Connecticut Department of
ENERGY &
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 Energy and Environmental Protection**
**Rules of Practice**

**Regarding**
**Amendment of Air Quality Regulations Concerning**
**Parts Coating and Pleasure Craft Coating**

**Hearing Officer:**
**Robin D. Baena**

**Date of Hearing: November 9, 2011**

On September 27, 2011, the Commissioner of the Department of Energy and Environmental Protection (DEEP) published a notice of intent to amend section 22a-174-20(s) of the Regulations of Connecticut State Agencies (RCSA) and adopt RCSA section 22a-174-20(kk). Pursuant to such notice, a public hearing was held on November 9, 2011, with the public comment period closing on the same day.

## I. Hearing Report Content

As required by section 4-168(d) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies principal reasons in support of and in opposition to the proposal, and summarizes and responds to all comments on the proposal.

The proposal is included as Attachment 2 to this report. A final revised version of the proposal based on the recommendations in this report is included as Attachment 3. A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1.

## II. Summary of Proposal

The proposal includes the revision of RCSA section 22a-174-20(s) to further limit volatile organic compounds (VOC) emissions from the coating of metal and plastic parts and the adoption of RCSA section 22a-174-20(kk) to limit VOC emissions from the coating of pleasure craft.

The proposal was prepared in response to the U.S. Environmental Protection Agency's (EPA's) September 2008 publication of a control techniques guideline (CTG) for miscellaneous metal and plastic parts coating operations.[1] Since Connecticut has been designated as nonattainment for ozone, the Clean Air Act requires the state to revise its State Implementation Plan (SIP) to include reasonably available control technology (RACT) for each category of VOC sources for which EPA has published a CTG. DEEP is proposing revisions to RCSA section 22a-174-20 to adopt a RACT level of control as established in the 2008 CTG for the miscellaneous metal and plastic parts coating category. The 2008 CTG updates a 1978 CTG addressing emissions from miscellaneous metal parts coating,[2] which DEEP first adopted as RCSA section 22a-174-20(s) in 1980 and revised in 1993 to increase compliance flexibility. DEEP is proposing to revise subsection (s) to include plastic parts coating and update the metal parts coating requirements. EPA includes pleasure craft coating operations within the metal and plastic parts coatings category in the 2008 CTG. Recognizing the differences in parts coating operations and pleasure craft coating, DEEP is proposing to address pleasure craft coating with new subsection (kk) of RCSA section 22a-174-20, distinct from the requirements applying to metal and plastic parts coating.

## III. Opposition to the Proposal

No submitted comments oppose this proposal.

## IV. Summary of Comments

No oral comments were submitted at the hearing. Written comments were received from the following persons:

1. Anne Arnold, Manager
   Air Quality Planning Unit
   USEPA Region 1
   5 Post Office Square, Suite 100
   Boston, MA 02109-3912

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

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[1] EPA. Control Techniques Guideline for Miscellaneous Metal and Plastic Parts Coatings. EPA-453/R-08-0373. October 7, 2008.

[2] EPA. Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI Surface Coating of Miscellaneous Metal Parts and Products. EPA 450/2-78-015. June 1978.

3. Corine Hellerman
Core EHS, Air Compliance
Sikorsky Aircraft Corp.
6900 Main Street, M/S 201A
Stratford, CT 06675-9129

4. Eugene Brackbill,
SCI-TECH, Inc.
ebrackbill@sci-techinc.com

All comments submitted are summarized below with DEEP's responses. Commenters are associated with the individual comments below by the number assigned above. 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.

Subsection (s) – Miscellaneous Metal and Plastic Parts

**Comment 1**: Given that the date for compliance with the relevant emissions limits is stated as January 1, 2013 in subsection (s)(3), it is not clear why subsection (s)(10)(B) states that requests for permit revisions to limit a facility's potential to emit are also due January 1, 2013. (1)

**Response**: DEEP agrees that the submittal date and compliance date cannot coincide, since it would take time for a request for a permit or order revision to be approved. Further, the proposal does not allow the owner of a facility to submit a request for a revision after the compliance date, nor does it allow the owner of a facility that is not currently operating under an order or permit to apply for such a limitation. DEEP appreciates EPA's comment to allow for the proposal to be revised to align with DEEP's intent on these points. An owner of a facility may request a new order or a revision at any time. If an owner submits a request without allowing for sufficient approval time, the owner must operate in compliance with subsection (s) in the interim between the compliance date and approval of their request, if provided. Including an enforceable deadline in subsection (s)(10) is not necessary. Information concerning requesting or revising a permit or order will be included in the *Regulatory Assessment Document* DEEP prepared as technical support for this proposal and will be communicated to stakeholders as part of DEEP's outreach efforts concerning the new requirements.

