

Legislative Regulation Review Committee

2009-019

Department of Environmental Protection

AIR QUALITY AMENDMENTS

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

REGULATION

OF

NAME OF AGENCY

Environmental Protection

Concerning

Amendment of Sections 22a-174-1(a)(5), 22a-174-3a(a)(1), 22a-174-3a(a)(2)(B), 22a-174-33(c)(2), 22a-174-33(o)(1), 22a-174-33(q)(1), 22a-174-33(q)(2) and 22a-174-40(d)(5) of the Regulations of Connecticut State Agencies

Sections 1-2

Section 1. Section 22a-174-1(a)(5) of the Regulations of Connecticut State Agencies is amended to read as follows:

(5) "Air pollutant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, aerosol, odorous substances, or any combination thereof, but does not include: carbon dioxide except in accordance with regulations adopted pursuant to sections 22a-174d [or], 22a-174j, 22a-200, 22a-200a, 22a-200b, 22a-200c, 22a-201 through 22a-201c of the Connecticut General Statutes; the noble gases (helium, neon, argon, krypton, xenon or radon); uncombined water vapor or water droplets[.]; molecular hydrogen expressed as H₂; or molecular oxygen expressed as O₂ or nitrogen.

Sec. 2. Section 22a-174-3a(a)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) Applicability. Prior to beginning actual construction of any stationary source or modification not otherwise exempted in accordance with subdivision (2)(A) to (C) of this subsection, the owner or operator shall apply for and obtain a permit to construct and operate under this section for any:

- (A) New major stationary source;
- (B) Major modification;
- (C) New or reconstructed major source of hazardous air pollutants subject to the provisions of subsection (m) of this section;
- (D) New emission unit with potential emissions of fifteen (15) tons or more per year of any individual air pollutant;
- (E) Modification to an existing emission unit which increases potential emissions of any individual air pollutant from such unit by fifteen (15) tons or more per year; [or]
- (F) Stationary source or modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant[.] ; or
- (G) Incinerator for which construction commenced on or after June 1, 2009, except if such incinerator is used:
 - (i) for the primary purpose of reducing, controlling or eliminating air pollution, or
 - (ii) as a solid waste incineration unit subject to an emission guideline issued pursuant to Section 129 of the Act.

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Sec. 3-4

Sec. 3. Section 22a-174-3a(a)(2)(B) of the Regulations of Connecticut State Agencies is amended to read as follows:

- (B) Any stationary source that is:
- (i) registered under and is in compliance with any new source review general permit to construct and operate a new or existing stationary source issued pursuant to section 22a-174(k) of the Connecticut General Statutes,
 - (ii) a stripping facility used to remove VOC from contaminated groundwater or soil pursuant to an order issued by the commissioner, provided such facility has a control device with VOC removal efficiency of at least ninety-five percent (95%),
 - (iii) a portable engine or boiler temporarily replacing an existing engine or boiler, provided the replacement units have a combined emission rate equal to or less than the existing units and that the number of days total that any and all such portable engines or boilers may be used does not exceed ninety (90) days in any calendar year, [or]
 - (iv) in compliance with section 22a-174-3b, [Section] section 22a-174-3c or [Section] section 22a-174-42 of the Regulations of Connecticut State Agencies, unless otherwise subject to this section pursuant to subdivision (7) of this subsection[;] , or
 - (v) a "dispensing facility," as defined in section 22a-174-30(a)(3) of the Regulations of Connecticut State Agencies.

Sec. 4. Section 22a-174-33(c)(2) of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) Notwithstanding subdivision (1) of this subsection and except as provided in subdivision (3) of this subsection, this section shall not apply to any premises which is defined as a Title V source solely because a stationary source on such premises is subject to one or more of the following:

- (A) Standard of performance for new residential wood heaters pursuant to 40 CFR 60, Subpart AAA;
- (B) 40 CFR 61.145;
- (C) Accidental release requirements pursuant to 40 CFR 68; or
- (D) 40 CFR 60, 61, 63 [or] , 68 or 72, if such source is exempt or deferred from the requirement to obtain a Title V permit:
 - (i) by the terms of the applicable CFR,
 - (ii) by the terms of 40 CFR 70,
 - (iii) by the Administrator, or
 - (iv) with the Administrator's authorization, by the commissioner[;].

REGULATION

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Sec. 5-7

Sec. 5. Section 22a-174-33(o)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) **Monitoring reports.** A permittee required to perform monitoring pursuant a Title V permit shall submit to the commissioner, on forms prescribed by the commissioner, written monitoring reports on [January 30 and July 30] March 1 and September 1 of each year or on a more frequent schedule if specified in such permit. Such monitoring reports shall include the date and description of each deviation from a permit requirement including, but not limited to:

- (A) Each deviation caused by upset or control equipment deficiencies;
- (B) Each deviation of a permit requirement that has been monitored by the monitoring systems required under the Title V permit, which has occurred since the date of the last monitoring report; and
- (C) Each deviation caused by a failure of the monitoring system to provide reliable data.

Sec. 6. Section 22a-174-33(q)(1) and (2) of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) **Progress reports.** A permittee shall, on [January 30 and July 30] March 1 and September 1 of each year, or on a more frequent schedule if specified in such permit, submit to the commissioner a progress report on forms prescribed by the commissioner, and certified in accordance with section 22a-174-2a(a)(5) of the Regulations of Connecticut State Agencies. Such report shall:

- (A) Identify those obligations under the compliance plan schedule in the permit which the permittee has met, and the dates on which they were met; and
- (B) Identify those obligations under the compliance plan schedule in the permit which the permittee has not timely met, explain why they were not timely met, describe all measures taken or to be taken to meet them and identify the date by which the permittee expects to meet them.

