



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2010-0121; A-1-FRL-9915-05-Region 1]

### Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Low Emission Vehicle Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The regulations adopted by Connecticut include the California Low Emission Vehicle (LEV) II light-duty motor vehicle emission standards effective in model year 2008, the California LEV II medium-duty vehicle standards effective in model year 2009, and greenhouse gas emission standards for light-duty motor vehicles and medium-duty vehicles effective with model year 2009. The Connecticut LEV regulation submitted also includes a zero emission vehicle (ZEV) provision, as well as emission control label and environmental performance label requirements. Connecticut has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) in accordance with the requirements of the Clean Air Act (CAA), as well as to reduce greenhouse gases (carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons). In addition, Connecticut has worked to ensure that their program is identical to California's, as required by the CAA. The intended effect of this action is to approve the Connecticut LEV II program. In addition, EPA is approving the removal of the definition and regulation of

“composite motor vehicles” from the Connecticut’s SIP-approved vehicle inspection and maintenance program. These actions are being taken in accordance with the CAA.

**DATES:** This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2010-0121. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912, telephone number (617) 918-1668, fax number (617) 918-0668, email [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov) .

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Response to Public Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background and Purpose**

On January 27, 2014 (79 FR 4308), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut, “Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Low Emission Vehicle Program.” The NPR proposed approval of Connecticut’s Low Emissions Vehicle II (LEV II) program, as adopted by Connecticut on December 4, 2004, and subsequently amended on December 22, 2005 and August 4, 2009. The Connecticut LEV II program is cited as a weight-of-evidence measure in Connecticut’s Attainment Demonstration

SIP for the 1997 8-hour ozone standard, submitted to EPA on February 1, 2008. The formal LEV II SIP revision was submitted by Connecticut on January 22, 2010.

On December 4, 2004, Connecticut repealed the provisions of section 22a-174-36 of the Regulations of Connecticut State Agencies, rescinding both the California Low Emission Vehicle I program and the National Low Emission Vehicle (NLEV) program. In accordance with section 177 of the Clean Air Act (CAA) and as required by Connecticut Public Act 04-84, Connecticut adopted section 22a-174-36b, the California Low Emission Vehicle II (LEV II) program, including all “zero emission vehicle” program elements, commencing with 2008 model year vehicles.

On December 22, 2005, Connecticut amended section 22a-174-36b of the Regulations of Connecticut State Agencies, making minor technical corrections and clarifications; adopting California LEV II emission standards and related provisions for medium-duty vehicles commencing with the 2009 model year; adopting recently announced revisions concerning LEV II greenhouse gas emission standards and related provisions for passenger cars, light duty trucks and medium-duty passenger vehicles commencing with the 2009 model year in accordance with section 177 of the CAA and Connecticut Public Act 04-84; and providing additional clarification and flexibility with respect to the implementation of the zero emissions vehicle (ZEV) program in Connecticut.

On August 4, 2009, Connecticut adopted a third amendment consisting of revisions to two sections of the air quality regulations concerning motor vehicles. The recall, warranty, ZEV, and

ZEV travel provision amendments update the Connecticut LEV program consistent with changes California made to its LEV program.

In addition to the amendments to the Connecticut LEV program, Connecticut's January 22, 2010 SIP revision includes a change in its motor vehicle inspection and maintenance (I/M) program to exempt composite vehicles from I/M program testing.

Other specific requirements of Connecticut's LEV II and motor vehicle I/M programs and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

## **II. Response to Public Comments**

EPA received comments on the NPR from one anonymous commenter. This commenter supported the effort of Connecticut and other states to follow California's lead in implementing a low emission vehicle program. The commenter went on to identify three specific issues: (1) market failure with public transportation; (2) cars manufactured before 2008; and (3) monitoring emissions.

The action before EPA is to approve or disapprove Connecticut's request to revise its SIP to include California LEV II light-duty motor vehicle emission standards (effective in model year 2008), the California LEV II medium-duty vehicle standards (effective in model year 2009), and greenhouse gas emission standards for light-duty motor vehicles and medium-duty vehicles (effective with model year 2009). The Connecticut LEV program submitted is identical to California's program, as required by the Clean Air Act, and includes a ZEV provision, as well as

emission control label and environmental performance label requirements. Connecticut's SIP revision also includes a minor amendment to the state's motor vehicle inspection and maintenance (I/M) program which exempts composite vehicles from I/M program testing.

The workings of the public transportation system and the development of new light rail transportation systems referenced by the commenter is not germane to the approval of the submitted Connecticut SIP revision.

In addition, motor vehicles manufactured prior to 2008 are not covered by Connecticut's LEV II program. These vehicles were required to be manufactured in accordance with the Federal Tier 1 and Tier 2 Vehicle and Gasoline Sulfur Program, as well as the Northeast National Low Emission Vehicle Program, the programs in place at that time. Pre-2008 motor vehicles registered in Connecticut are also subject to Connecticut's I/M program which is further discussed below.