To be consistent with DEEP's intent, subsection (s)(10) should be revised as follows:

~~(10) Limitations on potential to emit; modification of permits or orders issued prior to January 1, 2013. An owner or operator issued a permit or order prior to January 1, 2013 pursuant to former section 22a-174-20(s)(7) of the Regulations of Connecticut State Agencies may:~~

~~(A) Continue after January 1, 2013 to conduct miscellaneous metal parts coating in compliance with such a permit or order; or~~

~~(B) Submit a request to the commissioner to revise or modify the order or permit to include any miscellaneous plastic and metal part coating at the premises in the monthly limit of 1,666 pounds of VOC, as provided in subsection (s)(7)(G) of this section. Such a request shall be submitted no later than January 1, 2013.~~

**(10) Limitations on potential to emit.**

**(A) An owner or operator may submit a request to the commissioner for an order or permit to limit potential emissions from all miscellaneous metal and plastic parts coating at the premises to a monthly limit of 1,666 pounds of VOC; or**

**(B) An owner or operator issued a permit or order prior to January 1, 2013 pursuant to former section 22a-174-20(s)(7) of the Regulations of Connecticut State Agencies may:**

**(i) Continue after January 1, 2013 to conduct miscellaneous metal parts coating in compliance with such a permit or order,**

**(ii) Submit a request to the commissioner to modify the order or permit to include all miscellaneous metal and plastic parts coating at the premises in the monthly limit of 1,666 pounds of VOC, or**

**(iii) Submit a request to the commissioner to revoke the order or permit.**

**Comment 2**: Several locations in the proposal allow the commissioner to make case-by-case approvals for coating exemptions and alternative test methods. Provisions with such state discretion are not acceptable for approval into the SIP. Therefore, DEEP should revise the following subsections to also require EPA approval where it cites commissioner approval: (s)(7)(J), (s)(8)(B)(vi), (s)(9)(C), (kk)(7)(B)(vi), and (kk)(8)(C). (1)

**Response**: As suggested in the comment, DEEP should require EPA administrator and DEEP commissioner approval of case-by-case coating exemptions and alternative test methods in subsections (s)(7)(J), (s)(8)(B)(vi), (s)(9)(C), (kk)(7)(B)(vi), and (kk)(8)(C). As a result, subsection (s)(7)(J) should be revised as follows:

> The requirements of subdivision (3) of this subsection shall not apply, upon request to and approval by the commissioner **and the Administrator**…

The text of subsection (s)(8)(B)(vi) should be moved to subsection (s)(8)(A)(vi), as explained in the response to Comment 15, and revised to read as follows:

Documentation of control device efficiency and capture efficiency, if applicable, using an applicable EPA reference method or alternate method as approved by the commissioner **and the Administrator**, and

Subsection (s)(9)(C) should be revised as follows:

To determine the properties of a coating or components thereof in order to perform the calculations required pursuant to subparagraph (A) of this subdivision or to verify calculations based on the manufacturer's formulation data, the VOC and solids content of all coatings shall be determined using 40 CFR 60, Appendix A, Reference Method 24 or an equivalent method. In the case of a dispute, the VOC content determined using Reference Method 24 shall control, unless a person is able to demonstrate to the ~~commissioner's satisfaction~~ **satisfaction of the commissioner and the Administrator** that the manufacturer's formulation data are correct.

The text of subsection (kk)(7)(B)(vi) should be moved to subsection (kk)(7)(A)(vi), as explained in the response to Comment 15, and be revised to read as follows:

Documentation of control device efficiency and capture efficiency, if applicable, using an applicable EPA reference method or alternate method as approved by the commissioner **and the Administrator**, and

Subsection (kk)(8)(C) should be revised as follows:

To determine the properties of a coating or components thereof in order to perform the calculations required pursuant to subparagraph (A) of this subdivision or to verify calculations based on the manufacturer's formulation data, the VOC and solids content of all coatings shall be determined using 40 CFR 60, Appendix A, Reference Method 24 or an equivalent method. In the case of a dispute, the VOC content determined using Reference Method 24 shall control, unless a person is able to demonstrate to the ~~commissioner's satisfaction~~ **satisfaction of the commissioner and the Administrator** that the manufacturer's formulation data are correct.

**Comment 3**: DEEP's proposed emission limit for miscellaneous metal and plastic parts product coating operations are consistent with EPA's 2008 CTG for Miscellaneous Metal and Plastic Parts Coating (MMPPC). However, the proposed limits for certain specialty coatings are less stringent than Connecticut's existing SIP-approved rule. Therefore, when DEEP submits the revised rule to EPA as a SIP revision, the state must also address the anti-backsliding provisions of Sections 110(l) of the Clean Air Act. (1)

**Response**: Although a few proposed coating limits in the subsection (s) of RCSA section 22a-174-20 are less stringent than the current limits, most of the proposed limits are more stringent and more coating categories are regulated. The combination of new coating categories, more stringent limits and broader applicability means that RCSA section 22a-174-20, amended as recommended in this report, will be more protective of air quality

than the current RCSA section 22a-174-20. DEEP will address EPA's concerns in more detail in the SIP revision following completion of the rule making process.