(2) **Compliance certification.** A permittee shall, on [January 30] March 1 of each year, or on a more frequent schedule if specified in such permit, submit to the commissioner[,] a written compliance certification certified in accordance with section 22a-174-2a(a)(5) of the Regulations of Connecticut State Agencies and which includes the information identified in Title 40 CFR 70.6(c)(5)(iii)(A) to (C), inclusive.

Sec. 7. Section 22a-174-40(d)(5) of the Regulations of Connecticut State Agencies is amended to read as follows:

(5) [No] On and after January 1, 2009, no person shall:

- (A) [sell,] Sell, supply[,] or offer for sale [or manufacture for use] in the State of Connecticut [after January 1, 2009] any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner or graffiti remover manufactured on or after January 1, 2009, [that] if such product contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight[.]; or

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Sec. 7 (cont.)

- (B) Manufacture for sale in the State of Connecticut any contact adhesive, electronic cleaner, footwear or leather care product, general purpose degreaser, adhesive remover, electrical cleaner or graffiti remover, if such product contains methylene chloride, perchloroethylene or trichloroethylene, except to the extent such compounds are present as impurities in a combined amount less than or equal to 0.01% by weight.

Statement of Purpose: This proposal makes technical corrections, minor revisions and clarifications to certain air quality regulations; the proposal also makes minor changes to the applicability of the Air Bureau's two stationary source permitting programs. Specifically, each section of the proposal serves the following purpose:

Section 1 makes two changes to the definition of "air pollutant" used in the Department of Environmental Protection's (DEP's) air quality regulatory programs. The noble gases, which are non-reactive, are explicitly excluded. The treatment of carbon dioxide as an air pollutant is revised consistent with recently adopted legislation (sections 22a-200 through 22a-201c of the general statutes) concerning climate change.

Section 2 identifies those sources for which the owners are required to obtain an operating permit under DEP's new source review (NSR) permitting program. Currently, owners of small incinerators used to burn various wastes and debris are not required to obtain a NSR permit if emissions are below a 15 ton per year (tpy) permitting threshold. However, incinerators operating above or below the 15 tpy threshold may be a significant, sporadic source of local particulate and toxic emissions, depending on the operating conditions and materials burned. Such short-term spikes in emissions of certain pollutants can be harmful to human health or cause a local nuisance. The revision requires the owner of every new incinerator, regardless of size, to apply for and obtain a NSR permit, thereby enhancing regulatory oversight for the source category and increasing public awareness of new incinerator construction.

Section 3 explicitly exempts owners of gasoline stations from the requirement to obtain a NSR permit. The NSR permit program requires owners of stationary, not area, sources to obtain permits. Gasoline stations are area sources, and so the owners are not required to apply for and obtain a permit. Emissions from gasoline stations are regulated pursuant to section 22a-174-30 of the Regulations of Connecticut State Agencies, which requires vapor recovery systems at all pumps as well as monitoring and reporting.

Section 4 exempts owners of certain new, small electric generators from the requirement to obtain a Title V permit, thereby creating consistency between the federal and state Title V permitting programs. Such regulatory consistency becomes particularly important if electric demand and pricing cause the number of small electric generators to increase. This revision also eliminates a non-value adding activity, thereby freeing resources for other uses.

Sections 5 and 6 change the monitoring, progress and compliance reporting schedule on which Title V permittees complete and submit these reports to DEP. The schedule change does not hinder DEP's report processing, yet is more easily managed by source owners. The frequency of reports (annual or semi-annual) is unchanged.

Section 7 clarifies the prohibition on the sale and manufacture of consumer products that contain methylene chloride, perchloroethylene or trichloroethylene, by stating explicitly the implied manufacture date from which the prohibition applies.

CERTIFICATION

Be it known that the foregoing: (check one)

Regulations Emergency Regulations

Are: Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section 22a-174 of the General Statutes

Section _____ of the General Statutes, as amended by Public Act No. ____ of the _____ Public Acts.
(enter year)

Public Act Number _____ of the _____ Public Acts.
(enter year)

(If applicable) After Publication in the *Connecticut Law Journal* on August 19, 2008 of the
notice of proposal to: (enter publication date)

Adopt Amend Repeal such regulations

(If applicable) And the holding of an advertised public hearing on Sept. 23, 2008
(enter date)

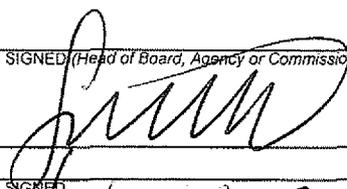
WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

EFFECTIVE: (check one, and complete as applicable)

When filed with the Secretary of the State
(OR)

The ____ day of _____ 20__.

In Witness Whereof:	DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED
	<u>2/10/09</u>		Commissioner

Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, of C.G.S.	SIGNED	OFFICIAL TITLE, DULY AUTHORIZED
		ASSOC. ATTY. GENERAL

For Regulation Review Committee Use Only

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

By the Legislative Regulation Review Committee in accordance with Section 4-170, as amended, of the General Statutes	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)

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

DATE	SIGNED (Secretary of the State.)	BY

INSTRUCTIONS

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
- Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes
- Each Regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language underlined or in capital letters and deleted language in brackets. Section 4-179 of the General Statutes.
- Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>