instance, it is appropriate to take into account owners and operators who use good work practices appropriate to their operation and suitable to control emissions and provide the opportunity to comply with Section 20(l). Section 20(l)(8) was written to provide an exemption for these sources, while making the exemption limited and narrow in scope, so as not to be desirable for other “special and extreme metal cleaners” to use that provision as an excuse to compliance with Sections 20(l)(3)(F) and 20(l)(3)(G).

VOC emission reductions projected to result from this amendment should not be significantly affected because of the limited number of “special and extreme metal cleaners” that will utilize the exemption in Section 20(l)(8) and because Section 20(l)(8)(A) places a limit on the total amount of solvent that can be used for special and extreme metal cleaning spray operations at a facility.

### **Adoption of R.C.S.A. Section 22a-174-40**

The Department is seeking to adopt R.C.S.A. section 22a-174-40 (Section 40) to achieve reductions in VOC emissions in support of attainment of the 8-hour ozone NAAQS. Two criteria were foremost in guiding how Section 40 was drafted to achieve VOC emissions reductions from consumer products: (1) regional consistency as measured against the requirements of the 2006 OTC Model Rule for Consumer Products and consumer product regulations now in effect in other states in the OTR; and (2) elimination of unnecessary administrative requirements on regulated entities and the Department. These two criteria focus resources on efforts that achieve a high ratio of pollutant reduction per unit of administrative effort.

Ensuring the consistency of Section 40 with the 2006 OTC Model Rule for Consumer Products and consumer product regulations in other states in the OTC region is a central theme of many commenters (*see, e.g.*, comments of CSPA, ASPA, CTFA, NPCA). Comments noted that a lack of uniform regulatory requirements for consumer products in the OTR could impose unnecessary impediments to interstate commerce and create significant administrative burdens for small businesses, which generally lack the resources to ensure compliance with a patchwork of different -- and perhaps conflicting -- state-specific requirements.

The timing of Section 40's proposal created a minor challenge to consistency between the proposed version and the 2006 OTC Model Rule for Consumer Products. By way of background, most states in the OTR have adopted consumer product regulations based on a 2001 OTC Model Rule for Consumer Products. A workgroup of the OTC is now finalizing an amended version of the 2001 Model Rule based on changes California adopted to its consumer products program in July 2005. This amended 2001 OTC Model Rule is what this report refers to as the 2006 OTC Model Rule for Consumer Products. Because Section 40 was proposed before the 2006 OTC Model Rule was finalized yet aims to adopt the 2001 and 2006 Model Rule provisions in one rulemaking, certain provisions may require adjustment to match the 2006 OTC Model Rule, which was established in final draft form in July 2006.

All comments received on Section 40 and the Department's responses are summarized below, ordered according to the portion of Section 40 addressed in the comment.

#### **Subsection (a), Definitions**

**40 - 1. Comment:** CFTA, CSPA and ASPA comment regarding the need for Section 40 to include a clear definition of "VOC" that is consistent with other authorities. CSPA recognizes that the Department defines "VOC" in R.C.S.A. section 22a-174-1, a regulation containing definitions of general applicability. Nonetheless, CSPA encourages the Department to either include a specific reference to that definition or incorporate EPA's definition of VOC in 40 CFR 51.100(s) into the final version of Section 40.

**Response:** The Department should not revise Section 40 in response to this comment, as the current regulatory framework addresses the stated need for a clear definition of VOC consistent with the use of that term nationally. Definitions of general applicability to Connecticut's air quality regulations are included in R.C.S.A. section 22a-174-1. R.C.S.A. section 22a-174-1 includes the following definition:

(115) “Volatile organic compound” or “VOC” means “volatile organic compound” as defined in 40 CFR 51.100(s), as amended from time to time.

The incorporation by reference of the federal definition of VOC is precisely the action requested by the commenters. For consistency with the format and interpretation of other Connecticut air quality regulations, no specific reference to the definitions in R.C.S.A. section 22a-174-1 or repetition of the definition of VOC now included in R.C.S.A. section 22a-174-1 should be added to Section 40. To so do would abrogate the purpose of R.C.S.A. section 22a-174-1.

**Subsection (b), Applicability**

**40 - 2. Comment:** NPCA, CSPA, CTFA and ASPA comment that the effective date of the proposed standards and other requirements in Section 40 should be changed from May 1, 2008 to January 1, 2009 for consistency with the 2006 OTC Model Rule for Consumer Products and the compliance date of rules likely to be adopted in other states in the OTC region. Such a change will address two concerns:

- Small and medium industries will have difficulty monitoring and complying with different effective dates for different states in the OTC region; and
- There are significant formulation questions regarding some of the VOC limits and the longer time period will enable manufacturers to stabilize product formulas.

**Response:** As indicated in the overview of Section 40 included in this hearing report, Section 40 was developed prior to the 2006 OTC Model Rule for Consumer Products and anticipated many of the provisions of that Model Rule. As a result, a significant number of technical revisions to Section 40 are necessary to further regional consistency and facilitate manufacturer compliance. The effective date of proposed Section 40 is one example of such a provision. Consistency with the 2006 OTC Model Rule for Consumer Products in the matter of the effective date is particularly important since Connecticut, by adopting both the 2001 and 2006 OTC Model Rules in one rulemaking, will likely be the first state to adopt the additional requirements of the 2006 OTC Model Rule for Consumer Products.

In discussions with representatives of a number of consumer product manufacturers subsequent to the proposal of Section 40, a workgroup of the OTC designated January 1, 2009 as the appropriate date by which manufacturers and other regulated entities should be required to comply with the VOC content limits and other requirements of the 2006 OTC Model Rule for Consumer Products. Section 40 incorrectly anticipated a compliance date of May 1, 2008. Therefore, the May 1, 2008 date used in the applicability statement of subsection (b) should be changed for consistency with the 2006 OTC Model Rule for Consumer Products, as follows:

Except as provided in subsection (c) of this section, this section applies to any person who, on or after ~~May 1, 2008~~ **January 1, 2009**, sells, supplies, offers for sale or manufactures for sale in the State of Connecticut any consumer product for use in the State of Connecticut.

In addition, the May 1, 2008 effective date proposed in Section 40 is referenced in multiple locations in Section 40. In the following places, the proposed date of May 1, 2008 should be replaced with January 1, 2009: subsections (d)(1), (d)(3), (d)(4), (e)(4), (e)(5), (e)(6) and (f)(1).

Other requirements of Section 40 include a date other than May 1, 2008 that is calculated from May 1, 2008, *e.g.*, a year prior to or one year after. Thus, in the following locations, the dates should be revised by calculating such dates from January 1, 2009, as follows: in subsections (e)(1)(B) and (e)(3), May 1, 2007 should be changed to **January 1, 2008**; and in subsection (h)(2), “2008 through 2010 calendar years” should be changed to “**2009** through 2010 calendar years.”

**40 - 3. Comment:** Compliance dates for meeting VOC content limits and other requirements, such as labeling and compliance testing, are included in some sections of the rule, but not all. To address this issue, Connecticut should add a general compliance date provision to the rule. EPA recommends the following language for this provision:

“Compliance Schedule

Unless otherwise noted, any person subject to the requirements of Section 22a-174-40 shall be in compliance with all of the applicable provisions of this Section upon the effective date of the regulation.”

**Response:** Section 40 is intended to state clearly that compliance with the standards and related requirements is required as of the designated date.<sup>1</sup> For example, subsection (b) clearly states that the section “applies to any person who, on or after May 1, 2008<sup>1</sup>, sells, supplies, offers for sale or manufactures for sale in the State of Connecticut any consumer product for use in the State of Connecticut.” Subsection (d)(1) clearly requires any person meeting the applicability of subsection (d) to meet the standards and other requirements of subsection (d) as of May 1, 2008.<sup>1</sup>

EPA suggests that the section is not so clear in designating compliance dates for labeling and compliance testing. However, the labeling requirements of subsection (e) clearly apply to all regulated products as of May 1, 2008<sup>1</sup> (*see* subsection (e)(1)). Similarly, subsection (f)(1) clearly states that any person selling, supplying, offering for sale or manufacturing a regulated consumer product on or after May 1, 2008<sup>1</sup> must possess appropriate documentation that the product was tested and found compliant with the appropriate VOC emission limitation prior to being offered for sale.

To address EPA’s comment, subsection (g), which addresses record keeping, could be made more specific as far as the date on which the requirements apply by adding a compliance date<sup>1</sup> to subsection (g)(1), as follows:

(1) Any person who **on or after January 1, 2009**<sup>1</sup> sells, supplies, offers for sale or manufactures for sale in Connecticut any consumer product shall maintain records of the information necessary for the Commissioner to determine compliance with the requirements of this section.

No compliance date is necessary in the reporting requirements of subsection (h) since reporting

---

<sup>1</sup> While the proposed date is May 1, 2008, as explained in the response to Comment 2, this report recommends changing the proposed compliance date to January 1, 2009.



is only required upon request.

**40 - 4. Comment:** DOD recommends that the Department clarify the term “supplies” in subsection (b) to specify whether it applies to end-users of consumer products, such as personnel involved in the internal transaction/disbursement management process for hazardous materials at military facilities. The military services use a single point of control for the purchase, receipt and distribution of hazardous materials to various sections within a military installation. This single point of control could be considered a supplier under proposed Section 40. DOD believes that the intent of Section 40 is regulation of consumer products in the stream of commerce, not the intra-organizational management of such products. If this belief is accurate, DOD recommends that the Department make one of the following revisions to the final version of Section 40:

- Add the following definition to subsection (a):

“Supply” or “supplied” means transactions between consumer product manufacturers/commercial distributors that sell, or otherwise provide, consumer products to businesses/government entities/individuals. This term does not include internal transactions within a business, government entity or other end-user facility that use consumer products, including, but not limited to, military installations.

- As an alternative, add the following subdivision to subsection (c):

- (17) The terms “supply” and “supplied” in this section refer to transactions between consumer products manufacturers/commercial distributors that sell, or otherwise provide, consumer products to businesses/government entities/individuals that use consumer products. This term does not include internal transfers or transactions within a business, governmental entity, or other end-user facility that uses consumer products, including, but not limited to, military installations.

**Response:** The Department should revise Section 40 to take into account the internal distribution process used by the United States military in supplying products and hazardous materials for use at military installations. To limit the revision to such activities at United States military installations, the revision should be in the form of a new exemption in subsection (c), as follows:

- (17) The requirements of this section shall not apply to a consumer product that is distributed or transferred by a branch of the United States military to, from or within a premises operated by that branch of the United States military.**

**Subsection (c), Exemptions**

**40 - 5. Comment:** Subsection (c)(4) to Section 40 (subsection (c)(4)) contains an exemption for any product for which the manufacturer obtains a variance pursuant to 6 NYCRR 235-8.1 for the period of time that the variance remains in effect. This exemption raises the issue of Director’s discretion. Assuming that Connecticut is relying on reductions from Section 40 to meet its 8-hour ozone obligations, EPA is concerned that subsection (c)(4) allows open-ended variances,

which could jeopardize the amount of VOC reductions achieved. Therefore, for Connecticut to receive full credit for implementation of the consumer products rule, any variance must be approved by EPA Region I, and this condition must be reflected in the rule. EPA recommends the following revisions to subsection (c)(4):

“This section shall not apply to any product for which the manufacturer obtains a variance pursuant to 6 NYCRR 235-8.1, and for which the variance has been approved by EPA Region I for use in Connecticut, for the period of time such variance is in effect. .”

Alternatively, if the subsection (c)(4) variance provision included a date certain beyond which variances would no longer apply (*i.e.*, final compliance with the rule must be achieved), and that date was consistent with the date by which Connecticut needed to achieve reductions for attaining the 8-hour NAAQS (*i.e.*, May 1, 2009), then EPA Region I would not need to approve such variances. In this case, subsection (c)(4) could be revised to read as follows:

“This section shall not apply to any product for which the manufacturer obtains a variance pursuant to 6 NYCRR 235-8.1 for the period of time such variance is in effect. . a copy of the applicable NYSDEC variance decision. In no case, shall this exemption from the standards in Section 22a-174-40 extend beyond May 1, 2009.”

**Response:** Variances are issued to provide temporary relief from compliance with a VOC limitation for a consumer product. Manufacturers generally seek a variance for one of three reasons: unforeseen and unavoidable shortage in the availability of compounds necessary to formulate a compliant product, unanticipated chemical interactions resulting from product reformulation and unforeseen difficulties in developing new product formulations to meet new VOC limitations. Thus, variances are time limited by nature. While EPA describes subsection (c)(4) as “open-ended,” that subsection clearly states that Connecticut’s variance exemption only applies for the period of time the underlying variance issued by NYSDEC is in effect.

Variances are also issued in limited numbers. NYSDEC has issued no variances under 6 NYCRR 235-8.1.<sup>2</sup> Since the beginning of CARB’s consumer product regulatory program in 1992, CARB has issued only 35 variances, all of which applied for a short time, and none of which are now in effect.

Since variances are limited in number and duration, they will have little to no effect on the VOC emissions reductions projected to result from implementing Section 40, which is the main concern expressed in this comment. Furthermore, any effect on emissions from variances that may be recognized under Section 40 would certainly be accounted for within a rule effectiveness correction that will be applied to the projected reductions attributed to Section 40 in the Department’s 8-hour ozone NAAQS planning efforts. Therefore, the Department should not revise Section 40 in response to this comment.

---

<sup>2</sup> To substantiate this by example of another OTR state, under Delaware’s consumer product regulation, Regulation No. 41, which has been in effect since January 2002, the Delaware Department of Natural Resources and Environmental Control has received no applications for variances.

Although not stated in the comment, EPA's suggested revision may also be based on EPA's potential future ability to enforce Section 40 if it is approved as a SIP revision. After a regulation is federally approved, EPA is authorized to take enforcement action against violators and knowledge of recognized variances would be necessary in that instance. Such an informational concern is addressed in the response to Comment 17.

**40 - 6. Comment:** CSPA, ASPA and CTFA encourage the Department to broaden the exemption of subsection (c)(4) so that the Department will accept variances issued by CARB as well as NYSDEC. As a threshold matter, variances are intended to provide temporary relief for compliance with VOC limitations on the formulation of consumer products. Manufacturers generally seek a variance for one of three reasons: unforeseen and unavoidable shortage in the availability of compounds necessary to formulate a compliant product, unanticipated chemical interactions resulting from product reformulation and unforeseen difficulties in developing new product formulations to meet new VOC limitations.

CARB has the longest history of addressing variance requests for consumer products, and yet, since 1998, CARB has only issued 11 such variances.<sup>3</sup> The entire framework for Section 40 and the 2001 and 2006 OTC Model Rules for Consumer Products is premised on CARB's consumer products program. Therefore, it is reasonable and appropriate for the Department to follow CARB's issuance of variances. CTFA adds that the issuance of variances by CARB for personal care products has been relatively rare but very important for the industry, particularly when unexpected formulation difficulties occur or a supply of essential ingredients is disrupted.

CSPA, CFTA and ASPA urge the Department to revise subsection (c)(4) as follows:

(4) This section shall not apply to any product for which the manufacturer obtains a variance pursuant to 6 NYCRR 235-8.1 *or subchapter 8.5, article 2, section 94514, of title 17 of the California Code of Regulations* for the period of time such variance is in effect provided that any manufacturer who claims exemption pursuant to this subdivision shall submit to the Commissioner, upon request therefore, a copy of the applicable NYSDEC *or CARB* variance decision.

**Response:** For the reasons identified in the comment, the Department should recognize variances issued by CARB by revising subsection (c)(4), as follows:

(4) This section shall not apply to any product for which the manufacturer obtains a ~~variance pursuant to 6 NYCRR 235-8.1 for the period of time such variance is in effect provided that any manufacturer who claims exemption pursuant to this subdivision shall submit to the Commissioner, upon request therefore, a copy of the applicable NYSDEC variance decision.~~ **one of the following variances, provided that any manufacturer who claims exemption pursuant to this subdivision shall possess and submit to the Commissioner, upon request therefor, a copy of the applicable underlying variance decision:**

---

<sup>3</sup> DEP notes: According to CARB staff, as of July 6, 2006, CARB issued fifteen variances since 1998, none of which are still in effect. However, this factual difference does not abrogate the point made in the comment.

- (A) A variance issued by the NYSDEC pursuant to 6 NYCRR 235-8.1, for the period of time such variance is in effect; or
- (B) A variance issued by CARB pursuant to 17 CCR 94514, for the period of time such variance is in effect.

**40 - 7. Comment:** CSPA supports the proposed reporting requirement of subsection (c)(4), which requires submission of documentation upon request by the Department.

**Response:** The Department notes CSPA's support for the reporting provision of subsection (c)(4).

**40 - 8. Comment:** CSPA strongly supports the innovative product exemption of proposed subsection (c)(5) of Section 40.

**Response:** The Department notes CSPA's support for the exemption for innovative products recognized by CARB or NYSDEC.

**40 - 9. Comment:** EPA comments that subsection (c)(5) contains exemptions for manufacturers who have been granted an exemption by CARB pursuant to the innovative products provisions of 17 CCR 94511 or 17 CCR 94503.5 or an exemption by the NYSDEC pursuant to the innovative products provisions of 6 NYCRR 235-5.1. Connecticut's subsection (c)(5) exemption raises the issue of Director's discretion. Such exemptions from the rule must be submitted to EPA for approval. The California and New York rules do, however, require that innovative products result in less VOC emissions than the established standards. Therefore, as long as the innovative product has been approved by EPA for use in one state, that approval is sufficient for its use in Connecticut. For example, if EPA approves an innovative products exemption issued by CARB, then that innovative products exemption is also valid in Connecticut (*i.e.*, it does not need to also be submitted as a revision to the Connecticut SIP).

Thus, subsection (c)(5) should be revised, as follows:

“This section shall not apply to any product for which the manufacturer is granted one of the following exemptions. . .

- (A) An exemption by CARB pursuant to the Innovative Products provision of 17 CCR 94511 or 17 CCR 94503.5, and for which such Innovative Products Exemption has been approved by EPA, for the period of time. . .
- (B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 235-5.1, and for which such Innovative Products Exemption has been approved by EPA, for the period of time. . .”

**Response:** Although it is not stated explicitly in the comment, EPA's underlying concern appears to be the same as EPA expressed in comment 40-5, that Section 40's innovative product exemption jeopardizes the level of VOC emissions reductions achieved. However, that concern lacks merit. As EPA recognizes in its comment, by definition an innovative product exemption

grant by CARB or NYSDEC is only provided to a manufacturer for a product for which clear and convincing evidence has been provided that the product will result in *lower VOC emissions* per use than a complying product that meets the applicable VOC limit. The product may result in fewer emissions due to some characteristic of the product formulation, design, delivery system or other factors. This exemption is designed to provide a certain degree of flexibility to manufacturers, while preserving the emission benefits of the regulation.

Further evidence that Section 40's innovative product exemption will have no measurable effect on the projected emissions reductions is the limited number of such exemptions likely to be in effect under Section 40. For example, under New York's consumer products regulation, which has been in effect since October 2002, NYSDEC has issued one innovative product exemption, based on the grant of such an exemption by CARB for the same product and which applies for the same period of time as the CARB exemption. Similarly, under Delaware's consumer product regulation, Regulation No. 41, which has been in effect since January 2002, the Delaware Department of Natural Resources and Environmental Control has issued a few innovative product exemptions, where such exemptions were first granted by CARB for the same product<sup>4</sup>

Since the innovative product exemption as designed should preserve the environmental benefits anticipated to result from Section 40, the Department should not revise Section 40 as suggested.

Although not stated in the comment, EPA's suggested revision may also be based on EPA's potential future ability to enforce Section 40 if it is approved as a SIP revision. After a regulation is federally approved, EPA is authorized to take enforcement action against violators and knowledge of recognized exempted innovative products would be necessary in that instance. Such an informational concern is addressed in the response to Comment 40 - 17.

**40 - 10. Comment:** Section 40(c)(7) allows an exemption for products that have been exempted by NYSDEC pursuant to the alternative control plan (ACP) requirements of New York's consumer products rule. Connecticut's subsection (c)(7) exemption raises the issue of Director's discretion. Such exemptions from the rule must be submitted to EPA for approval.

As stated in New York's rule for consumer products, the ACP agreement is an emissions averaging program for products, whereby the sales of a product in New York is one of the factors used in the calculations to determine the ACP limit. For some products, sales characteristics in New York may not be representative of the sales characteristics for those same products in Connecticut. Therefore, although the ACP agreement may be approved by EPA as a revision to one state's SIP, such agreement would also need to be approved as applicable in Connecticut.

Therefore, EPA recommends that subsection (c)(7) should be revised to read as follows:

“This section shall not apply to any manufacturer for any product that the NYSDEC has exempted pursuant to the Alternative Control Plan requirements of 6 NYCRR 235-11.1, and for which such Alternative Control Plan has been approved as a revision to the

---

<sup>4</sup> Since 1992, CARB has issued 39 Executive Orders establishing innovative product exemptions, 32 of which are still in effect.

Connecticut SIP, for the period of time. . .

**Response:** EPA is correct in noting that the ACP allows manufacturers to average the emissions from products above and below the applicable VOC limits; EPA's comment does not mention that the *overall emissions under an ACP must be less than or equal to* the emissions that would have occurred had all the products complied with the VOC limits. The ACP provides manufacturers with flexibility, but preserves the overall emission reductions of the VOC content limitations. Thus, the availability of the ACP is consistent with the criteria guiding the development of Section 40, to maximize environmental benefit and minimize administrative burden.

Consistent with the 2001 and 2006 OTC Model Rules for Consumer Products, the grant of an ACP by CARB is recognized in consumer product regulations in seven states in the OTC,<sup>5</sup> including New York, as well as the District of Columbia. CARB's grant of an ACP is recognized without adjustment for the differences in population size and sales between California and the OTC state recognizing CARB's ACP. Similarly, Section 40 is proposed without any such adjustments not only to minimize administrative requirements but also because sales characteristics of products sold in New York are arguably a reasonable surrogate for Connecticut, at least at a level sufficient for the purpose of the ACP of Section 40. Any measurable difference in the resulting emissions reductions from Section 40 would be taken into account in a rule effectiveness factor that will be applied in calculating the emissions benefits of Section 40 for attainment planning purposes.

To further minimize any potential emissions disbenefits, ACP agreements are actually in use by very few manufacturers. CARB has only entered into ACP agreements with three manufacturing companies over the history of the California consumer product program. Under the New York consumer product regulation, NYSDEC has issued one ACP agreement, which is based on the grant of such an agreement by CARB for the same product and which applies for the same period of time as the CARB agreement. Similarly, under Delaware's consumer product regulation, Regulation No. 41, which has been in effect since January 2002, the Delaware Department of Natural Resources and Environmental Control has issued a few ACP agreements, where such agreements were first entered into by CARB for the same product.

Since ACP agreements are few in number, the likelihood that recognizing such agreements in effect in other states in Section 40 will have a measurable negative impact on projected VOC emissions reductions in Connecticut is very small. For this reason, ACP provisions are considered emissions neutral for SIP-credit purposes. Requiring that any such agreement would need to be formally submitted to and approved by EPA as a SIP reduction adds an unnecessarily large administrative element for both EPA and the Department – with no or minimal air quality benefit. Therefore, the Department should not revise Section 40 in response to this comment.

Although not stated in the comment, EPA's suggested revision may also be based on EPA's potential future ability to enforce Section 40 if it is approved as a SIP revision. After a regulation is federally approved, EPA is authorized to take enforcement action against violators and knowledge of recognized ACP agreements would be necessary in that instance. Such an

---

5 Delaware, Maine, Maryland, New Hampshire, New Jersey, New York and Pennsylvania.

informational concern is addressed in the response to Comments 40-11 and 40-17.

**40 - 11. Comment:** CSPA, ASPA and CTFA recommend that the alternative control plan (ACP) exemption provided in subsection (c)(7) for products approved under an ACP agreement entered into by NYSDEC should be broadened to also exempt products for which CARB has entered into an ACP agreement. The grant of an ACP by CARB is recognized in consumer product regulations in seven states in the OTC as well as the District of Columbia. CSPA, ASPA and CTFA recommend that the Department make two revisions to Section 40 to recognize ACP grants by CARB:

- In subsection (a), the definition of “alternative control plan” should be defined to include CARB, as follows:

"Alternative control plan" means an emissions averaging program approved by **CARB or** the NYSDEC and subject to subsection (c) of this section.

- Subsection (c)(7) should be revised, as follows:

This section shall not apply to any manufacturer for any product that the **CARB or** NYSDEC has exempted pursuant to the Alternative Control Plan requirements of *subchapter 8.5, article 2, section 94511, of title 17 of the California Code of Regulations or* 6 NYCRR 235-11.1 for the period of time . . .

**Response:** The Department should revise the ACP provisions in the final version of Section 40 to recognize the products for which CARB has entered into an ACP agreement. The ACP allows manufacturers to average the emissions from products above and below the applicable VOC limits – if the overall emissions under an ACP are less than or equal to the emissions that would have occurred had all the products covered in the ACP complied with the VOC limits. The ACP provides manufacturers with flexibility, but preserves the overall VOC emission reductions. Therefore, recognition of ACP agreements entered into by CARB is consistent with the goal of adopting Section 40. Since CARB has only entered into ACP agreements with three companies over the history of the California consumer product program,<sup>6</sup> this addition is, in fact, very limited.

To create such recognition, the Department should revise the definition of “alternative control plan” in the final text of Section 40(a) as follows:

"Alternative control plan" **or “ACP”** means an emissions averaging program approved by **CARB or** the NYSDEC and subject to subsection (c) of this section.

In addition, subsection (c)(7) of the final version of Section 40 should be revised, as follows:

(7) This section shall not apply to any manufacturer for any product that ~~the NYSDEC has exempted pursuant to the Alternative Control Plan requirements of 6~~

---

<sup>6</sup> These three companies are SC Johnson, Inc., Sherwin Williams Diversified Brands, Inc. and Shield Industries, Inc.

~~NYCRR 235-11.1 for the period of time the underlying Alternative Control Plan Agreement remains in effect. Any manufacturer who claims exemption pursuant to this subdivision shall submit to the Commissioner, upon request therefore, a copy of the applicable Alternative Control Plan Agreement.~~ **is subject to one of the ACP agreements identified below, provided that the manufacturer complies with all conditions applicable to the underlying ACP agreement:**

- (A) **Exempt by NYSDEC pursuant to the ACP requirements of 6 NYCRR 235-11.1 for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall submit to the Commissioner and the Administrator, upon request therefor, a copy of the applicable ACP agreement; or**
- (B) **Exempt by CARB pursuant to the ACP requirements of 17 CCR 94511 for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall submit to the Commissioner and the Administrator, upon request therefor, a copy of the applicable ACP agreement.**

**40 - 12. Comment:** CSPA strongly supports the Department's proposed exemption in subsection (c)(11) from the labeling requirements of Section 40(e) for consumer products registered under FIFRA. (CSPA)

**Response:** The Department notes CSPA's support for the labeling exemption of Section 40(c)(11).

**40 - 13. Comment:** CSPA encourages the Department to add an exemption to subsection (c) to allow a one-year extension for compliance for FIFRA-registered products. Such additional time is necessary given the higher level of regulatory review and process that applies to FIFRA registered products. Such a one-year extension is included in both the CARB consumer product regulation and 2006 OTC Model Rule for Consumer Products. CSPA suggests the addition of a new subdivision to subsection (c) to create this extension, as follows:

Products registered under FIFRA. For those consumer products that are registered under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136-136y), the effective date of the VOC standards specified in this section and in Table 40-1 is January 1, 2010.

**Response:** For consistency with the OTC Model Rules for Consumer Products, the Department should add a one-year extension for compliance with the VOC standards of Section 40 for products registered under FIFRA. Such an extension takes into account the length of the regulatory review process to which such products are subject. Such an extension should be added by revising the proposed language of Section 40(c)(11), as follows:

(11) **For consumer products registered under FIFRA:**

- (A) The requirements of subsection (e) of this section shall not apply to



consumer products registered under FIFRA; and

- (B) **Prior to January 1, 2010, the VOC content limits of this section and additional requirements in subsection (d) shall not apply.**

**Subsection (d), Standards**

**40 - 14. Comment:** As currently drafted, subsection (d)(3) of the proposed Section 40 erroneously cites certification by NYSDEC to demonstrate compliance for charcoal lighter materials. The correct citation should be to CARB's certification. Both New York State's regulation and the OTC Model Rule incorporate by express reference CARB's certification. Therefore, at a minimum, CSPA strongly urges the Department to make the following revision:

- (3) No person shall sell, supply or offer for sale in Connecticut after ~~May 1, 2008~~ ***January 1, 2009***, any charcoal lighter material product in Connecticut unless at the time of the transaction, such person possesses documentation showing that such product has been issued a currently effective certification by ~~the NYSDEC pursuant to 6 NYCRR 235-3.1(e)~~ ***CARB under subchapter 8.5, article 2, section 94509(h), of title 17 of the California Code of Regulations (see Table 1, section 200.9 of this Title). This certification remains in effect for the State of Connecticut for as long as the CARB certification remains in effect.***

In addition, CSPA urges the Department to eliminate any unnecessary administrative burdens on both the DEP and product manufacturers by requiring companies to provide proof of certification ***only upon request***. Such a requirement is internally consistent with other provisions of the proposed regulation. Moreover, as a general matter, this regulatory enforcement mechanism is consistent with the current generally prevailing practice of EPA, CARB and other state agencies to require companies to produce copies of pertinent records and other documents only upon request. Accordingly, CSPA urges the Department to further revise the proposed regulation as follows:

- (3) No person shall sell, supply or offer for sale in Connecticut after ~~May 1, 2008~~ ***January 1, 2009***, any charcoal lighter material product in Connecticut unless at the time of the transaction, such person possesses documentation showing that such product has been issued a currently effective certification by ~~the NYSDEC pursuant to 6 NYCRR 235-3.1(e)~~ ***CARB under the Consumer Products provisions under subchapter 8.5, article 2, section 94509(h), of title 17 of the California Code of Regulations (see Table 1, section 200.9 of this Title). This certification remains in effect for the State of Connecticut for as long as the CARB certification remains in effect. Any manufacturer claiming such a certification on this basis must maintain the certification in a form suitable for inspection and review and submit upon the department's request a copy of the certification decision (i.e., the Executive Order), including all conditions established by CARB applicable to the certification.***

This additional enforcement provision is a reasonable and efficient way to ensure that companies comply with applicable standards without requiring an agency to collect and organize large quantities of paper. As a practical matter, manufacturers have a number of certifications related

to charcoal lighter material. Requiring these companies routinely to produce copies of these certifications would impose an administrative burden on both the Department and the manufacturers while providing no measurable environment benefits.