**Comment 4**: Revise the "EMI/RFI shield coating" definition in subsection (s)(1)(WW) by adding "or static discharge" to be consistent with CTG recommended definition. (4)

**Response**: In the final text of RCSA section 22a-174-20(s)(1)(WW), DEEP should revise the definition of "EMI/RFI shield coating" to read as follows:

> "EMI/RFI shield coating" means a coating that functions to attenuate electromagnetic interference**,** ~~or~~ radio frequency interference signals **or static discharge**;

**Comment 5**: Revise the "pretreatment coating" definition in subsection (s)(1)(FFFF) by adding "and to provide corrosion resistance" to be consistent with CTG recommended definition. As currently drafted, a limit for this coating type appears only in Table 20(s)-6a: Aerospace Specialty Coating Limits. DEEP should consider including the coating type in Table 20(s)-1: Metal Parts Coating VOC Limits. These coatings can also be used for non-aerospace equipment. As currently drafted, non-aerospace facilities using pretreatment coatings would be subject to the general coating category limits, which are substantially lower and would seem inappropriate. (4)

**Response**: DEEP should revise the definition of "pretreatment coating" in the final text of RCSA section 22a-174-20(s) to be consistent with the 1997 aerospace CTG as follows:

> "Pretreatment coating" means a coating, containing at least 0.5 percent acid by weight, applied directly to a metal **or composite** surface to provide surface etching, **corrosion resistance,** adhesion and ease of stripping;

The 1997 aerospace CTG identifies "pretreatment coating" as a specialty coating for the aerospace industry, while the 2008 MMPPC CTG does not. We must, therefore, conclude that EPA intended this type of coating to be categorized as a general coating, subject to the general category limit when used outside of aerospace applications. States may implement controls other than those recommended in a CTG to impose a level of control at least as stringent as that recommended in a CTG. Since adopting the aerospace pretreatment coating limits for coating in non-aerospace applications would constitute less stringent controls, DEEP should not revise the proposal in response to this comment.

**Comment 6**: Revise the "Sealant" definition in subsection (s)(1)(TTTT) by adding "There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants" to be consistent with the definition in Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations (EPA-453/R-97-004, December 1997). (4)

**Response**: DEEP should make no change to the proposal in response to this comment. The two categories of sealants are listed in Table 20(s)-6a and do not need to be repeated

in the definition to clarify applicability. The current definition is sufficient to describe "sealant" coatings.

**Comment 7**: In Table 6b of the draft regulation, it appears that the primer and topcoat coating categories from the Aerospace NESHAP were incorporated, but definitions were left out of the draft rule. Definitions and clarification on what coating limits apply are needed.

The Aerospace NESHAP has the following definitions:

*General aviation rework facility* means any aerospace facility with the majority of its revenues resulting from the reconstruction, repair, maintenance, repainting, conversion, or alteration of general aviation aerospace vehicles or components.

*Large commercial aircraft* means an aircraft of more than 110,000 pounds, maximum certified take-off weight manufactured for non-military use. (3)

**Response**: The coating limits in Table 20(s)-6b are the same as those in the aerospace NESHAP and are intended to apply to the same sources. To make this intent clear, DEEP should add the following definitions to subdivision (1) of subsection (s) in the appropriate alphabetical location. The other definitions in the subdivision should be re-lettered, as necessary:

**"General aviation rework facility" means any aerospace facility with the majority of its revenues resulting from the reconstruction, repair, maintenance, repainting, conversion or alteration of general aviation aerospace vehicles or components;**

**"Large commercial aircraft" means an aircraft of more than 110,000 pounds, maximum certified take-off weight, manufactured for non-military use;**

**Comment 8**: Regardless of whether or not a limit has been established for a specific material, the material should be defined. Several materials identified in the draft regulation are not defined:

- Fog coat
- Gloss reducer
- High performance architectural coating
- Mask coating
- Motor vehicle bedliner coating
- Motor vehicle gasket/gasket sealing material
- Motor vehicle lubricating/wax compound
- Motor vehicle sealer
- Motor vehicle trunk interior coating
- Motor vehicle underbody coating
- Multi-colored coating
- Two component coating (4)

**Response**: To allow for all due clarity, DEEP should add the following definitions, located alphabetically, to the final text of RCSA section 22a-174-20(s)(1). Definitions in the subdivision should be re-ordered and re-lettered, as necessary, to accommodate the new definitions:

**"Fog coat" means a coating that is applied to a plastic part at a thickness of no more than 0.5 mils of coating solids for the purpose of color matching without masking a molded-in texture;**

**"Gloss reducer" means a coating that is applied to a plastic part at a thickness of no more than 0.5 mils of coating solids solely to reduce the shine of the part;**

**"High-performance architectural coating" means a coating used to protect architectural subsections and that meets the requirements of the Architectural Aluminum Manufacturer Association's publication number AAMA 2604-05 (Voluntary Specification, Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels) or 2605-05 (Voluntary Specification, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels);**

**"Mask coating" means thin film coating applied through a template to coat a small portion of a substrate;**

**"Motor vehicle bedliner coating" means a multi-component coating applied to a cargo bed after the application of a topcoat to provide additional durability and chip resistance;**

**"Motor vehicle cavity wax" means a coating applied into the cavities of the vehicle primarily for the purpose of enhancing corrosion protection;**

**"Motor vehicle deadener" means a coating applied to selected vehicle surfaces primarily for the purpose of reducing the sound of road noise in the passenger compartment;**

**"Motor vehicle gasket/sealing material" means a fluid applied to coat a gasket or replace and perform the same function as a gasket. Automobile and light-duty truck gasket/gasket sealing material includes room temperature vulcanization seal material;**

