



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



HEARING REPORT

Prepared Pursuant to § 4-168(d) of the Connecticut General Statutes and § 22a-3a-3(d)(5)
of the Department of Environmental Protection Rules of Practice
Regarding
Amendment of the Regulations of Connecticut State Agencies (RSCA) § 22a-174-32:
Reasonably Available Control Technology (RACT) for Volatile Organic Compounds

Hearing Officer: Paul E. Farrell

Date of Public Hearing: March 11, 1999

On February 9, 1999, the commissioner of the Department of Environmental Protection (Department) published a notice of intent to revise the State Implementation Plan (SIP) and amend RCSA § 22a-174-32 (§ 32) concerning RACT for sources of volatile organic compounds (VOCs). Pursuant to such notice, a public hearing was held on March 11, 1999. The public comment period for this proposed amendment closed on March 12, 1999.

I. Overview

This report describes the amendments to the Regulations of Connecticut State Agencies as proposed for hearing; the final wording of the proposed regulations; a statement of the principal reasons in support of the Department's intended action; a statement of the principal reasons in opposition of the Department's intended action and the reasons for rejecting such comments; and a summary of all comments and responses thereto on the proposed action. Those who provided comments are identified in Attachment 1.

II. Summary and Text of the Proposed Amendments to § 32

In accordance with §§ 183(a) and 182(b) of the 1990 Clean Air Act (CAA) amendments, § 32 establishes levels of emission reductions, known as RACT, for owners or operators of sources of VOCs. The proposed amendment removes an exemption for owners or operators of any major source of VOC emissions that is also subject to a federal control technique guideline (CTG). This amendment will conform § 32 to the requirements of the CAA and allow the EPA to take final action on the State of Connecticut's VOC RACT SIP. The proposed amendment also revises § 32 to allow the commissioner to issue permits, orders or general permits for newly subject source categories.

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Text of § 32 as proposed:

Section 22a-174-32 of the Regulations of Connecticut State Agencies is amended as follows:

Section 22a-174-32. Reasonably Available Control Technology (RACT) for volatile organic compounds.

(a) Definitions. For the purposes of this section:

["Affected portion" or "affected portion of a premises" means any source or combination of sources at a premises the emissions of which are included as potential emissions of volatile organic compounds in accordance with subsection (b) of this section.]

(1) ["CFR" means Code of Federal Regulations.] "AEROSPACE MANUFACTURING AND REWORK OPERATIONS" MEANS THE PRODUCTION OR REPAIR OF AEROSPACE VEHICLES OR COMPONENTS THEREOF UNDER ANY OF THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATION CODES: 3720, 3721, 3724, 3728, 3760, 3761, 3764, 3769, 4512, 4581, OR 9711.

(2) "AEROSPACE VEHICLE OR COMPONENT" MEANS ANY FABRICATED PART, PROCESSED PART, ASSEMBLY OF PARTS, OR COMPLETED UNIT OF ANY AIRCRAFT INCLUDING, BUT NOT LIMITED TO, AIRPLANES, HELICOPTERS, MISSILES, ROCKETS, AND SPACE VEHICLES.

(3) "ANTIQUE AEROSPACE VEHICLE OR COMPONENT" MEANS AN AIRCRAFT OR COMPONENT THEREOF WHICH IS AT LEAST THIRTY YEARS OF AGE AND IS NO LONGER ROUTINELY USED IN THE ORIGINAL COMMERCIAL OR MILITARY SERVICE CAPACITY.

(4) "CTG" or "control techniques guideline" means a document published by the Administrator in accordance with [Section] SECTIONS 108, AND 183(a) AND (b) of the [federal] Clean Air Act (42 U.S.C. SECTION 7401, et seq.) describing techniques for controlling volatile organic compound (VOC) emissions.

(5) "SPACE VEHICLE" MEANS A MAN-MADE VEHICLE, EITHER MANNED OR UNMANNED, DESIGNED FOR OPERATION BEYOND THE ATMOSPHERE OF THE EARTH, INCLUDING BUT NOT LIMITED TO, MODELS, PROTOTYPES, MOLDS, TOOLING, HARDWARE, AND ANY AUXILIARY EQUIPMENT ASSOCIATED WITH THE TESTING, TRANSPORTATION AND STORAGE OF SUCH VEHICLE.

(6) "System to capture and control" means a system to capture, convey and control VOC emissions released by VOC-emitting equipment, including any device that destroys, recovers, or

otherwise removes VOC emissions and permanently reduces VOC emissions into the atmosphere.

(7) "Uncontrolled VOC emissions" means VOC emissions [from the affected portion of a premises] prior to the application of a system to capture and control SUCH VOC EMISSIONS.

(8) ["VOC" means volatile organic compound.] "VOLATILE ORGANIC COMPOUND" OR "VOC" HAS THE SAME MEANING AS IN SECTION 22a-174-1 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.

(9) "VOC-emitting equipment" means any equipment, building, or activity that results in the emission of volatile organic compounds through a stack or as fugitive emissions.

(10) "WOOD FURNITURE" MEANS ANY PRODUCT MADE OF WOOD, A WOOD PRODUCT SUCH AS RATTAN OR WICKER, OR AN ENGINEERED WOOD PRODUCT SUCH AS PARTICLE BOARD THAT IS MANUFACTURED UNDER ANY OF THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATION CODES: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, OR 5712.

(11) "WOOD FURNITURE COMPONENT" MEANS ANY PART THAT IS USED IN THE MANUFACTURE OF WOOD FURNITURE, INCLUDING BUT NOT LIMITED TO, DRAWER SLIDES, CABINET DOORS, SEAT CUSHIONS, AND LAMINATED TOPS.

(12) "WOOD FURNITURE MANUFACTURING OPERATIONS" MEANS THE FINISHING, CLEANING AND WASH OFF OPERATIONS ASSOCIATED WITH THE PRODUCTION OF WOOD FURNITURE OR WOOD FURNITURE COMPONENTS.

(b) Applicability.

(1) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBDIVISION (4) OF THIS SUBSECTION, [The] THE provisions of this section shall apply to [the owner or operator of any premises where the potential emissions of VOCs from the affected portion of such premises are]:

(A) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, THE OWNER OR OPERATOR OF A PREMISES WITH POTENTIAL VOC EMISSIONS OF fifty (50) tons or more per calendar year in a serious nonattainment area for ozone; [or]

(B) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, THE OWNER OR OPERATOR OF A PREMISES WITH POTENTIAL VOC EMISSIONS OF twenty-five (25) tons or more per calendar year in a severe nonattainment area for ozone[.] ;

(C) THE OWNER OR OPERATOR OF WOOD FURNITURE MANUFACTURING OPERATIONS WITH POTENTIAL VOC EMISSIONS OF TWENTY-FIVE (25) TONS OR MORE PER CALENDAR YEAR; OR

(D) THE OWNER OR OPERATOR OF AEROSPACE MANUFACTURING AND REWORK OPERATIONS WITH POTENTIAL VOC EMISSIONS OF TWENTY-FIVE (25) TONS OR MORE PER CALENDAR YEAR.

(2) When calculating potential emissions for the purposes of this section, any limitation on the capacity of a source to emit VOCs, including air pollution control equipment, or any restriction which limits maximum rated capacity shall be treated as part of the design of the source, only if such limitation or restriction or the effect that such limitation or restriction would have on VOC emissions is federally enforceable.

(3) [In] WHEN calculating potential emissions TO DETERMINE THE APPLICABILITY OF THIS SECTION [of an affected portion of a premises], the owner or operator of [such] A premises shall include [all] potential emissions of volatile organic compounds FROM ALL SOURCES LOCATED AT SUCH PREMISES [occurring at the premises. However, such owner or operator may, when calculating potential emissions from the affected portion of a premises, exclude any source of potential emissions of VOCs which is] EXCLUDING THOSE SOURCES WHICH ARE:

(A) SUBJECT TO REGULATION [regulated] under 40 CFR Part 61;

(B) REQUIRED [subject] to USE Best Available Control Technology or Lowest Achievable Emission Rate for VOCs [required] pursuant to a federally enforceable order or permit which contains specific VOC emission limitations;

(C) [VOC-emitting equipment subject to one of the eleven (11) CTGs which the Administrator is required to develop pursuant to section 183(a) of the federal Clean Air Act and which was listed in the Federal Register of April 28, 1992 (57 FR 18077, App. E);

(D)] SUBJECT TO REGULATION [regulated] under 40 CFR Part 264, subparts AA or BB, or 40 CFR Part 265, subparts AA or BB;

[(E)] (D) fuel-burning equipment; or

[(F)] (E) subject to Reasonably Available Control Technology required pursuant to:

- (i) subsections (a), (b) or (1) through (y) inclusive of section 22a-174-20 of the Regulations of Connecticut State Agencies;
- (ii) section 22a-174-30 of the Regulations of Connecticut State Agencies; or
- (iii) an order or permit REQUIRING THE [to implement] IMPLEMENTATION OF Reasonably Available Control Technology issued by the [Commissioner] COMMISSIONER prior to November 15, 1992 and approved by the Administrator prior to May 31, 1995 PROVIDED THAT SUCH PERMIT OR ORDER IS NO LESS STRINGENT THAN WHAT IS REQUIRED BY SUBSECTION (e) OF THIS SECTION.

(4) EXCEPT FOR SUBPARAGRAPH (B) OF SUBDIVISION (d)(2) AND SUBSECTIONS (f) AND (g) OF THIS SECTION, NO OTHER PROVISIONS OF THIS SECTION SHALL APPLY TO THE OWNER OR OPERATOR OF VOC EMITTING EQUIPMENT WHICH IS IDENTIFIED IN, OR SUBJECT TO ANY REQUIREMENT SET FORTH IN, SUBPARAGRAPHS (A) THROUGH (E) OF SUBDIVISION (3) OF THIS SUBSECTION.

(c) INDIVIDUAL PERMITS, GENERAL PERMITS OR [Orders] ORDERS to limit VOC emissions.

(1) The [Commissioner] COMMISSIONER may issue an INDIVIDUAL PERMIT, GENERAL PERMIT OR order [or permit] in lieu of requiring one of the Reasonably Available Control Technology methods [pursuant to] REQUIRED BY subdivision (e)(1) of this section when THE owner or operator of a premises demonstrates to the [Commissioner's] COMMISSIONER'S satisfaction that actual emissions of VOCs from [an affected portion of such] SUCH premises did not exceed, in every calendar year after December 31, [1989]1995:

- (A) EXCEPT AS PROVIDED IN SUBPARAGRAPH (C) OF THIS SUBDIVISION, fifty (50) tons per calendar year in a serious nonattainment area for ozone; [or]
- (B) EXCEPT AS PROVIDED IN SUBPARAGRAPH (C) OF THIS SUBDIVISION, twenty-five (25) tons per calendar year [of] in a severe nonattainment area for ozone[.]; OR
- (C) TWENTY-FIVE (25) TONS PER CALENDAR YEAR AT A PREMISES WHICH CONDUCTS WOOD FURNITURE MANUFACTURING OPERATIONS OR AEROSPACE MANUFACTURING AND REWORK OPERATIONS.