**Response:** The reference to NYSDEC's certification of charcoal lighter material products in subsection (d)(3) is not erroneous, as the comment suggests, as certification by NYSDEC includes, as a first requirement, certification by CARB.<sup>7</sup> Consumer product requirements in at least one other state in the OTR include recognition of charcoal lighter material product certifications by other states, similar to that proposed in Section 40(d)(3).<sup>8</sup> However, given CARB's experience in evaluating charcoal lighter material products and the recognition of CARB's expertise in this matter in the OTC Model Rules for Consumer Products and in consumer product regulations in other OTR states, the Department should revise the final version of Section 40 so that any charcoal lighter material product sold in Connecticut is certified by CARB, as follows:

(3) No person shall sell, supply or offer for sale in Connecticut after ~~May 1, 2008~~ **January 1, 2009** any charcoal lighter material product in Connecticut unless at the time of the transaction, such person possesses documentation showing that such product has been issued a currently effective certification by ~~the NYSDEC pursuant to 6 NYCRR 235-3.1(e)~~ **CARB pursuant to 17 CCR 94509(h).**

In response to the suggestion in comment that the Department should specify in subsection (d)(3) that a certification pursuant to subsection (d)(3) should only be submitted to the Commissioner upon request, the Department should not revise Section 40. As proposed, Section 40's reporting requirements function precisely as recommended in comment. As indicated in the introduction to this section of this report, one factor guiding the development of Section 40 was the elimination of administrative requirements that are not necessary to meet the primary goal of reducing VOC emissions. Section 40(g)(1) requires that persons subject to Section 40 maintain records of information necessary to determine compliance; the reporting requirements of subsection (h) only require submission of such information -- including charcoal lighter material product certifications -- to the Commissioner *upon request*.

**40 - 15. Comment:** Three commenters (HSIA, CSPA, ASPA) address the prohibitions in subsections (d)(4), (d)(5) and (d)(6) of Section 40 on certain chlorinated solvents in certain consumer products, as follows:

HSIA strongly opposes the prohibitions in Section 40(d)(4) – (6) on methylene chloride and perchloroethylene in aerosol and contact adhesives, adhesive and graffiti removers, electronic and electrical cleaners, footwear and leather care products and general purpose degreasers. HSIA recommends that the Department restrict Section 40 to only those provisions that address ground-level ozone. HSIA considers the imposition of the chlorinated solvent restrictions to be premature and arbitrary because the Department has not engaged in a data collection effort concerning the use of the banned solvents. HSIA recommends that the Department engage in a data collection to develop an objective rationale for the control of chlorinated solvents in

7 See 6 NYCRR 235-3.1(e)(1)(i)(a).

8 See, e.g., New Hampshire Code of Administrative Rules Env-A 4103.07(a)(1).

consumer products.

CSPA and ASPA recommend that the Department revise subsection (d)(6) for internal consistency and consistency with the 2006 OTC Model Rule for Consumer Products. CSPA and ASPA make two primary recommendations for revision to subsection (d)(6).

First, CSPA and ASPA recommend that the Department exclude electrical cleaners from the proposed ban on the use of chlorinated solvents (specifically -- perchloroethylene, trichloroethylene and methylene chloride) in product formulations since the inclusion of two of the three listed compounds (perchloroethylene and trichloroethylene) is necessary to produce a nonflammable product. (CSPA and ASPA do not object to a ban on the use of methylene chloride in electrical cleaners or a ban on all three chlorinated solvents in other products.) In support of this exclusion, CSPA and ASPA note that since electrical cleaners are generally used on and near energized surfaces, a nonflammable formulation is essential. CSPA adds that the ban on the use of chlorinated solvents in electrical cleaners originates in California as a measure to reduce toxic air contaminants. California law imposes rigid and unyielding requirements regarding the use of toxic air contaminants, requirements that are not in effect in Connecticut or the other OTR states.

Second, CSPA and ASPA recommend that the Department strike the three-year sell-through restriction for adhesive removers, electrical cleaners and graffiti because it creates an administrative burden with little to no environmental benefit and is inconsistent with other requirements of Section 40.

CSPA and ASPA note that the only provisions of proposed Section 40 that limit the sell-through of products are those of subsection (d)(6)(B). In addition to being inconsistent with other requirements of the proposed regulation, CSPA and ASPA believe that this provision is not necessary because, as a practical matter, consumer product manufacturers produce and sell products very quickly. Marketing studies have consistently concluded that, in general, at least 90 percent of consumer products are sold within one year after being manufactured. Moreover, these studies conclude that during the second year and third years, this same 90 percent sell-through rate continues. Consequently, after three years, 99.9 percent of the product would be sold.

Thus, as a practical matter, CSPA and ASPA suggest that it makes little sense to require manufacturers to conduct recalls after three years to clear the remaining 0.1 percent of product from retail shelves, or to require retailers to perform an exhaustive search of inventory to avoid potential violations. Finally, CSPA and ASPA state that eliminating this sell-through limitation will have no measurable impact on VOC emissions reductions since the inclusion of chlorinated solvents does not result in VOC emissions. If the Department retains the sell-through limitation, CSPA and ASPA recommend that the Department correct the effective date for internal consistency and consistency with the OTC Model Rule for Consumer Products so that the ban on the use of chlorinated solvents applies to products manufactured before January 1, 2009 and the proposed three-year sell-through limitation is changed to January 2012.

**Response:** As noted in the comment, the prohibitions on the use of chlorinated solvents originate in CARB's consumer product requirements as a means to reduce toxic air

contaminants. While the primary purpose of Section 40 is to reduce emissions of VOCs, restrictions on chlorinated solvents were also added since reducing emissions of toxic air pollutants is consistent with the Department's mission and goals. Such chemicals also pose a hazard to water quality. Promoting the use in consumer products of safer, cost-effective alternatives to chlorinated solvents reflects a 2006 environmental initiative of the Department, which focuses on assisting individuals and organizations to decrease their "environmental footprint."

Regarding the blanket suggestion from HSIA to remove all the restrictions on chlorinated solvents, HSIA provided no technical justification for its comments, and the Department should not revise Section 40 as suggested. The Department in proposing Section 40 and the OTC in developing the 2006 OTC Model Rule for Consumer Products relied on the considerable technical expertise and regulatory experience of CARB. In California, chlorinated solvents were prohibited in certain products only after a determination was made that feasible alternatives are available.<sup>9</sup> Since manufacturers are using such feasible alternatives in products sold in California, manufacturers of products sold in Connecticut may make similar accommodations.

Regarding the recommendation to exclude electrical cleaners from the proposed ban on the use of chlorinated solvents, the Department should not revise Section 40 in response. Manufacturers are subject to the same restriction in California and have found alternatives to the use of chlorinated solvents that address the safety concern identified in the comment. CARB staff, in developing the restriction, identified technologies from previously regulated product categories that could be used as alternatives to chlorinated solvents in electrical cleaners. In the specific case of energized electrical cleaners, CARB staff realized that non-flammable solvents are required when electrical equipment can only be cleaned while the equipment is operating. As no reformulation options were found to be feasible for this category, no VOC limit was set.

Regarding the three-year sell-through restriction for adhesive removers, electrical cleaners and graffiti removers, the Department should delete that provision from the final version of Section 40. Such a limitation is inconsistent with other requirements in Section 40 as well as the general approach to sell-through restrictions developed by the OTC in the 2001 Model Rule for Consumer Products. Finally, as noted in comment, such a restriction makes little practical sense.

To accomplish this change, subparagraph (B) of proposed subsection (d)(6) should be deleted. Since remaining subparagraph (A) states the same requirements as subdivision (5), except for different products, subdivision (5) and subdivision (6)(A) should be combined, as follows:

- (5) No person shall sell, supply, offer for sale or manufacture for use in Connecticut after ~~May 1, 2008~~ **January 1, 2009** any contact adhesive, electronic cleaner, footwear or leather care product, ~~or~~ general purpose degreaser, **adhesive remover, electrical cleaner or graffiti remover** that contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight.

---

<sup>9</sup> State of California Air Resources Board. June 24, 2004. *Final Statement of Reasons for Rulemaking, Adoption of Proposed Amendment to the California Consumer Products Regulations and Method 310.*

~~(6) — The following additional requirements shall apply to adhesive removers, electrical cleaners and graffiti removers:~~

- ~~(A) — Except as provided in subdivision (6)(B) of this subsection, effective May 1, 2008, no person shall sell, supply, offer for sale or manufacture for use in Connecticut any adhesive remover, electrical cleaner or graffiti remover that contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight; and~~
- ~~(B) — Adhesive removers, electrical cleaners or graffiti removers that contain methylene chloride, perchloroethylene or trichloroethylene and that were manufactured prior to December 31, 2006 may be sold, supplied or offered for sale until December 31, 2009.~~

In addition, the remaining subdivisions in subsection (d) should be re-numbered to reflect the combination of subdivisions (5) and (6).

**Subsection (f), Compliance procedures and testing**

**40 - 16. Comment:** EPA comments that subsection (f)(2)(C) and (D) allow alternative test methods that have been approved by the NYSDEC and by the Connecticut Commissioner, respectively. These sections should be revised to require that such alternatives must also be approved by EPA.

**Response:** The use of alternative test methods will likely be limited to very few products, which will likely have been subject to review by California as well as New York or other states in the OTR.<sup>10</sup> The use of such alternative test methods is likely to have no measurable relation to the VOC emissions reductions achieved by Section 40. Therefore, the imposition of an additional layer of approval (EPA's) will come at a cost in the administrative burden on regulated persons and EPA yet achieve no identifiable environmental benefit. EPA offers no additional justification for such approval. Accordingly, the Department should not revise subsections (f)(2)(C) and (D) as suggested in the comment.

Although not stated in the comment, EPA's suggested revision may also be based on EPA's potential future ability to enforce Section 40 if it is approved as a SIP revision. After a regulation is federally approved, EPA is authorized to take enforcement action against violators and knowledge of recognized alternative test methods would be necessary in that instance. Such an informational concern is addressed in the response to Comment 40-17.

**Subsection (g), Record keeping**

**40 - 17. Comment:** Subsection (g)(3)(A) should be revised to require that all records be "made available to the Commissioner or EPA to inspect and copy upon request."

---

<sup>10</sup> As a point of evidence, under Delaware's consumer product regulation, Regulation No. 41, which has been in effect since January 2002, the Delaware Department of Natural Resources and Environmental Control has received no requests for the use of alternative test methods.

**Response:** Therefore, the Department should revise subsection (g)(3)(A) in response to this comment, as follows:

- (3) All records made to determine compliance with the requirements of this section shall be:
- (A) Made available to the Commissioner **and the Administrator** to inspect and copy upon request; and

While EPA offers no justification for the revision of subsection (g)(3)(A) to allow EPA access to records maintained by regulated persons pursuant to Section 40, the Department intends to submit Section 40 to EPA as a SIP revision. EPA's approval of Section 40 as a SIP revision includes an enforceability element for which access to records is necessary.

***Section 40: Additional Comment by Hearing Officer***

Section 40 was proposed prior to the development of the 2006 OTC Model Rule for Consumer Products and anticipated the provisions of the 2006 Model Rule based on the 2001 OTC Model Rule for Consumer Products and the revisions to the California consumer product program regulations that were finalized on July 20, 2005. Therefore, some of the language does not directly track the final 2006 OTC Model Rule provisions. In addition, there are minor errors in Section 40 that were not addressed in comment.

To correct minor errors and increase the likelihood of regionally consistent consumer product regulations, the Department should make the following technical corrections to the identified sections of proposed Section 40:

- “Vinyl/fabric/leather/polycarbonate coating” was inadvertently left out of the products that are not considered “footwear or leather care products” in the 2006 OTC Model Rule definition of “footwear or leather care product” and should be added to subsection (a), as follows:

"Footwear or leather care product" means any product designed or labeled to be applied to footwear or to other leather articles/components, to maintain, enhance, clean, protect or modify the appearance, durability, fit or flexibility of the footwear or leather article/component. Footwear includes both leather and non-leather foot apparel. Footwear or leather care product does not include fabric protectant, general purpose adhesive, contact adhesive, **vinyl/fabric/leather/polycarbonate coating**, rubber and vinyl protectant, fabric refresher, . . .

- The definition of “vinyl/fabric/leather/polycarbonate coating” indicated below should be added to subsection (a) since the term is used in the definition of “footwear or leather care product:

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

- The word “adhesive” should be added to the definition of “mist spray adhesive” in subsection (a), as follows:

“Mist spray adhesive” means any aerosol **adhesive** that is not a special purpose spray adhesive and that delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

- The federal specification referenced in the definition of “structural waterproof adhesive” is no longer valid. In subsection (a), that definition should be revised, as follows:

“Structural waterproof adhesive” means an adhesive with bond lines that are resistant to conditions of continuous immersion in fresh or salt water and that conforms with Federal Specification ~~MMM-A-181, Type 1, Grade A, and MIL-A-4605, Type A, Grade A and Grade C.~~ **MMM-A-181D (Type 1, Grade A).**

- The New York State Department of Environmental Conservation is referenced in many instances throughout Section 40 in an abbreviated form. However, the abbreviation used is not consistent. The definition in subsection (a) uses the term “NYDEC,” but the majority of internal references use the abbreviation “NYSDEC.” For consistent use, the abbreviation “NYSDEC” should be substituted for “NYDEC” in the definition of “New York State Department of Environmental Conservation” in subsection (a) and throughout the text.
- The subparagraph designations in subsection (c)(8) should be changed from small roman numerals to capital letters in accordance with standard formatting.
- Subsection (c)(16) should be revised to reflect the size limitations on adhesives that are found in the 2006 OTC Model Rule for Consumer Products, as follows:

(16) The requirements of this section shall not apply to: ~~contact adhesives; construction, panel and floor covering adhesives; and general purpose adhesives sold in units of more than one gallon.~~

- (A) **Contact adhesives sold in units of product, less packaging, of more than one gallon; or**
- (B) **Construction, panel and floor covering adhesive and general purpose adhesive sold in units of product, less packaging, of more than one pound or 16 fluid ounces.**

- The following technical revisions should be made to subsection (d)(4)(C) to correct inaccuracies in reproducing language consistent with the 2006 OTC Model Rule for Consumer Products:

(C) ~~Is~~ **If the product is** sold as a special purpose spray adhesive, ~~where~~ the product

label ~~indicates~~ **shall indicate** that the adhesive is suitable only . . .

- Tables 40-1 and 40-3 should be merged. Two tables were proposed to separate those products regulated in the 2001 OTC Model Rule for Consumer Products (Table 40-1) from products added in the 2006 OTC Model Rule for Consumer Products based on the addition of such products to California's consumer product program in 2005. Since the standards in the two tables are subject to the same requirements throughout Section 40, there is no logical reason to retain two tables. In addition, the reference to subsection (e)(6) with respect to floor wax strippers should change to subsection (e)(5).

As a result, Table 40-1 should include the combined product and emissions standards, with the correction noted, as follows:

**Table 40-1. VOC Content Limits for Listed Product Categories.**

<b><u>PRODUCT CATEGORY</u></b>	<b><u>VOC CONTENT LIMIT</u></b> <b><u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u></b> <b><u>BY WEIGHT)</u></b>
<b>Adhesives</b>	
Aerosol – Mist Spray	65
Aerosol -- Web Spray	55
Contact – General Purpose	55
Contact – Special Purpose	80
Special Purpose Spray Adhesives: Mounting, Automotive Engine Compartment, and Flexible Vinyl	70
Special Purpose Spray Adhesives: Polystyrene Foam and Automotive Headliner	65
Special Purpose Spray Adhesives: Polyolefin and Laminate Repair/Edgebanding	60
Construction, Panel and Floor Covering	15
General Purpose	10
Structural Waterproof	15
<b>Adhesive Removers</b>	
Floor or Wall Covering	5
Gasket or Thread Locking	50
General Purpose	20
Specialty	70
<b>Aerosol Cooking Spray</b>	<b>18</b>
<b>Air Fresheners</b>	
Single-Phase Aerosols	30
Double-Phase Aerosols	25
Liquids/ Pump Sprays	18
Solids and Semi-solids	3
<b>Antiperspirants</b>	
Aerosol	40 HVOC 10 MVOC



<u>PRODUCT CATEGORY</u>	<u>VOC CONTENT LIMIT</u> <u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u> <u>BY WEIGHT)</u>
Non-Aerosol	0 HVOC 0 MVOC
<b>Anti-Static Product – Non-aerosol</b>	<b>11</b>
<b>Automotive Brake Cleaners</b>	<b>45</b>
<b>Automotive Rubbing or Polishing Compound</b>	<b>17</b>
<b>Automotive Wax, Polish, Sealant or Glaze</b>	
Hard Paste Waxes	45
Instant Detailers	3
All Other Forms	15
<b>Automotive Windshield Washer Fluids</b>	<b>35</b>
<b>Bathroom and Tile Cleaners</b>	
Aerosols	7
All Other Forms	5
<b>Bug and Tar Remover</b>	<b>40</b>
<b>Carburetor or Fuel-Injection Air Intake Cleaners</b>	<b>45</b>
<b>Carpet and Upholstery Cleaners</b>	
Aerosols	7
Non-Aerosols (Dilutables)	0.1
Non-Aerosols (Ready-to-Use)	3
<b>Charcoal Lighter Material</b>	<b>See subsection (d)(3) of this section</b>
<b>Deodorants</b>	
Aerosol	0 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
<b>Dusting aids</b>	
Aerosol	25
All Other Forms	7
<b>Electrical Cleaner</b>	<b>45</b>
<b>Electronic Cleaner</b>	<b>75</b>
<b>Engine Degreasers</b>	
Aerosol	35
Non-Aerosol	5
<b>Fabric Protectants</b>	<b>60</b>
<b>Fabric Refresher</b>	
Aerosol	15
Non-Aerosol	6
<b>Floor Polishes/Waxes</b>	
For Flexible Flooring Materials	7
For Nonresilient Flooring	10

<u>PRODUCT CATEGORY</u>	<u>VOC CONTENT LIMIT</u> <u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u> <u>BY WEIGHT)</u>
Wood Floor Wax	90
<b>Floor Wax Strippers (Non-Aerosol)</b>	<b>See subsection (e)(5) of this section</b>
<b>Footwear or Leather Care</b>	
Aerosol	75
Solid	55
All Other Forms	15
<b>Furniture Maintenance Products</b>	
Aerosols	17
All Other Forms Except Solid and Paste	7
<b>General Purpose Cleaners</b>	
Aerosols	10
Non-Aerosols	4
<b>General Purpose Degreasers</b>	
Aerosols	50
Non-aerosols	4
<b>Glass Cleaners</b>	
Aerosols	12
Non-Aerosols	4
<b>Graffiti Remover</b>	
Aerosol	50
Non-Aerosol	30
<b>Hair Mousses</b>	<b>6</b>
<b>Hairshines</b>	<b>55</b>
<b>Hairsprays</b>	<b>55</b>
<b>Hair Styling Product</b>	
Aerosol and Pump Spray	6
All Other Forms	2
<b>Heavy-Duty Hand Cleaner</b>	<b>8</b>
<b>Insecticides</b>	
Crawling Bug (Aerosol)	15
Crawling Bug (all other forms)	20
Flea and Tick	25
Flying Bug (aerosol)	25
Flying Bug (all other forms)	35
Foggers	45
Lawn and Garden (Non-Aerosol)	3
Lawn and Garden (all other forms)	20
Wasp and Hornet	40
<b>Laundry Prewash</b>	
Aerosols/Solids	22
All Other Forms	5
<b>Laundry Starch Products</b>	<b>5</b>

<b><u>PRODUCT CATEGORY</u></b>	<b><u>VOC CONTENT LIMIT</u></b> <b><u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u></b> <b><u>BY WEIGHT)</u></b>
<b>Metal Polishes/Cleansers</b>	<b>30</b>
<b>Multi-Purpose Lubricant (Excluding Solid or Semi-Solid Products)</b>	<b>50</b>
<b>Nail Polish Remover</b>	<b>75</b>
<b>Non-Selective Terrestrial Herbicide Non-Aerosols</b>	<b>3</b>
<b>Oven Cleaners</b>	
Aerosols/Pump Sprays	8
Liquids	5
<b>Paint Remover or Strippers</b>	<b>50</b>
<b>Penetrants</b>	<b>50</b>
<b>Rubber and Vinyl Protectants</b>	
Non-Aerosols	3
Aerosols	10
<b>Sealants and Caulking Compounds</b>	<b>4</b>
<b>Shaving Creams</b>	<b>5</b>
<b>Shaving Gel</b>	<b>7</b>
<b>Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products)</b>	<b>60</b>
<b>Spot Removers</b>	
Aerosols	25
Non-Aerosols	8
<b>Tire Sealants and Inflators</b>	<b>20</b>
<b>Toilet/Urinal Care Product</b>	
Aerosol	10
Non-Aerosol	3
<b>Undercoatings - Aerosols</b>	<b>40</b>
<b>Wood Cleaner</b>	
Aerosol	17
Non-Aerosol	4

In addition, references throughout the text to Table 40-3 should be replaced or eliminated, as follows:

- The phrase “Table 40-1 or Table 40-3” in subsections (c)(2), (c)(9), (c)(10), (c)(14), (d)(10) and (f)(1) should be replaced with “Table 40-1;”
- The phrase “Tables 40-1 and 40-3” in subsections (d)(1), (d)(2) and (d)(7)(A) should be replaced with “Table 40-1;”
- The phrase “Table 40-1 and Table 40-3” in subsections (d)(2)(A) and (d)(2)(B) should be replaced with “Table 40-1;” and

- The phrase “Table 40-3” in subsections (d)(6)(A) and (d)(6)(B) should be replaced with “Table 40-1.”

**Adoption of R.C.S.A. Section 22a-174-41**

R.C.S.A. Section 22a-174-41 (Section 41) establishes standards for architectural and industrial maintenance (AIM) coatings sold and applied in Connecticut. The emissions reductions associated with this regulation contribute ultimately to the attainment of the NAAQS for 8-hour ozone. Section 41 is based on the 2001 OTC AIM Model Rule, versions of which are now in effect in eight other states in the OTR. As in the case of Section 40, two criteria guided the development of Section 41: (1) regional consistency as measured against the requirements of the 2001 OTC AIM Model Rule and AIM regulations now in effect in other states in the OTR; and (2) elimination of unnecessary administrative requirements on regulated entities and the Department.

All comments received on Section 41 are addressed below, ordered according to the portion of Section 41 addressed in the comment.

**41 - 1. Comment:** Both CBIA and UTC express concern regarding the potential “dual regulation of the affected activities” under R.C.S.A. section 22a-174-20(g) (Section 20(g)) and Section 41.

CBIA and UTC comment that Section 41 regulates the same population of architectural coatings as the current Section 20(g). The commenters see a potential conflict between these two regulations as they apply different restrictions to the same coatings. Proposed Section 41 regulates the coatings based on their use and VOC content. Section 20(g) regulates all architectural coatings based on their photochemical reactivity.

In addition, CBIA and UTC note that the requirements in Section 20(g) are outdated and ineffective. Section 20(g) allows any amount of highly photochemically reactive architectural coating to be applied as long as it is purchased in one quart containers. Not only is there the issue of availability (most paints and stains are sold in gallon containers), but the environmental benefit involved in the purchasing an unlimited quantity of architectural coatings in small containers is questionable at best.

Accordingly, CBIA and UTC suggest that the Department repeal Section 20(g) to avoid potentially conflicting requirements.

**Response:** A one liter (1.057 quart) exemption, similar to the one-quart exemptions in Section 20(g), does appear in subdivision (c)(4) of Section 41 so the conflict anticipated by the commenters is effectively limited to the use of metric liters as opposed to US quarts.

CBIA and UTC’s request concerning Section 20(g) addresses a section of the regulations that is not within the noticed subject matter of this proceeding. The Department should not alter or delete Section 20(g) without providing adequate notice for public input. As of the effective date of Section 41, any person using or supplying regulated AIM coatings must comply with the requirements of both regulations. The Department should consider the appropriateness of deleting Section 20(g) or clarifying the interaction between that section and Section 41 in a subsequent regulatory proceeding.

**41 - 2. Comment:** EPA states that the proposed rule includes compliance dates for meeting the VOC content limits and some of the other requirements of the rule, but not all. To address this, EPA recommends that Connecticut add a general compliance-date provision to the rule as follows:

“Compliance Schedule

Unless otherwise noted, any person or manufacturer subject to the requirements of Section 22a-174-41 shall be in compliance with all of the applicable provisions of this Section upon the effective date of the regulation.”

**Response:** The inclusion of the May 1, 2008 compliance date in the exemption provisions of subsection (c)(2) and the standards set out in subsection (d)(1) is intended to identify the effective date. EPA’s comment points out that the inclusion of that date in the applicability provisions in subsection (b) would add clarity, as follows:

**(b) Applicability.**

Except as provided in subsection (c) of this section, this section applies to any person who, **on or after May 1, 2008**, sells, supplies, offers for sale or manufactures for sale in the State of Connecticut any architectural coating for use in the State of Connecticut and to any person who applies or solicits the application of any architectural coating within the State of Connecticut **on or after May 1, 2008**.

EPA’s comment suggests that Section 41 is not so clear in designating compliance dates for labeling and reporting. However, the labeling requirements of subsection (e) clearly apply to all regulated products as of April 1, 2008 (see subsection (e)(1)). With the inclusion of effective dates in subsections (b), (c), (d) and (e), it is clear that record keeping and reporting to demonstrate compliance must coincide with dates designated elsewhere in Section 41.

**41 - 3. Comment:** The Department of Defense (DoD), through representatives of the US Navy at Groton, CT, has submitted several comments concerning potential compliance issues stemming, in part, from the internal distribution system used by the military. If the proposed regulations were construed to include the Navy as a “supplier” of AIM coatings, this internal distribution system would make it difficult, if not impossible, for the Navy to comply.

DoD comments that it is unclear whether the term “supplies” (as used in 22a-174-41(b) of the proposed regulation) would apply to end-users of AIM coatings, such as personnel involved in the internal transaction/disbursement management process for hazardous materials at military facilities. DoD believes that interpreting the term “supplies” as encompassing such end-users is inconsistent with the regulation’s focus on manufacturers and distributors of AIM coatings within the stream of commerce and not intra-organizational management of these products after end-user purchase. Additionally, DoD anticipates logistical barriers to coming into compliance prior to the May 21, 2011 deadline (three years after May 1, 2008) for “supplying” AIM coatings. Therefore DoD recommends that the Department modify Section 41 to clarify that end-users of AIM coatings that have an internal transaction/disbursement process to manage

hazardous materials are not considered “suppliers” of AIM coatings. However, because it is unknown to DoD whether other end-users of AIM coatings that have an internal transaction/disbursement process to manage hazardous materials exist, DoD requests, at a minimum, that the Department clarify the regulation that such military installations are not considered “suppliers.”

**Response:** The Department recognizes the benefits of the military-wide HAZMAT distribution system, which include reducing both the purchase of hazardous materials and the generation of hazardous waste. However, if DoD were to be considered a “supplier” under this regulation, the military’s internal distribution system would make it difficult for officials on Connecticut military installations to comply with Section 41. The Department should revise Section 41 to take into account the internal distribution process used by the United States military in supplying products and hazardous materials for use at military installations. To limit the revision to such activities at United States military installations, the revision should be in the form of a new subdivision in subsection (c), as follows:

**(5) For the purposes of this section, the terms “supply” and “supplied” shall not include internal transfers or transactions involving AIM coatings to, from or within an installation operated by any branch of the U.S. military.**

**41 - 4. Comment:** DoD is concerned that the proposed regulation may not require the manufacturer to provide sufficient information to ensure compliance with the VOC limits in the regulation and will subsequently require the user to perform calculations for which he/she may not have adequate information.

Section 41(d)(1) states that the limits in Table 41-1 “. . . apply to the grams VOC per liter of coating *thinned* to the manufacturer’s maximum recommendation . . .” (emphasis added). DoD interprets this to mean that the Table 41-1 limits reflect the maximum VOC content the coating can have, thinned or otherwise. Section 41(e)(3) states “. . .[e]ach manufacturer of an architectural coating subject to this section shall display either the maximum or the *actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer*, on the label, lid or bottom of the container.” (emphasis added). DoD believes that the option for the manufacturer to provide the “as supplied” VOC content together with the maximum thinning may not provide enough information to ensure that the “thinned” coating will meet the Table 41-1 limits. For example, if the manufacturer displays the as supplied VOC content together with the maximum thinning recommendation, the user will be required to calculate the VOC content of the “thinned” coating in an effort to ensure that the coating will meet the VOC limit in Table 41-1. In order to calculate the “thinned” VOC content, additional information is required, volume solids of the coating and thinner density. This information is not required to be supplied by the manufacturer by this regulation.