**"Motor vehicle lubricating wax/compound" means a protective lubricating material applied to vehicle hubs and hinges;**

**"Motor vehicle sealer" means a high viscosity material generally, but not always, applied in the paint shop after the body has received an electrodeposition primer coating and before the application of a subsequent coating (e.g., primer-surfacer). The primary purpose of automobile and light-duty truck sealer is to**

**fill body joints completely so that there is no intrusion of water, gases or corrosive materials into the passenger area of the body compartment;**

**"Motor vehicle trunk interior coating" means a coating applied to the trunk interior to provide chip protection;**

**"Motor vehicle underbody coating" means a coating applied to the undercarriage or firewall to prevent corrosion or provide chip protection;**

**"Multi-colored coating" means a coating packaged in a single container and applied in a single coat which exhibits more than one color when applied;**

Subsection (s)(1)(U) of the proposal contains a definition of "cavity wax" and subsection (s)(1)(KK) contains a definition of "deadener." These terms are specific to motor vehicle coating applications and the above "motor vehicle" definitions are more specific. To avoid redundancy, in the final text the "cavity wax" and "deadener" definitions should be deleted from subsection (s)(1):

~~(U) "Cavity wax" means a coating, used at a motor vehicle assembly coating facility, applied into the cavities of the vehicle primarily for the purpose of enhancing corrosion protection;~~

~~(KK) "Deadener" means a specialty coating applied to selected vehicle surfaces primarily for the purpose of reducing the sound of road noise in the passenger compartment;~~

The term "two-component coating" is not used in the proposal, so a definition is not necessary. Two-component coatings are classified as multi-component coatings. RCSA section 22a-174-20(s) includes a definition and limits for multi-component coatings.

**Comment 9**: VOC content limits are established for vacuum-metalizing coatings applied to metal parts and plastic parts. The definition at subsection (s)(1)(OOOOO) is consistent with the CTG recommended definition for metal parts coating:

"Vacuum-metalizing coating" means an undercoat applied to a substrate on which metal is deposited or an overcoat applied directly to a metal film;

The CTG recommended definition for plastic part vacuum metalizing coating is sufficiently different so that it should be included:

"Vacuum-metalizing coating" as applied to metal parts means the undercoat applied to the substrate on which the metal is deposited or the overcoat applied directly to the metal film. <u>With respect to plastic parts, vacuum-metalizing coating means topcoats and basecoats that are used in the vacuum-metalizing process.</u>" (4)

**Response**: The definition of "vacuum-metalizing coating" does not differ for the different substrates in any meaningful way. A topcoat and overcoat are substantially the

same, as are basecoats and undercoats, in this application. However, clarification of the definition is required. In the final text of subsection (s)(1), the definition of "vacuum-metalizing coating" should be revised as follows:

> "Vacuum-metalizing coating" means the undercoat applied to ~~the~~ **a** substrate on which the metal is deposited **prior to a vacuum-metalizing process** or the overcoat applied directly to the metal film **after a vacuum-metalizing process**;

A corresponding definition of "vacuum-metalizing process" should also be added to subsection (s)(1), as follows:

> **"Vacuum metalizing process" means the process of evaporating metals inside a vacuum chamber and depositing them on a substrate to achieve a uniform metalized layer;**

**Comment 10**: The definition of wing coating should include rotary wings. (3, 4)

**Response**: In the final text of subsection (s)(1), the definition for "wing coating" should be revised as follows:

> "Wing coating" means a corrosion-resistant topcoat that withstands the flexing of aircraft wings **and rotary wings**.

**Comment 11**: In subsection (s)(2)(A)(ii), it is not clear why the applicability criteria only applies to "the owner" and not to both "the owner and operator," as stated throughout the remainder of the rule. (1)

**Response**: This omission is an oversight. Subsection (s)(2)(A)(ii) should be revised to read as follows:

> For which the owner **or operator** purchases for use at the premises 855 gallons or more of coatings and cleaning solvents in aggregate per rolling 12-month period.

**Comment 12**: We believe that the intent of the CTG is for the regulation to apply to products that are manufactured by the facility for sale or use at another location. To avoid different interpretations, please clarify that RCSA section 22a-174-20(s) is intended to apply only to production parts and not to other components at the facility that are not "products," such as jigs and fixtures or equipment used to manufacture the products, or metal or plastic items at the facility that are not products manufactured by the facility for sale or use at another location. (2)

**Response**: The MMPPC CTG indicates that EPA intends the recommended controls to apply to "manufacturers of miscellaneous metal and plastic parts that surface coat the parts they produce" and "facilities that perform surface coating of miscellaneous metal and plastic parts on a contract basis." DEEP does not intend for the maintenance coating of facility fixtures, equipment and components to be regulated under subsection (s). To clarify, the following exemption should be added to subdivision (7)(A) as clause (xiii):

(7) Exemptions and exceptions.