(2) [To demonstrate that actual emissions did not exceed such levels, the] AN owner or operator OF A PREMISES WHO SEEKS TO DEMONSTRATE THAT ACTUAL EMISSIONS DO NOT EXCEED THE LEVELS SPECIFIED IN SUBDIVISION (1) OF THIS SUBSECTION shall, at a minimum, submit to the [Commissioner] COMMISSIONER written documentation of the actual emissions from such [affected portion] PREMISES for every calendar year, or portion thereof, from December 31, [1989] 1995 through the calendar year in which such information is submitted. THE COMMISSIONER MAY REQUIRE THE SUBMITTAL OF DOCUMENTATION OF ACTUAL EMISSIONS FROM ANOTHER PERIOD OF TIME IN ORDER TO DETERMINE REPRESENTATIVE ACTUAL EMISSIONS. Such owner or operator shall also submit a report which includes the information specified in subparagraphs [(d)(1)(B)] (B) through [(d)(1)(E)] (E), inclusive, OF SUBDIVISION (d)(2) of this section.

(3) If the [Commissioner] COMMISSIONER issues [a] AN INDIVIDUAL permit, GENERAL PERMIT or order pursuant to this subsection, such permit or order shall require that the EMISSIONS OF VOCs FROM A PREMISES [owner or operator] not exceed the VOC emissions levels set forth in subdivision [(c)](1) of this [section] SUBSECTION OR A LEVEL ESTABLISHED BY THE ADMINISTRATOR IN A FINAL CTG [at such affected portion of the premises]. THE COMMISSIONER SHALL SUBMIT SUCH INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER TO THE ADMINISTRATOR FOR APPROVAL IN ACCORDANCE WITH THE PROVISION OF 42 U.S.C. 7401-7671g. THE COMMISSIONER SHALL REQUIRE A PERMITTEE OR ANY PERSON SUBJECT TO AN ORDER OF THE COMMISSIONER UNDER THIS SUBDIVISION TO MAKE AND KEEP RECORDS, AS MAY BE NECESSARY, TO DEMONSTRATE COMPLIANCE WITH THE EMISSION LIMITATIONS SET FORTH IN SUBDIVISION (1) OF THIS SUBSECTION. [Nothing herein shall require the [Commissioner] COMMISSIONER to issue such an order.]

(4) NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE AN INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER UNDER THIS SUBSECTION.

(d) Compliance plans.

(1) [By May 1, 1994 the owner or operator of an affected portion of a premises shall submit to the [Commissioner] COMMISSIONER a written compliance plan which includes the following:] IN ORDER TO DEMONSTRATE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THE OWNER OR OPERATOR OF A PREMISES SUBJECT TO THIS SECTION SHALL SUBMIT TO THE COMMISSIONER IN WRITING A COMPLIANCE PLAN FOR REVIEW AND WRITTEN APPROVAL OR DENIAL. SUCH COMPLIANCE PLAN SHALL BE SUBMITTED NO LATER THAN:

(A) MAY 1, 1994 FOR PREMISES SUBJECT TO THIS SECTION ON OR

BEFORE APRIL 19, 1994;

(B) MAY 1, 1995 FOR PREMISES SUBJECT TO THIS SECTION FROM APRIL 20, 1994 THROUGH [*INSERT EFFECTIVE DATE OF THIS REVISION*]; OR

(C) SIX MONTHS AFTER BECOMING SUBJECT TO THE PROVISIONS OF THIS SECTION.

(2) A COMPLIANCE PLAN SUBMITTED IN ACCORDANCE WITH SUBDIVISION (1) OF THIS SUBSECTION, SHALL INCLUDE:

- (A) a description of the Reasonably Available Control Technology method that the owner or operator shall perform pursuant to subdivision (e)(1) of this section;
- (B) [an] A description of each AND EVERY piece of VOC-emitting equipment at such premises;
- (C) the maximum rated capacity of each piece of VOC-emitting equipment [at such affected portion];
- (D) the total amount of potential emissions of VOCs, expressed in tons per year[, from such affected portion]; and
- (E) a certification, signed by [(1)] the person who prepared the compliance plan, [(2)] the owner of the premises, and [(3)] the operator of the premises[, which reads as follows:] EACH OF WHOM SHALL EXAMINE AND BE FAMILAR WITH THE INFORMATION SUBMITTED IN THE DOCUMENT AND ALL ATTACHMENTS THERETO, AND SHALL MAKE INQUIRY 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 compliance plan and all attachments THERETO, and I certify that based [upon] 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[, in accordance with] UNDER

Section [22a-6] 22a-175 of the [Connecticut] General Statutes, [pursuant to Section 53a-157 of the Connecticut General Statutes], UNDER SECTION 53a-157b OF THE GENERAL STATUTES, and in accordance with any other applicable [standard] STATUTE."

[(2)] (3) The owner or operator of [an affected portion of] a premises [installing] WHO PROPOSES TO INSTALL a system to capture and control VOCs pursuant to subparagraph [(e)(1)](A) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

- (A) a description of such system to capture and control; and
- (B) a schedule for installing such system.

[(3)] (4) The owner or operator of [an affected portion of] a premises reducing VOC use and VOC emissions pursuant to subparagraph [(e)(1)](B) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

- (A) with respect to each coating used [in coating operations] at [the affected portion of] a premises during THE PRECEDING calendar year [1990], the following information:
 - (i) the name and address of the coating manufacturer[;]_
 - (ii) the coating name and identification number[;]_
 - (iii) the coating density, in pounds per gallon[;]_
 - (iv) the PERCENT VOC content by weight [in pounds][;]_
 - (v) the water and exempt PERCENT VOC content by weight [in pounds][;]_
 - (vi) THE solids content by volume and by weight in pounds[;]_
 - [(vi)] (vii) the amount OF EACH COATING used, in gallons[; and]_
 - [(vii)] (viii) the total amount of diluent used for [the] EACH coating, in pounds and in gallons[;]_ AND
 - (ix) THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID, OR IN KILOGRAMS VOC PER KILOGRAM SOLID;

(B) a calculation of the weighted arithmetic mean of the VOC content of all coatings used at the [affected portion of the] premises during THE PRECEDING calendar year [1990], expressed in terms of pounds of VOCs per gallon of solids; and

(C) [with respect to each coating that the owner or operator plans to use] to demonstrate compliance with subparagraph [(e)(1)](B) of SUBDIVISION (e)(1) OF this section, the OWNER OR OPERATOR SHALL SUBMIT THE following information WITH RESPECT TO EACH COATING PLANNED FOR USE:

- (i) the name and address of the coating manufacturer[;]_
- (ii) the coating name and identification number[;]_
- (iii) the coating density, in pounds per gallon[;]_
- (iv) the PERCENT VOC content by weight [in pounds] [;]_
- (v) the PERCENT water and PERCENT exempt VOC content by weight [in pounds][;]_
- (vi) THE solids content by volume and by weight in pounds[; and]_
- (vii) the total amount of diluent proposed to be used for each coating, in pounds and in gallons[.]_ AND
- (viii) THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID;

[(4)] (5) The owner or operator of [an affected portion of] a premises using alternative emission reductions or emission reduction credits pursuant to subparagraph [(e)(1)](C) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

- (A) the information required pursuant to section 22a-174-20(cc) of the Regulations of Connecticut State Agencies; or
- (B) [A] A [description of the] proposed plan to purchase emission reduction credits.

[(5)] (6) The owner or operator of [an affected portion of] a premises using the alternative compliance plan method pursuant to subparagraph [(e)(1)](D) of SUBDIVISION (e)(1) OF this section shall submit such alternative compliance plan for the [Commissioner's] COMMISSIONER'S REVIEW AND written approval OR

DENIAL. The ALTERNATIVE compliance plan, IN ADDITION TO MEETING THE APPLICABLE REQUIREMENTS SET FORTH IN SUBDIVISIONS (2) THROUGH (5), INCLUSIVE, OF THIS SUBSECTION, shall also include the following:

- (A) an examination of the technological and economic feasibility of additional VOC control devices or equipment on all sources of VOCs, including those sources IDENTIFIED IN [excluded from the calculation of an affected portion of a premises pursuant to] subdivision (b) (3) of this section;
- (B) an examination of the feasibility of changing to low VOC-emitting processes including establishing a leak detection program;
- (C) the proposed amount of VOC reduction from all SUBJECT VOC-emitting equipment at the [affected portion of the] premises;
- (D) [An] AN examination of the feasibility of obtaining emission reduction credits PURSUANT TO SECTION 22a-174-20(cc) OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES, or of the feasibility of using alternative emission reductions to achieve equivalent levels of control as required by subparagraphs [(e)(1)](A) or [(e)(1)](B) of SUBDIVISION (e)(1) OF this section;
- (E) a description of any research that will be conducted by the owner or operator to further reduce VOC emissions beyond the level of emissions proposed; and
- (F) any other information the [Commissioner] COMMISSIONER may require [pursuant to sections 22a-174-4 or 22a-174-5 of the Regulations of Connecticut State Agencies].

(7) IN LIEU OF SUBMITTING A COMPLIANCE PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION AND IN LIEU OF INSTALLING ONE OF THE REASONABLY AVAILABLE CONTROL TECHNOLOGY METHODS PURSUANT TO SUBDIVISION (e)(1) OF THIS SECTION, THE COMMISSIONER MAY ALLOW THE OWNER OR OPERATOR OF A PREMISES TO MEET THE REQUIREMENTS OF THIS SECTION BY PERMIT OR ORDER, PROVIDED THAT SUCH PERMIT OR ORDER IMPLEMENTS A FINAL CTG FOR ANY SOURCE CATEGORY IDENTIFIED IN THE FEDERAL REGISTER ON APRIL 28, 1992 (57 Fed. Reg. 18077, App. E), AND SUCH PERMIT OR ORDER IS SUBMITTED BY THE COMMISSIONER TO THE ADMINISTRATOR FOR APPROVAL IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. 7401-7671q.

(8) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (7) OF THIS SUBSECTION, NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE SUCH PERMIT OR ORDER.

(e) Reasonably Available Control Technology methods.

(1) [By May 31, 1995] ONE YEAR AFTER BECOMING SUBJECT TO THE PROVISIONS OF THIS SECTION, the owner or operator of [an affected portion of] a premises SUBJECT TO THE REQUIREMENTS OF THIS SECTION shall perform AT LEAST one of the following Reasonably Available Control Technology methods [on such affected portion]:

- (A) install and operate pursuant to subdivision [(e)](2) of this [section] SUBSECTION a system to capture and control VOCs;
- (B) implement a program of reformulation or process change pursuant to subdivision [(e)](3) of this [section] SUBSECTION to reduce VOC use and VOC emissions from surface coating sources;
- (C) use alternative emission reductions or emission reduction credits, pursuant to subdivision [(e)](4) of this [section] SUBSECTION, in accordance with a permit or order issued BY the [Commissioner] COMMISSIONER; or
- (D) implement an alternative compliance plan pursuant to subdivision [(e)](5) of this [section] SUBSECTION, in accordance with a permit or order issued by the [Commissioner] COMMISSIONER.