DoD does not advocate requiring the user to calculate the thinned VOC content of each coating as will be required under the current proposal. DoD believes that this can be resolved by requiring the manufacturer to display the “thinned” VOC content together with the “as supplied” VOC content. Section 41(f)(3)(F) requires the manufacturer to provide the “thinned” VOC content upon request, therefore, requiring the manufacturer to display this information would not impose any additional burden on the manufacturer.

**Response:** The Department agrees with DoD that the user should not be required to calculate the VOC content of thinned AIM coatings. However, the DoD's concerns with regard to meeting VOC concentration limits are adequately addressed by the labeling requirements in Section 41(e). The VOC concentrations listed in Table 41-1 represent the VOC concentration at the "manufacturer's maximum recommendation," as defined in subsection (a) to be "the maximum recommendation for thinning that is indicated on the label or lid of the coating container." It is the manufacturer's responsibility to ensure that the VOC content on the label is consistent with the appropriate VOC content limit in Table 41-1. Provided that the user is not thinning the AIM coating beyond the recommended limit, no calculation should be necessary. For AIM coatings that have multiple uses and are subject to the most restrictive VOC content limit in subsection (d)(2), the manufacturer's label should recommend thinning for the use that requires the most restrictive VOC content limit. Again, no calculations should be necessary. If a user remains concerned about the VOC limits in Table 41-1, the Department recommends that the user check with the manufacturers' websites for detailed product information.

The Department should not change the proposed language of Section 41, which is consistent with the language in the OTC AIM Model Rule. Similar language has been in effect in other states in the OTR and the Department is not aware that it results in the difficulties anticipated by DoD. To add additional labeling requirements, even though the information is readily available to the manufacturer, would defeat the purpose of a regional model rule addressing products in interstate commerce.

**41 - 5. Comment:** DoD is concerned that some of the information required to meet the VOC content standards in this regulation will not be readily available to the user in instances where the AIM coating products have multiple uses.

Section 41(d)(2) states that ". . . the most restrictive VOC content limit shall apply to any architectural coating that is represented as meeting the definition of, recommended for use as or able to be used as more than one of the coating categories listed in Table 41-1. Such a representation may appear on the container of the architectural coating; a label affixed to the container; or *any sales, advertising or technical literature supplied by the manufacturer or supplied by any person acting on the manufacturer's behalf, including retailers who sell under a private label.*" (emphasis added). DoD does not believe that the burden of ensuring that nowhere other than the container label or readily available technical literature is there representation that the particular coating meets the definition of or is recommended for use or may be used for more than one of the coating categories should be placed on the user. The regulation as written would require the user to perform extensive research on every coating used in order to determine if it is recommended for use or simply could be used under any of the thirty-three coating categories not exempt from this requirement.

DoD recommends that either the regulation require that the VOC content of the coating meet the limit of the coating category under which the coating is applied, in which case Section 41(d)(2) should be deleted; or that the coating category information be limited to the coating label or readily available technical literature in which case Section 41(d)(2) should be amended to read:

**(d) Standards.**



(2) Except as provided in subdivision (3) of this subsection, the most restrictive VOC content limit shall apply to any architectural coating that is represented as meeting the definition of, recommended for use as or able to be used as more than one of the coating categories listed in Table 41-1. Such a representation may appear on the container of the architectural coating; a label affixed to the container; or any sales, advertising or **readily available** technical literature supplied by the manufacturer or supplied by any person acting on the manufacturer's behalf, including retailers who sell under a private label.

**Response:** It was not the intent of the Department to put an excessive burden on the end-user to determine whether a coating can be used for more than one purpose with regard to the “most restrictive VOC content” provision of subsection (d)(2). The manufacturer should ensure that the intended use or uses of the AIM coating be readily available to the user. The information requirement in subsection (d)(2) adequately accomplishes this purpose.

DoD suggests that the peculiarities of the military distribution system may separate sales or technical information that would ordinarily be readily available to users, from the product, so that it is not accessible to DoD personnel. In such cases, the Department encourages DoD personnel to make use of the manufacturers’ resources readily available on the Internet to check for alternative uses of AIM coating products if any questions arise.

In light of this comment, the Department observes that the language from the OTC AIM Model rule may more clearly express the intent of subsection (d)(2) and should be substituted in the final version of Section 41, as follows:

(2) ~~Except as provided in subdivision (3) of this subsection, the most restrictive VOC content limit shall apply to any architectural coating that is represented as meeting the definition of, recommended for use as or able to be used as more than one of the coating categories listed in Table 41-1. Such a representation may appear on the container of the architectural coating; a label affixed to the container; or any sales, advertising or technical literature supplied by the manufacturer or supplied by any person acting on the manufacturer's behalf, including retailers who sell under a private label.~~ **Except as provided in subdivision (3) of this subsection, if anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or any person acting on the manufacturer’s behalf, including retailers who sell under a private label, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 41-1, then the most restrictive VOC content limit of Table 41-1 shall apply.**

**41 - 6. Comment:** In subsection (d)(2), Connecticut’s rule states that the most restrictive VOC content limit shall apply when a coating meets the definition of more than one coating category. Subsection (d)(3), however, allows a number of coating categories an exemption from meeting this requirement. Most proposed categories for this exemption are consistent with the OTC model rule for architectural coatings, except for the following additional categories: calcimine recoaters, impacted immersion coatings, nuclear coatings, and thermoplastic rubber coatings and mastics. The emission limits in Connecticut’s rule for these coating categories [are] the same as

the limits in EPA's national architectural coatings rule and a less stringent limit should not be allowed. Therefore, EPA recommends that Connecticut should delete the reference to these categories in subsection (d)(3).

**Response:** The Department recognizes EPA's concerns that the Connecticut regulations be consistent with the OTC AIM Model Rule and that the most stringent standards apply whenever possible. However, the first states to adopt the 2001 AIM Model Rule subsequently added calcimine recoaters, impacted immersion coatings, nuclear coatings, and thermoplastic rubber coatings and mastics to their list of materials exempted from "the most restrictive VOC limit" requirement,<sup>11</sup> and all of the other states in the OTR that have adopted the 2001 AIM Model Rule have incorporated the revised list.<sup>12</sup> To promote regionally consistent AIM requirements, the Department is adopting the same list of exempted materials that has been adopted by other OTC states. The Department should retain the proposed list in Section 41(d)(3).

**41 - 7. Comment:** Under subsection (d)(4), Connecticut proposes to include a requirement that all paint containers must be closed when not in use. To clarify the wide variety of containers that are included in this requirement, EPA recommends that Connecticut add language to subsection (d)(4) to conform with language in the OTC model rule as follows:

All containers of coating that are applied directly to a surface . . . These containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any . . .

**Response:** The Department should revise subsection (d)(4) for consistency with the OTC AIM Model Rule, as follows:

**(d) Standards.**

(4) All containers of coating that are applied directly to a surface from the container by pouring, siphoning, brushing, rolling, padding, ragging or other means shall be closed when not in use. **These containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers.** Containers of any VOC-containing materials used for thinning and cleanup shall be closed when not in use.

**41 - 8. Comment:** EPA comments that subsection (f)(2) should be revised to require that all records "be made available to the Commissioner or EPA."

**Response:** The Department should revise subsection (f)(2), as follows:

**(f) Record keeping and reporting requirements.**

---

11 Delaware Department of Natural Resources and Environmental Control (DNREC), Air Quality Management Regulation No. 41 §1(c)(2), New York State Department of Environmental Control (NYSDEC) Rules & Regulations Part 205.3(b) and the Pennsylvania Code §130.603(b)

12 Code of Maine Rules 06-096, Chapter 151 §3(B) (Maine has included all but "nuclear coatings."), New Jersey Administrative Code §7:27-23.3(b) and New Hampshire Code of Administrative Rules, Part Env-A 4203.02 §(b)

(2) All records made to determine compliance with this section shall be maintained for five years from the date such record is created and shall be made available to the Commissioner **or the Administrator** within 90 days of a request.

**41 - 9. Comment:** EPA requests that subsection (g)(3)(A), which allows the use of alternative test methods approved by the New York Department of Environmental Conservation (NYSDEC), be revised to require that these alternatives are also approved by EPA.

**Response:** The Department appreciates EPA's comment on this issue. Every other OTC state that has included alternative test methods in the state's AIM regulation has required EPA approval of such methods. The NYSDEC Regulations Part 205.6(c), which is referenced in subsection (g)(3)(A)(iii), requires EPA approval of alternative test methods, so EPA approval is implicit in subsection (g)(3)(A)(iii), as proposed. The Department recommends that subsection (g)(3) be revised, as follows, to clarify that EPA approval is required for alternative methods:

**(g) Compliance procedures and test methods.**

(3) The following procedures shall be used to determine the physical properties of a coating in order to perform the calculations required pursuant to subdivision (2) of this subsection:

(A) The VOC content shall be calculated according to:

- (i) EPA Reference Method 24, 40 CFR 60, Appendix A,
- (ii) SCAQMD Method 304-91 (revised February 1996), unless the results are inconsistent with the results of a determination pursuant to subparagraph (A)(i) of this subdivision, or
- (iii) An alternative test method approved by the New York Department of Environmental Conservation **and the Administrator** pursuant to NYSDEC Regulations Part 205.6(c);

**Section 41: Additional Comment by Hearing Officer**

The Department should make the following technical correction to Section 40(e)(5):

The container-labeling requirement for clear brushing lacquer that is prescribed in Section 41(e)(5) should be changed to match the OTC AIM Model Rule by changing the word "shall" to "must," as follows:

(5) **Clear brushing lacquer.** The manufacturer of any clear brushing lacquer subject to this section shall prominently display on the label the statements: "**For brush application only**" and "**This product ~~shall~~ must not be thinned or sprayed.**"

**VII. Final Text of Proposal**

The final text of the proposal, inclusive of the changes recommended in this report, is located at Attachment 3 to this report.

### **VIII. Conclusion**

Based upon the comments submitted by interested parties and addressed in this Hearing Report, we recommend the final proposed regulatory amendment and adoptions, as contained in Attachment 3 to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee. Based upon the same considerations, we also recommend that upon promulgation the regulatory amendment and adoptions be submitted to EPA as revisions to the State Implementation Plan and as control measures in Connecticut's plan to attain and maintain the national ambient air quality standard for ozone.

---

/s/Merrily A. Gere  
Hearing Officer

September 19, 2006  
Date

---

/s/Patrice P. Kelly  
Hearing Officer

September 19, 2006  
Date

---

/s/Christopher Mulcahy  
Hearing Officer

September 19, 2006  
Date

**Attachment 1**  
**List of Commenters**

1. Anne Arnold, Manager  
Air Quality Planning Unit  
United States Environmental Protection Agency (EPA)  
Region 1  
One Congress Street, Suite 1100  
Boston, MA 02114-2023
2. Joseph T. Yost  
Director, State Affairs  
Consumer Specialty Products Association (CSPA)  
900 17<sup>th</sup> Street, N.W., Suite 300  
Washington, D.C. 20006  
[jyost@cspa.org](mailto:jyost@cspa.org)
3. Thomas J. Donegan, Jr.  
Executive Vice President - Legal and General Counsel  
Cosmetic, Toiletry and Fragrance Association (CTFA)  
1101 17<sup>th</sup> Street, N.W., Suite 300  
Washington, D.C. 10036-4702  
[donegant@ctfa.org](mailto:donegant@ctfa.org)
4. Stephen P. Risotto, Executive Director  
Halogenated Solvents Industry Alliance, Inc. (HSIA)  
1300 Wilson Boulevard, 12<sup>th</sup> Floor  
Arlington, VA 22209
5. Andrew Hackman  
Automotive Specialty Products Alliance (ASPA)  
900 17<sup>th</sup> Street, NW, Suite 300  
Washington, D.C. 20006
6. Heidi K. McAuliffe  
Counsel, Government Affairs  
National Paint & Coatings Association, Inc. (NPCA)  
1500 Rhode Island Avenue, NW  
Washington, DC 20005
7. Andrew J. Stackpole  
Regional Environmental Coordinator  
United States Department of Defense (DOD)  
Department of the Navy  
Box 101 Naval Submarine Base New London

Groton, CT 06349-5101

Rick Bennett  
United Technologies Corporation (UTC)  
United Technologies Building  
Hartford, CT 06101

Eric Brown, Associate Counsel  
Connecticut Business & Industry Association (CBIA)  
350 Church Street  
Hartford, CT 06103-1126

Tom Scelfo, Senior Vice President  
Woodard & Curran  
1520 Highland Avenue  
Cheshire, CT 06410

Jack Graumann  
Nutmeg Chrome Corporation  
111 Vanderbilt Avenue  
West Hartford, CT 06110

Donna Fritz, ESH Compliance Specialist  
BAE Systems  
250 Knotter Drive  
Cheshire, CT 06410

**Attachment 2**

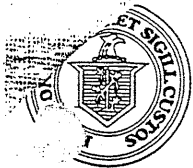
**Text of Proposed Regulations**

See <http://www.dep.state.ct.us/air2/regs/index.htm>

**Attachment 3**

**Final Text of Regulations**





Office of Secretary of the State  
 State of Connecticut  
 P.O. Box 150470, Hartford, CT 06115-0470

RECEIVED

Susan Bysiewicz  
 Secretary of the State

AUG 01 2007

Lesley D. Mara  
 Deputy Secretary of the State

DEPT. OF ENVIRONMENTAL PROTECTION  
 OFFICE OF THE COMMISSIONER

July 26, 2007

Hon. Gina McCarthy, Commissioner  
 Department of Environmental Protection  
 79 Elm Street  
 Hartford, CT 06105

Re: Agency Regulation Concerning:

**Abatement of Air Pollution: Amendment of Section 22a-174-20(I), Metal  
 Cleaning; Adoption of Sections 22a-174-40 and 22a-174-41 pertaining to  
 Consumer Products and Architectural and Industrial Maintenance  
 Products**

Regulation Review Committee Docket Number: 2006-064b  
 Secretary of the State File Number: 5792

Dear Commissioner McCarthy:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by the Department of Environmental Protection.

**We request that you please forward the original or a copy of this acknowledgement letter to your agency's Legal Services Department for its files.**

Said regulation was received and filed in this office on July 26, 2007. The effective date of this regulation is July 26, 2007.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

Barbara Sladek  
 RLS Assistant Coordinator  
 860-509-6147

Commercial Recording Division	(860) 509-6001 fax (860) 509-6069	State Capitol Office	(860) 509-6200 fax (860) 509-6209
Legislation and Election Administration Division	(860) 509-6100 fax (860) 509-6127	Deputy Secretary of the State	(860) 509-6212 fax (860) 509-6131
General Information	(860) 509-6000	Management & Support Services	(860) 509-6190 fax (860) 509-6175

Internet Home Page [www.sots.ct.gov](http://www.sots.ct.gov)  
 30 Trinity Street, Hartford, CT 06106

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT  
REGULATION  
OF

NAME OF AGENCY

Environmental Protection  
Concerning

Amendment of Section 22a-174-20(D), Metal Cleaning;  
Adoption of Section 22a-174-40, Consumer Products; and  
Adoption of 22a-174-41, Architectural and Industrial Maintenance  
Products

JUL 26 2 24 PM '07  
SECRETARIAT OF THE STATE  
SELECTIONS DIVISION

## Section 1

Section 1. Subdivision (1) of subsection (D) of section 22a-174-20 of the Regulations of Connecticut State Agencies is amended to read as follows:

(D)(1) Definitions. For the purposes of this subsection:

- (A) “Air knife system” means “air knife system” as defined in 40 CFR 63.461.
- (B) “Cold cleaning” means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing[,] or flushing with or [immersion while maintain the degreasing solvent below its boiling point] immersing in an unheated degreasing solvent. Wipe cleaning is not included in this definition.
- (C) “Continuous web cleaning machine” means “continuous web cleaning machine” as defined in 40 CFR 63.461.
- (D) “Conveyorized degreasing” means the continuous process of cleaning and removing soils from metal surfaces by operating with either cold or vaporized degreasing solvents.
- (E) “Degreasing solvent” means any volatile organic compound used for metal cleaning.
- (F) “Freeboard height” means, for a cold cleaner, the distance from the liquid solvent in the degreaser tank to the lip of the tank. For an open top vapor degreaser it is the distance from the solvent vapor level in the tank during idling to the lip of the tank. For a vapor conveyorized degreaser, it is the distance from the vapor level to the bottom of the entrance or exit opening whichever is lower. For a cold conveyorized degreaser, it is the distance from the liquid solvent level to the bottom of the entrance or exit opening whichever is lower.
- (G) “Freeboard ratio” means the freeboard height divided by the smaller interior dimension (length, width or diameter) of the degreaser.
- (H) “Open top vapor degreasing” means the batch process of cleaning and removing soils from metal surfaces by condensing hot degreasing solvent vapor on the colder metal parts.
- (I) “Metal cleaning” means the process of cleaning soils from metal surfaces by cold cleaning or open top vapor degreasing or conveyorized degreasing.
- (J) “Refrigerated chiller” means a device, [device which is] mounted above the water jacket and the primary condenser coils, [consisting] that consists of secondary coils which carry a refrigerant to provide a chilled air blanket above the solvent vapor to reduce emissions from the degreaser bath. The chilled air blanket temperature, measured at the centroid of the degreaser at the coldest point, shall be no greater than thirty (30) percent of the solvent's boiling point in degrees Fahrenheit.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

Environmental Protection

Secs. 1-2

- (K) "Special and extreme solvent metal cleaning" means the use of a cold cleaning unit to clean metal parts where such metal parts are used:
- (i) In the research, development, manufacture and rework of electronic parts, assemblies, boxes, wiring harnesses, sensors and connectors used in aerospace service,
  - (ii) In the research, development, manufacture and rework of ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds or oxygen in concentrations greater than twenty-three percent (23%),
  - (iii) In the research, development, manufacture and rework of high precision products for which contamination must be minimized in accordance with a customer or other specification, or
  - (iv) In a manner that exposes such metal parts to ozone, nitrous oxide, fluorine, chlorine, bromine, halogenated compounds or oxygen in concentrations greater than twenty-three percent (23%).
- (L) "Squeegee system" means "squeegee system" as defined in 40 CFR 63.461.

**Sec. 2. Subdivision (3) of subsection (I) of section 22a-174-20 of the Regulations of Connecticut State Agencies is amended to read as follows:**

(I)(3) Except as provided [for] in [subdivision] subdivisions (I)(6), (I)(7) or (I)(8) of this section, the owner or operator of any cold cleaning unit with an internal volume greater than one (1) liter and using solvents containing greater than five percent (5%) VOCs by weight shall meet the requirements of this subdivision.

- (A) Equip the cleaning device with a cover [designed so] that [it can be] is easily operated with one hand.
- (B) Equip the cleaning device with [a facility] an internal rack or equipment for draining cleaned parts [constructed internally] so that parts are enclosed under the cover while draining. [The] Such drainage [facility] rack or equipment may be external for applications where an internal type cannot fit into the cleaning system.
- (C) [Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, in a manner such that greater than 20 percent of the waste degreasing solvent, (by weight) can evaporate into the atmosphere.] Collect and store waste solvent in closed containers. Closed containers used for storing waste solvent may contain a device that allows pressure relief but does not allow liquid solvent to drain from the container.
- (D) Close the cover [whenever] if parts are not being handled in the cleaner for two (2) minutes or more, or [when] if the device is not in use.
- (E) Drain the cleaned parts for at least 15 seconds or until dripping ceases, whichever is longer.
- (F) If a degreasing solvent spray is used[,]:
  - (i) [supply] Supply a degreasing solvent spray that is a solid fluid stream (not a fine, atomized or shower type spray),

STATE OF CONNECTICUT  
**REGULATION**

OF  
NAME OF AGENCY

Environmental Protection

Sec. 2

- (ii) maintain a solvent spray [at a] pressure [which] that does not exceed ten (10) pounds per square inch as measured at the pump outlet, and
  - (iii) perform [such] spraying within the confines of the cold cleaning unit.
- [(G)] Install one of the following control devices if the solvent vapor pressure is greater than 4.3 kilo pascals (33 millimeters of mercury or 0.6 pounds per square inch) measured at 38 degrees Celsius (100 degrees Fahrenheit) or if the solvent is heated above 50 degrees Celsius (120 degrees Fahrenheit):
- (i) freeboard that gives a freeboard ratio greater than or equal to 0.7;
  - (ii) water cover (solvent must be insoluble in and heavier than water); or
  - (iii) other systems of equivalent control, equal to that of a “refrigerated chiller” or carbon adsorption approved by the commissioner by permit or order.]
- [(H)](G) Minimize the drafts across the top of each cold cleaning unit such that whenever the cover is open the unit is not exposed to drafts greater than 40 meters per minute, as measured between [1] one and [2] two meters upwind, [and] at the same elevation as the tank lip.
- [(I)](H) Do not operate the unit upon the occurrence of any visible solvent leak until such leak is repaired. Any leaked solvent or solvent spilled during transfer shall be cleaned immediately, and the wipe rags or other sorbent material used to clean the spilled or leaked solvent shall be immediately stored in covered containers for disposal or recycling.
- [(J)](I) Provide a permanent, conspicuous label on or posted near each unit summarizing the applicable operating requirements.
- [(K)](J) Maintain [a monthly record of the amount of solvent added to each unit and keep such record for a minimum of two (2) years after such record is made.] records of the information identified in this subparagraph for a minimum of five (5) years after such record is made:
- (i) The type of solvent used, including a description of the solvent and the solvent name,
  - (ii) The vapor pressure of the solvent in mmHg measured at 20 degrees Celsius (68 degrees Fahrenheit),
  - (iii) The percent VOC content by weight, and
  - (iv) The amount of solvent added to each unit on a monthly basis.
- [(K)] On or after May 1, 2008, use only solvent that has a vapor pressure less than or equal to 1.0 mmHg at 20 degrees Celsius.
- [(L)] Shall not clean sponges, fabric, wood, leather, paper and other absorbent material in a cold cleaning machine.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 3

**Sec. 3. Subdivisions (5) and (6) of subsection (l) of section 22a-174-20 of the Regulations of Connecticut State Agencies are amended to read as follows:**

(l)(5) The owner or operator of any conveyORIZED degreaser shall meet the requirements of this subdivision.

- (A) Install one of the following control devices:
  - (i) Refrigerated chiller;
  - (ii) Carbon adsorption system, with ventilation greater than or equal to fifteen (15) cubic meters per minute per square meter (50 cubic feet per minute per square foot) of solvent/air area (when downtime covers are open), and exhausting less than twenty five (25) parts per million of degreasing solvent by volume averaged over each complete adsorption cycle; or
  - (iii) A system, demonstrated to have a control efficiency equivalent to or greater than that required of the carbon adsorption system required in this subparagraph, which is approved by the commissioner by permit or order.
- (B) Provide the following safety switches:
  - (i) A condenser flow switch and device [which] that shuts off the sump heat if the condenser coolant is not circulating or if the vapor level rises above the height of the primary coil; and
  - (ii) A spray safety switch [which] that shuts off the spray pump or the conveyor if the vapor level drops more than ten (10) centimeters (4 inches) below the lowest condensing coil.
- (C) Store waste degreasing solvent only in covered containers and not dispose of waste degreasing solvent or transfer it to another party, such that greater than twenty (20) percent of the waste degreasing solvent (by weight) can evaporate into the atmosphere.
- (D) Rack parts to allow complete drainage.
- (E) Maintain conveyor speed at less than eleven (11) feet per minute, except that the owner or operator of any continuous web cleaning machine equipped with a squeegee system, air knife system or similar system to remove solvent film from the surfaces of a continuous web part, operated and maintained such that no visible solvent film remains on the continuous web part immediately after it exits the cleaning machine, shall be exempt from the conveyor speed requirement of this subparagraph.
- (F) Use either a drying tunnel, rotating basket, or other equivalent method to prevent cleaned parts from carrying out solvent liquid.
- (G) Place covers over entrances and exits immediately after conveyors and exhausts are shutdown, leaving them in place until just prior to start-up.
- (H) Minimize openings during operation so that entrances and exits will silhouette workloads with an average clearance between the parts and the edge of the degreasing unit opening of less than ten (10) centimeters (4 inches) or less than ten (10) percent of the width of the opening.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

Secs. 3-4

- (I) Prevent water from being visually detectible in solvent exiting the water separator.
- (J) Do not provide exhaust ventilation exceeding twenty (20) cubic meters per minute per square meter (65 cubic feet per minute per square foot) of degreasing unit open area, unless necessary to meet OSHA requirements.
- (K) Do not operate the unit upon the occurrence of any visible solvent leak until such leak is repaired.
- (L) Provide a permanent, conspicuous label on or posted near each unit summarizing the applicable operating requirements.
- (M) Maintain a monthly record of the amount of solvent added to each unit and keep such record for [two (2)] five (5) years after such record is made.

(I)(6) The commissioner may deem a cold cleaning unit in compliance with the requirements of subparagraphs (A), (B), and (D) of [subdivision] subsection (I)(3) of this section, notwithstanding that such unit is uncovered, if the owner or operator submits written documentation to the commissioner's satisfaction demonstrating such unit provides equal or better control of volatile organic compound emissions than a similar cold cleaning unit meeting such requirements. The [commissioner shall make such a determination based upon] written documentation shall include information demonstrating compliance with the following criteria:

- (A) The cold cleaner [must] shall have a remote solvent reservoir;
- (B) On or prior to April 30, 2008, [The] the solvent used in the cold cleaner must not have a vapor pressure that exceeds 4.3kPa (33mm Hg or 0.6 PSI) measured at 38° C (100° F) or be heated above 50° C (120° F);
- (C) The sink-like work area [must] shall have an open drain area less than 100 cm<sup>2</sup>; and
- (D) [Evidence is provided that] The waste solvent [will] shall be stored or properly disposed of with minimal loss due to evaporation.

**Sec. 4. Subsection (I) of section 22a-174-20 of the Regulations of Connecticut State Agencies is amended by adding subdivisions (7), (8) and (9), as follows:**

(NEW)

(7) Subsections (I)(3)(F) and (I)(3)(G) of this section shall not apply to the owner or operator of any cold cleaning unit used for special and extreme solvent metal cleaning if the owner or operator complies with the following requirements:

- (A) Limits the amount of solvent consumed in special and extreme solvent metal cleaning spray operations at the premises, excluding solvent capture and recycled, to less than 3,000 gallons in any 12-month period;
- (B) Uses a solvent with a VOC content less than 7.7 pounds per gallon; and
- (C) In addition to the records required pursuant to subsection (I)(3)(J) of this section, makes and maintains records sufficient to demonstrate compliance with subparagraphs (A) and (B) of this subdivision.

(8) Subsection (I)(3)(K) of this section shall not apply to the owner or operator of any of the following cold cleaning units:

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY  
Environmental Protection

Sec. 4

- (A) Used for special and extreme solvent metal cleaning;
  - (B) For which the owner or operator has submitted a demonstration that compliance with subsection (l)(3)(K) of this section will result in unsafe operating conditions and received approval from the commissioner; or
  - (C) Located in a permanent total enclosure equipped with control equipment that is designed and operated with an overall VOC removal efficiency of 90 percent or greater.
- (9) On and after May 1, 2008, any person who sells or offers for sale any solvent containing VOCs for use in a cold cleaning machine shall provide to the purchaser the following information:
- (A) The type of solvent including a description of the solvent and the solvent name,
  - (B) The vapor pressure of the solvent measured in mmHg at 20 degrees Celsius (68 degrees Fahrenheit); and
  - (C) The percent VOC content by weight.

STATE OF CONNECTICUT  
**REGULATION**  
 OF  
 NAME OF AGENCY

Environmental Protection

Sec. 5

**Sec. 5. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-40, as follows:**

(NEW)

**Sec. 22a-174-40. Consumer Products.**

(a) **Definitions.** For purposes of this section, the definitions listed in this subsection shall apply.

(1) “Adhesive” means any product that is applied for the purpose of bonding two surfaces together excluding (1) mechanical means such as screws, clamps and Velcro, (2) products used on humans and animals, and (3) adhesive tape, contact paper, wallpaper, shelf liners or any other product with an adhesive incorporated onto or in an inert substrate.

(2) “Adhesive remover” means a product designed to remove adhesives from either a specific substrate or a variety of substrates. “Adhesive removers” do not include products that remove adhesives and are intended for use on humans or other animals. For the purpose of this definition, “adhesive” means a substance used to bond one or more materials including, but not limited to, caulks, sealants or glues.

(3) “Aerosol adhesive” means an aerosolized bonding product in which the spray mechanism is permanently housed in a non-refillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

(4) “Aerosol cooking spray” means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food or both.

(5) “Aerosol product” means a pressurized spray system that dispenses product ingredients by means of a propellant contained in a product or a product's container, or by means of a mechanically induced force. “Aerosol product” does not include pump spray.

(6) “Agricultural use” means, for the purposes of this definition, the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop, exclusive of the sale or use of pesticides in properly labeled packages or containers that are intended for use in:

- (A) A household or its immediate environment;
- (B) Structural pest control, which includes a use requiring a license under section 22a-54 of the Connecticut General Statutes;
- (C) A manufacturing, mining or chemical process or in the operation of factories, processing plants and similar sites; or
- (D) Within the lines of, or on property necessary for the operation of, buildings such as hospitals, schools, libraries, auditoriums and office complexes.

(7) “Air freshener” means any consumer product including, but not limited to, sprays, wicks, powders and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting or deodorizing the air including spray disinfectants and other products that are expressly represented for use as “air freshener.” “Air freshener” does not include products that are used on the human body, products that function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, institutional and industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution or toilet/urinal care products.



STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

- (8) “All other forms” means all consumer product forms for which no form-specific VOC standard is specified. Unless specified in a VOC standard, “all other forms” include, but are not limited to, solids, liquids, wicks, powders, crystals and cloth, paper wipes or towelettes.
- (9) “Alternative control plan” or “ACP” means an emissions averaging program approved by CARB or the NYSDEC.
- (10) “Anti-microbial hand or body cleaner or soap” means a cleaner or soap designed to reduce the level of microorganisms on the skin through germicidal activity, including, but not limited to, anti-microbial hand or body washes and cleaners, food-handler hand washes, healthcare personnel hand washes, pre-operative skin preparations and surgical scrubs. “Anti-microbial hand or body cleaner or soap” does not include prescription drug products; antiperspirants; astringent or toner; deodorant; facial cleaner or soap; general-use hand or body cleaner or soap; hand dishwashing detergent including anti-microbial, heavy-duty hand cleaner or soap; medicated astringent or medicated toner; or rubbing alcohol.
- (11) “Antiperspirant” means any product including, but not limited to, an aerosol, roll-on, stick, pump, pad, cream or squeeze-bottle that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.
- (12) “Anti-static product” means a product that is labeled to eliminate, prevent or inhibit the accumulation of static electricity, exclusive of electronic cleaners, floor polish or wax, floor coating, aerosol coating products or architectural coating.
- (13) “Architectural coating” means, notwithstanding the definition in section 22a-174-1 of the Regulations of Connecticut State Agencies, a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements or to curbs.
- (14) “ASTM” means the American Society for Testing and Materials.
- (15) “Astringent” or “toner” means any product not regulated as a drug by the United States Food and Drug Administration that is applied to the skin for the purpose of cleaning or tightening pores, including clarifiers and substrate-impregnated products and excluding any hand, face or body cleaner or soap product, medicated astringent or medicated toner, cold cream, lotion or antiperspirant.
- (16) “Automotive brake cleaner” means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.
- (17) “Automotive hard paste wax” means a motor vehicle wax or polish that is:
- (A) Designed to protect and improve the appearance of motor vehicle painted surfaces;
  - (B) A solid at room temperature; and
  - (C) Contains 0% water by formulation.
- (18) “Automotive instant detailer” means a product designed for use in a pump spray that is applied to motor vehicle painted surfaces and wiped off prior to being allowed to dry.
- (19) “Automotive rubbing or polishing compound” means a product designed primarily to remove oxidation, old paint, scratches or swirl marks and other defects from motor vehicle painted surfaces without leaving a protective barrier.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(20) “Automotive wax, polish, sealant or glaze” means a product designed to seal out moisture, increase gloss or otherwise enhance motor vehicle painted surfaces including, but not limited to, products designed for use in auto body repair shops and drive-through car washes, as well as products designed for the general public and excluding automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products and products designed for use on unpainted surfaces such as bare metal, chrome, glass or plastic.

(21) “Automotive windshield washer fluid” means any liquid designed for use in a motor vehicle windshield washer system either as antifreeze or for the purpose of cleaning, washing or wetting the windshield, excluding fluids placed by the manufacturer in a new vehicle and excluding wet towel products designed to be applied by hand to automotive windshields and windows to remove dirt.

(22) “Bait station insecticide” means an insecticidal bait weighing no more than 0.5 ounce and composed of solid material feeding stimulants with less than five percent active ingredients that is designed to be ingested by insects.

(23) “Bathroom and tile cleaner” means a product designed to clean tile or surfaces in bathrooms, exclusive of products specifically designed primarily to clean toilet bowls, toilet tanks or urinals.

(24) “Bug and tar remover” means a product labeled to remove either or both of the following from painted motor vehicle surfaces without causing damage to the motor vehicle finish:

(A) Biological-type residues such as insect carcasses and tree sap; or

(B) Road grime, such as road tar, roadway paint markings and asphalt.

(25) “CARB” means the California Air Resources Board.

(26) “CCR” means the California Code of Regulations.

(27) “Carburetor or fuel-injection air intake cleaners” means a product designed to remove fuel deposits, dirt or other contaminants from a carburetor, choke, throttle body of a fuel-injection system or associated linkages, exclusive of a product designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

(28) “Carpet and upholstery cleaner” means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics including, but not limited to, products that make fabric protectant claims and excluding general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

(29) “CAS” means Chemical Abstract Service.

(30) “Charcoal lighter material” means any combustible material designed to be applied on, incorporated in, added to or used with charcoal to enhance ignition, excluding electrical starters and probes, metallic cylinders using paper tinder, natural gas, propane or fat wood.

(31) “Colorant” means any pigment or coloring material used in a consumer product for an aesthetic effect, or to highlight a component.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

- (32) "Connecticut sales" means the annual sales in Connecticut during a specified calendar year of a consumer product, expressed as net pounds of product less packaging and container.
- (33) "Construction, panel and floor covering adhesive" means any single-component adhesive that is not floor seam sealer and that is designed exclusively for the installation, remodeling, maintenance or repair of:
- (A) Structural and building components that include, but are not limited to, beams, trusses, studs; paneling such as drywall or drywall laminates, fiberglass-reinforced plastic, plywood, particle board, insulation board, pre-decorated hardboard and tile board; ceiling and acoustical tile; molding; fixtures; countertops or countertop laminates; cove or wall bases; and flooring or subflooring; or
  - (B) Floor or wall coverings that include, but are not limited to, wood or simulated wood covering; carpet; carpet pad or cushion; vinyl-backed carpet; flexible flooring material; non-resilient flooring material; mirror tiles and other types of tiles; and artificial grass.
- (34) "Consumer" means any person who purchases or acquires any consumer product for personal, family, household or institutional use. A person acquiring a consumer product for resale is not a "consumer" for that product.
- (35) "Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, antiperspirants; detergents; deodorants; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn and garden products; disinfectants; sanitizers; aerosol paints; or automotive specialty products. Other paint products, furniture coatings or architectural coatings are not "consumer products."
- (36) "Contact adhesive" means an adhesive that:
- (A) Is designed for application to two surfaces to be bonded together;
  - (B) Is designed to dry before the two surfaces are placed in contact with each other;
  - (C) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other;
  - (D) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces;
  - (E) Is not a rubber cement primarily intended for use on paper substrates; and
  - (F) Is not a vulcanizing fluid designed and labeled for tire repair.
- (37) "Contact adhesive -- general purpose" means any contact adhesive that is not a "contact adhesive -- special purpose."
- (38) "Contact adhesive -- special purpose" means a contact adhesive that is either:
- (A) Used to bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, high pressure laminate or wood veneer 1/16 inch or less in thickness to any porous or nonporous surface, and is sold in units of product, less packaging, that contain more than eight fluid ounces; or

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

- (B) Used in automotive applications that are either automotive under-the-hood applications requiring heat, oil or gasoline resistance, or body-side molding, automotive weatherstrip or decorative trim.

(39) “Container” or “packaging” means the part or parts of a consumer or institutional product that serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances that accomplish the purpose or purposes for which the product is designed or intended, and includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

(40) “Crawling bug insecticide” means any insecticide product that is designed for use against ants, cockroaches or other household crawling arthropods including, but not limited to, mites, silverfish or spiders, and excluding any house dust mite product or any product designed to be used exclusively on humans or animals. For the purposes of this definition only:

- (A) “House dust mite” means a Pyroglyphidae mite that feeds primarily on skin cells shed in the home by humans and pets; and
- (B) “House dust mite product” means a product whose label, packaging or accompanying literature states that the product is suitable for use against house dust mites but does not indicate that the product is suitable for use against ants, cockroaches or other household crawling arthropods.

(41) “Date-code” means the day, month and year on which a consumer product is manufactured, filled or packaged or a code indicating such a date.

(42) “Deodorant” means any product including, but not limited to, an aerosol, roll-on, stick, pump, pad, cream or squeeze-bottle, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria that cause the decomposition of perspiration.

(43) “Device” means any instrument or contrivance, other than a firearm, designed for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life other than humans and bacteria, viruses or other microorganisms on or in living humans or other living animals; but “device” does not include equipment used to apply pesticides if such pesticides are sold separately from the device.

(44) “Disinfectant” means any product intended to destroy or inactivate infectious or other undesirable bacteria, pathogenic fungi or viruses on surfaces or inanimate objects and for which the label is registered under FIFRA. “Disinfectant” does not include products:

- (A) Designed solely for use on human or animals;
- (B) Designed for agricultural use;
- (C) Designed solely for use in swimming pools, therapeutic tubs or hot tubs; or
- (D) As indicated on the principal display panel or label, designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners or metal polishes.

(45) “Distributor” means any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers and consumers are not “distributors.”

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(46) “Double-phase aerosol air freshener” means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

(47) “Dry cleaning fluid” means any non-aqueous liquid product designed and labeled exclusively for use on fabrics that are labeled “dry clean only” or that are S-coded fabrics and includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer’s residence or work place. “Dry cleaning fluid” does not include spot remover or carpet and upholstery cleaner.

(48) “Dusting aid” means a product designed for use with a mop, rag or other dusting device to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating and does not include products that consist entirely of compressed gases for use in electronic or other specialty areas.

(49) “Electrical cleaner” means a product labeled to remove heavy soils such as grease, grime or oil from electrical equipment such as electric motors, armatures, relays, electric panels or generators. “Electrical cleaner” does not include general purpose cleaner, general purpose degreaser, dusting aid, electronic cleaner, energized electrical cleaner, pressurized gas duster, engine degreaser, anti-static product or products designed to clean the casings or housings of electrical equipment.

(50) “Electronic cleaner” means a product labeled for the removal of dirt, moisture, dust, flux or oxides from the internal components of electronic or precision equipment such as circuit boards, and the internal components of electronic devices such as radios, compact disc (CD) players, digital video disc (DVD) players and computers. “Electronic cleaner” does not include general purpose cleaner, general purpose degreaser, dusting aid, pressurized gas duster, engine degreaser, electrical cleaner, energized electrical cleaner, anti-static product or products designed to clean the casings or housings of electronic equipment.

(51) “Energized electrical cleaner” means a product that meets both of the following criteria: (1) the product is labeled to clean or degrease electrical equipment, where cleaning or degreasing is accomplished when electrical current exists, or when there is a residual electrical potential from a component, such as a capacitor; and (2) the product label clearly displays the statements: **“Energized equipment use only. Not to be used for motorized vehicle maintenance or their parts.”** “Energized electrical cleaner” does not include electronic cleaner.

(52) “Engine degreaser” means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

(53) “Fabric protectant” means a product designed to be applied to fabric substrates to protect the surface from soiling or to reduce absorption of liquid into the fabric's fibers. “Fabric protectant” does not include a product labeled for use as a waterproofer, a product designed for use solely on leather or a product designed for use solely on fabrics that are labeled “dry clean only” and sold in containers of ten fluid ounces or less.

(54) "Fabric refresher" means a product labeled to neutralize or eliminate odors on non-laundered fabric including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing or on household furniture or objects upholstered or covered with fabrics such as, but not limited to, wool, cotton or nylon. “Fabric refresher” does not include anti-static product, carpet and upholstery cleaner, soft household surface sanitizers, footwear or leather care product, spot remover or disinfectant, or products labeled for application on both fabric and human skin. For the purposes of this definition only, “soft household surface sanitizer” means a product labeled to neutralize or eliminate odors on the surfaces listed in this definition and for which the label is registered as a sanitizer under FIFRA.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

- (55) “Facial cleaner or soap” means a cleaner or soap designed primarily to clean the face and includes, but is not limited to, facial cleansing creams, semi-solids, liquids, lotions and substrate-impregnated forms; and excludes prescription drug products, antimicrobial hand or body cleaner or soap, astringent, toner, general-use hand or body cleaner or soap, medicated astringent, medicated toner or rubbing alcohol.
- (56) “Fat wood” means pieces of wood kindling with high levels of sap or resin that enhance ignition of the kindling, and excludes any kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.
- (57) “FDA” means the United States Food and Drug Administration.
- (58) “FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act, 7 USC sections 136 et. seq.
- (59) “Flea and tick insecticide” means any insecticide product that is designed for use against fleas, ticks, their larvae or their eggs, exclusive of products designed for use exclusively on humans or animals and their bedding.
- (60) “Flexible flooring material” means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl or vinyl composite flooring.
- (61) “Floor coating” means an opaque coating that is labeled and designed for application to flooring, including but not limited to, decks, porches, steps or other horizontal surfaces subject to foot traffic.
- (62) “Floor or wall covering adhesive remover” means a product designed or labeled to remove floor or wall coverings and associated adhesive from the underlying substrate.
- (63) “Floor polish or wax” means a wax, polish or any other product designed to polish, protect or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished, exclusive of spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors and coatings subject to architectural coatings regulations.
- (64) “Floor seam sealer” means any product designed and labeled exclusively for bonding, fusing, sealing or coating seams between adjoining pieces of installed flexible sheet flooring.
- (65) “Floor wax stripper” means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax, exclusive of aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.
- (66) “Flying bug insecticide” means any insecticide product that is designed for use against flying insects or other flying arthropods, including, but not limited to, flies, mosquitoes, moths or gnats, and excluding wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals or any moth-proofing product. For the purposes of this definition only, “moth-proofing product” means a product whose label, packaging or accompanying literature indicates that the product is designed to protect fabrics from damage by moths but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

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

(68) "Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils and other functional components, the sole purpose of which is to impart an odor or scent or to counteract a malodor.

(69) "Furniture coating" means any paint designed for application to room furnishings including, but not limited to, kitchen, bath and vanity cabinets; tables; chairs; beds and sofas.

(70) "Furniture maintenance product" means a wax, polish, conditioner or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors but does not include dusting aids, wood cleaners, products designed solely for the purpose of cleaning and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

(71) "Gasket or thread locking adhesive remover" means a product designed or labeled to remove gaskets or thread locking adhesives. "Gasket or thread locking adhesive remover" includes products labeled for dual use as a paint stripper and gasket remover or thread locking adhesive remover.

(72) "Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

(73) "General purpose adhesive" means any non-aerosol adhesive designed for use on a variety of substrates, excluding the following:

- (A) Contact adhesives;
- (B) Construction, panel and floor covering adhesives;
- (C) Adhesives designed exclusively for application to one specific category of substrate, such as metals, paper products, ceramics, plastics, rubbers or vinyls; or
- (D) Adhesives designed exclusively for use on one specific category of articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping or carpets.

(74) "General purpose adhesive remover" means a product designed or labeled to remove cyanoacrylate adhesives and non-reactive adhesives or residue from a variety of substrates. "General purpose adhesive remover" does not include floor or wall covering adhesive remover.

(75) "General purpose cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. "General purpose cleaner" includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

(76) “General purpose degreaser” means any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. “General purpose degreaser” does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, electrical cleaner, energized electrical cleaner, metal polish, metal cleanser, products used exclusively in solvent cleaning tanks or related equipment, or products that are:

- (A) Sold exclusively to establishments that manufacture or construct goods or commodities; and
- (B) Labeled “**not for retail sale.**”

(77) “General-use hand or body cleaner or soap” means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils. “General-use hand or body cleaner or soap” includes, but is not limited to, hand or body wash, dual-purpose shampoo-body cleaner, shower or bath gel and moisturizing cleaner or soap; and excludes prescription drug product, anti-microbial hand or body cleaner or soap, astringent, toner, facial cleaner or soap, hand dishwashing detergent, anti-microbial hand washing detergent, heavy-duty hand cleaner or soap, medicated astringent, medicated toner or rubbing alcohol.

(78) “Glass cleaner” means a cleaning product designed primarily for cleaning surfaces made of glass and does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment or photocopying machines.

(79) “Graffiti remover” means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish or shoe polish from a variety of non-cloth or non-fabric substrates. “Graffiti remover” does not include paint remover or stripper, nail polish remover or spot remover. “Graffiti remover” includes products labeled for dual use as both a paint stripper and graffiti remover.

(80) “Hair mousse” means hairstyling foam designed to facilitate styling of a coiffure and provide holding power.

(81) “Hair shine” means any product designed for the primary purpose of creating a shine when applied to the hair, including, but not limited to, dual-use hair styling product, products designed primarily to impart a sheen to the hair, and excluding hair spray, hair mousse, hair styling gel or spray gel, or products whose primary purpose is to condition or hold the hair.

(82) “Hair spray” means a consumer product that is applied to styled hair and is designed or labeled to provide sufficient rigidity to hold, retain or finish the style of the hair for a period of time. “Hair spray” includes aerosol hair sprays, pump hair sprays, spray waxes; color, glitter or sparkle hairsprays that make finishing claims; and products that are both a styling and finishing product. “Hair spray” does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle. For the purposes of this definition, “finish” or “finishing” means the maintaining or holding of previously styled hair for a period of time. For the purposes of this definition, “styling” means the forming, sculpting or manipulation of the hair to alter temporarily the hair’s shape.



STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(83) "Hair styling product" means a consumer product designed or labeled for the application to wet, damp or dry hair to aid in defining, shaping, lifting, styling or sculpting of the hair. "Hair styling product" includes, but is not limited to, hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle and leave-in volumizers, detanglers or conditioners that make styling claims. "Hair styling product" does not include hair mousse, hair shine, hair spray or shampoos or conditioners that are rinsed from the hair prior to styling. For the purposes of this definition, "finish" or "finishing" means the maintaining or holding of previously styled hair for a period of time; and "styling" means the forming, sculpting or manipulation of the hair to alter temporarily the hair's shape.

(84) "Heavy-duty hand cleaner or soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt or adhesives from the hand with or without the use of water. "Heavy-duty hand cleaner or soap" does not include prescription drug product, anti-microbial hand or body cleaner or soap, astringent, toner, facial cleaner or soap, general-use hand or body cleaner or soap, medicated astringent, medicated toner or rubbing alcohol.

(85) "Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes a product labeled for agricultural use and restricted material requiring a permit for use and possession.

(86) "High volatility organic compound" or "HVOC" means any VOC that exerts a vapor pressure greater than 80mm Hg at 20°C.

(87) "Household product" means any consumer product designed for use inside or outside living quarters or residences, inclusive of the immediate surroundings, which are occupied or intended for occupation by individuals.

(88) "Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

- (A) For agricultural use;
- (B) For a use which requires a structural pest control license pursuant to section 22a-54 of the Connecticut General Statutes; or
- (C) Restricted materials that require a permit for use and possession.

(89) "Insecticide fogger" means any insecticide product designed to release all or most of its content, in the form of a fog or mist, into indoor areas during a single application.

(90) "Institutional product" or "industrial and institutional product" means a consumer product that is designed for use in the maintenance or operation of an establishment, exclusive of a household product or a product that is incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment. For the purpose of this definition, an "establishment" includes, but is not limited to, a government agency, factory, school, hospital, sanitarium, prison, restaurant, hotel, store, automobile service and parts center, health club, theater or transportation company, that:

- (A) Manufactures, transports, or sells goods or commodities or provides services for profit; or
- (B) Is engaged in the nonprofit promotion of a particular public, educational or charitable cause.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(91) “Label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying or giving information with respect to the product or to the contents of the package.

(92) “Laundry prewash” means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

(93) “Laundry starch product” means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp look that may also act to help ease ironing of the fabric. “Laundry starch product” includes, but is not limited to, fabric finish, sizing and starch.

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

(95) “Liquid” means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D-4359-90, excluding powders or other materials composed entirely of solid particles.

(96) “Lubricant” means a product designed to reduce friction, heat, noise or wear between moving parts, or to loosen rusted or immovable parts or mechanisms and excludes the following products:

- (A) Automotive power steering fluids;
- (B) Products for use inside power generating motors, engines, and turbines and associated power-transfer gearboxes;
- (C) Two cycle oils or other products designed to be added to fuels;
- (D) Products for use on the human body or animals; or
- (E) Products that are both:
  - (i) Sold exclusively to establishments that manufacture or construct goods or commodities, and
  - (ii) Labeled “**not for retail sale.**”

(97) “LVP-VOC” means a low vapor pressure chemical compound or mixture that contains at least one carbon atom and meets at least one of the following criteria:

- (A) Has a vapor pressure less than 0.1 mm Hg at 20°C;
- (B) Is a chemical compound with more than 12 carbon atoms or a chemical mixture comprised solely of compounds with more than 12 carbon atoms, and the vapor pressure and boiling point are unknown;
- (C) Is a chemical compound with a boiling point greater than 216°C; or
- (D) Is the weight percent of a chemical mixture that boils above 216°C.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

For the purposes of this definition, "chemical compound" means a molecule of definite chemical formula and isomeric structure, and "chemical mixture" means a substrate comprised of two or more chemical compounds.

(98) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a consumer product.

(99) "Medicated astringent" or "medicated toner" means any product regulated as a drug by the FDA that is applied to the skin for the purpose of cleaning or tightening pores, and includes, but is not limited to, clarifiers and substrate-impregnated products. "Medicated astringent" or "medicated toner" does not include hand, face, or body cleaner or soap products, astringent or toner, cold cream, lotion, antiperspirants or products that must be purchased with a doctor's prescription.

(100) "Medium volatility organic compound" or "MVOC" means any volatile organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20°C.

(101) "Metal polish/cleanser" means any product designed to use physical or chemical action to remove or reduce stains, impurities or oxidation from surfaces or to make surfaces smooth and shiny on finished metal, metallic or metallized surfaces. "Metal polish/cleanser" includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals and does not include: automotive wax, polish, sealant or glaze; wheel cleaner; paint remover or stripper; products designed and labeled exclusively for automotive and marine detailing; or products designed for use in degreasing tanks.

(102) "Mist spray adhesive" means any aerosol adhesive that is not a special purpose spray adhesive and that delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

(103) "Multi-purpose dry lubricant" means any lubricant that is:

- (A) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide ("moly"), or polytetrafluoroethylene or closely related fluoropolymer ("Teflon") on surfaces; and
- (B) Designed for general purpose lubrication, or for use in a wide variety of applications.

(104) "Multi-purpose lubricant" means any lubricant designed for general purpose lubrication or for use in a wide variety of applications, exclusive of any multi-purpose dry lubricant, penetrant or silicone-based multi-purpose lubricant.

(105) "Multi-purpose solvent" means any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials, including solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories. "Multi-purpose solvents" do not include solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

- (106) “Nail polish” means any clear or colored coating designed for application to the fingernails or toenails and including, but not limited to, lacquers, enamels, acrylics, base coats and top coats.
- (107) “Nail polish remover” means a product designed to remove nail polish and coatings from fingernails or toenails.
- (108) “Non-aerosol product” means any consumer product that is not dispensed by a pressurized spray system.
- (109) “Non-carbon containing compound” means any compound that does not contain carbon atoms.
- (110) “Non-resilient flooring” means flooring of a mineral content that is not flexible, including terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.
- (111) “Non-selective terrestrial herbicide” means a herbicide product that is intended for use on land and is toxic to plants without regard to species.
- (112) “NYCRR” means the Official Compilation of Codes, Rules and Regulations of the State of New York.
- (113) “NYSDEC” means the New York State Department of Environmental Conservation.
- (114) “Oven cleaner” means any cleaning product designed to clean by removing dried food and other deposits from oven interiors.
- (115) “Paint” means any pigmented liquid, liquefiable or mastic composition designed for application to a substrate in a thin layer, which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.
- (116) “Paint remover or stripper” means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. “Paint remover or stripper” does not include:
- (A) Multi-purpose solvents;
  - (B) Paint brush cleaners;
  - (C) Products designed and labeled exclusively to remove graffiti; or
  - (D) Hand cleaner products that claim to remove paints and other related coating from skin.
- (117) “Penetrant” means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation or other causes.
- (118) “Pesticide” means any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest; or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator; and excluding any substance, mixture of substances or device that the United States Environmental Protection Agency does not consider a pesticide.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

- (119) "Pressurized gas duster" means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces such as photographs, photographic film negatives, computer keyboards and other types of surfaces that cannot be cleaned with solvents. "Pressurized gas duster" does not include dusting aids.
- (120) "Principal display panel" means that part, or those parts, of a product label appearing once or more on a container or packaging that is designed for display to, examination by or presentation to a potential consumer under normal and customary conditions of display or purchase.
- (121) "Product brand name" means the name of the product exactly as it appears on the principal display panel of the product.
- (122) "Product form" means the form that most accurately describes a products' dispensing form, including aerosols, solids, semi-solids, liquids and pump sprays.
- (123) "Propellant" means a liquefied or compressed gas that is used in whole or in part, such as a co-solvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.
- (124) "Pump spray" means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.
- (125) "Responsible party" means the company, firm or establishment that is listed on a product's label. If the label lists more than one company, firm or establishment, the responsible party is the party that the product was "manufactured for" or "distributed by," as noted on the label.
- (126) "Restricted materials" means pesticides classified for "restricted use" pursuant to FIFRA.
- (127) "Retailer" means any person who sells, supplies or offers consumer products for sale directly to consumers.
- (128) "Retail outlet" means any establishment at which consumer products are sold, supplied or offered for sale directly to consumers.
- (129) "Roll-on product" means any antiperspirant or deodorant dispensed by rolling a wetted ball or wetted cylinder on the affected area.
- (130) "Rubber and vinyl protectant" means any product designed to protect, preserve or renew vinyl, rubber and plastic on motor vehicles, tires, luggage, furniture or household products such as vinyl covers, clothing and accessories. "Rubber and vinyl protectant" does not include products primarily designed to clean a motor vehicle wheel rim, such as aluminum or magnesium wheel cleaners, or tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.
- (131) "Rubbing alcohol" means any product containing isopropyl alcohol or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient or for massage.
- (132) "S-coded fabric" means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards and Guidelines Committee.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(133) “Sealant and caulking compound” means any product with adhesive properties that is designed to fill, seal, waterproof or weatherproof gaps or joints between two surfaces, and excluding the following products:

- (A) Roof cements and roof sealants;
- (B) Insulating foams;
- (C) Removable caulking compounds, which, for the purposes of this subdivision, means a compound that temporarily seals windows or doors for three to six month time intervals;
- (D) Clear/paintable/water resistant caulking compound, which, for the purposes of this subdivision, means a compound that contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application;
- (E) Floor seam sealers;
- (F) Products designed exclusively for automotive uses;
- (G) Sealers that are applied as continuous coatings; or
- (H) Products sold in units that weigh more than one pound and consist of more than sixteen fluid ounces.

(134) “Semisolid” means a product that, at room temperature, will not pour but will spread or deform easily, such as gels, pastes and greases.

(135) “Shaving cream” means an aerosol product that dispenses foam lather intended for use with a blade or cartridge razor, or other wet-shaving system, in the removal of facial or other bodily hair. “Shaving cream” does not include shaving gel.

(136) “Shaving gel” means an aerosol product that dispenses a post-foaming semi-solid designed to be used with a blade, cartridge razor or other wet-shaving system in the removal of facial or other body hair. “Shaving gel” does not include shaving cream.

(137) “Silicone-based multi-purpose lubricant” means any lubricant that is not a product designed and labeled exclusively to release manufactured products from molds and that is designed and labeled as follows:

- (A) To provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane; and
- (B) For general purpose lubrication, or for use in a wide variety of applications.

(138) “Single-phase aerosol air freshener” means an aerosol air freshener with the liquid contents in a single homogeneous phase that does not require that the product container be shaken before use.

(139) “Solid” means a substance or mixture of substances that, either whole or subdivided as in the case of particles comprising a powder, is not capable of visually detectable flow as determined under ASTM D-4359-90.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

(140) “Solvent cleaning tanks or related equipment” means, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines or products designed to clean miscellaneous metallic parts by immersion in a container.

(141) “Special purpose spray adhesive” means any of the aerosol adhesives identified in subparagraphs (A) through (G) of this subdivision:

- (A) Mounting adhesive, an aerosol adhesive designed to mount photographs, artwork and any other drawn or printed media permanently to a backing without causing discoloration to the artwork;
- (B) Automotive engine compartment adhesive, an aerosol adhesive designed for use in motor vehicle under-the-hood applications that require oil and plasticizer resistance as well as high shear strength at temperatures of 200 to 275 degrees F;
- (C) Flexible vinyl adhesive, an aerosol adhesive designed to bond a nonrigid polyvinyl chloride plastic with at least five percent, by weight, of plasticizer content to substrates;
- (D) Polystyrene foam adhesive, an aerosol adhesive designed to bond polystyrene foam to substrates;
- (E) Automotive headliner adhesive, an aerosol adhesive designed to bond together layers in motor vehicle headliners;
- (F) Polyolefin adhesive, an aerosol adhesive designed to bond polyolefins to substrates; and
- (G) Laminate repair or edgbanding adhesive, an aerosol adhesive designed for:
  - (i) Touch-up or repair of items laminated with sheet materials consisting of a core material that has been laminated at temperatures exceeding 265 degrees F, and at pressures between 1,000 and 1,400 psi, or
  - (ii) Touch-up, repair or attachment of edgbanding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding and decorative metals.

(142) “Specialty adhesive remover” means a product designed to remove reactive adhesives from a variety of substrates. For the purposes of this definition, “reactive adhesives” include adhesives that require a hardener or catalyst for the bond to be formed, epoxies, urethanes and silicones. “Specialty adhesive remover” does not include gasket or thread locking adhesive remover.

(143) “Spot remover” means any product labeled to clean localized areas, or remove localized spots or stains on cloth or fabric that does not require subsequent laundering to achieve stain removal. “Spot remover” does not include dry cleaning fluid, laundry pre-wash or multi-purpose solvent.

(144) “Spray buff product” means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

(145) “Stick product” means any antiperspirant or deodorant that contains active ingredients in a solid matrix form and that dispenses the active ingredients by frictional action on the affected area.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(146) “Structural waterproof adhesive” means an adhesive with bond lines that are resistant to conditions of continuous immersion in fresh or salt water and that conforms with Federal Specification MMM-A-181D (Type 1, Grade A).