(A) Except as provided in subdivision (8) of this subsection, the requirements of this subsection shall not apply to any of the following activities, and the VOC emissions resulting from the following activities shall not be included in determinations pursuant to subdivision (2) or (7)(G) of this subsection: …

**(xiii) Maintenance coating and related cleaning of fixtures, equipment and components that are not products manufactured by the facility or products coated on a contract basis.**

**Comment 13**: Subsection (s)(4)(I) states "Any owner or operator using an application method pursuant to this subparagraph shall maintain records demonstrating the transfer efficiency achieved." Is my interpretation correct that the requirement applies only to (4)(I) and not to all of subdivision (4)? If not, "subparagraph" should be clearly described as applying only to (4)(I) and not the entire paragraph (4). Perhaps my understanding of "paragraph" and "subparagraph" as used in the regulation is confused. (4)

**Response**: According to the State of Connecticut Manual for Drafting Regulations prepared by the Legislative Commissioner's Office (Rev Dec. 2009, page 24), regulations are divided as follows:

Section (e.g. 22a-174-20)
Subsection (e.g. (s))
Subdivision (e.g. (4))
Subparagraph (e.g. (I))
Clause (e.g. (i))
Subclause (e.g. (IV))

Therefore, the requirement to maintain records demonstrating the transfer efficiency achieved would not apply to all of subdivision (4), but only to subparagraph (I) of subdivision (4). Since this interpretation is based on well established and published policy, no further clarification is necessary.

**Comment 14**: To be eligible for the shipbuilding and ship repair exemption of proposed section 22a-174-20(s)(7)(A)(v), the owner of a facility that applies coatings must "operate in compliance with 40 CFR 63 Subpart II." We agree with the premise that a facility must be more than just "subject to" 40 CFR 63 Subpart II in order to be exempt from 22a-174-20(s), but are concerned that "operate in compliance" could be subject to interpretation by different inspectors. As a suggestion, perhaps "operate in compliance" could be replaced with "operate in substantial compliance" or similar wording. Otherwise, please provide some clarification as to the term "operate in compliance." (2)

**Response**: DEEP does not intend for facilities that have failed in their obligation to comply with 40 CFR 63 Subpart II to also be in noncompliance with RCSA section 22a-174-20(s). For instance, a recordkeeping violation under Subpart II should not eliminate a source from using the exemption provided in proposed subsection (s)(7)(A)(v). To prevent disagreements about how much compliance is enough, the compliance phrase should be deleted from the proposed language. The obligation to comply with the federal requirements exists independently. Subsection (s)(7)(A)(v) should, therefore, be revised as follows:

> Coating applied in a shipbuilding and repair operation, provided that the operation is subject to ~~and operating in compliance with~~ 40 CFR 63 Subpart II,

**Comment 15**: Per proposed RCSA section 22a-174-20(s)(7)(A)(v), shipbuilding and ship repair facilities… are exempt from 22a-174-20(s), except for record keeping requirements under section 22a-174-20(s)(8). Section 22a-174-20(s)(8)(D) states that the facility must retain "records sufficient to verify the applicability of the exception or exemption." We interpret that requirement to mean records that demonstrate that the facility is "operating in compliance with 40 CFR 63 Subpart II" as required by section 22a-174-20(s)(7)(A)(v), such as an initial notification, implementation plan, and semi-annual reports. In accordance with section 22a-174-20(s)(8)(A), those records would need to be maintained for five years and made available upon request.

Please clarify whether the additional record keeping requirements under 22a-174-20(s)(8)(B) are also required. (2)

**Response**: DEEP's intention is that a coating operation granted an exception or exemption would only need to keep "records sufficient to verify the applicability of the exception or exemption," maintain those records for five years, and make them available upon request. Any coating operation that is exempt or does not meet the applicability thresholds would not be subject to subparagraph (B) of subsection (s)(8) of the proposal. To clarify, subsection (s)(8) should be revised as follows:

(8) Records.

(A) **Except as provided in subparagraphs (B) and (C),** ~~An~~ **an** owner or operator shall maintain records of information sufficient to determine compliance with the applicable requirements of this subsection, including, at a minimum, the **following** information ~~described in subparagraph (B) of this subdivision. All such records shall be~~ **for each calendar month**:

~~(i) Made available to the commissioner to inspect and copy upon request, and~~

~~(ii) Maintained for five years from the date such record is created.~~

~~(B) An owner or operator shall maintain records of the following information for each calendar month:~~

(i) Name and description of each coating and cleaning solvent,

(ii) VOC content of each coating and cleaning solvent, as applied, and the associated calculations,

(iii) VOC content of each coating or cleaning solvent, as supplied,

(iv) The amount of each coating and cleaning solvent:

(I) Purchased, or

(II) ~~Actually used~~ **Used**,

(v) A Material Safety Data Sheet, Environmental Data Sheet, Certified Product Data Sheet, or an equivalent data sheet for each coating and cleaning solvent,

(vi) Documentation of control device efficiency and capture efficiency, if applicable, using an applicable EPA reference method or alternate method as approved by the commissioner **and the Administrator**, and

(vii) Date and type of maintenance performed on air pollution control equipment, if applicable.

~~(C)~~**(B)** Any owner or operator who does not meet the applicability thresholds provided in subdivision (2)(A) of this subsection shall maintain either material purchase or actual usage records to verify that this subsection does not apply to such owner or operator.

~~(D)~~**(C)** An owner or operator operating pursuant to an exception or exemption in subdivision (7) of this subsection shall maintain records sufficient to verify the applicability of the exception or exemption.