In the third and final issue, the commenter asks how emissions would be monitored and "how often the rule/law require[s] drivers to go have a reading made." This issue is not relevant to the approval of Connecticut's LEV II program. The Connecticut LEV II program includes requirements that apply to the manufacturer of motor vehicles, not the drivers of motor vehicles. Connecticut's motor vehicle I/M program does, however, contain requirements for drivers. EPA previously approved Connecticut's I/M program into the SIP on December 5, 2008 (73 FR 74019). This program requires biennial inspections for all subject motor vehicles that are at least

four years old. Connecticut's I/M program covers all gasoline and diesel vehicles, light duty trucks, and heavy duty vehicles that are 25 years old and newer and registered in the State. In today's action, EPA is approving a minor amendment to that program. Specifically, composite vehicles are being exempted from I/M program testing. As explained in EPA's NPR, this exemption would exempt only 100 vehicles from Connecticut's I/M program which applies to approximately 1,959,000 vehicles, and will not have significant air quality impacts. Other aspects of Connecticut's I/M program including the periodic inspection requirement remain as approved by EPA on December 5, 2008 (73 FR 74019).

### **III. Final Action**

EPA is approving Connecticut's Low Emission Vehicle Program as a revision to the Connecticut SIP. Specifically, EPA is incorporating into the SIP Regulations of Connecticut State Agencies (RCSA) section 22a-174-36b entitled "Low Emission Vehicles II Program," effective in the State of Connecticut on August 10, 2009.

EPA is also approving Connecticut's revised Motor Vehicle Inspection and Maintenance Program as a revision to the Connecticut SIP. Specifically, EPA is incorporating into the SIP Regulations of Connecticut State Agencies (RCSA) section 22a-174-27 entitled "Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance," effective in the State of Connecticut on August 10, 2009.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 29, 2014.

H. Curtis Spalding,  
Regional Administrator,  
EPA New England.

Editorial note: This document was received for publication by the Office of Federal Register on March 11, 2015.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart H - Connecticut**

2. Section 52.370 is amended by redesignating paragraph (c)(98)(i)(A) as (c)(98)(i)(A)(1) and adding paragraphs (c)(98)(i)(A)(2) and (c)(105) to read as follows:

**§ 52.370 Identification of plan**

\* \* \* \* \*

(c) \* \* \*

(98) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) In revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 22, 2010 section 22a-174-27 (e) was repealed by the State of Connecticut effective August 10, 2009. Section 22a-174-27 (e), which was approved in paragraph (c)(98)(i)(A)(1), is removed from the SIP without replacement; see paragraph (c)(105)(i)(B) of this section.

\* \* \* \* \*

(105) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 22, 2010.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies (RCSA) section 22a-174-36b entitled “Low Emission Vehicles II Program,”

(1) Regulations of Connecticut State Agencies (RCSA) section 22a-174-36b entitled “Low Emission Vehicles II Program,” effective December 22, 2005, revisions to the following provisions (including the text that appears in underline): Sections 22a-174-36b (a), (b), (d), (f) through (j), (l), (m), (n), and (o).

(2) Regulations of Connecticut State Agencies (RCSA) section 22a-174-36b entitled “Low Emission Vehicles II Program,” effective August 10, 2009, revisions to the following provisions: Sections 22a-174-36b (c), (e), and (k), as published in the Connecticut Law Journal on September 8, 2009.

(B) Regulations of Connecticut State Agencies (RCSA) section 22a-174-27 entitled “Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance,” effective August 10, 2009, revisions to Section 22a-174-27 (b), as published in the Connecticut Law Journal on September 8, 2009.

3. In § 52.385, Table 52.385 is amended by revising the second entry for state citation 22a-174-27; adding a new entry for state citation 22a-174-27 after the existing two entries; and adding two new entries for state citation 22a-174-36b in numerical order to read as follows:

§ 52.385 - EPA - approved Connecticut regulations

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Table 52.385 - EPA-Approved Regulations

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a-174-27	Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance	8/25/04	12/05/08	74 FR 74019	(c)(98)	DEP regulations including emissions standards and OBD2 requirements. Paragraph 52.370(c)(98) was revised <b>[Insert Federal Register date of publication date]</b> by redesignating paragraph (c)(98)(i)(A) as (c)(98)(i)(A)(1) and adding paragraph (c)(98)(i)(A)(2) to read as follows: (2) In revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 22, 2010 section 22a-174-27 (e) was repealed by the State of Connecticut effective August 10, 2009. Section 22a-174-27 (e), which was approved in paragraph (c)(98)(i)(A)(1), is removed from the SIP without replacement; see paragraph (c)(105)(i)(B) of this section.
22a-174-27	Emission standards and on-board diagnostic II test requirements for periodic motor vehicle inspection and maintenance	8/10/09	<b>[Insert Federal Register date of publication date]</b>	<b>[Insert Federal Register citation]</b>	(c)(105)	This SIP revision includes a change to exempt composite vehicles from tailpipe inspections. Revision to Section 22a-174-27 (b) and removal of Section 22a-174-27 (e).
*	*	*	*	*	*	*
22a-174-36b	Low Emission Vehicles II Program.	12/22/05	<b>[Insert Federal Register date of publication date]</b>	<b>[Insert Federal Register citation]</b>	(c)(105)	Adoption of Connecticut's Low Emissions Vehicle II (LEV II) Program. Sections 22a-174-36b (a), (b), (d), (f) through (j), (l), (m), and new sections (n) and (o).
22a-174-36b	Low Emission Vehicles II Program.	8/10/09	<b>[Insert Federal Register date of publication date]</b>	<b>[Insert Federal Register citation]</b>	(c)(105)	Sections 22a-174-36b (c), (e), and (k).

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[FR Doc. 2015-05964 Filed: 3/16/2015 08:45 am; Publication Date: 3/17/2015]