(147) “Tire sealant and inflator” means any pressurized product that is designed to inflate and seal a leaking tire for a short period of time.

(148) “Toilet/urinal care product” means any product designed or labeled to clean or deodorize toilet bowls, toilet tanks or urinals. For the purpose of this definition, “toilet bowls, toilet tanks and urinals” include, but are not limited to, toilets or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary or remote locations and toilets or urinals in vehicles such as buses, recreational motor homes, boats, ships and aircraft. Bathroom and tile cleaner and general purpose cleaner are not considered “toilet/urinal care products.”

(149) “Undercoating” means any aerosol product including, but not limited to, a rubberized, mastic or asphaltic product designed to impart a protective, non-paint layer to the undercarriage, trunk interior or the firewall of motor vehicles to prevent the formation of rust or to deaden sound.

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

(151) “VOC content” means the total weight of volatile organic components in a product expressed as a percentage of the product weight exclusive of the container or packaging.

(152) “Wasp and hornet insecticide” means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees and that allows the user to spray from a distance a directed stream or burst at the intended insects or their hiding place.

(153) “Waterproofer” means a product that is not a fabric protectant and that is designed and labeled exclusively to repel water from fabric or leather substrates.

(154) “Wax” means a material or synthetic thermoplastic substance generally composed of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol, high polymers or plastics, including, but not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin and synthetic polymers such as polyethylene.

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

(156) “Wood cleaner” means a product labeled to clean wooden materials including but not limited to decking, fences, flooring, logs, cabinetry and furniture. “Wood cleaner” does not include dusting aid, general purpose cleaner, furniture maintenance product, floor wax stripper, floor polish or wax or products designed and labeled exclusively to preserve or color wood.

(157) “Wood floor wax” means a wax-based product for use solely on wood floors.

**(b) Applicability.**

Except as provided in subsection (c) of this section, this section applies to any person who, on or after January 1, 2009, sells, supplies, offers for sale or manufactures for sale in the state of Connecticut any consumer product for use in the state of Connecticut.



STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

**(c) Exemptions.**

(1) This section shall not apply to any consumer product manufactured in Connecticut for shipment, sale and use outside of Connecticut.

(2) This section shall not apply to a manufacturer or distributor who sells, supplies or offers for sale in Connecticut a consumer product that does not comply with the VOC content limits specified in Table 40-1 of this section provided that such manufacturer or distributor makes and keeps records demonstrating:

(A) The consumer product is intended for shipment and use outside of Connecticut; and

(B) The manufacturer or distributor has taken reasonable precautions to assure that the consumer product is not distributed to or within Connecticut.

(3) Subdivision (2) of this subsection shall not apply to a consumer product that is sold, supplied or offered for sale by any person to a retail outlet in Connecticut.

(4) This section shall not apply to any product for which the manufacturer obtains one of the following variances, provided that any manufacturer who claims exemption pursuant to this subdivision shall possess and submit to the commissioner, upon request therefor, a copy of the applicable underlying variance decision:

(A) A variance issued by the NYSDEC pursuant to 6 NYCRR 235-8.1, for the period of time such variance is in effect; or

(B) A variance issued by CARB pursuant to 17 CCR 94514, for the period of time such variance is in effect.

(5) This section shall not apply to any product for which the manufacturer is granted one of the following exemptions, provided the consumer product sold in Connecticut meets all product conditions attached to the grant of the exemption:

(A) An exemption by CARB pursuant to the Innovative Products provisions of 17 CCR 94511 or 17 CCR 94503.5 for the period of time the CARB Innovative Products exemption remains in effect; or

(B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 235-5.1 for the period of time the NYSDEC Innovative Products exemption remains in effect.

(6) Any manufacturer who claims an exemption pursuant to subdivision (5) of this subsection shall submit to the commissioner, upon request therefor, a copy of the applicable CARB or NYSDEC exemption decision.

(7) This section shall not apply to any manufacturer for any product that is subject to one of the ACP agreements identified below, provided that the manufacturer complies with all conditions applicable to the underlying ACP agreement:

(A) Exempt by NYSDEC pursuant to the ACP requirements of 6 NYCRR 235-11.1 for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall submit to the commissioner and the Administrator, upon request therefor, a copy of the applicable ACP agreement; or

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

- (B) Exempt by CARB pursuant to the ACP requirements of 17 CCR 94511 for the period of time the underlying ACP agreement remains in effect. Any manufacturer who claims exemption pursuant to this subparagraph shall submit to the commissioner and the Administrator, upon request therefor, a copy of the applicable ACP agreement.
- (8) The VOC content limits specified for antiperspirants or deodorants in Table 40-1 of this section shall not apply to the following:
- (A) Colorants up to a combined level of two percent by weight contained in any antiperspirant or deodorant,
- (B) Those VOCs that contain more than ten carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of 2 mm Hg or less at 20°C, and
- (C) The MVOC content limits shall not apply to ethanol.
- (9) The VOC content limits specified in Table 40-1 of this section shall not apply to fragrances up to a combined level of two percent by weight contained in any consumer product.
- (10) The VOC content limits specified in Table 40-1 of this section shall not apply to any LVP-VOC.
- (11) For consumer products registered under FIFRA:
- (A) The requirements of subsection (e) of this section shall not apply; and
- (B) Prior to January 1, 2010, the VOC content limits of this section and additional requirements in subsection (d) shall not apply.
- (12) The VOC content limits specified in Table 40-1 of this section shall not apply to air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs or exempted under subdivision (10) of this subsection.
- (13) The VOC content limits specified in Table 40-1 of this section shall not apply to air fresheners and insecticides containing at least 98 percent paradichlorobenzene.
- (14) The VOC content limits specified in Table 40-1 of this section shall not apply to adhesives sold in containers of one fluid ounce or less.
- (15) The VOC content limits specified in Table 40-1 of this section shall not apply to bait station insecticides.
- (16) The requirements of this section shall not apply to:
- (A) Contact adhesives sold in units of product, less packaging, of more than one gallon; or
- (B) Construction, panel and floor covering adhesives and general purpose adhesives sold in units of product, less packaging, of more than one pound or sixteen (16) fluid ounces.
- (17) The requirements of this section shall not apply to a consumer product that is distributed or transferred by a branch of the United States military to, from or within a premises operated by that branch of the United States military.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

**(d) Standards.**

- (1) Except as provided in subsection (c) of this section, no person shall sell, supply or offer for sale in the state of Connecticut any consumer product manufactured on or after January 1, 2009 or, on or after January 1, 2009, manufacture for sale in the state of Connecticut any consumer product, unless such consumer product complies with the applicable VOC content limits specified in Table 40-1 of this section and the requirements of this subsection.
- (2) For consumer products that are diluted prior to use, the VOC content limits in Table 40-1 shall apply as follows:
  - (A) If the label, packaging or accompanying literature specify that the product should be diluted with water or non-VOC solvent prior to use, the VOC content limits specified in Table 40-1 shall apply to the product only after the minimum recommended dilution has taken place;
  - (B) If the label, packaging or accompanying literature specify that the product should be diluted with any VOC solvent prior to use, the VOC content limits specified in Table 40-1 shall apply to the product only after the maximum recommended dilution has taken place; and
  - (C) For the purposes of this subdivision, “minimum recommended dilution” shall not include recommendations for incidental use of a concentrated product for limited special applications such as hard-to-remove soils or stains.
- (3) No person shall sell, supply or offer for sale in Connecticut after January 1, 2009 any charcoal lighter material product unless at the time of the transaction, such person possesses documentation showing that such product has been issued a currently effective certification by the CARB pursuant to 17 CCR 94509(h).
- (4) No person shall sell, supply, offer for sale or manufacture for use in Connecticut after January 1, 2009 any aerosol adhesive that exceeds the VOC content limits in Table 40-1 of this section for consumer, industrial and commercial uses or that contains methylene chloride, perchloroethylene or trichloroethylene. If an aerosol adhesive:
  - (A) Is sold as a special purpose spray adhesive, the product label shall indicate that the adhesive is suitable only for substrates and applications identified in the definition of special purpose spray adhesive in subsection (a) of this section. If the product label indicates that the adhesive is suitable for use on any substrate or application that is not identified in definition of special purpose spray adhesive in subsection (a) of this section, then the product shall be classified as either a web spray adhesive or a mist spray adhesive; and
  - (B) Meets more than one of the classifications for a special purpose spray adhesive as defined in subsection (a) of this section, and the product is not classified as a web spray adhesive or a mist spray adhesive pursuant to subparagraph (A) of this subdivision, then the VOC content limit for the product shall be the lowest applicable VOC content limit specified in Table 40-1.
- (5) No person shall sell, supply, offer for sale or manufacture for use in Connecticut after January 1, 2009 any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner or graffiti remover that contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

(6) No person shall sell, supply, offer for sale or manufacture for use in Connecticut any consumer product for which a standard is specified in subdivision (1) of this subsection if such consumer product contains any of the ozone depleting compounds listed in Table 40-2 of this section, except as follows:

- (A) An existing product formulation that complies with the applicable VOC content limits in Table 40-1 of this section or an existing product formulation that is reformulated to meet the applicable VOC content limits in Table 40-1, provided the ozone depleting compound content of the reformulated product does not increase; or
- (B) A consumer product in which ozone depleting compounds are present as impurities in an amount equal to or less than 0.01% by weight of the product.

(7) No person shall sell, supply, offer for sale or manufacture for sale in Connecticut any antiperspirant or deodorant that contains any compound that has been identified by CARB in 17 CCR 93000 as a toxic air contaminant.

(8) No person shall sell, supply, offer for sale or manufacture for use in Connecticut any solid air freshener or toilet/urinal care product that contains para-dichlorobenzene.

(9) If a representation is made on the display panel of any consumer product, except a general purpose cleaner, an antiperspirant or a deodorant product, that the product may be used as, or, is suitable for use as, a consumer product for which a lower VOC standard is specified in Table 40-1 of this section, then the lowest VOC standard shall apply.

(10) To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize resulting from surface application shall not constitute a claim of air freshening.

**(e) Container labeling.**

(1) Each manufacturer of a consumer product subject to subsection (d) of this section shall clearly display on each consumer product container or package, the date on which the product was manufactured or a code indicating such date, as follows:

- (A) The date or date-code information shall be readily observable on the container without disassembling the container or packaging; and
- (B) The date or date-code shall be displayed on each consumer product container or package no later than January 1, 2008.

(2) No person shall erase, alter, deface or otherwise remove or make illegible any date or date-code from any regulated product container prior to final sale of the product without the express authorization of the manufacturer. The requirements of this subdivision shall not apply to products containing no VOCs or containing VOCs at 0.10% by weight or less.

(3) If a manufacturer uses a code indicating the date of manufacture for any consumer product subject to subsection (d) of this section, an explanation of the code must be available to the commissioner upon request no later than January 1, 2008.

(4) On and after January 1, 2009, the product container for any aerosol adhesive product subject to this section shall display the following information:

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 5

- (A) The aerosol adhesive category as specified in Table 40-1 or an abbreviation of the category;
  - (B) The applicable VOC standard for the product that is specified in Table 40-1, expressed as a percent by weight; and
  - (C) If the product is classified as a special purpose spray adhesive, the applicable substrate, the application or an abbreviation of the substrate or application that qualifies the product as special purpose.
- (5) On and after January 1, 2009, no person shall sell, supply, offer for sale or manufacture for sale in Connecticut any non-aerosol floor wax stripper subject to this section unless the following requirements are met:
- (A) The label shall specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of three percent (3%) by weight or less, but the terms “light build-up” and “medium build-up” may or may not appear on the label; and
  - (B) If intended for removal of heavy build-up of polish, the label shall specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of twelve percent (12%) by weight or less, but the term “heavy build-up” may or may not appear on the label.
- (6) On and after January 1, 2009, the product container for any adhesive remover, electronic cleaner, electrical cleaner or contact adhesive product subject to this section shall display the following information:
- (A) The product category as specified in Table 40-1 or an abbreviation of the category; and
  - (B) The applicable VOC standard for the product that is specified in Table 40-1, expressed as a percent by weight.
- (f) Compliance procedures and testing.**
- (1) Any person who sells, supplies, offers for sale or manufactures a consumer product on or after January 1, 2009 for sale in Connecticut shall possess documentation that such consumer product was tested to determine compliance with the applicable VOC content limits in Table 40-1 of this section prior to being offered for sale in Connecticut.
- (2) Testing as required by subdivision (1) of this subsection shall use one of the following test methods:
- (A) CARB Method 310, Determination of Volatile Organic Compound (VOC) in Consumer Products, as adopted by CARB on September 25, 1997, and as in effect on the effective date of this section;
  - (B) Product formulation and records pursuant to subdivision (3) of this subsection;
  - (C) An alternative method approved by the NYSDEC pursuant to 6 NYCRR 235-9.1 as in effect on the effective date of this section; or
  - (D) An alternative method approved by the commissioner that accurately determines the concentration of VOCs in a consumer product or its emissions.

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

(3) VOC content calculated from product formulation and records shall use the following equation:

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

Where:

A = total weight of unit (excluding container and packaging).

B = total weight of all VOCs per unit.

C = total weight of VOCs exempted by this section, per unit.

(4) If a compliance determination made using product records pursuant to subdivision (2)(B) of this subsection appears to demonstrate compliance with the VOC content limits, but such determination is contradicted by product testing performed pursuant to subdivision (2)(A) of this subsection, the results of the demonstration made pursuant to subdivision (2)(A) shall take precedence over the demonstration made pursuant to subdivision (2)(B) and may be used to establish a violation of the requirements of this section.

(5) If any consumer product testing in accordance with this subsection requires determination of whether a product is a liquid or a solid, the determination shall be made using ASTM D4359-90, May 25, 1990.

(6) Any flexible vinyl adhesive determination of plasticizer shall be made using ASTM E260-96 "Standard Practice for Packed Column Gas Chromatography," as re-approved in 2001.

(7) Testing to determine compliance with the certification requirements for charcoal lighter material shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol.

(8) Testing to determine distillation points of petroleum distillate-based charcoal lighter materials shall be performed using ASTM D 86-90, September 28, 1990.

(9) The following methods shall be used, as necessary, to determine if a chemical compound or mixture satisfies one of the criteria as a "LVP-VOC" as defined in subsection (a) of this section:

(A) CARB Method 310, as adopted by CARB on September 25, 1997 and as in effect on the effective date of this section, shall be used to determine the vapor pressure or boiling point; and

(B) The number of carbon atoms shall be verifiable by formulation data.

**(g) Record keeping.**

(1) Any person who on or after January 1, 2009 sells, supplies, offers for sale or manufactures for sale in Connecticut any consumer product shall maintain records of the information necessary for the commissioner to determine compliance with the requirements of this section.

(2) The commissioner may make a compliance determination for a product pursuant to subsection (f)(2)(B) of this section only if the manufacturer of that product maintains accurate records for each day of production of the amount and chemical composition of the individual product constituents.

(3) All records made to demonstrate compliance with the requirements of this section shall be:

STATE OF CONNECTICUT  
**REGULATION**OF  
NAME OF AGENCY

## Environmental Protection

## Sec. 5

- (A) Made available to the commissioner and the Administrator to inspect and copy upon request; and
- (B) Maintained for five (5) years from the date such record is created.

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

**(h) Reporting.**

(1) Upon written notice, the commissioner may require any responsible party to report information for any consumer product including, but not limited to, the following information:

- (A) The name, address, telephone number and designated contact person of the responsible party;
- (B) The product brand name and label;
- (C) The category to which the consumer product belongs;
- (D) The applicable product form or forms listed separately;
- (E) An identification of each product brand name and form as a household product, industrial and institutional product, or both;
- (F) For each product form and for the previous three years, Connecticut sales in pounds per year, to the nearest pound, and the method used to calculate sales for each product form;
- (G) For registrations submitted by two companies, an identification of the company that is submitting relevant data separate from that submitted by the responsible party;
- (H) For each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest one-tenth of a percent (0.1%);
  - (i) Total exempt compounds,
  - (ii) Total LVP-VOCs that are not fragrances,
  - (iii) Total of all other compounds that contain at least one carbon atom, that are not exempt compounds or LVP-VOCs and that are not fragrances,
  - (iv) Total of all non-carbon containing compounds,
  - (v) Total fragrance,
  - (vi) For products containing greater than two percent (2%) by weight fragrance, the percent of fragrance that is LVP-VOCs and the percent of fragrance that is all other compounds that contain at least one carbon atom and are not exempt compounds or LVP-VOCs, and
  - (vii) Total paradichlorobenzene;

STATE OF CONNECTICUT  
**REGULATION**

OF  
 NAME OF AGENCY

Environmental Protection

Sec. 5

- (I) The name, CAS number and percent weight of each VOC constituent in the product;
  - (J) The name and CAS number of any exempt compounds in the product;
  - (K) If applicable, the weight percent comprised of propellant for each product and the type of propellant; and
  - (L) The net percent by weight of each ozone-depleting compound that is:
    - (i) Listed in Table 40-2, and
    - (ii) Contained in a product subject to this section in any amount greater than one-tenth percent (0.1%) by weight.
- (2) For consumer products that are subject to subsection (d)(1) of this section and contain perchloroethylene or methylene chloride, the commissioner may require, upon 90 days written notice, the responsible party to report the following information for products sold in Connecticut during each of the 2009 through 2010 calendar years:
- (A) The product brand name and a copy of the product label with legible usage instructions;
  - (B) The product category to which the consumer product belongs;
  - (C) The applicable product form or forms, separately listed;
  - (D) For each product form listed under subparagraph (C) of this subdivision, the total sales in Connecticut during the reported year, to the nearest pound, exclusive of the container or packaging, and the method used for calculating the Connecticut sales; and
  - (E) The weight percent, to the nearest one-tenth percent (0.10 percent), of perchloroethylene or methylene chloride.
- (3) For the purposes of subdivision (2) of this subsection, a product contains perchloroethylene or methylene chloride if the product contains one percent (1.0%) or more by weight, exclusive of the container or packaging, of either perchloroethylene or methylene chloride.
- (4) Any document submitted to the commissioner pursuant to this section shall include a certification signed by an individual identified in section 22a-174-2a(a)(1) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall examine and be familiar with the information submitted in the document and all attachments thereto, and shall inquire of those individuals responsible for obtaining the information to determine that the information is true, accurate, and complete, and each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute.”



STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY  
Environmental Protection

Sec. 5

(5) Any document required to be submitted to the commissioner pursuant to this subsection shall be submitted as a paper copy, with supporting data in either paper or electronic format, and the submitter shall maintain such a report at the premises as a paper copy with any supporting data in the format submitted for a period of five (5) years from the date of submission to the commissioner.

(6) To determine Connecticut sales pursuant to this section, if direct sales data for Connecticut are not available, sales may be estimated by prorating national or regional sales data by population.

**(i) Severability.**

Each provision of this section is deemed severable, and, in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

STATE OF CONNECTICUT  
**REGULATION**  
 OF  
 NAME OF AGENCY  
 Environmental Protection

Sec. 5

**Table 40-1. VOC Content Limits for Listed Product Categories.**

<u>PRODUCT CATEGORY</u>	<u>VOC CONTENT LIMIT</u> <u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u> <u>BY WEIGHT)</u>
<b>Adhesives</b>	
Aerosol – Mist Spray	65
Aerosol – Web Spray	55
Contact – General Purpose	55
Contact – Special Purpose	80
Special Purpose Spray Adhesives: Mounting, Automotive Engine Compartment, and Flexible Vinyl	70
Special Purpose Spray Adhesives: Polystyrene Foam and Automotive Headliner	65
Special Purpose Spray Adhesives: Polyolefin; and Laminate Repair or Edgebanding	60
Construction, Panel and Floor Covering	15
General Purpose	10
Structural Waterproof	15
<b>Adhesive Removers</b>	
Floor or Wall Covering	5
Gasket or Thread Locking	50
General Purpose	20
Specialty	70
<b>Aerosol Cooking Spray</b>	<b>18</b>
<b>Air Freshener</b>	
Single-Phase Aerosols	30
Double-Phase Aerosols	25
Liquids or Pump Sprays	18
Solids and Semi-solids	3
<b>Antiperspirants</b>	
Aerosol	40 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
<b>Anti-Static Products – Non-aerosol</b>	<b>11</b>
<b>Automotive Brake Cleaners</b>	<b>45</b>
<b>Automotive Rubbing or Polishing Compounds</b>	<b>17</b>
<b>Automotive Waxes, Polishes, Sealants or Glazes</b>	
Hard Paste Wax	45
Instant Detailer	3
All Other Forms	15
<b>Automotive Windshield Washer Fluid</b>	<b>35</b>
<b>Bathroom and Tile Cleaners</b>	
Aerosols	7
All Other Forms	5
<b>Bug and Tar Remover</b>	<b>40</b>
<b>Carburetor or Fuel-Injection Air Intake Cleaners</b>	<b>45</b>
<b>Carpet and Upholstery Cleaners</b>	
Aerosols	7
Non-Aerosols (Dilutables)	0.1
Non-Aerosols (Ready-to-Use)	3

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 5

<u>PRODUCT CATEGORY</u>	<u>VOC CONTENT LIMIT</u> <u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u> <u>BY WEIGHT)</u>
<b>Charcoal Lighter Material</b>	See subsection (d)(3) of this section
<b>Deodorants</b>	
Aerosol	0 HVOC 10 MVOC
Non-Aerosol	0 HVOC 0 MVOC
<b>Dusting aids</b>	
Aerosol	25
All Other Forms	7
<b>Electrical Cleaner</b>	<b>45</b>
<b>Electronic Cleaner</b>	<b>75</b>
<b>Engine Degreasers</b>	
Aerosol	35
Non-Aerosol	5
<b>Fabric Protectants</b>	<b>60</b>
<b>Fabric Refresher</b>	
Aerosol	15
Non-Aerosol	6
<b>Floor Polish or Wax</b>	
For Flexible Flooring Material	7
For Nonresilient Flooring	10
Wood Floor Wax	90
<b>Floor Wax Strippers (Non-Aerosol)</b>	<b>See subsection (e)(5) of this section</b>
<b>Footwear or Leather Care</b>	
Aerosol	75
Solid	55
All Other Forms	15
<b>Furniture Maintenance Products</b>	
Aerosols	17
All Other Forms Except Solid and Paste	7
<b>General Purpose Cleaners</b>	
Aerosols	10
Non-Aerosols	4
<b>General Purpose Degreasers</b>	
Aerosols	50
Non-aerosols	4
<b>Glass Cleaners</b>	
Aerosols	12
Non-Aerosols	4
<b>Graffiti Remover</b>	
Aerosol	50
Non-Aerosol	30
<b>Hair Mousses</b>	<b>6</b>
<b>Hairshines</b>	<b>55</b>
<b>Hairsprays</b>	<b>55</b>
<b>Hair Styling Product</b>	
Aerosol and Pump Spray	6
All Other Forms	2
<b>Heavy-Duty Hand Cleaner</b>	<b>8</b>
<b>Insecticides</b>	
Crawling Bug (aerosol)	15
Crawling Bug (all other forms)	20

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 5

<u>PRODUCT CATEGORY</u>	<u>VOC CONTENT LIMIT</u> <u>(PERCENT VOLATILE ORGANIC COMPOUNDS</u> <u>BY WEIGHT)</u>
Flea and Tick	25
Flying Bug (aerosol)	25
Flying Bug (all other forms)	35
Foggers	45
Lawn and Garden (non-aerosol)	3
Lawn and Garden (all other forms)	20
Wasp and Hornet	40
<b>Laundry Prewash</b>	
Aerosols or Solids	22
All Other Forms	5
<b>Laundry Starch Products</b>	<b>5</b>
<b>Metal Polishes/Cleansers</b>	<b>30</b>
<b>Multi-Purpose Lubricant (Excluding Solid or Semi-Solid Products)</b>	<b>50</b>
<b>Nail Polish Remover</b>	<b>75</b>
<b>Non-Selective Terrestrial Herbicide Non-Aerosols</b>	<b>3</b>
<b>Oven Cleaners</b>	
Aerosols or Pump Sprays	8
Liquids	5
<b>Paint Remover or Strippers</b>	<b>50</b>
<b>Penetrants</b>	<b>50</b>
<b>Rubber and Vinyl Protectants</b>	
Non-Aerosols	3
Aerosols	10
<b>Sealants and Caulking Compounds</b>	<b>4</b>
<b>Shaving Creams</b>	<b>5</b>
<b>Shaving Gel</b>	<b>7</b>
<b>Silicone-Based Multi-Purpose Lubricants (Excluding Solid or Semi-Solid Products)</b>	<b>60</b>
<b>Spot Removers</b>	
Aerosols	25
Non-Aerosols	8
<b>Tire Sealants and Inflators</b>	<b>20</b>
<b>Toilet/Urinal Care Product</b>	
Aerosol	10
Non-Aerosol	3
<b>Undercoatings - Aerosols</b>	<b>40</b>
<b>Wood Cleaner</b>	
Aerosol	17
Non-Aerosol	4

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 5

**Table 40-2. Prohibited Ozone-Depleting Compounds.**

CFC-11 (trichloroflouromethane)	CFC-12 (dichlorodiflouromethane)
CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane)	CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane)
CFC-115 (chloropentafluoroethane)	halon 1211 (bromochlorodifluoromethane)
halon 1301 (bromotrifluoromethane)	halon 2402 (dibromotetraflouroethane)
HCFC-22 (chlorodifluoromethane)	
HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane)	HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane)
HCFC-141b (1,1-dichloro-1-fluoroethane)	HCFC-142b (1-chloro-1,1-difluoroethane)
1,1,1-trichloroethane	carbon tetrachloride

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 6

**Sec. 6. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-41, as follows:**

(NEW)

**Section 22a-174-41 Architectural and Industrial Maintenance Coatings.**

(a) **Definitions.** For the purposes of this section, the following definitions shall apply:

- (1) “Adhesive” means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.
- (2) “Aerosol coating product” means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic marking applications.
- (3) “Antenna coating” means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.
- (4) “Antifouling coating” means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms.
- (5) “Appurtenance” means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks; fire escapes; and window screens.
- (6) “Architectural coating” means a coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars and automobiles, and adhesives are excluded from the definition of “architectural coatings.”
- (7) “ASTM” means the American Society for Testing and Materials.
- (8) “BAAQMD” means the Bay Area Air Quality Management District, a part of the California Air Resources Board, which is responsible for the regulation of air quality in the state of California.
- (9) “Bitumens” means black or brown materials including, but not limited to, asphalt, tar, pitch and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.
- (10) “Bituminous roof coating” means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.
- (11) “Bituminous roof primer” means a primer that incorporates bitumens that is labeled and formulated exclusively for roofing.
- (12) “Bond breaker” means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

## Sec. 6

- (13) "Calcimine recoaters" means flat, solvent-borne coatings formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.
- (14) "CAS" means Chemical Abstract Service.
- (15) "Clear brushing lacquers" means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film. Such lacquers are intended to be applied only with a brush.
- (16) "Clear wood coating" means a clear and semi-transparent coating, including lacquers and varnishes, applied to a wood substrate, to provide a transparent or translucent solid film.
- (17) "Coating" means a material applied onto or impregnated into a substrate for protective, decorative or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers and stains.
- (18) "Colorant" means concentrated pigment dispersion in water, solvent or binder that is added to an architectural coating after packaging in sale units to produce the desired color.
- (19) "Concrete curing compound" means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.
- (20) "Concrete surface retarders" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix or cement and sand at the surface to be washed away to create an exposed aggregate finish.
- (21) "Conversion varnish" means a clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-compound product. "Conversion varnishes" produce a hard, durable, clear finish designed for professional application to wood flooring. This film formation is the result of an acid-catalyzed condensation reaction, affecting a transesterification at the reactive ethers of the amino resins.
- (22) "Dry fog coating" means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.
- (23) "Exempt compound" means a compound identified in 40 CFR 51.100(s) under "volatile organic compounds," as amended from time to time, as having negligible photochemical reactivity.
- (24) "Faux finishing coating" means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage and simulated marble and wood grain.
- (25) "Fire-resistive coating" means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials.
- (26) "Fire-retardant coating" means a coating labeled and formulated to retard ignition and flame spread.
- (27) "Flat coating" means a coating that is not defined under any other definition in this section and that registers gloss less than 15 on an 85-degree meter or less than 5 on a 60-degree meter.

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

## Sec. 6

(28) "Floor coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps and other horizontal surfaces which may be subjected to foot traffic.

(29) "Flow coating" means a coating labeled and formulated exclusively for use to maintain the protective coating systems present on utility transformer units.

(30) "Form-release compound" means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal or some material other than concrete.

(31) "Graphic arts coating or sign paint" means a coating labeled and formulated for hand-application using brush or roller techniques to indoor and outdoor signs, excluding structural components, and murals including letter enamels, poster colors, copy blockers and bulletin enamels.

(32) "High temperature coating" means a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

(33) "Impacted immersion coating" means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage by floating ice or debris.

(34) "Industrial maintenance coating" means a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions:

- (A) Immersion in water, wastewater or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation;
- (B) Acute or chronic exposure to corrosive, caustic or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
- (C) Repeated exposure to temperatures above 121°C (250°F);
- (D) Repeated and frequent heavy abrasion, including mechanical wear and repeated and frequent scrubbing with industrial solvents, cleansers or scouring agents; or
- (E) Exterior exposure of metal structures and structural components.

(35) "Lacquer" means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

(36) "Low solids coating" means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

(37) "Magnesite cement coating" means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.



STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

- (38) “Manufacturer’s formulation data” means data regarding a coating that are supplied by the materials manufacturer based on the manufacturer’s knowledge of the ingredients used to manufacture that coating, rather than on an EPA reference test method. “Manufacturer’s formulation data” may include but are not limited to information on density, VOC content and coating solids content.
- (39) “Manufacturer’s maximum recommendation” means, for an architectural coating, the maximum recommendation for thinning that is indicated on the label or lid of the coating container.
- (40) “Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and conceal surface irregularities, which is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.
- (41) “Metallic pigmented coating” means a coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon).
- (42) “Multi-color coating” means a coating that is packaged in a single container and exhibits more than one color when applied in a single coat.
- (43) “Nonflat coating” means a coating that is not defined under any other definition in this rule and registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter.
- (44) “Nonflat-high gloss coating” means a nonflat coating that registers a gloss of 70 or above on a 60-degree meter.
- (45) “Nonindustrial use” means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities infrastructure, including power generation and distribution, and water treatment and distribution systems.
- (46) "Nuclear coating" means a protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials. Such coatings are resistant to long-term (service life) cumulative radiation exposure, relatively easy to decontaminate and resistant to various chemicals to which such coatings are likely to be exposed.
- (47) “NYSDEC” means the New York State Department of Environmental Conservation.
- (48) “Pesticide Management Program” means the pesticide registration, permitting and certification program administered by the State of Connecticut Department of Environmental Protection.
- (49) “Post-consumer coating” means a finished coating that would have been disposed of in a landfill when no longer useful to a consumer and that does not include manufacturing wastes.
- (50) “Pre-treatment wash primer” means a primer that contains a minimum of 0.5 acid, by weight. “Pre-treatment wash primers” are labeled and formulated for direct application to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.
- (51) “Primer” means a coating labeled and formulated for application to a substrate to provide a firm bond between the substrate and subsequent coats.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

(52) “Quick-dry enamel” means a nonflat coating that is labeled as specified in subsection (e) of this section and that is formulated to have the following characteristics:

- (A) Capable of being applied directly from the container under normal conditions with ambient temperatures between 16<sup>o</sup> and 27<sup>o</sup>C (60<sup>o</sup> and 80<sup>o</sup>F);
- (B) Tack free in four hours or less and dries hard in eight hours or less by the mechanical test methods; and
- (C) A dried film gloss of 70 or above on a 60-degree meter.

(53) “Quick-dry primer sealer and undercoater” means a primer sealer or undercoater that is dry to the touch in 30 minutes and can be re-coated in two hours.

(54) “Recycled coating” means an architectural coating formulated such that not less than 50 percent of the weight consists of secondary and post-consumer coating, with not less than 10 percent of the total weight consisting of post-consumer coating.

(55) “Roof coating” means a non-bituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. “Roof coatings” containing metallic pigment shall be defined as “metallic pigmented coatings” for the purposes of this section.

(56) “Rust preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces.

(57) “Sanding sealer” means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A “sanding sealer” that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

(58) “SCAQMD” means the South Coast Air Quality Management District, a part of the California Air Resources Board, which is responsible for the regulation of air quality in the state of California.

(59) “Sealer” means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

(60) “Secondary coating” means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

(61) “Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifier lacca*), thinned with alcohol and formulated to dry by evaporation without a chemical reaction.

(62) “Shop application” means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production or repairing process (*e.g.*, original equipment manufacturing coatings).

(63) “Solicit” means to require for use or to specify by written or oral contract.

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

## Sec. 6

(64) “Specialty primer, sealer and undercoater” means a coating that is formulated for application to a substrate to seal fire, smoke or water damage, to condition excessively chalky surfaces, or to block stains. For the purposes of this definition, an excessively chalky surface is one that is defined as having a chalk rating of four or less.

(65) “Stain” means a clear, semi-transparent or opaque coating labeled and formulated to change the color of a surface, but not conceal the grain pattern or texture.

(66) “Swimming pool coating” means a coating labeled and formulated to coat the interior of swimming pools and resist swimming pool chemicals.

(67) “Swimming pool repair and maintenance coating” means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

(68) “Temperature-indicator safety coating” means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

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

(70) “Tint base” means an architectural coating to which colorant is added, after packaging in sale units, to produce a desired color.

(71) “Traffic marking coating” means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots, sidewalks and airport runways.

(72) “Undercoater” means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

(73) “Varnish” means a clear or semi-transparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction. “Varnish” may contain small amounts of pigment to color a surface or to control the final sheen or gloss of the finish.

(74) “VOC content” means the weight of VOC per volume of coating.

(75) “Waterproofing sealer” means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

(76) “Waterproofing concrete/masonry sealer” means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light and staining.

(77) “Wood preservative” means a coating labeled and formulated to protect exposed wood from decay or insect attack.

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

**(b) Applicability.**

Except as provided in subsection (c) of this section, this section applies to any person who, on or after May 1, 2008, sells, supplies, offers for sale or manufactures for sale in the state of Connecticut any architectural coating for use in the state of Connecticut and to any person who applies or solicits the application of any architectural coating within the state of Connecticut on or after May 1, 2008.

**(c) Exemptions and exceptions.**

(1) This section shall not apply to any architectural coating manufactured in the state of Connecticut for shipment, sale and use outside of the state of Connecticut.

(2) Any architectural coating manufactured prior to May 1, 2008 may be sold, supplied or offered for sale for up to three years after May 1, 2008. In addition, a coating manufactured before May 1, 2008 may be applied at any time as long as the coating complies with any applicable VOC standard in effect at the time the coating was manufactured. The exception offered in this subdivision shall only apply to a coating that displays a date or date code as required by subsection (e)(1) of this section.

(3) This section shall not apply to any aerosol coating product.

(4) This section shall not apply to any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

(5) As used in this section, the terms “supply” and “supplied” shall not include internal transfers or transactions involving architectural coatings to, from or within an installation operated by any branch of the U.S. military.

**(d) Standards.**

(1) Except as provided in subdivisions (2) and (8) of this subsection and subsection (c) of this section, no person shall manufacture, blend or repackage for sale within the state of Connecticut, supply, sell or offer for sale within the state of Connecticut or solicit for application or apply within the state of Connecticut any architectural coating manufactured on or after May 1, 2008 that contains VOCs in excess of the applicable VOC content limits specified in Table 41-1. The VOC content limits of Table 41-1 apply to the grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds or colorant added to tint bases.

(2) Except as provided in subdivision (3) of this subsection, if anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or any person acting on the manufacturer's behalf, including retailers who sell under a private label, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 41-1, then the most restrictive VOC content limit of Table 41-1 shall apply.

(3) The requirements of subdivision (2) of this subsection shall not apply to the following coating categories:

- (A) Antenna coatings;
- (B) Antifouling coatings;
- (C) Bituminous roof primers;

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

- (D) Calcimine recoaters;
- (E) Fire-retardant coatings;
- (F) Flow coatings;
- (G) High temperature coatings;
- (H) Impacted immersion coatings;
- (I) Industrial maintenance coatings;
- (J) Lacquer coatings, including lacquer sanding sealers;
- (K) Low-solids coatings;
- (L) Metallic pigmented coatings;
- (M) Nuclear coatings;
- (N) Pretreatment wash primers;
- (O) Shellacs;
- (P) Specialty primers, sealers and undercoaters;
- (Q) Temperature-indicator safety coatings;
- (R) Thermoplastic rubber coatings and mastics; or
- (S) Wood preservatives.

(4) All containers of coating that are applied directly to a surface from the container by pouring, siphoning, brushing, rolling, padding, ragging or other means shall be closed when not in use. These containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall be closed when not in use.

(5) No person who applies or solicits the application of any architectural coating shall add additional solvent to a coating if such addition causes the coating to exceed the applicable VOC limit specified in Table 41-1 of this section.

(6) No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in Table 41-1 of this section.

(7) For any coating that is not identified in this section, the VOC content limit shall be determined by classifying the coating as a flat coating, nonflat coating or nonflat-high gloss coating, as those terms are defined in subsection (a) of this section, and the corresponding coating limit of Table 41-1 of this section shall apply.

(8) Notwithstanding the provisions of subdivision (1) of this subsection, a person may, at the time of application, add up to 10% by volume of VOC to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65°F, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 6

**(e) Container labeling.**

(1) **Date code.** On each container of an architectural coating, the manufacturer shall clearly display the date the coating was manufactured, or a date code representing the date of manufacture, as follows:

- (A) The date or date code shall be located on the label, lid or bottom of the container so that it is readily observable without disassembling the container or package; and
- (B) If the manufacturer uses a date code for any coating, an explanation of such code shall be available to the commissioner upon request by April 1, 2008 or not later than 90 days after making a coating available for sale in Connecticut.

(2) **Thinning.** On the label or lid of the container of an architectural coating, the manufacturer shall display a statement of the manufacturer's recommendation regarding thinning of the coating. This requirement shall not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

(3) **VOC content.** On the label, lid or bottom of the container of an architectural coating, the manufacturer shall display either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer. The VOC content shall be displayed in grams of VOC per liter of coating. The VOC content displayed shall be calculated using the manufacturer's formulation data or shall be determined using the calculations, procedures and test methods in subsection (g) of this section.

(4) **Industrial maintenance coatings.** In addition to the information specified in subdivisions (1) through (3) of this subsection, the label or the lid of the container, in which a coating is sold or distributed, shall display at least one of the descriptions listed in subparagraphs (A) through (C) of this subdivision:

- (A) **"For industrial use only;"**
- (B) **"For professional use only;"** or
- (C) **"Not for residential use" or "Not intended for residential use."**

(5) **Clear brushing lacquer.** On the label of any clear brushing lacquer, the manufacturer shall prominently display the statements: **"For brush application only"** and **"This product must not be thinned or sprayed."**

(6) **Rust preventive coatings.** On the label of any rust preventive coating, the manufacturer shall prominently display the statement: **"For metal substrates only."**

(7) **Specialty primers, sealers and undercoaters.** The manufacturer of any specialty primer, sealer or undercoater shall prominently display on the label one or more of the descriptions listed in subparagraphs (A) through (E) of this subdivision, as follows:

- (A) **"For blocking stains;"**
- (B) **"For fire-damaged substrates;"**
- (C) **"For smoke-damaged substrates;"**
- (D) **"For water-damaged substrates;"** or
- (E) **"For excessively chalky substrates."**

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

(8) **Quick dry enamels.** The manufacturer of any quick dry enamel shall prominently display on the label the dry hard time and the words "**Quick dry.**"

(9) **Non-flat high-gloss coatings.** The manufacturer of any non-flat high-gloss coating shall display prominently on the label the words "**High gloss.**"

**(f) Record keeping and reporting requirements.**

(1) Each manufacturer of a product subject to a VOC content limit in subsection (d) of this section shall maintain records demonstrating compliance with such VOC content limits, including the following information:

- (A) The product name and, if applicable, the identifying number, as shown on the product label and in sales and technical literature;
- (B) The VOC content as determined according to subsection (g) of this section;
- (C) The name(s) and CAS number of the VOC constituents in the product;
- (D) The dates of the VOC content determinations;
- (E) The coating category; and
- (F) The applicable VOC content limit.

(2) All records made to demonstrate compliance with this section shall be maintained for five years from the date such record is created and shall be made available to the commissioner or the Administrator not later than 90 days after a request.

(3) Each manufacturer of a coating subject to this section shall, upon request of the commissioner, provide data concerning the distribution and sales of coatings subject to a VOC content limit in subsection (d) of this section. The manufacturer shall, not later than 90 days after receiving such a request, produce information including, but not limited to:

- (A) The name and mailing address of the manufacturer;
- (B) The name, address and telephone number of a contact person;
- (C) The name of the product as it appears on the label and the applicable coating;
- (D) Whether the coating is marketed for interior use, exterior use or both;
- (E) The number of gallons sold in Connecticut in containers greater than one liter and less than one liter during the preceding calendar year;
- (F) The actual VOC content and VOC content limit in grams per liter. If thinning is recommended, list the actual VOC content and VOC content limit after recommended thinning. If containers less than one liter have a different VOC content than containers greater than one liter, list separately;
- (G) The name and CAS number of the VOC constituents in the coating; and
- (H) The name and CAS number of any exempt compounds in the coating.

STATE OF CONNECTICUT  
**REGULATION**  
 OF  
 NAME OF AGENCY

Environmental Protection

Sec. 6

(4) For each architectural coating that contains perchloroethylene or methylene chloride, the manufacturer shall, on or before April 1 of each calendar year beginning with the year 2009, maintain records of the following information for coatings sold in Connecticut during the preceding calendar year:

- (A) The product brand name and a copy of the product label with legible usage instructions;
- (B) The product category listed in Table 41-1 to which the product belongs;
- (C) The total sales, to the nearest gallon, in Connecticut during the preceding calendar year; and
- (D) The volume percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the coating.

(5) Each manufacturer of a recycled coating shall, on or before April 1 of each calendar year beginning with the year 2009, prepare and maintain an annual report that shall include the total number of gallons of recycled coatings distributed in Connecticut during the preceding calendar year and the method used to calculate the Connecticut distribution.

(6) Any document submitted to the commissioner pursuant to this section shall include a certification signed by an individual identified in section 22a-174-2a(a)(1) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall examine and be familiar with the information submitted in the document and all attachments thereto, and shall inquire of those individuals responsible for obtaining the information to determine that the information is true, accurate, and complete, and each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute.”

**(g) Compliance procedures, registration requirements and test methods.**

(1) Any person who sells, supplies, offers for sale or manufactures an architectural coating subject to this section on or after May 1, 2008 for sale in Connecticut shall possess documentation that such coating complies with the VOC content limits of Table 41-1 of this section, where the VOC content is determined according to the requirements of this subsection.

(2) The VOC content of a coating shall be determined according to the following calculations:

- (A) For all coatings that are not low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's recommendation, excluding the volume of any water and exempt compounds, using the following equation:

$$\text{VOC Content} = (W_s - W_w - W_{ec}) / (V_m - V_w - V_{ec})$$

Where:

VOC Content = the VOC content of a coating (g/L of coating)



STATE OF CONNECTICUT  
**REGULATION**  
 OF  
 NAME OF AGENCY

Environmental Protection

Sec. 6

$W_s$  = weight of volatile components (g)

$W_w$  = weight of water (g)

$W_{ec}$  = weight of exempt compounds (g)

$V_m$  = volume of coating (L)

$V_w$  = volume of water (L)

$V_{ec}$  = volume of exempt compounds (L)

- (B) For low solids coatings, determine the VOC content in grams per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds, using the following equation:

$$\text{VOC Content (ls)} = (W_s - W_w - W_{ec}) / (V_m)$$

Where:

VOC Content (ls) = the VOC content of a low solids coating (g/L of coating)

$W_s$  = weight of volatile components (g)

$W_w$  = weight of water (g)

$W_{ec}$  = weight of exempt compounds (g)

$V_m$  = volume of coating (L)

- (C) The VOC content of a tint base shall be determined prior to the addition of the colorant.
- (3) The following procedures shall be used to determine the physical properties of a coating in order to perform the calculations required pursuant to subdivision (2) of this subsection:

- (A) The VOC content shall be calculated according to:
- (i) EPA Reference Method 24, 40 CFR 60, Appendix A,
  - (ii) SCAQMD Method 304-91 (revised February 1996), unless the results are inconsistent with the results of a determination pursuant to subparagraph (A)(i) of this subdivision, or
  - (iii) An alternative test method approved by the New York Department of Environmental Conservation and the Administrator pursuant to NYSDEC Regulations Part 205.6(c);
- (B) The exempt compound content shall be determined using SCAQMD Method 303-91 (revised August 1996), except as follows:
- (i) Parachlorobenzotrifluoride content shall be determined using BAAQMD Method 41, and
  - (ii) Exempt compounds that are cyclic, branched or linear methylated siloxanes shall be determined using BAAQMD Method 43; and

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

- (C) Analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to 40 CFR 59, Subpart D, Appendix A.
- (4) Fire-resistive coatings and fire-retardant coatings shall be:
- (A) Fire tested and rated by a testing agency according to the appropriate methods listed in subdivision (6) if this subsection; and
- (B) Approved by state building code officials for use in bringing assemblies of structural materials into compliance with federal, state and local building code requirements.
- (5) The following materials are subject to registration as follows:
- (A) Antifouling coatings shall be registered with both the Administrator under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. section 136 *et seq.*) and with the Department under the Pesticides Management Program; and
- (B) Wood preservatives shall be registered under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. section 136, *et. seq.*) and with the Department under the Pesticides Management Program.
- (6) The following test methods shall be used to test coatings for the identified properties, as applicable:
- (A) Acid content of coatings. The acid content of a coating shall be determined by ASTM Designation D 1613-96, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products;"
- (B) Chemical resistance for nuclear coatings. Chemical resistance to various chemicals to which nuclear coatings are likely to be exposed shall be measured by ASTM Method D 3912-95 (2001);
- (C) Drying times. The set-to-touch and dry-to-recoat times of a coating shall be determined by ASTM Designation D 1640-95, "Standard Methods for Drying, Curing or Film Formation of Organic Coatings at Room Temperature;"
- (D) Fire-resistance rating. The fire-resistance rating of a fire-resistive coating shall be determined by ASTM Designation E 119-98, "Standard Test Methods for Fire Tests of Building Construction Materials;"
- (E) Flame spread index. The flame spread index of a fire-retardant coating shall be determined by the ASTM Designation E 84-99, "Standard Test Methods for Surface Burning Characteristics of Building Materials;"
- (F) Gloss determination. The gloss of a coating shall be determined by ASTM Designation D 523-89 (1999), "Standard Test Method for Specular Gloss;"
- (G) Long term cumulative radiation exposure. Long-term (service life) cumulative radiation exposure of "nuclear coatings" shall be measured by ASTM Method D 4082-02;
- (H) Metal content of coatings. The metallic content of a coating shall be determined by SCAQMD Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," SCAQMD Laboratory Methods of Analysis for Enforcement Samples; and

STATE OF CONNECTICUT  
**REGULATION**  
OF  
NAME OF AGENCY

Environmental Protection

Sec. 6

- (I) Surface chalkiness. The chalkiness of a surface shall be determined using ASTM Designation D 4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films."

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

Sec. 6

**Table 41-1. VOC Content Limits for Architectural Coatings.**

<b>Coating category</b>	<b>VOC content limit (grams VOC per liter)</b>
<b>Flat coatings</b>	100
<b>Nonflat coatings</b>	150
<b>Nonflat-high gloss coatings</b>	250
<b>Antenna coatings</b>	530
<b>Antifouling coatings</b>	400
<b>Bituminous roof coatings</b>	300
<b>Bituminous roof primers</b>	350
<b>Bond breakers</b>	350
<b>Calcimine recoater</b>	475
<b>Clear wood coatings</b>	
Clear brushing lacquers	680
Lacquers (including lacquer sanding sealers)	550
Sanding sealers other than lacquer sanding sealers	350
Varnishes	350
Conversion varnishes	725
<b>Concrete curing compounds</b>	350
<b>Concrete surface retarders</b>	780
<b>Dry fog coatings</b>	400
<b>Faux finishing coatings</b>	350
<b>Fire resistive coatings</b>	350
<b>Fire retardant coatings</b>	
Clear	650
Opaque	350
<b>Floor coatings</b>	250
<b>Flow coatings</b>	420
<b>Form-release compounds</b>	250
<b>Graphic arts coatings (sign paints)</b>	500
<b>High temperature coatings</b>	420
<b>Impacted immersion coatings</b>	780
<b>Industrial maintenance coatings</b>	340
<b>Low solids coatings</b>	120
<b>Magnesite cement coatings</b>	450
<b>Mastic texture coatings</b>	300
<b>Metallic pigmented coatings</b>	500
<b>Multi-color coatings</b>	250
<b>Nuclear coatings</b>	450
<b>Pre-treatment wash primers</b>	420
<b>Primers, sealers and undercoaters</b>	200
<b>Quick-dry enamels</b>	250
<b>Quick-dry primers, sealers and undercoaters</b>	200
<b>Recycled coatings</b>	250
<b>Roof coatings</b>	250
<b>Rust preventive coatings</b>	400
<b>Shellacs</b>	
Clear	730
Opaque	550
<b>Specialty primers, sealers and undercoaters</b>	350

STATE OF CONNECTICUT  
**REGULATION**  
 OF  
 NAME OF AGENCY  
 Environmental Protection

Sec. 6

Coating category	VOC content limit (grams VOC per liter)
<b>Stains</b>	250
<b>Swimming pool coatings and swimming pool repair and maintenance coatings</b>	340
<b>Temperature-indicator safety coatings</b>	550
<b>Thermoplastic rubber coatings and mastics</b>	550
<b>Traffic marking coatings</b>	150
<b>Waterproofing sealers</b>	250
<b>Waterproofing concrete/masonry sealers</b>	400
<b>Wood preservatives</b>	350

**Statement of Purpose:** This proposal amends one and adopts two sections of the air quality regulations to reduce volatile organic compound (VOC) emissions, assisting Connecticut to attain the federal 8-hour ozone national ambient air quality standard. More specifically:

The amendment of R.C.S.A. section 22a-174-20(*l*) contained in *Sections 1-4* adds a limitation on the vapor pressure of solvents used in cold cleaning and other requirements to further limit emissions of VOCs from metal cleaning. The limitation and other requirements are consistent with the Ozone Transport Commission's Model Rule for Solvent Cleaning. The amendment also adds an exemption from a conveyor speed requirement for the owners and operators of continuous web cleaning machines operated with other equipment to control the release of VOCs; and definitions necessary to implement the revised requirements.

*Section 5*, the adoption of R.C.S.A. section 22a-174-40, restricts emissions of VOCs from consumer products through VOC content limits developed by the Ozone Transport Commission as part of a model rule, enhanced with additional requirements developed by the California Air Resources Board in 2005.

*Section 6*, the adoption of R.C.S.A. section 22a-174-41, restricts emissions of VOCs from architectural and industrial maintenance coatings through the use of VOC content limits developed by the Ozone Transport Commission as part of a model rule.

**CERTIFICATION**

R-39 REV. 1/77

Be it known that the foregoing:

Regulations  Emergency Regulations

Are:

Adopted  Amended as herinabove stated  Repealed

By the aforesaid agency pursuant to:

Section 22a-174 of the General Statutes

Section \_\_\_\_\_ of the General Statutes as amended by Public Act No. \_\_\_\_\_ of the \_\_\_\_\_ Public Acts.

Public Act No. \_\_\_\_\_ of the Public Acts.

After Publication in the Connecticut Law Journal on May 23<sup>rd</sup> 20 06, of the notice of the proposal to:

Adopt  Amend  Repeal such regulations

(If applicable):  And the holding of an advertised public hearing on the 27<sup>th</sup> day of June 20 06

WHEREFORE, the foregoing regulations are hereby:

Adopted  Amended as herinabove stated  Repealed

Effective:

When filed with the Secretary of the State

(OR)

The \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

In Witness Whereof:	DATE <u>6/11/07</u>	SIGNED (Head of Board, Agency or Commission) <u>Amey Mannello</u>	OFFICIAL TITLE, DULY AUTHORIZED <u>Deputy Commissioner</u>
---------------------	------------------------	--	---

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	SIGNED <u>Will B. Miller</u>	DATE <u>6/14/07</u>	OFFICIAL TITLE, DULY AUTHORIZED <u>ASSOC. ATTY. GENERAL</u>
---	---------------------------------	------------------------	--

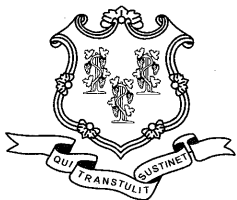
- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes	DATE <u>7/24/07</u>	SIGNED (Clerk of the Legislative Regulation Review Committee) <u>Penelope B. Booth</u>
---	------------------------	---

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.		
DATE	SIGNED (Secretary of the State.)	BY

**INSTRUCTIONS**

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes
- Each Regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language underlined or in capital letters and deleted language in brackets. Section 4-179 of the General Statutes.



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



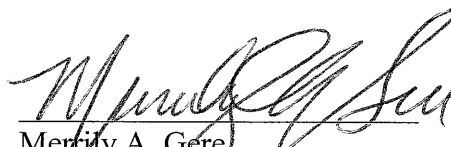
HEARING CERTIFICATION

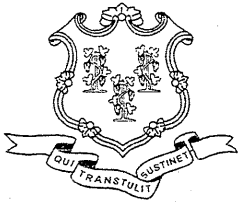
This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding amendment of R.C.S.A. section 22a-174-43:

- 1) The public hearing was held on June 27, 2006 as announced in the notice of hearing (copy attached);
- 2) In accordance with the notice, materials were available for review in each Air Quality Control Region (AQCR) in Connecticut;
- 3) Copies of the notice were mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published in newspapers as follows:

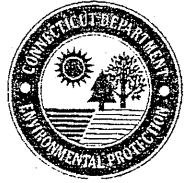
<u>Newspaper</u>	<u>AQCR</u>	<u>Date</u>
Connecticut Law Journal		May 23, 2006
Connecticut Post (Bridgeport)	43	May 23, 2006
Hartford Courant	42	May 23, 2006
New London Day	41	May 23, 2006
The Register Citizen (Torrington)	44	May 23, 2006

August 23, 2007  
Date

  
Merrily A. Gere  
Bureau of Air Management



**STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



**NOTICE OF INTENT TO REVISE THE REGULATIONS  
OF CONNECTICUT STATE AGENCIES AND THE  
STATE IMPLEMENTATION PLAN FOR AIR QUALITY**

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to revise a regulation concerning the abatement of air pollution. The proposed amended regulation concerns revisions to section 22a-174-43 (section 43), concerning portable fuel container spillage control, of the Regulations of Connecticut State Agencies. The associated emissions reductions will be included in the State's plan to attain and maintain the 8-hour national ambient air quality standard for ozone. This section will also be submitted to EPA as a reasonably available control measure (RACM) in satisfaction of 40 CFR section 51.912. The proposed amended rule is described in greater detail below.

All interested persons are invited to comment on the proposed regulation described below. Comments should be directed to the attention of Patti Downes of the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut, 06106-5127. In addition to submitting comments at the public hearing described below, comments may be submitted by facsimile to (860) 424-4063 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us). All comments must be received by 4:30 PM June 30, 2006.

**Section 22a-174-43, Portable Fuel Container Spillage Control.** This proposed regulation will amend section 22a-174-43 of the Regulations of Connecticut State Agencies (R.C.S.A.), concerning Portable Fuel Container (PFC) Spillage Control. The rule requires portable fuel containers (gas cans) to meet stringent design requirements to control emissions from evaporation, spillage and permeation, and provides Volatile Organic Compound emission reductions necessary for Connecticut's ozone attainment demonstration State Implementation Plan. The proposed changes will increase the effectiveness of the existing rule by clarifying definitions, simplifying design requirements and minimizing the potential for misuse of the product. The proposed changes will amend the existing requirements for flow-rate and spout design to address spillage concerns. The proposed changes also incorporate the California Air Resources Board's (CARB) anticipated certification program for PFCs, due to begin July 1, 2007.



In addition to accepting written comments, the Department of Environmental Protection will also hold the public hearing described below. Persons appearing at the hearing are requested to submit a written copy of their statement. However, oral comments will also be made part of the record and are welcome.

**PUBLIC HEARING**  
**June 27, 2006 at 2:00 PM**  
**Connecticut Department of Environmental Protection**  
**79 Elm Street, Fifth Floor**  
**Holcombe Conference Room**  
**Hartford, CT**

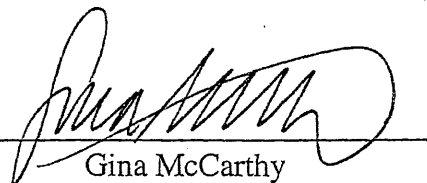
Copies of the proposed regulation described above and a statement, in accordance with section 22a-6(h) of the Connecticut General Statutes as amended by Public Act 03-276 indicating that there currently are no applicable federal environmental standards placed on portable fuel containers, and therefore the provisions of section 22a-6(h) of the Connecticut General Statutes do not apply, are available for public inspection during normal business hours from 8:30 AM - 4:30 PM at the Bureau of Air Management, Planning and Standards Division, Fifth floor, 79 Elm Street, Hartford, Connecticut. Additional copies of the proposed regulations and related documents are available for review at the Government Information Service Desk (Balcony level) at the Connecticut State Library; Torrington Public Library; New London Public Library; and Bridgeport Public Library. For further information, contact Patti Downes of the Bureau of Air Management at (860) 424-3027.

The Department of Environmental Protection supports the goals of the Americans with Disabilities Act of 1990. Any individual who needs auxiliary aids for effective communication during this public hearing or in submitting comments should contact Marcia Bonitto, Affirmative Action Administrator, (860) 424-3051, e-mail: [Marcia.Bonitto@po.state.ct.us](mailto:Marcia.Bonitto@po.state.ct.us) (TDD (860) 424-3333) at least one week before the public hearing.

The authority to adopt this plan is granted by sections 22a-6 and 22a-174 of the C.G.S. This notice is required pursuant to C.G.S. sections 4-168, 22a-6 and 22a-174, and 40 Code of Federal Regulations Part 51.102.

5/9/06

Date



Gina McCarthy  
Commissioner

## EXHIBIT E

### HEARING REPORT

**Prepared Pursuant to Section 4-168(d)  
of the Connecticut General Statutes and  
Section 22a-3a-3(d)(5) of the Department of Environmental Protection Rules of Practice**

**Regarding the Amendment of Section 22a-174-43 of the  
Regulations of Connecticut State Agencies**

**Hearing Officer: Allison Ferraro**

**Date of Hearing: June 27, 2006**

On May 9, 2006, the Commissioner of the Department of Environmental Protection ("Commissioner" and "Department," respectively) signed a notice of intent to amend section 22a-174-43 of the Regulations of Connecticut State Agencies ("R.C.S.A."). Pursuant to such notice, a public hearing was held on June 27, 2006, with the public comment period for the proposed amendment closing on June 30, 2006.