(2) When the owner or operator of [an affected portion of] a premises installs and operates a system to capture and control VOC EMISSIONS, then:

- (A) such system shall reduce VOC emissions to the atmosphere from [such affected portion] ANY VOC EMITTING EQUIPMENT WHICH IS SUBJECT TO THE PROVISIONS OF THIS SECTION by at least eighty-five percent (85%) of uncontrolled emissions;
- (B) such system, if designed to destroy VOCs by incineration, shall oxidize into carbon dioxide and water at least ninety-five percent (95%) of the non-methane VOCs, measured as total combustible carbon, which enter the incinerator each hour; and
- (C) such system, if designed to recover or otherwise remove

VOCs, shall be operated so that the VOC mass emission rate leaving the outlet does not exceed ten percent (10%), in the aggregate, of the VOC mass emission rate entering such system.

(3) When the owner or operator of [an affected portion of] a premises reformulates or changes a process or processes to reduce actual VOC use and VOC emissions, such REFORMULATION [owner or operator] shall achieve, FOR EACH COATING USED AND on each day that [such] affected EQUIPMENT EMITS VOCs [portion emits VOCs], an eighty percent (80%) reduction in VOC emissions from the weighted arithmetic mean during calendar year 1990 calculated pursuant to subparagraph [(d)(3)](B) OF SUBDIVISION (d)(4) OF THIS SECTION [for each coating used].

(4) When an owner or operator of [an affected portion of] a premises uses either alternative emission reductions pursuant to section 22a-174-20(cc) of the Regulations of Connecticut State Agencies or emission reduction credits, [such owner or operator shall achieve] equivalent emission reductions to those required by [either] subparagraph [(e)(1)(A) or (e)(1)](B) of [this section] SUBDIVISION (2) OF THIS SUBSECTION SHALL BE ACHIEVED. In addition, any such use or purchase of emission reduction credits shall be consistent with the United States Environmental Protection Agency's "ECONOMIC INCENTIVE PROGRAM RULES; FINAL RULE," OF APRIL 7, 1994 (59 Fed. Reg. 16690) ["Economic Incentive Program Rules; Proposed Rules," of January 23, 1993 (58 FR 11110)], and the United States Environmental Protection Agency's "Emission Trading Policy Statement" of December 4, 1986 [(51 FR 43814)] (51 Fed. Reg. 43814). The [Commissioner] COMMISSIONER may only allow the use of [this method] EITHER ALTERNATIVE EMISSION REDUCTIONS PURSUANT TO SECTION 22a-174-20(cc) OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES OR EMISSION REDUCTION CREDITS through the issuance of a permit or order, [which shall be put into effect no later than May 31, 1995.] The [Commissioner] COMMISSIONER shall submit such permit or order to the Administrator for approval in accordance with the provisions of 42 U.S.C. 7401-7671q. Nothing herein shall require the [Commissioner] COMMISSIONER to issue such PERMIT OR order.

(5) The [Commissioner] COMMISSIONER may issue a permit or order to the owner or operator of [an affected portion of] a premises [to implement] REQUIRING THE IMPLEMENTATION OF an alternative compliance plan when [such owner or operator demonstrates] IT IS DEMONSTRATED, to the [Commissioner's] COMMISSIONER'S satisfaction, through the information submitted pursuant to subdivision [(d)(1)] (d)(2) and [(d)(5)] (d)(6) of this section, that compliance with subparagraphs [(e)](1)(A) through

[(e))(1)(C) of this [section] SUBSECTION, inclusive, is not technologically or economically feasible. Such permit or order shall specify that the implementation of the approved alternative compliance plan shall be Reasonably Available Control Technology for such [affected portion] PREMISES. Such owner or operator shall [perform] IMPLEMENT the alternative compliance plan BY THE DATE SPECIFIED IN THE PERMIT OR ORDER, WHICH DATE SHALL BE NO LATER THAN NINETY DAYS AFTER ISSUANCE OF SUCH PERMIT OR ORDER [and comply with such permit or order issued by the [Commissioner] COMMISSIONER which shall be put into effect no later than May 31, 1995]. In issuing such a permit or order the [Commissioner] COMMISSIONER may consider the VOC emissions and the VOC emission reductions made at the [affected portion of the] premises after 1986. The [Commissioner] COMMISSIONER shall submit such permit or order to the Administrator for approval in accordance with the provisions of 42 U.S.C. 7401-7671q. [Nothing herein shall require the Commissioner to issue such order.]

(6) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (5) OF THIS SUBSECTION, NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE SUCH PERMIT OR ORDER.

(f) Test Methods.

(1) Upon written notification [by] THAT the [Commissioner of his intent to] COMMISSIONER SHALL require emissions testing to demonstrate compliance with this section OR ANY PERMIT OR ORDER ISSUED HEREUNDER, the owner or operator of [an affected portion of] a premises shall conduct such [emission tests] TESTING in accordance with SUCH NOTIFICATION AND section 22a-174-5 of the Regulations of Connecticut State Agencies.

(2) Where an owner or operator uses a system to capture and control VOC EMISSIONS pursuant to subparagraph [(e)(1))(A) of SUBDIVISION (e)(1) OF this section, [such owner or operator shall demonstrate] compliance with this section SHALL BE DEMONSTRATED by using the sampling and analytical procedures set forth in 40 CFR Part 60, Appendix A or 40 CFR Part 52.741, Appendix B.

(3) Where an owner or operator uses any Reasonably Available Control Technology methods pursuant to subparagraphs [(e)(1))(B) through [(e)(1))(D) inclusive OF SUBDIVISION (e)(1) OF THIS SECTION, the [Commissioner] COMMISSIONER may require [such owner or operator to demonstrate] compliance with this section BE DEMONSTRATED by:

(A) using sampling and analytical procedures set forth in

40 CFR Part 60, Appendix A;

- (B) using a mass balance procedure based on known quantities of materials purchased, stored in inventory, and/or reclaimed using good engineering practice, as approved by the [Commissioner] COMMISSIONER; or
- (C) using other methods or procedures approved by the Administrator.

(g) Record keeping.

(1) After December 31, 1993, the owner or operator of [an affected portion of] a premises shall maintain for at least [three] FIVE years at such premises, and make available at such premises for the [Commissioner's] COMMISSIONER'S inspection upon demand, the following [records]:

- (A) purchase records for all materials which ARE USED OR STORED AT SUCH PREMISES WHICH contain VOCs [and which are used or stored at such premises];
- (B) FOR ANY VOC EMISSIONS RESULTING FROM COATING OPERATIONS, RECORDS OF [when VOC emissions result from coating operations,] the name of each coating, the coating density expressed in pounds per gallon or pounds per unit, the PERCENT VOC content by weight of each coating, THE PERCENT SOLIDS CONTENT BY WEIGHT, the water and exempt VOC content of each coating by weight, the amount of each coating used in gallons, [and] the total amount of diluent used for each coating in pounds and in gallons, AND THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID OR IN KILOGRAMS VOC PER KILOGRAM SOLIDS; AND
- (C) [when any VOC emissions testing is performed pursuant to subsection (f) of this section,] the results of [such testing] ANY VOC EMISSIONS TESTING PERFORMED PURSUANT TO SUBSECTION (f) OF THIS SECTION[; and].
- [(D) any other records required to be kept by the Commissioner pursuant to a permit or order.]

(2) THE OWNER OR OPERATOR OF A PREMISES SHALL MAKE, KEEP AND MAINTAIN FOR AT LEAST FIVE YEARS AT SUCH PREMISES ANY OTHER RECORDS REQUIRED TO BE KEPT BY AN INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER.

STATEMENT OF PURPOSE: To adopt standards for stationary sources in order to control emissions of volatile organic compounds as required by the Clean Air Act Amendments of 1990.

III. Principal Reasons in Support of the Proposed Amendments to § 32

Sections 182(b) and 183(a) of the 1990 CAA amendments require states to revise their state implementation plans (SIP) to include RACT rules for VOC sources located within moderate, serious, severe or extreme ozone nonattainment areas. This amendment is proposed in accordance with CAA §§ 182(b) and 183(a) and allows the U.S. Environmental Protection Agency (EPA) to take final action on Connecticut's VOC RACT SIP.

IV. Principal Considerations in Opposition to the Proposed Amendments to § 32

There were no comments in opposition to the adoption of the proposed amendments to § 32. Comments requesting clarification or the amendment of the existing language were submitted. These comments are addressed in Section V, below.

V. Summary of Comments

Seven parties submitted comments on the proposed amendments to § 32. Language in italics below designates recommended revisions to the language of § 32 as proposed for public hearing in response to the public comments. Such language is included in the revised version of § 32 located at the end of Section V. Where a deletion or addition is required by a recommended revision, the version of § 32 in Section V includes revised section labeling as necessary.

COMMENTS FROM THE ENVIRONMENTAL PROTECTION AGENCY (EPA)

Comment: Section 32 maintains the terms "serious" and "severe" in reference to ozone nonattainment areas. The EPA recommended amending subparagraphs (b)(1)(A), (b)(1)(B), (c)(1)(A), and (c)(1)(B) to make the terminology of the section consistent with proposed EPA classifications under the eight-hour ozone national ambient air quality standard (NAAQS).

Response: The United States Court of Appeals for the District of Columbia Circuit recently ruled that EPA may not enforce the eight hour ozone NAAQS¹. EPA, while requesting the Department of Justice seek rehearing on this and other portions of the court's ruling, has suspended all implementation efforts with respect to the eight hour ozone NAAQS that could be construed as inconsistent with the court's ruling. Given the uncertainty surrounding the eight

¹ See *American Trucking Association v. EPA* No. 97-1441 and consolidated cases (D.C. Cir. May 14, 1999).

hour ozone NAAQS, I recommend that the Department not make the suggested amendments to § 32 at present.

Comment: The EPA discovered a typographical error incorrectly citing the 1990 CAA amendments and suggested that the Department correct each occurrence of this typographical error.

Response: I recommend the Department correct this typographical error, amending each occurrence of "42 U.S.C. 7401-7671q" to read "42 U.S.C. 7401-7671, *et seq.*"

Comment: In order to clarify the requirements of a final CTG to which subdivision (d)(7) refers, the EPA suggested amending subdivision (d)(7) to read:

"...the Commissioner may allow the owner or operator of a premises to meet the requirements of this section by permit or order, provided that such permit or order implements the recommended CTG or emissions limitations of a final CTG for any source category identified in the..."

Response: The EPA's comment clarifies the requirements of a final CTG to which subdivision (d)(7) refers. Therefore, I recommend the Department adopt this suggestion and amend subdivision (d)(7) to read:

"...the Commissioner may allow the owner or operator of a premises to meet the requirements of this section by permit or order, provided that such permit or order implements *the recommended CTG or emissions limitations of* a final CTG for any source category identified in the..."