**(D) All records made pursuant to this subdivision shall be:**

**(i) Made available to the commissioner to inspect and copy upon request, and**

**(ii) Maintained for five years from the date such record is created.**

In addition, to improve clarity and maintain consistency between subsections (s) and (kk), proposed subsection (kk)(7) should be revised as follows:

(7) Records.

(A) **Except as provided in subparagraphs (B) and (C),** ~~An~~ **an** owner or operator shall maintain records of information sufficient to determine compliance with the applicable requirements of this subsection, including, at a minimum, the **following** information ~~described in subparagraph (B) of this subdivision. All such records shall be~~ **for each calendar month**:

~~(i) Made available to the commissioner to inspect and copy upon request, and~~

~~(ii) Maintained for five years from the date such record is created.~~

~~(B) An owner or operator shall maintain records of the following information for each calendar month:~~

(i) Name and description of each coating and cleaning solvent,

(ii) VOC content of each coating and cleaning solvent, as applied, and the associated calculations,

(iii) VOC content of each coating or cleaning solvent, as supplied,

(iv) The amount of each coating and cleaning solvent:

(I) Purchased, or

(II) ~~Actually used~~ **Used**,

(v) A Material Safety Data Sheet, Environmental Data Sheet, Certified Product Data Sheet, or an equivalent data sheet for each coating and cleaning solvent,

(vi) Documentation of control device efficiency and capture efficiency, if applicable, using an applicable EPA reference method or alternate method as approved by the commissioner **and the Administrator**, and

(vii) Date and type of maintenance performed on air pollution control equipment, if applicable.

~~(C)~~**(B)** Any owner or operator who does not meet the applicability thresholds provided in subdivision (2)(A) of this subsection shall maintain either material purchase or actual usage records to verify that this subsection does not apply to such owner or operator.

~~(D)~~**(C)** An owner or operator operating pursuant to an exception or exemption in subdivision (3) of this subsection shall maintain records sufficient to verify the applicability of the exception or exemption.

**(D) All records made pursuant to this subdivision shall be:**

**(i) Made available to the commissioner to inspect and copy upon request, and**

**(ii) Maintained for five years from the date such record is created.**

**Comment 16**: Proposed RCSA section 22a-174-20(s)(8)(B)(ii) states that records must be maintained of the "VOC content of each coating and cleaning solvent, as applied, and the associated calculations." We suggest replacing the words "cleaning solvent" with "diluent." Otherwise, there would be no need for any "associated calculations." In addition, RCSA section 22a-174-20(s)(8)(B)(iii) already includes record keeping requirements for the VOC content of the cleaning solvent. (2)

**Response**: In the final text of this proposal, section 20(s)(8)(B)(ii) of the proposal should be moved to subsection 20(s)(8)(A)(ii), as explained in the response to Comment 15, and be revised as follows:

> VOC content of each coating and ~~cleaning solvent~~ **diluent**, as applied, and the associated calculations,

For the same reasons as stated in this comment, "diluent" should replace "cleaning solvent" in proposed RCSA section 22a-174-20(kk)(7)(B)(ii). This text should be moved to subsection (kk)(7)(A)(ii), as explained in the response to Comment 15, and be revised as follows:

> VOC content of each coating and ~~cleaning solvent~~ **diluent**, as applied, and the associated calculations,

As suggested in this comment, cleaning solvents and diluents are distinct materials. Subsections (s)(5) and (kk)(6) specify work practice requirements for VOC-containing coatings and cleaning solvents, but not diluents. Since diluents also need to be handled in a manner that limits VOC emissions, diluents should be included in the work practice requirements of both subsections. Therefore, subsections (s)(5) and (kk)(6) should be revised to read as follows:

> Work practices. Each owner or operator shall use the following work practices:
>
> (A) New and used VOC-containing coating**, diluent** or cleaning solvent, including a coating mixed on the premises, shall be stored in a nonabsorbent, non-leaking container. Such a container shall be kept closed at all times except when the container is being filled, emptied or is otherwise actively in use;

(B) Spills and leaks of VOC-containing coating**, diluent** or cleaning solvent shall be minimized. Any leaked or spilled VOC-containing coating**, diluent** or cleaning solvent shall be absorbed and removed immediately;

(C) Absorbent applicators, such as cloth and paper, which are moistened with a VOC-containing coating or solvent, shall be stored in a closed, nonabsorbent, non-leaking container for disposal or recycling; and

(D) VOC-containing coating**, diluent** and cleaning solvent shall be conveyed from one location to another in a closed container or pipe.

Subsection (kk) – Pleasure Craft Coating

**Comment 17**: In Table 20(kk)-1, "Pleasure Craft Coating VOC Limits," Connecticut's proposed limits for Extreme High Gloss Topcoat and Other Substrate Antifoulant Coating are less stringent than EPA's 2008 CTG for MMPPC operations. In addition, Connecticut is proposing an Antifouling Sealer/Tie Coating category with a less stringent limit than the CTG Other Substrate Antifoulant category. The technical analysis contained in Connecticut's *Regulatory Assessment Document* addresses this issue and should be included in Connecticut's SIP submittal for this regulation. (1)

**Response**: DEEP appreciates EPA's suggestion and will include the technical analysis contained in Connecticut's *Regulatory Assessment Document* in Connecticut's SIP submittal for this regulation. DEEP should not revise the proposal in response to this comment.

