



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2014-0611; A-1-FRL-9963-89-Region 1]

#### **Air Plan Approval; CT; Reasonably Available Control Technology for the 2008 Ozone Standard.**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These SIP revisions consist of a demonstration that Connecticut meets the requirements to implement reasonably available control technology (RACT) for the two precursors of ground-level ozone, oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA) with respect to the 2008 ozone standard. Additionally, we are approving three related regulations that limit air emissions of NO<sub>x</sub> from sources within the State. This action is being taken in accordance with the Clean Air Act.

**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-2014-0611. All documents in the docket are listed on the <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 at <http://www.regulations.gov> or at the 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.

**FOR FURTHER INFORMATION, CONTACT:** Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1046, fax number (617) 918-0046, email [mcconnell.robert@epa.gov](mailto:mcconnell.robert@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. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. Background and Purpose**

On April 6, 2017 (82 FR 16772), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed approval of a demonstration that Connecticut meets the RACT requirements for NO<sub>x</sub> and VOCs, set forth by the Clean Air Act with respect to the 2008 ozone standard. Additionally, Connecticut also submitted to EPA and we proposed approval of portions of a revised regulation limiting NO<sub>x</sub> emissions from municipal waste combustors (MWCs), a regulation limiting NO<sub>x</sub> emissions from major sources of air emissions, and a regulation limiting emissions from non-major sources of NO<sub>x</sub> emissions. The State submitted its RACT demonstration on July 18, 2014, the revised MWC regulation on September 16, 2016, and the regulations limiting NO<sub>x</sub> emissions from major and non-major sources on January 24, 2017. By letter dated March 31, 2017, Connecticut withdrew a number of provisions from these submittals that do not pertain to NO<sub>x</sub> or VOC control requirements, and therefore are not germane to this action.

The specific details of Connecticut's RACT certification for the 2008 ozone NAAQS and its three NO<sub>x</sub> regulations, as well as the rationale for our proposed approval are explained in the NPR and will not be restated here. We received a total of six public comments in response to the NPR. One public comment was in favor of our proposal and the others either were irrelevant to our proposed action and/or lacked sufficient specificity with respect to the SIP action being proposed, failing to articulate what the commenter believed EPA should do to change or revise its proposed approval. All of the comments received are included in the docket for today's action.

## **II. Final Action**

EPA is approving Connecticut's demonstration that it meets the CAA RACT requirements for NO<sub>x</sub> and VOCs for purposes of the 2008 ozone standard, and is also approving portions of a revised regulation limiting NO<sub>x</sub> emissions from MWCs, and regulations limiting NO<sub>x</sub> emissions from major and minor sources of air emissions, as revisions to the Connecticut SIP. Additionally, we are approving a number of minor edits made to existing parts of Connecticut's air pollution control regulations that were updated to make citations correctly reference the State's newly adopted regulations. Last, we are approving a number of negative declarations for Control Technique Guidelines categories for which Connecticut asserts no facilities exist within its borders.

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the sections of the State of Connecticut Regulation of Department of Energy and Environmental Protection noted in this final rulemaking. The EPA has made, and will continue to make, these documents generally available through <http://www.regulations.gov>.

### **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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 5, 2017

Deborah A. Szaro,  
Acting Regional Administrator,  
EPA New England.

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

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

- a. adding paragraph (c)(90)(i)(B);
- b. adding paragraph (c)(97)(i)(B); and
- c. adding paragraph (c)(116) to read as follows:

**§ 52.370 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(90) \* \* \*

(i)\*\*\*

(B) Section 22a-174-38, subsections (a), (c), (d), (i), (j), (k), and (l) were revised as published in the Connecticut Law Journal, volume 78, no. 17, on October 25, 2016. Subsection (d) is removed from the SIP without replacement. See paragraph (116)(i)(A).

\* \* \* \* \*

(97) \* \* \*

(i)\*\*\*

(B) Section 22a-174-22c, subsection (g)(3) is removed from the SIP without replacement effective December 22, 2016. See paragraph (116)(i)(B).

\* \* \* \* \*

(116) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on September 16, 2016, and January 24, 2017.

(i) *Incorporation by reference.* (A) Regulations of Connecticut State Agencies, Administrative Regulation of the Department of Energy and Environmental Protection, Municipal Waste Combustors, revisions to section 22a-174-38 as published in the Connecticut Law Journal, volume 78, no. 17, on October 25, 2016.

(1) Subsection (c), subdivision (8);

(2) Subsection (c), subdivisions (16), and (17);

(3) Subsection (d);

(4) Subsection (i), subdivisions (4)(E) and (J);

(5) Subsection (i), subdivision (5);

(6) Subsection (j), subdivision (4);

(7) Subsection (k), subdivision (9) with the exceptions of the phrase “particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and” and the sentence “The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature shall be recorded for the initial performance test for dioxin/furan emissions for each particulate matter control device.”; and subdivision (10), with the exceptions of the phrase “for particulate matter, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and” and the sentence “The maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device) shall be recorded for the initial performance test for dioxin/furan emissions.”