Comment: The proposed regulation allows a facility subject to a federal CTG to comply with the regulatory requirement of 80% or 85% VOC reduction of subdivisions (e)(3) and (e)(2) when the federal CTG actually prescribes a more stringent standard. The EPA suggested that if the State of Connecticut intended the more stringent emissions limitation to apply, it should state so clearly in the regulation. The EPA suggested the addition of the following condition to subsection (e):

"If the recommended control techniques or emissions limitation of a final CTG would require a premises to achieve a greater reduction in VOC than the reduction requirements of subsection (e)(2) or (e)(3), then the more stringent limit or efficiency of the CTG would apply."

Response: If a final CTG prescribes a more stringent standard than the presumptive RACT (regulatory requirements of subdivisions (e)(2) or (e)(3)), then the owner/operator of a premises subject to a final CTG must implement the final CTG. However, if the presumptive RACT prescribes a more stringent standard than a final CTG, the owner/operator of a premises subject

to a final CTG has the option of implementing the presumptive RACT or the final CTG. To clarify the Department's intent, I recommend the addition of new subdivision (e)(4) as follows:

The owner or operator of a premises subject to a final CTG shall comply with the requirements of such final CTG in accordance with subdivision (d)(7), where such final CTG achieves a greater reduction in VOCs than the requirements of subdivisions (2) or (3) of this subsection.

In addition, I recommend the Department change the numbering of the subdivisions of subsection (e) accordingly.

**COMMENTS FROM THE DEPARTMENT OF NAVY, NAVAL SUBMARINE BASE
NEW LONDON (SUBASENLON)**

Comment: The SUBASENLON requested that subdivision (b)(3) be amended to provide an exclusion for sources subject to regulation under 40 Code of Federal Regulations (CFR) Part 63.

Response: Proposed subparagraph (b)(3)(A) excludes potential VOC emissions from sources subject to regulation under 40 CFR Part 61 when determining the applicability of § 32. Both Parts 61 and 63 contain the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Part 61 contains NESHAP regulations promulgated before the 1990 CAA amendments and are pollutant specific while Part 63 contains NESHAP regulations promulgated after the 1990 CAA amendments and are source/technology specific. The Department excluded Part 61 sources from the applicability determination of subsection (b) because the owners/operators of such sources were subject to the federally enforceable national emissions standard. Likewise, sources subject to regulation under 40 CFR 63 are subject to a federally enforceable Maximum Achievable Control Technology (MACT) standard, which cannot be less stringent than RACT. Therefore, I recommend the Department amend subparagraph (b)(3)(A) to include sources subject to 40 CFR Part 63.

Comment: The SUBASENLON interpreted proposed subdivision (b)(4) to exclude sources identified in subparagraphs (b)(3)(A) through (E) from the requirements of subparagraph (d)(2)(B), subsection (f) and subsection (g) and suggested that the Department adopt such interpretation.

Response: This interpretation is incorrect. Subdivision (b)(4) requires an owner or operator of VOC emitting equipment, which is otherwise exempt from the requirement to install control equipment in accordance with subsection (e), to identify such VOC emitting equipment in the facility's compliance plan and to make and keep such records as the commissioner deems necessary to determine whether the claimed exemption is appropriate. The exclusions included in subparagraphs (b)(3)(A) through (E) do not exempt a premises from all provisions of this section as indicated by the commentor. Resultantly, I recommend the Department not adopt SUBASENLON's interpretation of proposed subdivision (b)(4).

Comment: The SUBASENLON requested that the six month time frame for submittal of a compliance plan stipulated in subdivision (d)(1) be changed to one year.

Response: Subdivision (e)(1) requires premises whose potential emissions exceed levels prescribed in subparagraphs (b)(1)(A) through (D) to implement one of the four RACT methods within one year of the effective date of this amendment. The Department intends to use compliance plans to make a preliminary determination of conformity with the pollution reduction mandates set forth in subdivisions (e)(2) through (5). Subdivision (e)(1) mandates the implementation of RACT within one year of the effective date of this amendment. Requiring submittal of the compliance plans six months before RACT implementation ensures VOC emission reductions within a reasonable time period. For these reasons, I recommend the Department retain the six month time frame for submission of compliance plans stipulated in subdivision (d)(1).

Comment: The SUBASENLON suggested the compliance plan requirements of subparagraphs (d)(2)(B) through (D):

1. Lack relevant information necessary to satisfy the intent of the regulation;
2. Duplicate similar requirements for sources subject to Title V;
3. Set procedures inconsistent with the State's NO_x RACT regulation; and
4. Apply only to VOC emitting sources subject to the regulation.

Response:

1. The intent of § 32 is to impose reasonable controls (i.e., RACT) on sources of VOC emissions so that the State of Connecticut may attain the one-hour ozone NAAQS. The compliance plan requirements of subparagraphs (d)(2)(B) through (D) are the means by which the Department evaluates each RACT methodology employed by the owner or operator of a subject premises, verifies actual measures taken to reduce VOC emissions satisfy the RACT requirements of subsection (e), and assesses the accuracy of claimed exemptions from the control requirements of subsection (e). Such steps are necessary to ensure VOC reductions take place. Resultantly, subparagraphs (d)(2)(B) through (D) satisfy the intent of § 32.
2. The requirements set forth in § 32 pre-date the requirements of the Title V program (set forth in RCSA § 22a-174-33). The two programs also serve different purposes. However, the Department should further investigate the use of Title V reporting requirements in an effort to consolidate reporting requirements where appropriate.
3. The requirements set forth in the NO_x RACT regulation (i.e., RCSA § 22a-174-22) have no bearing on this proposed regulation addressing VOCs. NO_x and VOC are very different pollutants, are emitted from very different sources (e.g., NO_x emissions are

associated with combustion processes whereas VOC emissions are associated with a variety of manufacturing and commercial activities). Based on their many differences, NO_x and VOC sources are regulated in different manners. I recommend the Department retain the requirements found in subparagraphs (d)(2)(B) through (D).

4. As stated previously, the owner or operator of VOC emitting equipment, which is otherwise exempt from the requirement to install control equipment in accordance with subsection (e), is required to identify such VOC emitting equipment in the facility's compliance plan and to make and keep such records as the commissioner deems necessary to determine whether the claimed exemption is appropriate. The exclusions included in subparagraphs (b)(3)(A) through (E) do not exempt a premises from all provisions of this section as indicated by the commentor.

Comment: The SUBASENLON suggested the revision of subdivision (e)(3) as proposed for consistency with subdivision (d)(4). Specifically, SUBASENLON requested the replacement of "calendar year 1990" with "the preceding calendar year" in subdivision (e)(3).

Response: Consistency between subdivisions (e)(3) and (d)(4) is not necessary. Even though the calculations are identical, they serve two different purposes. Subdivision (d)(4) relates to a reporting requirement whereas subdivision (e)(3) relates to a calculation used to determine compliance with an emission limitation. The date used in proposed subdivision (e)(3) was selected by the Department as the baseline year for calculating emission reduction percentages. However, if the date in proposed subdivision (e)(3) is not representative of a premises's actual emissions, then another date should be available for this calculation. Therefore, I recommend that the Department amend subdivision (e)(3) to read:

"...eighty percent (80%) reduction in VOC emissions from the weighted arithmetic mean during calendar year 1990 or another year the commissioner deems as more representative of the actual operating conditions or actual emissions calculated pursuant to subparagraph (B) of subdivision (d)(4) of this section."

Comment: The SUBASENLON requested an amendment to clarify the requirements set forth in subdivision (d)(6) for owners/operators submitting an alternative compliance plan. Specifically, the SUBASENLON requested clarification as to whether the requirements of subdivision (d)(6) were in lieu of or in addition to the requirements set forth in subdivisions (d)(2) through (5).

Response: If an owner/operator intends to submit an alternative compliance plan, the owner/operator must submit the information required by subdivisions (d)(2) through (5), if applicable. The requirements set forth in subdivision (d)(2) will always be applicable requirements. The requirements set forth in subdivisions (d)(3) through (5) are applicable depending upon the compliance alternative chosen. For example, if an alternative compliance plan is submitted employing both capture and control and process change, then in addition to the

requirements outlined in subdivision (d)(6), the alternative compliance plan must include the information mandated by subdivisions (d)(2), (d)(3) and (d)(4). If information mandated by subdivision (d)(5) is not applicable, it need not be submitted with the alternative compliance plan. To clarify this intent, I recommend that subdivision (d)(6) be revised to read:

“The owner or operator of a premises using the alternative compliance plan method pursuant to subparagraph (D) of subdivision (e)(1) of this section shall submit such alternative compliance plan for the Commissioner’s review and written approval or denial. The alternative compliance plan, *in addition to meeting the provisions of subdivision (d)(2) and the applicable provisions of subdivisions (3) through (5), inclusive, of this subsection shall also include the following:*”

Comment: The SUBASENLON requested the removal of the reference to subsection (g) in subdivision (b)(4).

Response: The Department is sensitive to the burden imposed by record keeping requirements. However, in this instance, the application of subsection (g) to sources otherwise excluded pursuant to subdivision (b)(3) is necessary to ensure compliance with the provisions of this section. In the absence of these record keeping requirements, no practical method exists to verify the accuracy of information submitted by the owner or operator of a premises. Therefore, I recommend the Department not remove the reference to subsection (g) in subdivision (b)(4).

Comment: The SUBASENLON commented that the requirements of subsection (g), specifically, the retention of purchase records and product data are not typically included in Material Safety Data Sheets (MSDSs), and therefore subsection (g)’s requirements are unreasonable and unnecessary.

Response: This comment is not relevant given that subsection (g) does not impose any requirements on the retention of MSDS. MSDSs are related to workplace health and safety with a primary purpose of communicating hazards to workers.

Comment: The SUBASENLON requested the removal of subparagraph (g)(1)(A), which requires that purchase records concerning all VOC containing materials used or stored at the premises be maintained at the subject premises.

Response: This requirement must be maintained in the proposed rule in order to ensure that adequate information is available to the Department’s field staff to determine whether the owner or operator of a subject premises is in compliance with the provisions of this section.

Comment: The SUBASENLON:

1. Questioned the validity of maintaining the coating information set forth in subparagraph (g)(1)(A); specifically, percent VOC content by weight, percent solids content by volume

and by weight, and water and exempt VOC content. Suggested that the most common method of reporting VOC content on CPDSs (Coating Product Data Sheets) and MSDSs is in mass VOC per volume of coating less water and exempt VOC compounds;

2. Asserted the practices required by subparagraph (g)(1)(A) were inconsistent with both the Shipbuilding and Ship Repair NESHAP and CTG, which require mass VOC per volume of coating less water and exempt VOC compounds and only require solids content data when a coating is actually thinned;
3. Proposed the regulation be redrafted to specify the data required for each operation subject to this section;
4. Requested the Department provide information to support the coating viscosity record keeping requirement, and;
5. Suggested the same review and redraft discussed in (1) through (4) above for the requirements set forth in subparagraphs (d)(4)(A)(iv), (v), (vi), (ix) and (d)(4)(C)(iv), (v), (vi) and (viii).