## V. Comments of Hearing Officer

The hearing officer suggests the following additional revisions to the proposal. The suggested revisions are minor, noncontroversial and will make for a clearer final proposal.

(1) The definition of "air dried" located at subsection (s)(1)(F) of the final text of the proposal should be revised to replace the word degrees with it symbol for consistency with the other defined terms in the section, as follows:

"Air dried" means cured at a temperature below 90 ºC (194 ~~degrees~~ **º**F);

(2) The definition of "automotive-transportation parts" located at subsection (s)(1)(M) of the final text of the proposal should be revised from plural to singular for consistency with the other defined terms in the section, as follows:

"Automotive-transportation ~~parts~~ **part**" means ~~the~~ **an** interior ~~and~~ **or** exterior ~~components~~ component of **a** motor ~~vehicles and~~ **vehicle or** mobile ~~sources~~ **source**;

(3) The definition of "caulking and smoothing compounds" located at subsection (s)(1)(T) of the final text of the proposal should be revised from plural to singular for consistency with the other defined terms in the section as follows:

> "Caulking and smoothing ~~compounds~~ **compound**" means **a** semi-solid ~~materials~~ **material** that ~~are~~ **is** applied by hand and ~~are~~ used to smooth exterior vehicle surfaces or fill cavities such as bolt hole accesses. A material shall not be classified as a "caulking and smoothing compound" if it can also be classified as a sealant;

(4) The second sentence of the "commercial interior adhesive" definition located at subsection (s)(1)(BB) of the final text of the proposal applies to the components being coated and not the adhesive. The definition should, therefore, be revised as follows:

> "Commercial interior adhesive" means **a** ~~materials~~ **material** used in the bonding of passenger cabin interior components. ~~These components must meet Federal Aviation Administration fireworthiness requirements~~;

(5) The definition of "corrosion prevention compound" located at subsection (s)(1)(EE) of the final text of the proposal should be revised as follows:

> "Corrosion prevention compound" means a coating system that provides corrosion protection by displacing water and penetrating substrates, forming a protective barrier between the metal surface and moisture. ~~Coatings~~ **A coating** containing oils or waxes ~~are~~ **is** excluded from this category;

(6) The first word of each clause of the definition of "related cleaning" located at subsection (s)(1)(WWWW) of the final text of the proposal should be capitalized as follows:

> "Related cleaning" means the removal of uncured coatings, coating residue and contaminants from:
>
> (i) ~~miscellaneous~~ **Miscellaneous** metal and plastic parts prior to the application of coatings,
>
> (ii) ~~miscellaneous~~ **Miscellaneous** metal and plastic parts between coating applications, or
>
> (iii) ~~transfer~~ **Transfer** lines, storage tanks, spray booths and coating application equipment;

(7) Subdivision (3) of subsection (s) of the final text of the proposal should be revised to make the punctuation consistent with other subdivisions by replacing the period at the end of subparagraphs (A) through (C) with a semicolon as follows:

> Except as provided in subdivision (7) of this subsection, on and after January 1, 2013, no owner or operator shall apply any coating, inclusive of any VOC-containing material added to the original coating supplied by the manufacturer, unless the owner or operator

controls emissions of VOCs in accordance with subparagraph (A), (B), (C) or (D) of this subdivision. If more than one emission limit or emission rate applies in a particular situation, then the least restrictive limit or emission rate shall apply. An owner or operator shall control the emission of VOCs as follows:

(A) Use only coatings that have an as applied VOC content no greater than the applicable level in Table 20(s)-1, 20(s)-2, 20(s)-3, 20(s)-4, 20(s)-5, 20(s)-6a or 20(s)-6b~~.~~**;**

(B) For a coating unit, use a combination of low-VOC coatings and add-on air pollution control equipment to achieve a VOC emission rate no greater than the applicable level in Table 20(s)-7, 20(s)-8, 20(s)-9, or 20(s)-10~~.~~**;**

(C) Install, operate and maintain according to the manufacturer's recommendations air pollution control equipment with an overall control efficiency of at least 90%~~.~~**; and**

(D) An alternative means, achieving a level of control equivalent to subparagraph (A), (B) or (C) of this subdivision, requested from and approved by the commissioner in accordance with subsection (cc) of this section.

(8) The definition of "related cleaning" located at subsection (kk)(1)(T) of the final text of the proposal should be revised to make the punctuation consistent with other definitions by replacing the semicolon at the end of clauses (i) and (ii) with a colon and capitalizing the first word of each clause as follows:

"Related cleaning" means the removal of uncured coatings, coating residue, and contaminants from:

(i) ~~pleasure~~ **Pleasure** craft or parts and components of pleasure craft prior to the application of coatings~~;~~**,**

(ii) ~~pleasure~~ **Pleasure** craft or parts and components of pleasure craft between coating applications~~;~~**,** or

(iii) ~~transfer~~ **Transfer** lines, storage tanks, spray booths, and coating application equipment; and

(9) Subdivision (2) of subsection (kk) of the final text of the proposal should be revised to make the punctuation consistent with other subdivisions by replacing the period at the end of subparagraphs (A) and (B) with a semicolon as follows:

Applicability.