(8) Subsection (l), subdivision (3)(A)(i) with the exception of the phrase “particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride, fugitive ash and”; (3)(A)(ii), with the exceptions of the term “sulfur dioxide” and the phrase “carbon monoxide, municipal waste combustor unit load, particulate matter control device inlet temperature and”;

(3)(A)(iv); (3)(A)(v), with the exceptions of the term “sulfur dioxide” the phrase “carbon monoxide, municipal waste combustor unit load, particulate matter control device temperature and” and the phrase “carbon mass feed rate and”; (3)(A)(vi), with the exceptions of the term “sulfur dioxide” the phrase “carbon monoxide, municipal waste combustor unit load, particulate matter control device temperature and” and the phrase “carbon mass feed rate and”; (B), with the exception of the phrase “and (A)(iii)”; and (C).

(9) Subsection (1), subdivision (6), with the exceptions of the phrase “particulate matter, opacity, cadmium, lead, mercury, dioxin/furan emissions, hydrogen chloride” and the term “or fugitive ash”.

(10) Subsection (a).

(B) Regulation of the Department of Energy and Environmental Protection Concerning NO<sub>x</sub> Emissions from Fuel-Burning Emission Units, effective December 22, 2016.

(1) Section 22a-174-22e, Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides, with the exception of, within paragraph (1)(7), the phrase “or under procedures in RCSA section 22a-174-5(d).”;(2) Section 22a-174-22f, High daily NOx emitting units at non-major sources of NOx;

(3) Section 22a-174-18, , revised subsection (j)(6);

(4) , Section 22a-174-8(b)(2);

(5) Section 22a-174-22c, subsection (g)(3);

(6) Section 22a-174-38, revised subsections (b)(1) through (6).

3. Section 52.375 is amended by adding paragraph (h) to read as follows:

**§ 52.375 Certification of no sources.**

\* \* \* \* \*

(h) In its July 18, 2014 submittal to EPA pertaining to reasonably available control technology requirements for the 2008 8-hour ozone standard, the State of Connecticut certified to the satisfaction of EPA that no sources are located in the state that are covered by the following Control Technique Guidelines:

- (1) Automobile coatings;
- (2) Large petroleum dry cleaners;
- (3) Fiberglass boat manufacturing;
- (4) Equipment leaks from natural gas and gasoline processing plants;
- (5) Petroleum refineries;

- (6) Control of refinery vacuum producing systems;
- (7) Wastewater separators and process unit turnarounds; and
- (8) Flatwood paneling coatings.

4. Section 52.377 is amended by adding paragraph (q) to read as follows:

**§ 52.377**                      **Control strategy: Ozone.**

\*       \*       \*       \*       \*

(q) Approval—Revisions to the Connecticut State Implementation Plan (SIP) submitted on July 18, 2014. The SIP revision satisfies the requirement to implement reasonably available control technology (RACT) for sources of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) for purposes of the 2008 ozone standard. Specifically, the following sections of the Regulations of Connecticut State Agencies are approved for this purpose: For VOC RACT, 22a-174-20, Control of Organic Compound Emissions, 22a-174-30, Dispensing of Gasoline/Stage I and Stage II Vapor Recovery, and 22a-174-32, RACT for Organic Compounds; for NO<sub>x</sub> RACT, 22a-174-22, Control of nitrogen oxide emissions, 22a-174-22e, Control of nitrogen oxide emissions from fuel burning equipment at major sources, 22a-174-22f, High daily NO<sub>x</sub> emitting units at non-major sources of nitrogen oxides, and 22a-174-38, Municipal Waste Combustors.

5. In § 52.385, Table 52.385 is amended by adding new entries for state citations for 22a-174-22e, Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides, and for 22a-174-22f, High daily NO<sub>x</sub> emitting units at non-major sources of NO<sub>x</sub>, and by adding rows to the existing entries of state citations 22a-174-8, 22a-174-18, 22a-174-22c, and 22a-174-38 in numerical order to read as follows:

§ 52.385 - EPA-approved Connecticut regulations.

\* \* \* \* \*

**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-174-8	Compliance Plans and Schedules	12/22/16	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(116)	Minor edit to update citation.
*	*	*	*	*	*	*
22a-174-18	Control of particulate emissions	12/22/16	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(116)	Minor edit to update citation.
*	*	*	*	*	*	*
22a-174-22c	The Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO <sub>x</sub> ) Ozone Season Trading Program	12/22/16	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)(116)	Minor edit to update citation.

22a-174-22e	Control of nitrogen oxides emissions from fuel-burning equipment at major stationary sources of nitrogen oxides	12/22/16	[Insert <b>Federal Register</b> date of publication date]	[Insert <b>Federal Register</b> citation]	(c)(116)	New regulation applicable to major sources of NOx.
22a-174-22f	High daily NOx emitting units at non-major sources of NOx	12/22/16	[Insert <b>Federal Register</b> date of publication date]	[Insert <b>Federal Register</b> citation]	(c)(116)	New regulation applicable to non-major sources of NOx.
*	*	*	*	*	*	*
22a-174-38	Municipal Waste Combustors	8/2/16	[Insert <b>Federal Register</b> date of publication date]	[Insert <b>Federal Register</b> citation]	(c)(116)	Portions of previously approved regulation were revised, primarily to incorporate tightened NOx emission limit for mass burn water-walled units.
*	*	*	*	*	*	*

[FR Doc. 2017-15716 Filed: 7/28/2017 8:45 am; Publication Date: 7/31/2017]