Response:

1. The VOC Data Sheets supplied by the manufacturer normally contain percent VOC by weight, percent solids content by volume and by weight, and water and exempt VOC content. The Department uses this information to assess both the applicability of and compliance, with § 32. Specifically, the Department requests:

Percent VOC content by weight to calculate VOC emission rate in lbs/hour, lbs/month, and tons per year (TPY);

Solids content by weight to calculate particulate emissions in lbs/hr and TPY;

Solids content by volume as required by the CTGs in terms of viscosity (lb gallons/lb solids) to; and

Percent water and percent exempt VOC as needed for calculations involving mixtures—since most coatings consist of several mixed VOC products.

2. The Department does not view the requirements of subsection (g) as inconsistent with the Shipbuilding NESHAP and CTG. To comply with applicable CTGs and NESHAPs, sources must perform calculations containing variables exactly matching the information requested under subsection (g). The proper characterization of the requirements of subsection (g) is 'in addition to the applicable NESHAP and CTG' rather than 'inconsistent with the applicable NESHAP and CTG.' Moreover, the information

requested by subsection (g) is reasonable, considering such information is readily available in the form of CPDSs supplied by the manufacturers. Resultantly, I recommend the Department make no changes to subsection (g) and its requirements in response to this comment.

3. The Department uses the data maintained under subsection (g) to help determine compliance with the provisions of § 32. Due to the large variety of regulated sources, the Department does not have sufficient resources available to identify and promulgate source-specific rules concerning record-keeping methodologies. Therefore, I recommend the Department make no changes to subsection (g) and its requirements in response to this comment
4. Requiring coating viscosity and record keeping requirements is supported by the following: (1) compliance determinations for CTGs require viscosity calculations; (2) viscosity is a factor in determining the evaporative potentials of VOCs; and (3) the evaporate potentials of VOCs are important in determining both the applicability of § 32 and compliance with § 32.
5. For the reasons discussed in (1) through (4) above, I recommend that the Department maintain subparagraphs (d)(4)(A)(iv), (v), (vi) and (ix) and (b)(4)(C)(iv), (v), (vi) and (viii) as proposed.

COMMENTS FROM SUBASENLON AND PFIZER, INC. (PFIZER)

Comment: Pfizer and the SUBASENLON requested a revision of subdivision (g)(1) to allow the start date for record maintenance to coincide with the effective date of this revised section.

Response: The Department intended the requirements of subsection (g) to begin on the effective date of this section, not the revisions of this section. The majority of premises became subject to subsection (g) on December 31, 1993. Subject premises were required to retain subsection (g) records for 3 years. As a result, the majority of premises subject to the revisions of this section should possess the records required under subsection (g) starting December 31, 1996. Therefore, rather than allowing the start date for record maintenance to coincide with the effective date of the revised section, I recommend the Department amend subdivision (g)(1) as follows:

“After *December 31, 1996*, the owner or operator of a premises shall maintain for at least five years at such premises...”

COMMENTS FROM PFIZER

Comment: Pfizer requested clarification of the applicability of (b)(4) when the applicability thresholds contained in subdivision (b)(1) were not exceeded as a result of an exclusion listed in (b)(3). Pfizer was under the impression that (b)(4) would only apply if a site applicability review

determines that emissions exceed the (b)(1) emission thresholds. In such a case, Pfizer suggested that exempt VOC emitting equipment at a premises would only be subject to a compliance plan, testing, and record keeping requirements of subparagraph (d)(2)(B), subsection (f) and subsection (g).

Response: As stated previously, subdivision (b)(4) requires an owner or operator of VOC emitting equipment, which is otherwise exempt from the requirement to install control equipment in accordance with subsection (e), to identify such VOC emitting equipment in the facility's compliance plan and to make and keep such records as the commissioner deems necessary to determine whether the claimed exemption is appropriate.

Comment: Pfizer asserts that § 32 is inconsistent with both the CAA and the EPA's prescribed procedure for establishing RACT. Pfizer also requested the Department provide valid technical and economic bases for the level of controls mandated in (e)(2).

Response: Pfizer's assertion that the underlying regulation, § 22a-174-32 which is the basis of the proposed revision, is inconsistent with both the CAA and the EPA's prescribed procedures for establishing RACT is beyond the scope of the proposed amendment to this regulation. However, it should be noted that on March 10, 1999, the EPA issued a direct final rule conditionally approving a revision to the Connecticut SIP containing § 32. In so doing, the EPA approved the Department's position that § 32 represents appropriate controls on VOC emitting equipment that are reasonably available considering technological and economic feasibility. The EPA's direct final rule should constitute prima facie evidence that the underlying regulation, § 32, is consistent with both the letter of the CAA and the EPA's interpretation of RACT under the CAA. For these reasons, I recommend the Department retain § 32 as proposed.

Comment: Pfizer suggested that subdivision (e)(2) is vague because it provides insufficient details on (1) averaging times, (2) *de minimis* exemptions or (3) averaging across sources.

Response:

1. Specific averaging times are absent from subdivision (e)(2) to provide compliance flexibility for those premises subject to its provisions. The Department intends to provide optimum flexibility to owners/operators subject to subdivision (e)(2) in meeting VOC emission limitations. Specific averaging times may be inconsistent with some processes capable of meeting the prescribed emissions reductions, thereby making an alternative compliance plan submittal necessary. Resultantly, I recommend the Department not revise proposed subdivision (e)(2) to include specific requirements concerning averaging times.
2. De-minimis exemptions are not incorporated into subdivision (e)(2) as this is an applicability issue addressed elsewhere in the regulation as indicated by the next comment.

3. Specific provisions authorizing averaging across sources are absent from subdivision (e)(2) to provide compliance flexibility for those premises subject to its provisions. The Department wishes to determine the appropriateness of such averaging on a case by case basis. Specific provisions could result in the omission of appropriate instances to allow for averaging across sources. Resultantly, I recommend the Department not revise proposed subdivision (e)(2) to include specific requirements concerning averaging across sources.

Comment: Pfizer requested the amendment of subparagraph (d)(2)(B) to include a *de minimis* exclusion for sources with less than 1 TPY of actual emissions.

Response: A de-minimis exclusion for sources with less than one ton per year of actual emissions would be contrary to the intent of this program and the VOC RACT SIP. Since applicability is determined by the potential VOC emissions of a source, such an exclusion could violate the CAA by excluding VOC sources otherwise subject to RACT. I recommend that such a de-minimis exclusion not be incorporated into subparagraph (d)(2)(B).

Comment: Pfizer requested the amendment of subsection (g) to include exclusions for small quantity chemicals such as laboratory materials.

Response: Based on the response concerning de-minimis exclusions, above, I recommend that an exclusion for small quantity chemicals should not be adopted.

COMMENTS FROM PFIZER AND THE CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION (CBIA)

Comment: Pfizer and the CBIA were concerned that proposed subparagraph (b)(3)(E) would invalidate most existing RACT orders for premises with VOC emitting equipment and the commentors suggested the revision of (b)(3)(E)(iii) to preserve a RACT order issued prior to November 15, 1992 and approved by the Administrator prior to May 31, 1995.

Response: The Department does not intend § 32 to effect any existing RACT orders issued prior to November 15, 1992 and approved by the Administrator prior to May 31, 1995. Therefore, I recommend deleting the following language from proposed subparagraph (b)(3)(E)(iii):
“provided that such permit or order is no less stringent than what is required by subsection (e) of this section.” Resultantly, subparagraph (b)(3)(E)(iii) should read:

“...an order or permit requiring the implementation of Reasonably Available Control Technology issued by the Commissioner prior to November 15, 1992 and approved by the Administrator prior to May 31, 1995.”

COMMENTS FROM PFIZER AND SCI-TECH

Comment: Pfizer and SCI-TECH requested the Department delete the reference to “federally enforceable” from subdivision (b)(2) in light of recent court decisions overturning the EPA’s similar position with respect to calculating potential emissions. Pfizer submitted a brief on this issue, contending there was no legal or policy basis for including the “federal enforceability” requirement in subdivision (b)(2).

Response: The cited legal authority in Pfizer’s comment was based upon the decision that the EPA lacked the power to prevent states from excluding state or locally imposed limitations when calculating a premises’ potential to emit. These decisions actually preserve State autonomy to identify factors relevant in determining a premises’s “potential to emit.” The Department believes that federal enforceability is an important programmatic characteristic as it enhances the overall enforceability of the air program’s regulations which are designed to protect public health by regulating emissions of air pollutants and moving Connecticut’s air quality towards levels which are protective of human health. Thus, I recommend the Department retain the federal enforceability requirement set forth in subdivision (b)(2).

COMMENTS FROM SCI-TECH

Comment: SCI-TECH stated that subparagraphs(d)(2)(C) and (d)(2)(D) were contradictory.

Response: Subparagraph (d)(2)(D) requests the total amount of potential emissions of VOCs in TPY from a premises while (d)(2)(C) requests the maximum rated capacity of each piece of VOC emitting equipment at the premises. These requirements are supplementary, not contradictory. The maximum rated capacity of each piece of VOC emitting equipment ((d)(2)(C)) will be used by the Department to verify the owner/operator’s calculation of the premises’s potential to emit ((d)(2)(D)). Therefore, I recommend the Department retain both requirements.

COMMENTS FROM SPONGEX CORPORATION (SPONGEX)

Comment: Spongex requested permission to continue using the RACT methodology described in State Order No. 8008, approved by the Department prior to November 15, 1992 and the EPA prior to May 31, 1995. Spongex requested the revision of this § 32 to identify Order No. 8008 as RACT for companies using solvents in the manufacture of compression molded closed-cell foam products.

Response: See response to CBIA and Pfizer comment (above). I recommend the Department not amend the section as requested by Spongex, since the revision recommended above addresses the concern expressed in this comment.

Comment: Spongex contended that proposed subparagraph (e)(1)(B) limits the use of reformulation or process change to meet VOC RACT to surface coating operations.

Response: This commentor correctly interpreted subparagraph (e)(1)(B). Limiting the use of reformulation or process change as a RACT solely to surface coating operations, however, is not consistent with current industrial methodologies to reduce VOC emissions. Subdivision (e)(3) is referenced by subparagraph (e)(1)(B) and its amendment is necessary to remove this limitation on compliance flexibility. Resultantly, I recommend the Department amend both subparagraph (e)(1)(B) and subdivision (e)(3) to read:

(e)(1)(B) *“implement a program of reformulation or process change pursuant to subdivision (3) of this subsection to reduce VOC use and VOC emissions.”*

(e)(3) *“When the owner or operator of a premises reformulates or changes a process or processes to reduce actual VOC use and VOC emissions, such reformulation or change shall achieve, on each day that affected equipment emits VOCs...”*

COMMENTS FROM HAMPFORD RESEARCH, INC. (HRI)

Comment: HRI proposed the following addition to subsection (e):

“an owner or operator of premises that has determined BACT for permitted sources and which has other similar sources that do not require permits but to which the determined BACT is applied, is not required to demonstrate that compliance with subparagraphs (1)(A) through (1)(C) of this subsection, inclusive, is not technologically or economically feasible. The Commissioner will accept the determined BACT as the RACT for these sources.”