#### **I. Hearing Report Content**

As required by section 4-168(d) of the Connecticut General Statutes ("C.G.S."), this report describes the amendment as proposed for hearing; the principal reasons in support of the proposed amendment; the principal considerations presented in oral and written comments in opposition to the proposed amendment; all comments made and responses thereto regarding the proposed amendment; and the final wording of the proposed amendment. Commenters are identified in Attachment 1.

This report also includes in Section II a statement in accordance with C.G.S. section 22a-6(h).

#### **II. Federal Standards Analysis in Compliance with Section 22a-6(h) of the General Statutes**

Pursuant to the provisions of C.G.S. section 22a-6(h), the Commissioner is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a proposed regulation or amendment that differ from *applicable* federal standards or procedures (*i.e.*, federal standards and procedures that apply to *the same persons* under the proposed state regulation or amendment). The Commissioner must distinguish any such provisions either on the face of such proposed regulation or amendment or through supplemental documentation accompanying the proposed regulation or amendment. In addition, the

Commissioner must provide an explanation for all such provisions in the regulation-making record required under Title 4, Chapter 54 of the C.G.S. and make such explanation publicly available at the time of the notice of public hearing required under C.G.S. section 4-168.

In accordance with the requirements of C.G.S. section 22a-6(h), the following statement was available at the time of the notice of the public hearing and was entered into the administrative record in the matter of the proposed amendment of R.C.S.A. section 22a-174-43 ("Section 43"):

With respect to section 43, there are no applicable federal standards placed on portable fuel containers.

There is a **proposed** federal regulation (71 FR 15803, March 29, 2006) that, if enacted, will not take effect until 2009 (approximately a year and a half after Connecticut's proposed regulation will take effect).

### **III. Summary and Text of the Amendment as Proposed**

Section 43 requires portable fuel containers ("PFCs") to meet stringent design requirements to control emissions from evaporation, spillage and permeation, and provides volatile organic compound ("VOC") emission reductions necessary for Connecticut's 8-hour ozone national ambient air quality standard ("NAAQS") attainment demonstration. The proposed changes will increase the effectiveness of the existing rule by clarifying definitions, simplifying design requirements and minimizing the potential for misuse of the product. The proposed changes will amend the existing requirements for flow-rate and spout design to address spillage concerns. The proposed changes also incorporate the California Air Resources Board's ("CARB's") anticipated certification program for PFCs, due to begin July 1, 2007.

The text of the proposed amendment is located in Attachment 2 to this report.

### **IV. Principal Reasons in Support of the Proposed Amendment**

The amendment is proposed primarily to improve rule effectiveness in reducing VOC emissions in support of attainment planning for the 8-hour ozone NAAQS.

### **V. Principal Considerations in Opposition to the Proposed Amendment**

No comments opposed the adoption of the proposed amendment. One manufacturer suggested minor revisions related to retail concerns.

### **VI. Summary of Comments**

All comments submitted are summarized below with the Department's responses. Commenters are identified by abbreviation in this section and are identified fully in Attachment 1 to this report. When changes to the proposed text are indicated in response to comment, new text is in bold font and deleted text is in strikethrough font.

**1. Comment:** EPA comments regarding recently proposed federal standards that would limit hydrocarbon emissions that evaporate from or permeate through PFCs (71 FR 15803, March 29,

2006). EPA's proposal starts with containers manufactured in 2009 and would limit evaporation and permeation emissions from these containers to 0.3 grams of hydrocarbons per gallon per day. Connecticut's existing and proposed revised gas can rule limits the permeation emissions from PFCs to less than or equal to 0.4 grams of hydrocarbons per gallon per day. If, as proposed, the final EPA standard for permeation emissions from PFCs is more stringent than Connecticut's standard, the federal standard will supersede the state standard as of 2009. (EPA)

**Response:** Connecticut's proposed changes to the regulation will allow the sale of PFCs meeting the permeation rate of less than or equal to 0.4 grams of hydrocarbons per gallon per day, only if they were manufactured on or before December 31, 2008. On or after January 1, 2009 the amended section 43 will include (by reference to CARB's Certification Program) a permeation rate of 0.3 grams of hydrocarbons per gallon per day, the same as the proposed federal standard. Therefore, the Department should not revise section 43 in response to this comment.

More specifically, for any PFC manufactured on or after July 1, 2007, Connecticut's regulation would require that any PFC provided for sale in Connecticut be certified for use and sale by the manufacturer through CARB and covered by an Executive Order issued by CARB. In order to receive such certification and Executive Order, a PFC manufacturer will need to certify their PFC in accordance with Certification Procedure 501 "CP 501".

CP 501 requires that:

- a) PFCs manufactured on or after July 1, 2007 must emit no more than 0.4 grams per gallon per-day as determined by Air Resources Board Test Procedure TP-502, Test Procedures for Determining Diurnal Emissions from Portable Fuel Containers July 26, 2006...
- b) PFCs manufactured on or after January 1, 2009 must emit no more than 0.3 grams per gallon per-day as determined by Air Resources Board Test Procedure TP-502, Test Procedures for Determining Diurnal Emissions from Portable Fuel Containers July 26, 2006...

Therefore, for containers manufactured after January 1, 2009, CP 501 references the same permeation rate as that which will be required by the federal rule as of January 1, 2009.

**2. Comment:** Blitz USA, Inc. expressed concern as to how the amendment would address the kerosene cans already on retailer's shelves when the regulation is established. Will the retailers be allowed to sell these cans until they are gone?

**Response:** The Hearing Officer recommends revising the proposed amendment by adding language to allow for PFCs labeled or designated solely for use with kerosene and manufactured prior to the effective date of the regulation to be sold until January 1, 2008. This would allow for a reasonable sell-through period for cans already on the shelves, but is not so long as to compromise the emissions reductions benefits that would be received through can turnover. A new subdivision should be added to subsection (f), as follows:

(7) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container manufactured prior to the effective date of this section may be sold or

offered for sale until January 1, 2008 if it is labeled or designated for use solely with kerosene and if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container.

**3. Comment:** Blitz also asked: when would the new regulation go into law?

**Response:**

The newly amended regulation will become effective on the date it is filed with the Connecticut Secretary of the State.

**4. Comment:** Blitz stated that subsections (d)(2)(D) and (d)(4)(C) address flow rate requirements for the cans until June 30, 2007. California eliminated these requirements when they added kerosene to their regulations. Blitz suggests that the amended Connecticut regulation do the same so as to have a common can for all regulated states. The proposed new national EPA standard will also not have these requirements.

**Response:** Connecticut's proposed amendment is consistent with the CARB regulation and the proposed EPA standard on this matter. The brackets around subsection (d)(2)(D) and (d)(4)(C) indicate that Connecticut is deleting the flow rate requirement. No change is recommended in response to this comment.

**VII. Additional Comment by the Hearing Officer**

On October 11, 2006, CARB's regulation that provides the basis for the certification program referenced at subsection (f)(2)(C) went into effect. Therefore, the appropriate dates were added as follows (underlined portions):

- (A) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000, as amended July 26, 2006; and
- (C) For portable fuel containers manufactured on or after July 1, 2007, "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts", adopted by CARB on July 26, 2006, or alternative methodology approved in writing by CARB.

Other changes recommended by Hearing Officer:

1. Correct the spelling of "alcohol" that appears in the definition of fuel, found in subsection (a)(8).

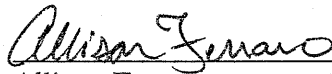
2. Change the definition of kerosene found in subsection (a)(9) to make it consistent with the definition used by CARB in Title 13, Section 2467 and 2467.1 of California Code of Regulations ~ Part 1.

### **VIII. Final Text of Proposed Amendment**

The final text of Section 22a-174-43 inclusive of the change recommended in this report, is located at Attachment 3 to this report.

### **IX. Conclusion**

Based upon the comments submitted by interested parties and addressed in this Hearing Report, I recommend the final amendment, as contained in Attachment 3 to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee. Based upon the same considerations, I also recommend that upon promulgation this amendment be submitted to EPA as a revision to the State Implementation Plan.

  
Allison Ferraro  
Hearing Officer

10/19/00  
Date

**Attachment 1**  
**List of Commenters**

1. Anne Arnold, Manager  
Air Quality Planning Unit  
United States Environmental Protection Agency (“EPA”)  
Region 1  
1 Congress Street, Suite 1100  
Boston, MA 02114-2023
  
2. Chuck Craig  
Blitz USA, Inc. (“Blitz”)  
404 26th Ave.,  
N.W. Miami, OK 74354

# Attachment 2

## Text of the Proposed Amendment to R.C.S.A. Section 22a-174-43

Section 22a-174-43 Portable Fuel Container Spillage Control.

(a) Definitions. For the purposes of this section:

(1) "Automatic closure" means a device or mechanism that causes a spill-proof system or spout to close, seal and remain completely closed when not dispensing fuel.

(2) "Automatically close" means closure occurs through the activation of a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.

[(1)] (3) "CARB" means the California Air Resources Board.

[(2)] (4) "CCR" means the California Code of Regulations.

(5) "Closed-system portable fuel container" means a portable fuel container that forms a complete loop between the engine and the fuel container so that any excess fuel or vapors are returned to the portable fuel container.

[(3)] (6) "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person who acquires a portable fuel



container or spout or both a portable fuel container and spout for resale is not a "consumer" for that product.

[(4)] (7) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.

[(5)] (8) "Fuel" means a volatile liquid mixture containing hydrocarbons or a blend of a volatile liquid mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in spark-ignition internal combustion engines or compression-ignition internal combustion engines.

[(6)] (9) "Kerosene" means any light petroleum distillate fuel that is used in space heating, cook stoves, and water heaters, or is suitable for use as a light source when burned in wick-fed lamps.

[6] (10) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.

[7](11) "NYCRR" means the Official Compilation of Codes, Rules and Regulations of the State of New York.

[8](12) "NYSDEC" means the New York State Department of Environmental Conservation.

[9](13) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

[10](14) "Outboard engine" means the spark-ignition marine engine mounted on a marine watercraft and used to propel such watercraft.

[11](15) "Permeation" means the process by which individual fuel molecules may penetrate the walls and components of a portable fuel container.

[12](16) "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended

for reuse that is designed, [or] used, sold, or offered for sale [primarily] for receiving, transporting, storing and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as defined in 49 CFR Section 172.407, with language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.

[13] (17) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

[14] (18) "Retail outlet" means any establishment at which any portable fuel container or spout or both portable fuel container and spout is sold, supplied or offered for sale.

[15] (19) "Spill-proof spout" means any spout that complies with the performance standards set forth in subsection (d) of this section.

[16] (20) "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the performance standards set forth in subsection (d) of this section.

[17](21) "Spout" means any device that can be firmly attached to a portable fuel container for dispensing the contents of a portable fuel container, not including a device that can be used to lengthen the spout to accommodate necessary applications.

[18] (22) "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

(b) Applicability.

Except as provided in subsection (c) of this section, this section applies to any person who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout for use in the State of Connecticut.

(c) Exemptions.

(1) This section shall not apply to any portable fuel container or spout or both portable fuel container and spout manufactured

in the State of Connecticut for shipment, sale and use outside of the State of Connecticut.

(2) This section shall not apply to a manufacturer or distributor who sells, supplies or offers for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout that does not comply with the performance standards set forth in subsection (d) of this section, provided that such manufacturer makes and keeps records demonstrating:

- (A) The portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of the State of Connecticut; and
- (B) The manufacturer or distributor has taken reasonable and prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to or within the State of Connecticut.

(3) This section shall not apply to any safety can subject to and in compliance with the provisions of 29 CFR 1926, Subpart F.

(4) This section shall not apply to any portable fuel container with a nominal capacity of less than or equal to one (1) quart.

(5) This section shall not apply to any rapid refueling device with a nominal capacity of greater than or equal to four gallons, provided that such device:

- (A) Is designed for use in an off-highway motorized vehicle competition;
- (B) Creates a leak-proof seal against the target fuel tank; or
- (C) Operates in conjunction with a receiver permanently installed on the target tank.

(6) This section shall not apply to marine portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and an outboard engine for the purpose of operating such engine.

(7) This section shall not apply to "closed-system" portable fuel containers that are used exclusively for fueling remote control model airplanes.

[7](8) This section shall not apply to any manufacturer for any product for which the NYSDEC issued a variance pursuant to 6 NYCRR 239-7 for the period of time such variance is in effect, provided that the manufacturer submits all information and data required by 6 NYCRR 239-7 to the commissioner within thirty days of variance approval. If NYSDEC issues a variance pursuant to 6 NYCRR 239-7 more than thirty days before the effective date of this section, the manufacturer shall submit the information and data required by 6 NYCRR 237-7 to the commissioner within thirty days of the effective date of this section, provided the underlying variance is still in effect and necessary to maintain this exemption in the State of Connecticut.

[8](9) This section shall not apply to any product for which the manufacturer is granted:

- (A) An exemption by CARB pursuant to the Innovative Products provisions of 13 CCR 2467.4 for the period of time the CARB Innovative Products exemption remains in effect; or
- (B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 239-5 for the period of time the NYSDEC Innovative Products exemption remains in effect.

[9](10) Any manufacturer who claims an exemption pursuant to subdivision [8](9) of this subsection shall submit to the commissioner, upon request therefore, a copy of the applicable CARB or NYSDEC exemption decision.

(d) Performance Standards.

(1) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any portable fuel container or any portable fuel container and spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (2) of this subsection.

(2) Each portable fuel container and each portable fuel container and spout shall:

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

(B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel;

(C) Have only one opening for both filling and pouring;

[(D) Provide a fuel flow rate and fill level equal to or greater than:

(i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:

(aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or

(bb) greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "LOW FLOW RATE" in type of thirty-four (34) point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any,

(ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, and fills to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons;]

[(E)] (D) Have a permeation rate of less than or equal to four-tenths (0.4) grams per gallon per day; and

[(F)] (E) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(3) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (4) of this subsection.

(4) Each spill-proof spout shall:

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

(B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel; and

[(C)] Provide a fuel flow rate and fill level equal to or greater than:

(i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:

(aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or

(bb) greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "LOW FLOW RATE" in bold type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto,

(ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons; and]

[(D)] (C) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(5) On or after July 1, 2007, except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut, a portable fuel container or spout or both portable fuel container and spout that, at the time of sale or manufacture, is not certified for use and sale by the manufacturer through the California Air Resources Board and covered by an Executive Order issued by CARB pursuant to 13 CCR Chapter 9, Article 6, Section 2467.2(d).

(e) [Labelling] Labeling Requirements.

(1) Each manufacturer of a portable fuel container or portable fuel container and spout subject to this section shall clearly display on each spill-proof system:

(A) The phrase "Spill-Proof System;"

(B) A date of manufacture or a representative date; and

(C) A representative code identifying the portable fuel container or portable fuel container and spout as subject to this section and in compliance with subsection (d) of this section.

(2) Each manufacturer of a spout subject to this section shall clearly display on the accompanying package, or for a spill-proof spout sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (A) The phrase "Spill-Proof Spout;"
- (B) A date of manufacture or a representative date; and
- (C) A representative code identifying the spout as subject to this section and in compliance with subsection (d) of this section.

(3) Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with subsection (d)(5) of this section shall clearly display on each spill-proof system:

- (A) The phrase "Spill-Proof System;"
- (B) A date of manufacture or a representative date; and
- (C) A representative code identifying the Executive Order Number issued by CARB for the portable fuel container and spout.

[3] (4) Each manufacturer subject to this section shall file an explanation of both the date code and representative date code with the commissioner no later than three months after the effective date of this section or within ninety (90) days of production or any change in coding.

[(4) Each manufacturer subject to this section shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.]

(5) Each manufacturer subject to subdivision (2) of this subsection shall clearly display, on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label fixed thereto, the make, model number and size of each portable fuel container the spout is designed to accommodate, provided the identified combinations of container and spout shall comply with all applicable provisions of this section.

(6) No manufacturer shall display or affix the phrase "Spill-Proof System" or "Spill-Proof Spout" to a portable fuel container or a portable fuel container and spout unless such container and spout comply with all applicable provisions of



subsection (d) of this section.

(7) If, due to its design or other features, a portable fuel container or a portable fuel container and spout cannot be used to refuel one or more on-road motor vehicles, the manufacturer shall clearly display the phrase "Not Intended For Refueling On-Road Motor Vehicles" in thirty-four (34) point type or greater on:

- (A) An affixed label and the accompanying package, if any, for any portable fuel container or portable fuel container and spout sold together as a spill-proof system; and
- (B) Either the spill-proof spout or a label affixed thereto, and the accompanying package, if any, for any spill-proof spout.

(f) Compliance Test Procedures.

(1) Each manufacturer of a portable fuel container or spout or both a portable fuel container and spout [must] shall perform the compliance tests specified in subdivisions (2) and (3) of this subsection prior to allowing the product to be offered for sale in the State of Connecticut or at any other time directed to do so by the commissioner.

(2) To determine compliance with the standards set forth in subsection (d) of this section, each manufacturer shall use the following test procedures:

- (A) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000; and
- (B) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000. [; and]
- [(C) "Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000.]

(C) For portable fuel containers manufactured on or after July 1, 2007, "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts", adopted (INSERT EFFECTIVE DATE OF CA REGULATION), or alternative methodology approved in writing by CARB.

(3) To determine compliance with the permeation standard set forth in subsection (d)(2)(D) of this section, each manufacturer shall use the test procedures set forth in subdivision (2) of this subsection and "Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems," adopted by CARB on July 6, 2000.

(4) Each manufacturer must make and keep records of the compliance tests specified in subdivisions (2) and (3) of this subsection for as long as the product is available for sale in the State of Connecticut and make any test results available to the commissioner within thirty (30) days after receiving a request by the commissioner for such records.

(5) Compliance with the performance standards set forth in subsection (d) of this section does not exempt any manufacturer of a spill-proof system or spill-proof spout from the duty to comply with all other applicable federal and state requirements.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container or spout or both a portable fuel container and spout manufactured before May 1, 2004, may be sold, supplied or offered for sale until May 1, 2005 if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

Statement of Purpose: To update requirements applicable to portable fuel containers to make the rule more effective by simplifying design requirements, minimizing the potential for misuse of the product, and incorporating the California Air Resources Board PFC certification program.

# Attachment 3

## Final Text of the Amendment to R.C.S.A. Section 22a-174-2a(a)

Section 22a-174-43 Portable Fuel Container Spillage Control.

(a) Definitions. For the purposes of this section:

(1) "Automatic closure" means a device or mechanism that causes a spill-proof system or spout to close, seal and remain completely closed when not dispensing fuel.

(2) "Automatically close" means closure occurs through the activation of a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.

[(1)] (3) "CARB" means the California Air Resources Board.

[(2)] (4) "CCR" means the California Code of Regulations.

(5) "Closed-system portable fuel container" means a portable fuel container that forms a complete loop between the engine and the fuel container so that any excess fuel or vapors are returned to the portable fuel container.

[(3)] (6) "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person who acquires a portable fuel

container or spout or both a portable fuel container and spout for resale is not a "consumer" for that product.

[(4)] (7) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.

[(5)] (8) "Fuel" means a volatile liquid mixture containing hydrocarbons or a blend of a volatile liquid mixture with one or more oxygen containing ashless organic compounds, such as [alchols] alcohols or ethers, which is suitable for use in spark-ignition internal combustion engines or compression-ignition internal combustion engines.

[(6)] (9) "Kerosene" means "kerosene" as defined in California Code of Regulations, Title 13, Section 2467 and 2467.1.

[6] (10) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.

[7] (11) "NYCRR" means the Official Compilation of Codes, Rules and Regulations of the State of New York.

[8] (12) "NYSDEC" means the New York State Department of Environmental Conservation.

[9] (13) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

[10] (14) "Outboard engine" means the spark-ignition marine engine mounted on a marine watercraft and used to propel such watercraft.

[11] (15) "Permeation" means the process by which individual fuel molecules may penetrate the walls and components of a portable fuel container.

[12] (16) "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed, [or] used, sold, or offered for sale [primarily] for receiving, transporting, storing and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as defined in 49 CFR Section 172.407, with language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.

[13] (17) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

[14] (18) "Retail outlet" means any establishment at which any portable fuel container or spout or both portable fuel container and spout is sold, supplied or offered for sale.

[15] (19) "Spill-proof spout" means any spout that complies with the performance standards set forth in subsection (d) of this section.

[16] (20) "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the performance standards set forth in subsection (d) of this section.

[17] (21) "Spout" means any device that can be firmly attached to a portable fuel container for dispensing the contents of a portable fuel container, not including a device that can be used to lengthen the spout to accommodate necessary applications.

[18] (22) "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

(b) Applicability.

Except as provided in subsection (c) of this section, this section applies to any person who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout for use in the State of Connecticut.

(c) Exemptions.

(1) This section shall not apply to any portable fuel container or spout or both portable fuel container and spout manufactured in the State of Connecticut for shipment, sale and use outside of the State of Connecticut.

(2) This section shall not apply to a manufacturer or distributor who sells, supplies or offers for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout that does not comply with the performance standards set forth in subsection (d) of this section, provided that such manufacturer makes and keeps records demonstrating:

- (A) The portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of the State of Connecticut; and

(B) The manufacturer or distributor has taken reasonable and prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to or within the State of Connecticut.

(3) This section shall not apply to any safety can subject to and in compliance with the provisions of 29 CFR 1926, Subpart F.

(4) This section shall not apply to any portable fuel container with a nominal capacity of less than or equal to one (1) quart.

(5) This section shall not apply to any rapid refueling device with a nominal capacity of greater than or equal to four gallons, provided that such device:

(A) Is designed for use in an off-highway motorized vehicle competition;

(B) Creates a leak-proof seal against the target fuel tank; or

(C) Operates in conjunction with a receiver permanently installed on the target tank.

(6) This section shall not apply to marine portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and an outboard engine for the purpose of operating such engine.

(7) This section shall not apply to "closed-system" portable fuel containers that are used exclusively for fueling remote control model airplanes.

[7](8) This section shall not apply to any manufacturer for any product for which the NYSDEC issued a variance pursuant to 6 NYCRR 239-7 for the period of time such variance is in effect, provided that the manufacturer submits all information and data required by 6 NYCRR 239-7 to the commissioner within thirty days of variance approval. If NYSDEC issues a variance pursuant to 6 NYCRR 239-7 more than thirty days before the effective date of this section, the manufacturer shall submit the information and data required by 6 NYCRR 237-7 to the commissioner within thirty days of the effective date of this section, provided the underlying variance is still in effect and necessary to maintain this exemption in the State of Connecticut.

[8](9) This section shall not apply to any product for which the manufacturer is granted:

- (A) An exemption by CARB pursuant to the Innovative Products provisions of 13 CCR 2467.4 for the period of time the CARB Innovative Products exemption remains in effect; or
- (B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 239-5 for the period of time the NYSDEC Innovative Products exemption remains in effect.

[9] (10) Any manufacturer who claims an exemption pursuant to subdivision [8] (9) of this subsection shall submit to the commissioner, upon request therefore, a copy of the applicable CARB or NYSDEC exemption decision.

(d) Performance Standards.

(1) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any portable fuel container or any portable fuel container and spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (2) of this subsection.

(2) Each portable fuel container and each portable fuel container and spout shall:

- (A) Have an automatic shut-off that stops fuel flow before the target tank overflows;
- (B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel;
- (C) Have only one opening for both filling and pouring;
- [(D) Provide a fuel flow rate and fill level equal to or greater than:
  - (iv) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:
    - (aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or
    - (cc) greater than one and one-half (1.5) gallons, but less than or equal to two and

one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "LOW FLOW RATE" in type of thirty-four (34) point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any,

(v) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, and fills to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(vi) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons;]

[(E)] (D) Have a permeation rate of less than or equal to four-tenths (0.4) grams per gallon per day; and

[(F)] (E) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(3) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (4) of this subsection.

(4) Each spill-proof spout shall:

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

(B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel; and

[(C)] Provide a fuel flow rate and fill level equal to or greater than:

(i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:

(aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or



equal to one (1) inch below the top of the target fuel tank opening, or

(bb) greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "LOW FLOW RATE" in bold type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto,

(ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons; and]

[(D)] (C) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(5) On or after July 1, 2007, except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut, a portable fuel container or spout or both portable fuel container and spout that, at the time of sale or manufacture, is not certified for use and sale by the manufacturer through the California Air Resources Board and covered by an Executive Order issued by CARB pursuant to 13 CCR Chapter 9, Article 6, Section 2467.2(d).

(e) [Labelling] Labeling Requirements.

(1) Each manufacturer of a portable fuel container or portable fuel container and spout subject to this section shall clearly display on each spill-proof system:

(A) The phrase "Spill-Proof System;"

(B) A date of manufacture or a representative date; and

(C) A representative code identifying the portable fuel

container or portable fuel container and spout as subject to this section and in compliance with subsection (d) of this section.

(2) Each manufacturer of a spout subject to this section shall clearly display on the accompanying package, or for a spill-proof spout sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (A) The phrase "Spill-Proof Spout;"
- (B) A date of manufacture or a representative date; and
- (C) A representative code identifying the spout as subject to this section and in compliance with subsection (d) of this section.

(3) Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with subsection (d)(5) of this section shall clearly display on each spill-proof system:

- (A) The phrase "Spill-Proof System;"
- (B) A date of manufacture or a representative date; and
- (D) A representative code identifying the Executive Order Number issued by CARB for the portable fuel container and spout.

[3] (4) Each manufacturer subject to this section shall file an explanation of both the date code and representative date code with the commissioner no later than three months after the effective date of this section or within ninety (90) days of production or any change in coding.

[(4) Each manufacturer subject to this section shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.]

(5) Each manufacturer subject to subdivision (2) of this subsection shall clearly display, on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label fixed thereto, the make, model number and size of each portable fuel container the spout is designed to accommodate, provided the identified combinations of container and spout shall comply with all applicable provisions of this section.

(6) No manufacturer shall display or affix the phrase "Spill-Proof System" or "Spill-Proof Spout" to a portable fuel container

or a portable fuel container and spout unless such container and spout comply with all applicable provisions of subsection (d) of this section.

(7) If, due to its design or other features, a portable fuel container or a portable fuel container and spout cannot be used to refuel one or more on-road motor vehicles, the manufacturer shall clearly display the phrase "Not Intended For Refueling On-Road Motor Vehicles" in thirty-four (34) point type or greater on:

- (A) An affixed label and the accompanying package, if any, for any portable fuel container or portable fuel container and spout sold together as a spill-proof system; and
- (B) Either the spill-proof spout or a label affixed thereto, and the accompanying package, if any, for any spill-proof spout.

(f) Compliance Test Procedures.

(1) Each manufacturer of a portable fuel container or spout or both a portable fuel container and spout [must] shall perform the compliance tests specified in subdivisions (2) and (3) of this subsection prior to allowing the product to be offered for sale in the State of Connecticut or at any other time directed to do so by the commissioner.

(2) To determine compliance with the standards set forth in subsection (d) of this section, each manufacturer shall use the following test procedures:

- (A) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000, as amended July 26, 2006; and
- (B) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000. [; and]
- [(C) "Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000.]
- (C) For portable fuel containers manufactured on or after July 1, 2007, "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts",

adopted July 26, 2006, or alternative methodology approved in writing by CARB.

(3) To determine compliance with the permeation standard set forth in subsection (d)(2)(D) of this section, each manufacturer shall use the test procedures set forth in subdivision (2) of this subsection and "Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems," adopted by CARB on July 6, 2000.

(4) Each manufacturer must make and keep records of the compliance tests specified in subdivisions (2) and (3) of this subsection for as long as the product is available for sale in the State of Connecticut and make any test results available to the commissioner within thirty (30) days after receiving a request by the commissioner for such records.

(5) Compliance with the performance standards set forth in subsection (d) of this section does not exempt any manufacturer of a spill-proof system or spill-proof spout from the duty to comply with all other applicable federal and state requirements.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container or spout or both a portable fuel container and spout manufactured before May 1, 2004, may be sold, supplied or offered for sale until May 1, 2005 if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

(7) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container manufactured prior to the effective date of this section may be sold or offered for sale until January 1, 2008 if it is labeled or designated for use solely with kerosene and if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container.

Statement of Purpose: To update requirements applicable to portable fuel containers to make the rule more effective by simplifying design requirements, minimizing the potential for misuse of the product, and incorporating the California Air Resources Board PFC certification program.

**Office of Secretary of the State**

State of Connecticut

30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

**Susan Bysiewicz**  
Secretary of the State**Lesley D. Mara**  
Deputy Secretary of the State

February 1, 2007

Hon. Gina McCarthy, Commissioner  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06105

Re: Agency Regulation Concerning:

**Abatement of Air Pollution: Amendment of Section 22a-174-43, Portable Fuel Container Spillage Control**

Regulation Review Committee Docket Number: 2006-77

Secretary of the State File Number: 5748

Dear Commissioner McCarthy:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by the Department of Environmental Protection.

**We request that you please forward the original or a copy of this acknowledgement letter to your agency's Legal Services Department for its files.**

Said regulation was received and filed in this office on January 29, 2007. The effective date of this regulation is January 29, 2007.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Sladek".