(A) Except as provided in subdivision (3) of this subsection, the provisions of this subsection apply to the owner or operator of any marina, boat yard, or other

premises where pleasure craft coating is applied for commercial purposes at the direction of such owner or operator, if:

(i) Such owner or operator was subject to subsection (s) of this section prior to January 1, 2013, or

(ii) Such owner or operator purchases for use in all pleasure craft coating and related cleaning at the premises 855 gallons or more of coatings and cleaning solvents in aggregate per rolling 12-month period~~.~~**;**

(B) An owner or operator subject to this subsection shall:

(i) For a source operating prior to January 1, 2013, comply with the requirements of this subsection no later than January 1, 2013, or

(ii) For a source that commences operation after January 1, 2013, comply with the requirements of this subsection upon commencing operation~~.~~**; and**

(C) Any owner or operator subject to this subsection shall remain subject to this subsection.

(10) Subdivision (4) of subsection (kk) of the final text of the proposal should be revised to make the punctuation consistent with other subdivisions by replacing the period at the end of subparagraphs (A) through (D) with a semicolon as follows:

On and after January 1, 2013, no owner or operator of a pleasure craft coating operation shall apply any coating, inclusive of any VOC-containing material added to the original coating supplied by the manufacturer, unless the owner or operator controls emissions of VOCs in accordance with subparagraph (A), (B), (C), (D) or (E) of this subdivision. If more than one emission limit or emission rate applies in a particular situation, then the least restrictive limit or rate shall apply. An owner or operator shall:

(A) Use only coatings that have an as applied VOC content no greater than the applicable level in Table 20(kk)-1~~.~~**;**

(B) Use a combination of low-VOC coatings and add-on air pollution control equipment to achieve a VOC emission rate no greater than the applicable level in Table 20(kk)-2~~.~~**;**

(C) Install, operate and maintain according to the manufacturer's recommendations air pollution control equipment with an overall control efficiency of at least 90%~~.~~**;**

(D) Use an alternative means, achieving a level of control equivalent to subparagraph (A), (B) or (C) of this subdivision, requested from and approved by the commissioner in accordance with subsection (cc) of this section~~.~~**; and**

(E) Limit the total potential VOC emissions from all pleasure craft coating operations and related cleaning by permit or order of the commissioner to 1,666 pounds or less in any calendar month.

## VI. Conclusion

Based upon the comments addressed in this Hearing Report, I recommend the proposal be revised as recommended herein and that the recommended final proposal, included as Attachment 3 to this report, shall be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, be submitted to the EPA as a SIP revision.

*Robin D. Baena* 02/10/2012

Robin D. Baena
Hearing Officer

Date

## Attachment 1

### STATEMENT PURSUANT TO SECTION 22a-6(h) OF THE GENERAL STATUTES CONCERNING THE ADOPTION OF REGULATIONS PERTAINING TO ACTIVITIES FOR WHICH THE FEDERAL GOVERNMENT HAS ADOPTED STANDARDS OR PROCEDURES

Pursuant to section 22a-6(h) of the Connecticut General Statutes (CGS), the Commissioner of the Department of Energy and Environmental Protection (the Department) 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 regulatory proposal that differ from federal standards or procedures either within the regulatory language or through supplemental documentation accompanying the proposal. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under CGS Title 4, Chapter 54 and make such explanation publicly available at the time of the publication of the notice of intent required under CGS section 4-168.

In accordance with the requirements of CGS section 22a-6(h), the following statement is entered into the administrative record in the matter of the proposed revisions to section 22a-174-20(s) of the air quality regulations.

This proposal revises RCSA subsection 22a-174-20(s) to further limit VOC emissions from the coating of metal and plastic parts and adopts RCSA 22a-174-20(kk) to limit VOC emissions from the coating of pleasure craft.

The Department has performed a comparison of the proposal with analogous federal laws and regulations, namely the Clean Air Act (CAA) and standards and procedures in 40 Code of Federal Regulations (CFR), as follows:

Regarding the revision of subsection (s) and adoption of subsection (kk) in RCSA section 22a-174-20: There are no comparable federal standards specifying a reasonably available control technology (RACT) level of control, although Clean Air Act section 182(b) requires states to establish a RACT level of control for certain categories of sources. EPA does issue control technique guidelines (CTGs) that recommend work practices, application methods, reformulation and/or control equipment operation that EPA considers a RACT level of control for a source category or activity, but the adoption of enforceable requirements that meet at least that recommended level of control is left to each state with a nonattainment area for an ozone national ambient air quality standard. The proposed requirements for miscellaneous metal and plastic parts coating and pleasure craft coating are consistent with the recommendations of the miscellaneous metal and plastic parts coating CTG and provide at least a RACT level of control.

02/10/2012
Date

Robin D. Baena

**Attachment 2**
**Proposal**

*Available in a separate web file*

**Attachment 3**
**Final Text of the Proposal, Based on Recommendations in the Hearing Officer's Report**

*Available in a separate web file*