In 1996, in order to comply with RSCA § 22a-174-3(b)(2)(B), HRI performed a best available control technology (BACT) determination. In issuing new source review (NSR) permits to HRI, the Department agreed with HRI's BACT determination. The equipment installed pursuant to the NSR permits (after 1989) is federally enforceable and excludable under subparagraph (b)(3)(B). HRI voluntarily subjected exempted VOC emitting equipment (installed prior to 1989) to BACT as determined by HRI and accepted by the Department. The voluntary implementation of BACT is not federally enforceable. Hence, the additional VOC emitting equipment is subject to the provisions of proposed § 32.

Response: I recommend that the Department not adopt the suggested revision. Without an enforceable mechanism such as a permit, order or other regulatory requirement, there is no way to ascertain the continued use of the voluntarily installed control equipment. Moreover, to maintain consistency with the Connecticut SIP, such permits or orders should be federally enforceable.

Under the provisions of proposed § 32, HRI has three options to account for its voluntary reductions:

1. In lieu of the RACT methods required by subsection (e), HRI may proceed under subsection (c) and obtain an individual permit, general permit or order to limit VOC emissions. To proceed under subsection (c), HRI must demonstrate that actual VOC emissions from VOC emitting equipment not subject to a federally enforceable permit or order did not exceed, in every calendar year after December 31, 1995, 25 tons per calendar year;
2. HRI may proceed under subdivision (d)(6) as proposed and submit an alternative compliance plan; or
3. HRI may modify its operating permits to formally extend BACT to the equipment subject to RACT under § 32.

Additional Comments of the Hearing Officer

1. In addition to changes made in accordance with comments received during the public comment period, several typographical errors in subdivisions (c)(3) and (d)(1) of the proposed regulation are corrected in the final wording of the proposed regulation set forth in Part VI, below.

2. Subdivision (e)(3) is revised to clarify the Department's intent, as follows:

When the owner or operator of a premises reformulates or changes a process or processes to reduce actual VOC use and VOC emissions, such reformulation or change shall achieve, for each coating or VOC-emitting equipment used and on each day that VOCs are emitted, an eighty percent (80%) reduction in VOC emissions . . .

VI. Final Wording of the Proposed Regulation

Section 22a-174-32 of the Regulations of Connecticut State Agencies is amended as follows:

Section 22a-174-32. Reasonably Available Control Technology (RACT) for volatile organic compounds.

(a) **Definitions.** For the purposes of this section:

["Affected portion" or "affected portion of a premises" means any source or combination of sources at a premises the emissions of which are included as potential emissions of volatile organic compounds in accordance with subsection (b) of this section.]

(1) ["CFR" means Code of Federal Regulations.] "AEROSPACE

MANUFACTURING AND REWORK OPERATIONS" MEANS THE PRODUCTION OR REPAIR OF AEROSPACE VEHICLES OR COMPONENTS THEREOF UNDER ANY OF THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATION CODES: 3720, 3721, 3724, 3728, 3760, 3761, 3764, 3769, 4512, 4581, OR 9711.

- (2) "AEROSPACE VEHICLE OR COMPONENT" MEANS ANY FABRICATED PART, PROCESSED PART, ASSEMBLY OF PARTS, OR COMPLETED UNIT OF ANY AIRCRAFT INCLUDING, BUT NOT LIMITED TO, AIRPLANES, HELICOPTERS, MISSILES, ROCKETS, AND SPACE VEHICLES.
- (3) "ANTIQUE AEROSPACE VEHICLE OR COMPONENT" MEANS AN AIRCRAFT OR COMPONENT THEREOF WHICH IS AT LEAST THIRTY YEARS OF AGE AND IS NO LONGER ROUTINELY USED IN THE ORIGINAL COMMERCIAL OR MILITARY SERVICE CAPACITY.
- (4) "CTG" or "control techniques guideline" means a document published by the Administrator in accordance with [Section] SECTIONS 108, AND 183(a) AND (b) of the [federal] Clean Air Act (42 U.S.C. SECTION 7401, et seq.) describing techniques for controlling volatile organic compound (VOC) emissions.
- (5) "SPACE VEHICLE" MEANS A MAN-MADE VEHICLE, EITHER MANNED OR UNMANNED, DESIGNED FOR OPERATION BEYOND THE ATMOSPHERE OF THE EARTH, INCLUDING BUT NOT LIMITED TO, MODELS, PROTOTYPES, MOLDS, TOOLING, HARDWARE, AND ANY AUXILIARY EQUIPMENT ASSOCIATED WITH THE TESTING, TRANSPORTATION AND STORAGE OF SUCH VEHICLE.
- (6) "System to capture and control" means a system to capture, convey and control VOC emissions released by VOC-emitting equipment, including any device that destroys, recovers, or otherwise removes VOC emissions and permanently reduces VOC emissions into the atmosphere.
- (7) "Uncontrolled VOC emissions" means VOC emissions [from the affected portion of a premises] prior to the application of a system to capture and control SUCH VOC EMISSIONS.
- (8) ["VOC" means volatile organic compound.] "VOLATILE ORGANIC COMPOUND" OR "VOC" HAS THE SAME MEANING AS IN SECTION 22a-174-1 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.
- (9) "VOC-emitting equipment" means any equipment, building, or activity that

results in the emission of volatile organic compounds through a stack or as fugitive emissions.

- (10) “WOOD FURNITURE” MEANS ANY PRODUCT MADE OF WOOD, A WOOD PRODUCT SUCH AS RATTAN OR WICKER, OR AN ENGINEERED WOOD PRODUCT SUCH AS PARTICLE BOARD THAT IS MANUFACTURED UNDER ANY OF THE FOLLOWING STANDARD INDUSTRIAL CLASSIFICATION CODES: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, OR 5712.
- (11) “WOOD FURNITURE COMPONENT” MEANS ANY PART THAT IS USED IN THE MANUFACTURE OF WOOD FURNITURE, INCLUDING BUT NOT LIMITED TO, DRAWER SLIDES, CABINET DOORS, SEAT CUSHIONS, AND LAMINATED TOPS.
- (12) “WOOD FURNITURE MANUFACTURING OPERATIONS” MEANS THE FINISHING, CLEANING AND WASH OFF OPERATIONS ASSOCIATED WITH THE PRODUCTION OF WOOD FURNITURE, OR WOOD FURNITURE COMPONENTS.

(b) Applicability.

- (1) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBDIVISION (4) OF THIS SUBSECTION, [The] THE provisions of this section shall apply to [the owner or operator of any premises where the potential emissions of VOCs from the affected portion of such premises are]:
- (A) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, THE OWNER OR OPERATOR OF A PREMISES WITH POTENTIAL VOC EMISSIONS OF fifty (50) tons or more per calendar year in a serious nonattainment area for ozone; [or]
- (B) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (C) AND (D) OF THIS SUBDIVISION, THE OWNER OR OPERATOR OF A PREMISES WITH POTENTIAL VOC EMISSIONS OF twenty-five (25) tons or more per calendar year in a severe nonattainment area for ozone[.];
- (C) THE OWNER OR OPERATOR OF WOOD FURNITURE MANUFACTURING OPERATIONS WITH POTENTIAL VOC EMISSIONS OF TWENTY-FIVE (25) TONS OR MORE PER CALENDAR YEAR; OR
- (D) THE OWNER OR OPERATOR OF AEROSPACE MANUFACTURING

AND REWORK OPERATIONS WITH POTENTIAL VOC EMISSIONS
OF TWENTY-FIVE (25) TONS OR MORE PER CALENDAR YEAR.

- (2) When calculating potential emissions for the purposes of this section, any limitation on the capacity of a source to emit VOCs, including air pollution control equipment, or any restriction which limits maximum rated capacity shall be treated as part of the design of the source, only if such limitation or restriction or the effect that such limitation or restriction would have on VOC emissions is federally enforceable.
- (3) [In] WHEN calculating potential emissions TO DETERMINE THE APPLICABILITY OF THIS SECTION [of an affected portion of a premises], the owner or operator of [such] A premises shall include [all] potential emissions of volatile organic compounds FROM ALL SOURCES LOCATED AT SUCH PREMISES [occurring at the premises. However, such owner or operator may, when calculating potential emissions from the affected portion of a premises, exclude any source of potential emissions of VOCs which is] EXCLUDING THOSE SOURCES WHICH ARE:
- (A) SUBJECT TO REGULATION [regulated] under 40 CFR [Part] PARTS 61 AND 63;
- (B) REQUIRED [subject] to USE Best Available Control Technology or Lowest Achievable Emission Rate for VOCs [required] pursuant to a federally enforceable order or permit which contains specific VOC emission limitations;
- (C) [VOC-emitting equipment subject to one of the eleven (11) CTGs which the Administrator is required to develop pursuant to section 183(a) of the federal Clean Air Act and which was listed in the Federal Register of April 28, 1992 (57 FR 18077, App. E);
- (D)] SUBJECT TO REGULATION [regulated] under 40 CFR Part 264, subparts AA or BB, or 40 CFR Part 265, subparts AA or BB;
- [(E)] (D) fuel burning equipment; or
- [(F)] (E) Subject to Reasonably Available Control Technology required pursuant to:
- (i) subsections (a), (b) or (l) through (y) inclusive of section 22a-174-20 of the Regulations of Connecticut State Agencies;
- (ii) section 22a-174-30 of the Regulations of Connecticut State

Agencies; or

- (iii) an order or permit REQUIRING THE [to implement] IMPLEMENTATION OF Reasonably Available Control Technology issued by the [Commissioner] COMMISSIONER prior to November 15, 1992 and approved by the Administrator prior to May 31, 1995.

(4) EXCEPT FOR SUBPARAGRAPH (B) OF SUBDIVISION (d)(2) AND SUBSECTIONS (f) AND (g) OF THIS SECTION, NO OTHER PROVISIONS OF THIS SECTION SHALL APPLY TO THE OWNER OR OPERATOR OF VOC EMITTING EQUIPMENT WHICH IS IDENTIFIED IN, OR SUBJECT TO ANY REQUIREMENT SET FORTH IN, SUBPARAGRAPHS (A) THROUGH (E) OF SUBDIVISION (3) OF THIS SUBSECTION.