Barbara Sladek  
RLS Assistant Coordinator  
860-509-6147

CC: Commission on Official Legal Publications (Letter and Copy of Regulation)

---

Commercial Recording Division	(860) 509-6001	fax (860) 509-6069	State Capitol Office	(860) 509-6200	fax (860) 509-6209
Legislation and Election Administration Division	(860) 509-6100	fax (860) 509-6127	Deputy Secretary of the State	(860) 509-6212	fax (860) 509-6131
General Information	(860) 509-6000		Management & Support Services	(860) 509-6190	fax (860) 509-6175

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT

REGULATION

OF

JAN 29 1 24 PM '07  
SECRETARY OF THE STATE  
ELECTIONS DIVISION

NAME OF AGENCY

Environmental Protection

Concerning

---

**Abatement of Air Pollution  
Amendment of Section 22a-174-43  
Portable Fuel Container Spillage Control**

---

Section 22a-174-43 of the Regulations of Connecticut State Agencies is amended to read as follows:

(a) Definitions. For the purposes of this section:

(1) "Automatically close" means closure occurs through the activation of a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.

~~[(1)]~~ (2) "CARB" means the California Air Resources Board.

~~[(2)]~~ (3) "CCR" means the California Code of Regulations.

(4) "Closed-system portable fuel container" means a portable fuel container that forms a complete loop between the engine and the fuel container so that any excess fuel or vapors are returned to the portable fuel container.

~~[(3)]~~ (5) "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person who acquires a portable fuel container or spout or both a portable fuel container and spout for resale is not a "consumer" for that product.

~~[(4)]~~ (6) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.

~~[(5)]~~ (7) "Fuel" means a volatile liquid mixture containing hydrocarbons or a blend of a volatile liquid mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in spark-ignition internal combustion engines or compression-ignition internal combustion engines.

(8) "Kerosene" means "kerosene" as defined in California Code of Regulations, Title 13, Section 2467 and 2467.1.

~~[(6)]~~ (9) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

[6] (10) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.

[7] (11) "NYCRR" means the Official Compilation of Codes, Rules and Regulations of the State of New York.

[8] (12) "NYSDEC" means the New York State Department of Environmental Conservation.

[9] (13) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

[10] (14) "Outboard engine" means the spark-ignition marine engine mounted on a marine watercraft and used to propel such watercraft.

[11] (15) "Permeation" means the process by which individual fuel molecules may penetrate the walls and components of a portable fuel container.

[12] (16) "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed, [or] used, sold, or offered for sale [primarily] for receiving, transporting, storing and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as defined in 49 CFR Section 172.407, with language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.

[13] (17) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

[14] (18) "Retail outlet" means any establishment at which any portable fuel container or spout or both portable fuel container and spout is sold, supplied or offered for sale.

[15] (19) "Spill-proof spout" means any spout that complies with the performance standards set forth in subsection (d) of this section.

[16] (20) "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the performance standards set forth in subsection (d) of this section.

[17] (21) "Spout" means any device that can be firmly attached to a portable fuel container for dispensing the contents of a portable fuel container, not including a device that can be used to lengthen the spout to accommodate necessary applications.

[18] (22) "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

**(b) Applicability.**

Except as provided in subsection (c) of this section, this section applies to any person who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout for use in the State of Connecticut.

**(c) Exemptions.**

(1) This section shall not apply to any portable fuel container or spout or both portable fuel container and spout manufactured in the State of Connecticut for shipment, sale and use outside of the State of Connecticut.

(2) This section shall not apply to a manufacturer or distributor who sells, supplies or offers for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout that does not comply with the performance standards set forth in subsection (d) of this section, provided that such manufacturer makes and keeps records demonstrating:

(A) The portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of the State of Connecticut; and

(B) The manufacturer or distributor has taken reasonable and prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to or within the State of Connecticut.

(3) This section shall not apply to any safety can subject to and in compliance with the provisions of 29 CFR 1926, Subpart F.

(4) This section shall not apply to any portable fuel container with a nominal capacity of less than or equal to one (1) quart.

(5) This section shall not apply to any rapid refueling device with a nominal capacity of greater than or equal to four gallons, provided that such device:

(A) Is designed for use in an off-highway motorized vehicle competition;

(B) Creates a leak-proof seal against the target fuel tank; or

(C) Operates in conjunction with a receiver permanently installed on the target tank.

(6) This section shall not apply to marine portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and an outboard engine for the purpose of operating such engine.



**REGULATION**

OF

NAME OF AGENCY

Environmental Protection

(7) This section shall not apply to "closed-system" portable fuel containers that are used exclusively for fueling remote control model airplanes.

[7](8) This section shall not apply to any manufacturer for any product for which the NYSDEC issued a variance pursuant to 6 NYCRR 239-7 for the period of time such variance is in effect, provided that the manufacturer submits all information and data required by 6 NYCRR 239-7 to the commissioner within thirty days of variance approval. If NYSDEC issues a variance pursuant to 6 NYCRR 239-7 more than thirty days before the effective date of this section, the manufacturer shall submit the information and data required by 6 NYCRR 237-7 to the commissioner within thirty days of the effective date of this section, provided the underlying variance is still in effect and necessary to maintain this exemption in the State of Connecticut.

[8](9) This section shall not apply to any product for which the manufacturer is granted:

- (A) An exemption by CARB pursuant to the Innovative Products provisions of 13 CCR 2467.4 for the period of time the CARB Innovative Products exemption remains in effect; or
- (B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 239-5 for the period of time the NYSDEC Innovative Products exemption remains in effect.

[9](10) Any manufacturer who claims an exemption pursuant to subdivision [8](9) of this subsection shall submit to the commissioner, upon request therefore, a copy of the applicable CARB or NYSDEC exemption decision.

**(d) Performance Standards.**

(1) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any portable fuel container or any portable fuel container and spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (2) of this subsection.

(2) Each portable fuel container and each portable fuel container and spout shall:

- (A) Have an automatic shut-off that stops fuel flow before the target tank overflows;
- (B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel;
- (C) Have only one opening for both filling and pouring;

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

- [(D)] Provide a fuel flow rate and fill level equal to or greater than:
- (i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:
    - (aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or
    - (bb) greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "LOW FLOW RATE" in type of thirty-four (34) point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any,
  - (ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, and fills to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or
  - (iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons;]
- [(E)] (D) Have a permeation rate of less than or equal to four-tenths (0.4) grams per gallon per day; and
- [(F)] (E) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.
- (3) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004 and ending June 30, 2007, any spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (4) of this subsection.
- (4) Each spill-proof spout shall:
- (A) Have an automatic shut-off that stops fuel flow before the target tank overflows;
  - (B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel; and

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

[(C) Provide a fuel flow rate and fill level equal to or greater than:

- (i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:
  - (aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or
  - (bb) greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "**Low Flow Rate**" in bold type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto,
- (ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or
- (iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons; and]

[(D)] (C) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(5) On or after July 1, 2007, except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut, a portable fuel container or spout or both portable fuel container and spout that, at the time of sale or manufacture, is not certified for use and sale by the manufacturer through the California Air Resources Board and covered by an Executive Order issued by CARB pursuant to 13 CCR Chapter 9, Article 6, Section 2467.2(d).

**(e) [Labelling] Labeling Requirements.**

(1) Each manufacturer of a portable fuel container or portable fuel container and spout subject to this section shall clearly display on each spill-proof system:

- (A) The phrase "**Spill-Proof System;**"
- (B) A date of manufacture or a representative date; and

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

(C) A representative code identifying the portable fuel container or portable fuel container and spout as subject to this section and in compliance with subsection (d) of this section.

(2) Each manufacturer of a spout subject to this section shall clearly display on the accompanying package, or for a spill-proof spout sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (A) The phrase "**Spill-Proof Spout;**"
- (B) A date of manufacture or a representative date; and
- (C) A representative code identifying the spout as subject to this section and in compliance with subsection (d) of this section.

(3) Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with subsection (d)(5) of this section shall clearly display on each spill-proof system:

- (A) The phrase "**Spill-Proof System;**"
- (B) A date of manufacture or a representative date; and
- (C) A representative code identifying the Executive Order Number issued by CARB for the portable fuel container and spout.

[3] (4) Each manufacturer subject to this section shall file an explanation of both the date code and representative date code with the commissioner no later than three months after the effective date of this section or within ninety (90) days of production or any change in coding.

[(4) Each manufacturer subject to this section shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.]

(5) Each manufacturer subject to subdivision (2) of this subsection shall clearly display, on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label fixed thereto, the make, model number and size of each portable fuel container the spout is designed to accommodate, provided the identified combinations of container and spout shall comply with all applicable provisions of this section.

(6) No manufacturer shall display or affix the phrase "Spill-Proof System" or "Spill-Proof Spout" to a portable fuel container or a portable fuel container and spout unless such container and spout comply with all applicable provisions of subsection (d) of this section.

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

(7) If, due to its design or other features, a portable fuel container or a portable fuel container and spout cannot be used to refuel one or more on-road motor vehicles, the manufacturer shall clearly display the phrase "**Not Intended For Refueling On-Road Motor Vehicles**" in thirty-four (34) point type or greater on:

- (A) An affixed label and the accompanying package, if any, for any portable fuel container or portable fuel container and spout sold together as a spill-proof system; and
- (B) Either the spill-proof spout or a label affixed thereto, and the accompanying package, if any, for any spill-proof spout.

**(f) Compliance Test Procedures.**

(1) Each manufacturer of a portable fuel container or spout or both a portable fuel container and spout [must] shall perform the compliance tests specified in subdivisions (2) and (3) of this subsection prior to allowing the product to be offered for sale in the State of Connecticut or at any other time directed to do so by the commissioner.

(2) To determine compliance with the standards set forth in subsection (d) of this section, each manufacturer shall use the following test procedures:

- (A) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000, as amended July 26, 2006; and
- (B) For portable fuel containers manufactured on or before June 30, 2007, "Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000; [and]
- [(C) "Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000.]
- (C) For portable fuel containers manufactured on or after July 1, 2007, "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts", adopted July 26, 2006, or alternative methodology approved in writing by CARB.

(3) To determine compliance with the permeation standard set forth in subsection (d)(2)(D) of this section, each manufacturer shall use the test procedures set forth in subdivision (2) of this subsection and "Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems," adopted by CARB on July 6, 2000.

**REGULATION**

OF

NAME OF AGENCY

## Environmental Protection

(4) Each manufacturer must make and keep records of the compliance tests specified in subdivisions (2) and (3) of this subsection for as long as the product is available for sale in the State of Connecticut and make any test results available to the commissioner within thirty (30) days after receiving a request by the commissioner for such records.

(5) Compliance with the performance standards set forth in subsection (d) of this section does not exempt any manufacturer of a spill-proof system or spill-proof spout from the duty to comply with all other applicable federal and state requirements.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container or spout or both a portable fuel container and spout manufactured before May 1, 2004, may be sold, supplied or offered for sale until May 1, 2005 if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

(7) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container manufactured prior to the effective date of this section, may be sold or offered for sale until January 1, 2008 if it is labeled or designated for use solely with kerosene and if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container.

**Statement of Purpose:**

To update requirements applicable to portable fuel containers to make the rule more effective by simplifying design requirements, minimizing the potential for misuse of the product, and incorporating the California Air Resources Board PFC certification program.

Be it known that the foregoing:

Regulations  Emergency Regulations

Are:

Adopted  Amended as herinabove stated  Repealed

By the aforesaid agency pursuant to:

Section 22a-6 and 22a-174 of the General Statutes

Section \_\_\_\_\_ of the General Statutes as amended by Public Act No. \_\_\_\_\_ of the \_\_\_\_\_ Public Acts.

Public Act No. \_\_\_\_\_ of the Public Acts.

After Publication in the Connecticut Law Journal on May 23<sup>rd</sup> 20 06, of the notice of the proposal to:

Adopt  Amend  Repeal such regulations

(If applicable):  And the holding of an advertised public hearing on the 27<sup>th</sup> day of June 20 06

WHEREFORE, the foregoing regulations are hereby:

Adopted  Amended as herinabove stated  Repealed

Effective:

When filed with the Secretary of the State

(OR)

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

JAN 29 1 24 PM '07  
SECRETARY OF THE STATE  
ELECTIONS DIVISION

In Witness Whereof: DATE 10/25/06 SIGNED (Head of Board, Agency or Commission) [Signature] OFFICIAL TITLE, DULY AUTHORIZED Commissioner

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4--169, as amended, C.G.S.: SIGNED [Signature] OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes DATE 1/23/07 SIGNED (Clerk of the Legislative Regulation Review Committee) [Signature]

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE \_\_\_\_\_ SIGNED (Secretary of the State) \_\_\_\_\_ BY \_\_\_\_\_

INSTRUCTIONS

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes
- Each Regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-179 of the General Statutes.

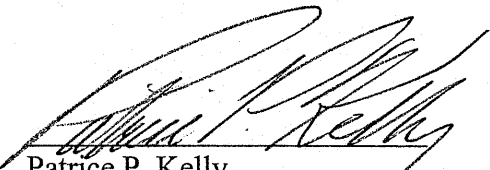
## HEARING CERTIFICATION

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding amendment of R.C.S.A. section 22a-174-24(1):

- 1) The public hearing was held on September 8, 2005 as announced in the notice of hearing (copy attached);
- 2) In accordance with the notice, materials were available for review in each Air Quality Control Region (AQCR) in Connecticut;
- 3) Copies of the notice were mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published in newspapers as follows:

<u>Newspaper</u>	<u>AQCR</u>	<u>Date</u>
Connecticut Law Journal		August 2, 2005
Connecticut Post (Bridgeport)	43	August 2, 2005
Hartford Courant	42	August 2, 2005
New London Day	41	August 2, 2005
The Register Citizen (Torrington)	44	August 2, 2005

September 8, 2005  
Date

  
Patrice P. Kelly  
Bureau of Air Management





**STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



**NOTICE OF INTENT TO REVISE THE REGULATIONS  
OF CONNECTICUT STATE AGENCIES AND THE  
STATE IMPLEMENTATION PLAN FOR AIR QUALITY**

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to amend section 22a-174-24(i) of the Regulations of Connecticut State Agencies (R.C.S.A.) concerning the Connecticut ambient air quality standards for ozone. The proposed amendment is described in greater detail below. The Connecticut Department of Environmental Protection (DEP) will submit this amended regulation to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP) for air quality in accordance with the federal Clean Air Act (CAA).

All interested persons are invited to comment on the proposed amendment described below. Comments should be directed to the attention of Patti Downes of the Department of Environmental Protection, Bureau of Air Management, Planning and Standards Division, 79 Elm Street, Hartford, Connecticut, 06106-5127. In addition to submitting comments at the public hearing described below, comments may be submitted by facsimile to (860) 424-4063 or by electronic mail to [patricia.downes@po.state.ct.us](mailto:patricia.downes@po.state.ct.us). All comments must be received by 4:30 PM on September 9, 2005.

**Section 22a-174-24(i), Connecticut Ambient Air Quality Standards for Ozone.** This proposed amendment updates the current Connecticut ambient air quality standards to include the 8-hour ozone standard that was promulgated by EPA in July 1997. The federal 8-hour standard was promulgated to protect public health by extending the duration of the ozone monitoring to an 8-hour period, which better reflects the exposure of those who regularly work or engage in recreation outdoors. By correcting the outdated language in the 1-hour ozone standard, the amendment also updates the state air quality regulations to make them consistent with the federal regulations.

In addition to accepting written comments, the Department of Environmental Protection will also hold the public hearing described below. Persons appearing at the hearing are requested to submit a written copy of their statement. However, oral comments will also be made part of the record and are welcome.

**PUBLIC HEARING  
September 8, 2005 at 10:30 AM  
Connecticut Department of Environmental Protection  
79 Elm Street, Fifth Floor  
Holcombe Conference Room  
Hartford, CT**

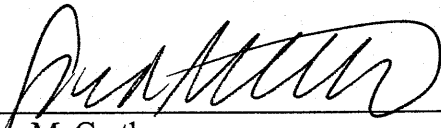
Copies of the proposed amendment described above and a statement, in accordance with section 22a-6(h) of the Connecticut General Statutes as amended by Public Act 03-276,

are available for public inspection during normal business hours from 8:30 AM - 4:30 PM at the Bureau of Air Management, Planning and Standards Division, Fifth floor, 79 Elm Street, Hartford, Connecticut. Additional copies of the proposed amendment and related documents are available for review at the Government Information Service Desk (Balcony level) at the Connecticut State Library; Torrington Public Library; New London Public Library; and Bridgeport Public Library. For further information, contact Patti Downes of the Bureau of Air Management at (860) 424-3027.

The Department of Environmental Protection supports the goals of the Americans with Disabilities Act of 1990. Any individual who needs auxiliary aids for effective communication during this public hearing or in submitting comments should contact the DEP Affirmative Action Officer at (860) 424-3035 (TDD (860) 424-3333) at least one week before the public hearing.

The authority to adopt this plan is granted by sections 22a-6 and 22a-174 of the C.G.S. This notice is required pursuant to C.G.S. sections 4-168, 22a-6 and 22a-174, and 40 Code of Federal Regulations Part 51.102.

7/14/05  
Date

  
\_\_\_\_\_  
Gina McCarthy  
Commissioner



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



EXHIBIT E

HEARING REPORT

Prepared Pursuant to Section 4-168(d)  
of the Connecticut General Statutes and  
Section 22a-3a-3(d)(5) of the Department of Environmental Protection Rules of Practice

Regarding the Amendment of Section 22a-174-24(i) of the  
Regulations of Connecticut State Agencies

Hearing Officer: Patrice P. Kelly

Date of Hearing: September 8, 2005

On July 14, 2005, the Commissioner of the Department of Environmental Protection ("Commissioner" and "Department," respectively) signed a notice of intent to amend section 22a-174-24(i) of the Regulations of Connecticut State Agencies ("R.C.S.A."). Pursuant to such notice, a public hearing was held on September 8, 2005, with the public comment period for the proposed amendment closing on September 9, 2005.

**I. Hearing Report Content**

As required by section 4-168(d) of the Connecticut General Statutes ("C.G.S."), this report describes the amendment as proposed for hearing; the principal reasons in support of the proposed amendment; all comments made and responses thereto regarding the proposed amendment; and the final wording of the proposed amendment.

This report also includes in Section II a statement in accordance with C.G.S. section 22a-6(h).

**II. Federal Standards Analysis in Compliance with Section 22a-6(h) of the General Statutes**

Pursuant to the provisions of C.G.S. section 22a-6(h), the Commissioner is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a proposed regulation or amendment that differ from *applicable* federal standards or procedures (*i.e.*, federal standards and procedures that apply to *the same persons* under the proposed state regulation or amendment). The Commissioner must distinguish any such provisions either on the face of such proposed regulation or amendment or through supplemental documentation accompanying the proposed regulation or amendment. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under Title 4, Chapter 54 of the C.G.S. and make such explanation publicly available at the time of the notice of public hearing required under C.G.S. section 4-168.

( Printed on Recycled Paper )

79 Elm Street • Hartford, CT 06106 - 5127

<http://dep.state.ct.us>

An Equal Opportunity Employer

In accordance with the requirements of C.G.S. section 22a-6(h), the following statement was available at the time of the notice of the public hearing and was entered into the administrative record in the matter of the proposed amendment of R.C.S.A. section 22a-174-24(i) ("Section 24(i)"): .

The Department has performed a comparison of the proposed amendment to Section 24(i) with applicable analogous federal provisions, namely standards and procedures in 40 Code of Federal Regulations ("CFR") 50.9 and 50.10. Based on its review of these federal regulations, the Department has determined that the requirements of C.G.S. section 22a-6(h) do not apply to any provision of the proposed amendment because the provisions of the amendment are the same as analogous federal standards and procedures.

The current state regulation consists of the primary and secondary ambient air quality standards for the 1-hour ozone standard under the archaic heading "photochemical oxidants."

The proposed amendment changes the heading to "ozone standards" and adds the federal primary and secondary standards for 8-hour ozone, thereby making the text of the state standard consistent with 40 CFR 50.9 and 50.10.

### **III. Summary and Text of the Amendment as Proposed**

The proposed amendment updates the current Connecticut Ambient Air Quality Standards to include the 8-hour ozone standard that was promulgated by the U.S. Environmental Protection Agency (EPA) in July 1997. The amendment also restates the existing 1-hour ambient air quality standard for ozone in a manner consistent with the format of the Federal standard found in 40 CFR 50.9 and 50.10.

The text of the proposed amendment is located in Attachment 1 to this report.

### **IV. Principal Reasons in Support of the Proposed Amendment**

The amendment proposes two changes to make the state ozone standards consistent with the federal standards and regulations: 1) it corrects the outdated language in the 1-hour ozone standard, making it consistent with 40 CFR 50.9; and 2) it adopts the federal 8-hour ozone standard, which was promulgated 1997 and is found in 40 CFR 50.10. Adoption of the 8-hour ozone standard better protects public health because the 8-hour monitoring period better reflects the exposure of those who regularly work or engage in recreation outdoors.

### **V. Principal Considerations in Opposition to the Proposed Amendment**

No comments opposed the adoption of the proposed amendment.

### **VI. Summary of Comments**

The only submitted comment is summarized below with the Department's responses. The comment was provided by David Conroy, Chief, Air Programs Branch, EPA Region 1, One Congress Street, Suite 1100, Boston, MA 02114-2023.

**1. Comment:** EPA does not comment on the proposed regulation but suggests that the Department consider deleting Section 22a-174-24(j), entitled "Connecticut Primary and Secondary Ambient Air Quality Standards for Hydrocarbons," since that section is no longer relevant in light of changes to section 22a-174-24(i).

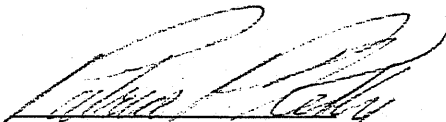
**Response:** The Department appreciates EPA's recommendation that the Department delete Section 22a-174-24(j), but the Department should not make that revision at this time. While such a deletion may be appropriate, EPA's suggested deletion pertains to a section of the regulations that is not within the noticed subject matter of this proceeding. The Department should consider including such a deletion in a future rule making

#### **VII. Final Text of Proposed Amendment**

The final text of Section 2a(a), which is unchanged from the proposed version, is located at Attachment 2 to this report.

#### **VIII. Conclusion**

Based upon the comments submitted by interested parties and addressed in this Hearing Report, I recommend the final amendment, as contained in Attachment 2 to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee. Based upon the same considerations, I also recommend that upon promulgation this amendment be submitted to EPA as a revision to the State Implementation Plan and the Ambient Air Quality Standards of Connecticut.

  
Patrice P. Kelly  
Hearing Officer

October 27, 2005  
Date

# Attachment 1

Text of the Proposed  
Amendment to  
R.C.S.A. Section 22a-174-  
24(i)

Section 22a-174-24(i) of the Regulations of Connecticut State Agencies is amended to read as follows:

- (i) **[Connecticut primary and secondary ambient air quality standards for photochemical oxidants.** The Connecticut primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide, is: 235 micrograms per cubic meter (0.12 ppm) –maximum 1-hour concentration not to be exceeded more than once per year.] **Connecticut primary and secondary ambient air quality standards for ozone.**

(1) **Connecticut 8-hour primary and secondary ambient air quality standards for ozone.**

- (A) The level of the Connecticut 8-hour primary and secondary ambient air quality standards for ozone is 0.08 parts per million (ppm), daily maximum 8-hour average, measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 8-hour primary and secondary ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.

(2) **Connecticut 1-hour primary and secondary ambient air quality standards for ozone.**

- (A) The level of the Connecticut 1-hour primary and secondary ambient air quality standards for ozone is 0.12 parts per million (235  $\mu\text{g}/\text{m}^3$ ), measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 1-hour primary and secondary ambient air quality standards are met when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than one day, as determined by 40 CFR 50, Appendix H.
- (C) The 1-hour standards set forth in subparagraphs (A) and (B) of this subdivision shall apply until such standards are revoked by the commissioner.

## Attachment 2

Final Text of the  
Amendment to  
R.C.S.A. Section 22a-174-  
24(i)



Section 22a-174-24(i) of the Regulations of Connecticut State Agencies is amended to read as follows:

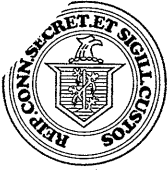
- (i) [Connecticut primary and secondary ambient air quality standards for photochemical oxidants. The Connecticut primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide, is: 235 micrograms per cubic meter (0.12 ppm) –maximum 1-hour concentration not to be exceeded more than once per year.] **Connecticut primary and secondary ambient air quality standards for ozone.**

(1) **Connecticut 8-hour primary and secondary ambient air quality standards for ozone.**

- (A) The level of the Connecticut 8-hour primary and secondary ambient air quality standards for ozone is 0.08 parts per million (ppm), daily maximum 8-hour average, measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 8-hour primary and secondary ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.

(2) **Connecticut 1-hour primary and secondary ambient air quality standards for ozone.**

- (A) The level of the Connecticut 1-hour primary and secondary ambient air quality standards for ozone is 0.12 parts per million (235  $\mu\text{g}/\text{m}^3$ ), measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 1-hour primary and secondary ambient air quality standards are met when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than one day, as determined by 40 CFR 50, Appendix H.
- (C) The 1-hour standards set forth in subparagraphs (A) and (B) of this subdivision shall apply until such standards are revoked by the commissioner.



**Office of Secretary of the State**

State of Connecticut

30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

*Susan Bysiewicz*  
Secretary of the State

**RECEIVED**

April 5, 2006

**APR 07 2006**

Hon. Gina McCarthy, Commissioner  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06105

DEPT. OF ENVIRONMENTAL PROTECTION  
OFFICE OF THE COMMISSIONER

Re: Agency Regulation Concerning:

**8-Hour Ozone Standard**

Regulation Review Committee Docket Number: 2006-010

Secretary of the State File Number: 5687

Dear Commissioner McCarthy:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by the Department of Environmental Protection.

**We request that you please forward the original or a copy of this acknowledgement letter to your agency's Legal Services Department for its files.**

Said regulation was received and filed in this office on April 4, 2006. The effective date of this regulation is April 4, 2006.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

Barbara Sladek  
RLS Assistant Coordinator  
860-509-6147

**RECEIVED**

**APR 12 2006**

DEPT. OF ENVIRONMENTAL PROTECTION  
OFFICE OF DEPUTY COMMISSIONER

CC: Commission on Official Legal Publications (Letter and Copy of Regulation)

**File**

Commercial Recording Division	(860) 509-6001	fax (860) 509-6069	State Capitol Office	(860) 509-6200	fax (860) 509-6209
Legislation and Election Administration Division	(860) 509-6100	fax (860) 509-6127	Deputy Secretary of the State	(860) 509-6212	fax (860) 509-6131
General Information	(860) 509-6000		Management & Support Services	(860) 509-6190	fax (860) 509-6175

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT  
**REGULATION**  
OF

NAME OF AGENCY

Environmental Protection  
Concerning

**Amendment of:**  
**Section 22a-174-24(i), 8-Hour Ozone Standard.**

**Section 22a-174-24(i) of the Regulations of Connecticut State Agencies is amended to read as follows:**

- (i) **[Connecticut primary and secondary ambient air quality standards for photochemical oxidants.** The Connecticut primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide, is: 235 micrograms per cubic meter (0.12 ppm) – maximum 1-hour concentration not to be exceeded more than once per year.]  
**Connecticut primary and secondary ambient air quality standards for ozone.**
- (1) **Connecticut 8-hour primary and secondary ambient air quality standards for ozone.**
- (A) The level of the Connecticut 8-hour primary and secondary ambient air quality standards for ozone is 0.08 parts per million (ppm), daily maximum 8-hour average, measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 8-hour primary and secondary ambient air quality standards are met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
- (2) **Connecticut 1-hour primary and secondary ambient air quality standards for ozone.**
- (A) The level of the Connecticut 1-hour primary and secondary ambient air quality standards for ozone is 0.12 parts per million (235  $\mu\text{g}/\text{m}^3$ ), measured by a reference method based on 40 CFR 50, Appendix D.
- (B) The Connecticut 1-hour primary and secondary ambient air quality standards are met when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million is equal to or less than one day, as determined by 40 CFR 50, Appendix H.
- (C) The 1-hour standards set forth in subparagraphs (A) and (B) of this subdivision shall apply until such standards are revoked by the commissioner.

**Statement of Purpose:**

The proposed amendment updates the current Connecticut Ambient Air Quality Standards to include the 8-hour ozone standard that was promulgated by EPA in July 1997. The amendment also restates the existing 1-hour ambient air quality standard for ozone in a manner consistent with the format of the Federal standard.

Be it known that the foregoing:

Regulations  Emergency Regulations

Are:

Adopted  Amended as herinabove stated  Repealed

By the aforesaid agency pursuant to:

Section 22a-174 of the General Statutes

Section \_\_\_\_\_ of the General Statutes as amended by Public Act No. \_\_\_\_\_ of the \_\_\_\_\_ Public Acts

Public Act No. \_\_\_\_\_ of the Public Acts.

After Publication in the Connecticut Law Journal on August 2<sup>nd</sup> 20 05, of the notice of the proposal to:

Adopt  Amend  Repeal such regulations

(If applicable):  And the holding of an advertised public hearing on the 8<sup>th</sup> day of Sept. 20 05

WHEREFORE, the foregoing regulations are hereby:

Adopted  Amended as herinabove stated  Repealed

Effective:

When filed with the Secretary of the State

(OR)

The \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

In Witness Whereof:	DATE <u>11/9/05</u>	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
---------------------	------------------------	--	---

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	SIGNED <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED <u>11/9/05</u> Assoc. Atty. General
---	------------------------------	--

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes	DATE <u>3/28/06</u>	SIGNED (Clerk of the Legislative Regulation Review Committee) <i>[Signature]</i>
---	------------------------	---

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY
------	----------------------------------	----

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes
3. Each Regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-179 of the General Statutes.