



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2015-0654; A-1-FRL-9966-28-Region 1]

#### **Air Plan Approval; CT; Decommissioning of Stage II Vapor Recovery Systems**

**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 Connecticut Department of Energy and Environmental Protection (CT DEEP). This revision includes regulatory amendments that require gasoline dispensing facilities (GDFs) to decommission their Stage II vapor recovery systems on or before July 1, 2015, and a demonstration that such removal is consistent with the Clean Air Act and EPA guidance. This revision also includes regulatory amendments that strengthen Connecticut's requirements for Stage I vapor recovery systems at GDFs. The intended effect of this action is to approve Connecticut's revised vapor recovery regulations. This action is being taken under 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-2015-0654. 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:** Eric Rackauskas, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 [mail code: OPE05-2], Boston, MA 02109-3912, telephone number (617) 918-1628, fax (617) 918-0628, email [rackauskas.eric@epa.gov](mailto:rackauskas.eric@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

#### Table of Contents

- I. Background and Purpose
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

#### **I. Background and Purpose**

On April 10, 2017 (82 FR 17161), EPA published a Notice of Proposed Rulemaking (NPR) proposing approval of a SIP revision submitted by the CT DEEP on September 14, 2015. The SIP revision consists of Connecticut's newly adopted section 22a-174-30a, *Stage I Vapor Recovery*, of

the Regulations of Connecticut State Agencies (RCSA) as well as the following revised RCSA sections:

- 22a-174-3a, *Permit to Construct and Operate Stationary Sources*, specifically 22a-174-3a(a);
- 22a-174-20, *Control of Organic Compound Emissions*, specifically 22a-174-20(a), 22a-174-20(b)(1) through (b)(16), and 22a-174-20(ee); and
- 22a-174-32, *Reasonably Available Control Technology (RACT) for Volatile Organic Compounds*, specifically 22a-174-32(b).

In addition, this SIP revision also includes Public Act No. 13-120, *An Act Concerning Gasoline Vapor Recovery Systems*. Connecticut Public Act No. 13-120 revises section 22a-174e of the Connecticut General Statutes (CGS). The regulations and statute require the decommissioning of Stage II vapor recovery systems and strengthen Stage I vapor recovery requirements. The SIP submittal also includes a demonstration that removal of Stage II vapor recovery systems in Connecticut is consistent with the Clean Air Act and EPA guidance. Finally, the SIP revision includes the withdrawal of RCSA section 22a-174-30, *Dispensing of Gasoline/Stage I and Stage II Vapor Recovery*, from the Connecticut SIP.

Connecticut subsequently modified the September 14, 2015 SIP revision via a letter dated January 20, 2017 wherein Connecticut withdrew RCSA 22a-174-3a(a) from consideration as part of this SIP revision.

A detailed discussion of Connecticut's September 14, 2015 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPR and will not be restated in this notice. No public comments were received on the NPR.

## **II. Final Action**

EPA is approving Connecticut's September 14, 2015 SIP revision. Specifically, EPA is approving, and incorporating into the Connecticut SIP, the following regulations and statute: newly adopted RCSA section 22a-174-30a; revised RCSA subsection 22a-174-20(a); revised RCSA subsections 22a-174-20(b)(6) through (b)(16); revised RCSA subsection 22a-174-20(ee), and revised RCSA subsection 22a-174-32(b); as well as Connecticut Public Act No. 13-120. EPA is also approving Connecticut's request to withdraw RCSA section 22a-174-30 from the Connecticut SIP because it has been replaced with RCSA section 22a-174-30a, which is more stringent. EPA is approving this SIP revision because it meets all applicable requirements of the CAA and EPA guidance, and it will not interfere with any applicable requirement concerning attainment or reasonable further progress towards attainment of any NAAQS, or with any other applicable requirement of the Clean Air Act.

### **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 Connecticut regulations described in the amendments to 40 CFR part 52 set forth below. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 24, 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 PLAN**

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 adding paragraphs (c)(95)(i)(D) and (c)(117) to read as follows:

**§ 52.370 Identification of plan**

\* \* \* \* \*

(c) \* \* \*

(95) \* \* \*

(i) \* \* \*

(D) Regulation 22a-174-30, which was approved in paragraph (c)(95)(i)(A), is removed and replaced by Regulation 22a-174-30a, see paragraph (c)(117)(i)(B).

\* \* \* \* \*

(117) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on September 14, 2015.

(i) Incorporation by reference

(A) “Control of Organic Compound Emissions,” Regulation 22a-174-20, the sections listed below, effective July 8, 2015, as published in the Connecticut Law Journal on November 24, 2015.

(I) Section 20(a)(7);

- (2) Section (b)(10);
- (3) Sections (b)(12) through (b)(16);
- (4) Section (20)(ee)

(B) “Control of Organic Compound Emissions,” Regulation 22a-174-30a “Stage I Vapor Recovery,” effective July 8, 2015, as published in the Connecticut Law Journal on November 24, 2015.

(C) “Control of Organic Compound Emissions,” Regulation 22a-174-32(b)(3), effective July 8, 2015, as published in the Connecticut Law Journal on November 24, 2015.

(D) House Bill No. 6534, Public Act No. 13-120, “An Act Concerning Gasoline Vapor Recovery Systems,” approved June 18, 2013.

(ii) Additional materials.

(A) Letter from the Connecticut Department of Energy and Environmental Protection, dated September 14, 2015, submitting a revision to the Connecticut State Implementation Plan.

3. In § 52.385, Table 52.385 is amended by: adding entries under existing state citations 22a-174-20 and 22a-174-30; adding an entry for state citation 22a-174-30a; adding an entry under existing state citation 22a-174-32, and adding a new entry for new Connecticut Public Act 13-120 to the end of the table 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-174-20	Control of Organic Compound Emissions	7/8/15	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)117	Removes sections (b)(6) – (b)(9) and (b)(11), Revises sections (a)(7), (b)(10), sections (b)(12) – (b)(16), and section (ee)
*	*	*	*	*	*	*
22a-174-30	Dispensing of Gasoline/Stage II Vapor Recovery	7/8/15	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)117	22a-174-30 was repealed by CT and withdrawn from the SIP and replaced by 22a-174-30a
22a-174-30a	Stage I Vapor Recovery	7/8/15	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)117	Replaces the repealed section 22a-174-30
*	*	*	*	*	*	*
22a-174-32	Reasonably available control technology for volatile organic compounds	7/8/15	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)117	Revises section (b)(3)
*	*	*	*	*	*	*
Connecticut Public Act No. 13-120	An act concerning gasoline Vapor recovery systems	6/18/13	[Insert Federal Register date of publication date]	[Insert Federal Register citation]	(c)117	Revises section 22a-174e of the Connecticut General Statutes to require decommissioning of Stage II Vapor Recovery Systems

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