(c) **INDIVIDUAL PERMITS, GENERAL PERMITS OR [Orders] ORDERS to limit VOC emissions.**

(1) The [Commissioner] COMMISSIONER may issue an INDIVIDUAL PERMIT, GENERAL PERMIT OR order [or permit] in lieu of requiring one of the Reasonably Available Control Technology methods [pursuant to] REQUIRED BY subdivision (e)(1) of this section when THE owner or operator of a premises demonstrates to the [Commissioner's] COMMISSIONER'S satisfaction that actual emissions of VOCs from [an affected portion of such] SUCH premises did not exceed, in every calendar year after December 31, [1989]1995:

(A) EXCEPT AS PROVIDED IN SUBPARAGRAPH (C) OF THIS SUBDIVISION, fifty (50) tons per calendar year in a serious nonattainment area for ozone; [or]

(B) EXCEPT AS PROVIDED IN SUBPARAGRAPH (C) OF THIS SUBDIVISION, twenty-five (25) tons per calendar year [of] in a severe nonattainment area for ozone[.]; OR

(C) TWENTY-FIVE (25) TONS PER CALENDAR YEAR AT A PREMISES WHICH CONDUCTS WOOD FURNITURE MANUFACTURING OPERATIONS OR AEROSPACE MANUFACTURING AND REWORK OPERATIONS.

(2) [To demonstrate that actual emissions did not exceed such levels, the] AN owner or operator OF A PREMISES WHO SEEKS TO DEMONSTRATE THAT ACTUAL EMISSIONS DO NOT EXCEED THE LEVELS SPECIFIED IN SUBDIVISION (1) OF THIS SUBSECTION shall, at a minimum, submit to the

[Commissioner] COMMISSIONER written documentation of the actual emissions from such [affected portion] PREMISES for every calendar year, or portion thereof, from December 31, [1989] 1995 through the calendar year in which such information is submitted. THE COMMISSIONER MAY REQUIRE THE SUBMITTAL OF DOCUMENTATION OF ACTUAL EMISSIONS FROM ANOTHER PERIOD OF TIME IN ORDER TO DETERMINE REPRESENTATIVE ACTUAL EMISSIONS. Such owner or operator shall also submit a report which includes the information specified in subparagraphs [(d)(1)(B)] (B) through [(d)(1)(E)] (E), inclusive, OF SUBDIVISION (d)(2) of this section.

- (3) If the [Commissioner] COMMISSIONER issues [a] AN INDIVIDUAL permit, GENERAL PERMIT or order pursuant to this subsection, such permit or order shall require that the EMISSIONS OF VOCs FROM A PREMISES [owner or operator] not exceed the VOC emissions levels set forth in subdivision [(c)](1) of this [section] SUBSECTION OR A LEVEL ESTABLISHED BY THE ADMINISTRATOR IN A FINAL CTG [at such affected portion of the premises]. THE COMMISSIONER SHALL SUBMIT SUCH INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER TO THE ADMINISTRATOR FOR APPROVAL IN ACCORDANCE WITH THE PROVISION OF 42 U.S.C. 7401-7671, et seq. THE COMMISSIONER SHALL REQUIRE A PERMITTEE OR ANY PERSON SUBJECT TO AN ORDER OF THE COMMISSIONER UNDER THIS SUBDIVISION TO MAKE AND KEEP RECORDS, AS MAY BE NECESSARY, TO DEMONSTRATE COMPLIANCE WITH THE EMISSION LIMITATIONS SET FORTH IN SUBDIVISION (1) OF THIS SUBSECTION. [Nothing herein shall require the Commissioner to issue such an order.]
- (4) NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE AN INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER UNDER THIS SUBSECTION.

(d) Compliance plans.

- (1) [By May 1, 1994 the owner or operator of an affected portion of a premises shall submit to the Commissioner a written compliance plan which includes the following:] IN ORDER TO DEMONSTRATE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THE OWNER OR OPERATOR OF A PREMISES SUBJECT TO THIS SECTION SHALL SUBMIT TO THE COMMISSIONER IN WRITING A COMPLIANCE PLAN FOR REVIEW AND WRITTEN APPROVAL OR DENIAL. SUCH COMPLIANCE PLAN SHALL BE SUBMITTED NO LATER THAN:

- (A) MAY 1, 1994 FOR PREMISES SUBJECT TO THIS SECTION ON OR BEFORE APRIL 19, 1994;
- (B) MAY 1, 1995 FOR PREMISES SUBJECT TO THIS SECTION FROM APRIL 20, 1994 THROUGH THE EFFECTIVE DATE OF THIS REGULATION THE EFFECTIVE DATE OF THIS SECTION; OR
- (C) SIX MONTHS AFTER BECOMING SUBJECT TO THE PROVISIONS OF THIS SECTION.

(2) A COMPLIANCE PLAN SUBMITTED IN ACCORDANCE WITH SUBDIVISION (1) OF THIS SUBSECTION, SHALL INCLUDE:

- (A) a description of the Reasonably Available Control Technology method that the owner or operator shall perform pursuant to subdivision (e)(1) of this section;
- (B) [an] A description of each AND EVERY piece of VOC-emitting equipment at such premises;
- (C) the maximum rated capacity of each piece of VOC-emitting equipment [at such affected portion];
- (D) the total amount of potential emissions of VOCs, expressed in tons per year[, from such affected portion]; and
- (E) a certification, signed by [(1)] the person who prepared the compliance plan, [(2)] the owner of the premises, and [(3)] the operator of the premises[, which reads as follows:] EACH OF WHOM SHALL EXAMINE AND BE FAMILIAR WITH THE INFORMATION SUBMITTED IN THE DOCUMENT AND ALL ATTACHMENTS THERETO, AND SHALL MAKE INQUIRY 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 compliance plan and all attachments THERETO, and I certify that based [upon] 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[, in accordance with] UNDER Section [22a-6] 22a-175 of the [Connecticut General Statutes, [pursuant to Section 53a-157 of the Connecticut General Statutes], UNDER SECTION 53a-157b OF THE GENERAL STATUTES, and in accordance with any other applicable [standard] STATUTE."

[(2)] (3) The owner or operator of [an affected portion of] a premises [installing] WHO PROPOSES TO INSTALL a system to capture and control VOCs pursuant to subparagraph [(e)(1)](A) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

- (A) a description of such system to capture and control; and
- (B) a schedule for installing such system.

[(3)] (4) The owner or operator of [an affected portion of] a premises reducing VOC use and VOC emissions pursuant to subparagraph [(e)(1)](B) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

(A) with respect to each coating used [in coating operations] at [the affected portion of] a premises during THE PRECEDING calendar year [1990], the following information:

- (i) the name and address of the coating manufacturer[;],
- (ii) the coating name and identification number[;],
- (iii) the coating density, in pounds per gallon[;],
- (iv) the PERCENT VOC content by weight [in pounds][;],
- (v) the water and exempt PERCENT VOC content by weight [in pounds][;],
- (vi) THE solids content by volume and by weight in pounds[;],

[(vi)] (vii) the amount OF EACH COATING used, in gallons[; and],

[(vii)] (viii) the total amount of diluent used for [the] EACH coating, in pounds and in gallons[;], AND

(ix) THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID, OR IN KILOGRAMS VOC PER KILOGRAM SOLID;

(B) a calculation of the weighted arithmetic mean of the VOC content of all coatings used at the [affected portion of the] premises during THE PRECEDING calendar year [1990], expressed in terms of pounds of VOCs per gallon of solids; and

(C) [with respect to each coating that the owner or operator plans to use] to demonstrate compliance with subparagraph [(e)(1)](B) of SUBDIVISION (e)(1) OF this section, the OWNER OR OPERATOR SHALL SUBMIT THE following information WITH RESPECT TO EACH COATING PLANNED FOR USE:

(i) the name and address of the coating manufacturer[;],

(ii) the coating name and identification number[;],

(iii) the coating density, in pounds per gallon[;],

(iv) the PERCENT VOC content by weight [in pounds] [;],

(v) the PERCENT water and PERCENT exempt VOC content by weight [in pounds][;],

(vi) THE solids content by volume and by weight in pounds[; and],

(vii) the total amount of diluent proposed to be used for each coating, in pounds and in gallons[.], AND

(viii) THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID;

[(4)] (5) The owner or operator of [an affected portion of] a premises using alternative emission reductions or emission reduction credits pursuant to subparagraph [(e)(1)](C) of SUBDIVISION (e)(1) OF this section shall also include in the compliance plan the following:

(A) the information required pursuant to section 22a-174-20(cc) of the Regulations of Connecticut State Agencies; or

(B) [A] A [description of the] proposed plan to purchase emission reduction credits.

[(5)] (6) The owner or operator of [an affected portion of] a premises using the alternative compliance plan method pursuant to subparagraph [(e)(1)](D) of SUBDIVISION (e)(1) OF this section shall submit such alternative compliance plan for the [Commissioner's] COMMISSIONER'S REVIEW AND written approval OR DENIAL. The ALTERNATIVE compliance plan, IN ADDITION TO MEETING THE REQUIREMENTS OF SUBDIVISION (2) OF THIS SUBSECTION AND THE APPLICABLE PROVISIONS SET FORTH IN SUBDIVISIONS (3) THROUGH (5), INCLUSIVE, OF THIS SUBSECTION, shall also include the following:

- (A) an examination of the technological and economic feasibility of additional VOC control devices or equipment on all sources of VOCs, including those sources IDENTIFIED IN [excluded from the calculation of an affected portion of a premises pursuant to] subdivision (b)(3) of this section;
- (B) an examination of the feasibility of changing to low VOC-emitting processes including establishing a leak detection program;
- (C) the proposed amount of VOC reduction from all SUBJECT VOC-emitting equipment at the [affected portion of the] premises;
- (D) [An] AN examination of the feasibility of obtaining emission reduction credits PURSUANT TO SECTION 22a-174-20(cc) OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES, or of the feasibility of using alternative emission reductions to achieve equivalent levels of control as required by subparagraphs [(e)(1)](A) or [(e)(1)](B) of SUBDIVISION (e)(1) OF this section;
- (E) a description of any research that will be conducted by the owner or operator to further reduce VOC emissions beyond the level of emissions proposed; and
- (F) any other information the [Commissioner] COMMISSIONER may require [pursuant to sections 22a-174-4 or 22a-174-5 of the Regulations of Connecticut State Agencies].

(7) IN LIEU OF SUBMITTING A COMPLIANCE PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION AND IN LIEU OF INSTALLING ONE OF THE REASONABLY AVAILABLE CONTROL TECHNOLOGY METHODS PURSUANT TO SUBDIVISION (e)(1) OF THIS SECTION, THE COMMISSIONER MAY ALLOW THE OWNER OR

OPERATOR OF A PREMISES TO MEET THE REQUIREMENTS OF THIS SECTION BY PERMIT OR ORDER, PROVIDED THAT SUCH PERMIT OR ORDER IMPLEMENTS THE RECOMMENDED CTG OR EMISSIONS LIMITATIONS OF A FINAL CTG FOR ANY SOURCE CATEGORY IDENTIFIED IN THE FEDERAL REGISTER ON APRIL 28, 1992 (57 Fed. Reg. 18077, App. E), AND SUCH PERMIT OR ORDER IS SUBMITTED BY THE COMMISSIONER TO THE ADMINISTRATOR FOR APPROVAL IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. 7401-7671, et seq.

(8) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (7) OF THIS SUBSECTION, NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE SUCH PERMIT OR ORDER.

(e) Reasonably Available Control Technology methods.

(1) [By May 31, 1995] ONE YEAR AFTER BECOMING SUBJECT TO THE PROVISIONS OF THIS SECTION, the owner or operator of [an affected portion of] a premises SUBJECT TO THE REQUIREMENTS OF THIS SECTION shall perform AT LEAST one of the following Reasonably Available Control Technology methods [on such affected portion]:

- (A) install and operate pursuant to subdivision [(e)](2) of this [section] SUBSECTION a system to capture and control VOCs;
- (B) implement a program of reformulation or process change pursuant to subdivision [(e)](3) of this [section] SUBSECTION to reduce VOC use and VOC emissions [from surface coating sources];
- (C) use alternative emission reductions or emission reduction credits, pursuant to subdivision [(e)](4) of this [section] SUBSECTION, in accordance with a permit or order issued BY the [Commissioner] COMMISSIONER; or
- (D) implement an alternative compliance plan pursuant to subdivision [(e)](5) of this [section] SUBSECTION, in accordance with a permit or order issued by the [Commissioner] COMMISSIONER.

(2) When the owner or operator of [an affected portion of] a premises installs and operates a system to capture and control VOC EMISSIONS, then:

- (A) such system shall reduce VOC emissions to the atmosphere from [such affected portion] ANY VOC EMITTING EQUIPMENT WHICH IS SUBJECT TO THE PROVISIONS OF THIS SECTION by at least eighty-five percent (85%) of uncontrolled emissions;

- (B) such system, if designed to destroy VOCs by incineration, shall oxidize into carbon dioxide and water at least ninety-five percent (95%) of the non-methane VOCs, measured as total combustible carbon, which enter the incinerator each hour; and
- (C) such system, if designed to recover or otherwise remove VOCs, shall be operated so that the VOC mass emission rate leaving the outlet does not exceed ten percent (10%), in the aggregate, of the VOC mass emission rate entering such system.
- (3) When the owner or operator of [an affected portion of] a premises reformulates or changes a process or processes to reduce actual VOC use and VOC emissions, such REFORMULATION OR CHANGE [owner or operator] shall achieve, FOR EACH COATING OR VOC-EMITTING EQUIPMENT USED AND on each day that [such affected portion emits] VOCs ARE EMITTED, an eighty percent (80%) reduction in VOC emissions from the weighted arithmetic mean during calendar year 1990 OR ANOTHER YEAR THE COMMISSIONER DEEMS AS MORE REPRESENTATIVE OF THE ACTUAL OPERATING CONDITIONS OR ACTUAL EMISSIONS calculated pursuant to subparagraph [(d)(3)](B) OF SUBDIVISION (d)(4) OF THIS SECTION [for each coating used].
- (4) THE OWNER OR OPERATOR OF A PREMISES SUBJECT TO A FINAL CTG SHALL COMPLY WITH THE REQUIREMENTS OF SUCH FINAL CTG, IN ACCORDANCE WITH SUBDIVISION (d)(7), WHERE SUCH FINAL CTG ACHIEVES A GREATER REDUCTION IN VOCs THAN THE REQUIREMENTS OF SUBDIVISIONS (2) OR (3) OF THIS SUBSECTION.
- [(4)] (5) When an owner or operator of [an affected portion of] a premises uses either alternative emission reductions pursuant to section 22a-174-20(cc) of the Regulations of Connecticut State Agencies or emission reduction credits, [such owner or operator shall achieve] equivalent emission reductions to those required by [either] subparagraph [(e)(1) (A) or (e)(1)](B) of [this section] SUBDIVISION (2) OF THIS SUBSECTION SHALL BE ACHIEVED. In addition, any such use or purchase of emission reduction credits shall be consistent with the United States Environmental Protection Agency's "ECONOMIC INCENTIVE PROGRAM RULES; FINAL RULE," OF APRIL 7, 1994 (59 Fed. Reg. 16690) ["Economic Incentive Program Rules; Proposed Rules," of January 23, 1993 (58 FR 11110)], and the United States Environmental Protection Agency's "Emission Trading Policy Statement" of December 4, 1986 [(51 FR 43814)] (51 Fed. Reg. 43814). The [Commissioner] COMMISSIONER may only allow the use of [this method] EITHER ALTERNATIVE EMISSION REDUCTIONS PURSUANT TO SECTION 22a-174-20(cc) OF THE REGULATIONS OF CONNECTICUT

STATE AGENCIES OR EMISSION REDUCTION CREDITS through the issuance of a permit or order, [which shall be put into effect no later than May 31, 1995.] The [Commissioner] COMMISSIONER shall submit such permit or order to the Administrator for approval in accordance with the provisions of 42 U.S.C. 7401-7671[q], et seq. Nothing herein shall require the [Commissioner] COMMISSIONER to issue such PERMIT OR order.

[(5)] (6) The [Commissioner] COMMISSIONER may issue a permit or order to the owner or operator of [an affected portion of] a premises [to implement] REQUIRING THE IMPLEMENTATION OF an alternative compliance plan when [such owner or operator demonstrates] IT IS DEMONSTRATED, to the [Commissioner's] COMMISSIONER'S satisfaction, through the information submitted pursuant to subdivision [(d)(1)] (d)(2) and [(d)(5)] (d)(6) of this section, that compliance with subparagraphs [(e)](1)(A) through [(e)](1)(C) of this [section] SUBSECTION, inclusive, is not technologically or economically feasible. Such permit or order shall specify that the implementation of the approved alternative compliance plan shall be Reasonably Available Control Technology for such [affected portion] PREMISES. Such owner or operator shall [perform] IMPLEMENT the alternative compliance plan BY THE DATE SPECIFIED IN THE PERMIT OR ORDER, WHICH DATE SHALL BE NO LATER THAN NINETY DAYS AFTER ISSUANCE OF SUCH PERMIT OR ORDER [and comply with such permit or order issued by the [Commissioner] COMMISSIONER which shall be put into effect no later than May 31, 1995]. In issuing such a permit or order the [Commissioner] COMMISSIONER may consider the VOC emissions and the VOC emission reductions made at the [affected portion of the] premises after 1986. The [Commissioner] COMMISSIONER shall submit such permit or order to the Administrator for approval in accordance with the provisions of 42 U.S.C. 7401-7671[q], et seq. [Nothing herein shall require the Commissioner to issue such order.]

(7) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (6) OF THIS SUBSECTION, NOTHING HEREIN SHALL REQUIRE THE COMMISSIONER TO ISSUE SUCH PERMIT OR ORDER.

(f) **Test Methods.**

(1) Upon written notification [by] THAT the [Commissioner of his intent to] COMMISSIONER SHALL require emissions testing to demonstrate compliance with this section OR ANY PERMIT OR ORDER ISSUED HEREUNDER, the owner or operator of [an affected portion of] a premises shall conduct such [emission tests] TESTING in accordance with SUCH NOTIFICATION AND section 22a-174-5 of the Regulations of Connecticut State Agencies.

- (2) Where an owner or operator uses a system to capture and control VOC EMISSIONS pursuant to subparagraph [(e)(1)](A) of SUBDIVISION (e)(1) OF this section, [such owner or operator shall demonstrate] compliance with this section SHALL BE DEMONSTRATED by using the sampling and analytical procedures set forth in 40 CFR Part 60, Appendix A or 40 CFR Part 52.741, Appendix B.
- (3) Where an owner or operator uses any Reasonably Available Control Technology methods pursuant to subparagraphs [(e)(1)](B) through [(e)(1)](D) inclusive OF SUBDIVISION (e)(1) OF THIS SECTION, the [Commissioner] COMMISSIONER may require [such owner or operator to demonstrate] compliance with this section BE DEMONSTRATED by:
- (A) using sampling and analytical procedures set forth in 40 CFR Part 60, Appendix A;
 - (B) using a mass balance procedure based on known quantities of materials purchased, stored in inventory, and/or reclaimed using good engineering practice, as approved by the [Commissioner] COMMISSIONER; or
 - (C) using other methods or procedures approved by the Administrator.

(g) **Record keeping.**

- (1) After December 31, 1996[1993], the owner or operator of [an affected portion of] a premises shall maintain for at least [three] FIVE years at such premises, and make available at such premises for the [Commissioner's] COMMISSIONER'S inspection upon demand, the following [records]:
- (A) purchase records for all materials which ARE USED OR STORED AT SUCH PREMISES WHICH contain VOCs [and which are used or stored at such premises];
 - (B) FOR ANY VOC EMISSIONS RESULTING FROM COATING OPERATIONS, RECORDS OF [when VOC emissions result from coating operations,] the name of each coating, the coating density expressed in pounds per gallon or pounds per unit, the PERCENT VOC content by weight of each coating, THE PERCENT SOLIDS CONTENT BY WEIGHT, the water and exempt VOC content of each coating by weight, the amount of each coating used in gallons, [and] the total amount of diluent used for each coating in pounds and in gallons, AND THE COATING VISCOSITY IN POUNDS VOC PER POUNDS SOLID OR IN KILOGRAMS VOC PER KILOGRAM SOLIDS; AND

(C) [when any VOC emissions testing is performed pursuant to subsection (f) of this section,] the results of [such testing] ANY VOC EMISSIONS TESTING PERFORMED PURSUANT TO SUBSECTION (f) OF THIS SECTION[; and].

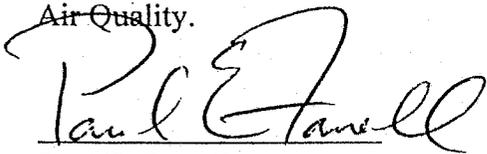
[(D) any other records required to be kept by the Commissioner pursuant to a permit or order.]

(2) THE OWNER OR OPERATOR OF A PREMISES SHALL MAKE, KEEP AND MAINTAIN FOR AT LEAST FIVE YEARS AT SUCH PREMISES ANY OTHER RECORDS REQUIRED TO BE KEPT BY AN INDIVIDUAL PERMIT, GENERAL PERMIT OR ORDER.

STATEMENT OF PURPOSE: To adopt standards for stationary sources in order to control emissions of volatile organic compounds as required by the Clean Air Act Amendments of 1990.

VII. Conclusion

Based upon the comments submitted by interested parties and addressed in this Hearing Report, I recommend the proposed final regulation, as contained herein, be submitted by the Commissioner of Environmental Protection for approval by the Attorney General and the Legislative Regulations Review Committee. Based upon the same considerations, I also recommend this proposed regulation, upon promulgation, be submitted to the U.S. Environmental Protection Agency as a revision to the Connecticut State Implementation Plan for Air Quality.



Paul E. Farrell
Hearing Officer

July 14, 1999
Date

**Attachment 1
List of Commentors**

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