



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2023-0377; FRL-11783-01-R1]

### Air Plan Approval; Connecticut; Source Monitoring, Record Keeping and Reporting

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut addressing source monitoring in Connecticut. The principal proposed revision is replacement of Regulations of Connecticut State Agencies (RCSA) section 22a-174-4 (source monitoring, record keeping and reporting), which is currently in the Connecticut SIP, with a new regulation section 22a-174-4a, also called “source monitoring, record keeping and reporting.” The source monitoring SIP revision provides monitoring, recordkeeping and reporting requirements to ensure that certain sources comply with applicable emissions limitations. This action is being taken under the Clean Air Act.

**DATES:** Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2023-0377 at <https://www.regulations.gov>, or via email to Alison Simcox at: [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written

comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 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 and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Branch (AQB), Air and Radiation Division (ARD) (Mail Code 5-MD), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912, (617) 918-1684; *simcox.alison@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

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

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

RCSA section 22a-174-4, “Source monitoring, record keeping, and reporting” was adopted by the state of Connecticut in 1989. This regulation defined how certain sources of air pollution are required to conduct air emissions and opacity monitoring. In 2003, the Connecticut Department of Environmental Protection (CT DEEP) proposed revisions to section 22a-174-4, and, on July 16, 2014, EPA approved 22a-174-4 into the Connecticut SIP (previously codified as Section 19–508–4). *See* 79 FR 41427.

In October 2022, to address changes in federal regulatory requirements and source-monitoring technologies, CT DEEP replaced section 22a-174-4 with 22a-174-4a (also called source monitoring, record keeping, and reporting). This new regulation became effective in Connecticut on October 28, 2022.

On November 17, 2022, CT DEEP submitted section 22a-174-4a as a SIP revision for EPA approval. This submission included several citation updates to other SIP-approved regulations (sections 22a-174-3d(f)(1)(B), 22a-174-20(a)(12), 22a-174-22e(m)(1), 22a-174-22e(m)(4), 22a-174-38(j)(1), and 22a-2a-1(b)(3)).

On December 19, 2022, CT DEEP submitted a supplement to this SIP revision that withdrew portions of the submitted regulatory text from the November 17, 2022 submittal that are currently not part of the Connecticut SIP (sections 22a-174-3d(f)(1)(B), 22a-174-38(j)(1), and 22a-2a-1(b)(3)).

On February 27, 2023, the state submitted a letter withdrawing one additional provision (section 22a-174-4a (g)(6)) of the submitted regulatory text in section 22a-174-4a. This letter also provided additional information about CT DEEP’s implementation of “out-of-control” periods.

As described below, CT DEEP’s SIP submittal, as modified by the December 19, 2022 supplement and the February 27, 2023 letter, strengthens its source monitoring requirements and, thus, the state’s ability to detect violations of emission limits. Therefore, we are proposing to approve section 22a-174-4a, except for section 22a-174-4a(g)(6) which CT DEEP excluded from

inclusion in the SIP submission, and the citation updates to related EPA-approved regulations into the Connecticut SIP.

## **II. Summary and Evaluation of Connecticut's SIP Revision**

EPA-approved RCRA section 22a-174-4 requires certain stationary sources to install, operate, and maintain opacity and gaseous continuous emissions monitoring (CEM) equipment. Opacity CEMs are also known as continuous opacity monitoring systems (COMS). These stationary sources, with some exemptions, include equipment that combusts coal, liquid or solid fuel-burning equipment with a maximum rated heat input equal to or greater than 250,000,000 British thermal units per hour (Btu/hr), incinerators with a maximum rated input greater than 2,000 pounds per hour (lbs/hr), and process sources with particulate matter (PM) emissions greater than 25 lbs/hr after application of control equipment when operated at maximum rated capacity.

Connecticut's SIP submittal, as modified by the December 2022 supplement and the February 2023 letter (described in the background section above), proposes to repeal section 22a-174-4 from the Connecticut SIP and replace it with section 22a-174-4a. The new regulation (section 22a-174-4a) applies to the same group of stationary sources as section 22a-174-4 but is restructured to include provisions that were either missing from or not clearly set out in section 22a-174-4, such as the applicability of the regulation and a distinct separation of opacity monitoring from other pollutant monitoring. The new regulation also provides more detailed and clearer provisions regarding performance specifications and quality-assurance requirements that are consistent with current federal and state requirements.

Specifically, section 22a-174-4a adds a separate section on applicability and clarifies that the regulation is intended to ensure compliance with Connecticut General Statute Chapter 446c "Air Pollution Control," and regulations thereunder, which include all of Section 22a-174 (formerly Sec. 19-508). The new regulation also clarifies that it applies to sources that are required to install, operate, and maintain CEMS or COMS.

EPA-approved section 22a-174-4 requires sources with CEMS or COMS to submit a monitoring plan to the state for approval at least 60 days before initiation of required performance specification testing. This plan must contain a description of the source, including type of unit or process, type of fuel combusted, type(s) of emission control devices, and operation parameters, as well as monitoring equipment design, proposed monitor location and sampling site location. In addition, the plan must provide performance specification testing (conducted by the source) for each pollutant, and a quality assurance (QA) plan that includes, among other things, corrective action for monitoring system breakdowns.

The new regulation section 22a-174-4a requires a similar monitoring plan, called an “initial monitoring plan,” to be submitted electronically to the state not less than 90 days before initiation of required performance specification testing. This initial monitoring plan must be approved by the state. Section 22a-174-4a adds a new provision (i.e., not included in 22a-174-4) that if an existing CEMS or COMS undergoes a significant change that makes a previously submitted monitoring plan inaccurate, a revised monitoring plan must be submitted electronically for state approval not more than 14 days after completion of the CEMS or COMS modification. Also, sources are required to maintain hardcopy or electronic records of all monitoring plans (initial and revised).

EPA-approved RCSA section 22a-174-4 requires any source with CEM equipment to conduct QA audits during each calendar quarter in which the source operates. The new regulation (section 22a-174-4a) strengthens this requirement by requiring these sources to perform annual, quarterly, and daily QA audits. In addition, each new CEMS must undergo an initial certification for each monitored pollutant, including a Relative Accuracy Test Audit certification, and each modified CEMS must be recertified for each pollutant or diluent for which the monitor was modified. Section 22a-174-4a also requires audit reports and COMS or CEMS reports to be submitted to CT DEEP each calendar quarter. These quarterly reports must include a summary of excess emissions and the CEMS or COMS performance, including a list of all periods of malfunctions of the CEMS or COMS.

As described in the background section above, CT DEEP's source-monitoring SIP submittal includes the original November 17, 2022 submittal plus the December 19, 2022 supplement and the February 27, 2023 letter. The source-monitoring submittal includes all of section 22a-174-4a, except 22a-174-4a(g)(6), which would have allowed CT DEEP to waive certain minimum data availability requirements. The submittal also includes several citation updates to other SIP-approved regulations. These citation updates are in RCSA sections 22a-174-20(a)(12), 22a-174-22e(m)(1), and 22a-174-22e(m)(4). In addition, the submittal provides additional information about CT DEEP's implementation of "out-of-control" periods. Specifically, the provisions of 40 CFR 75, Appendix B and 40 CFR 60, Appendix F describe when an out-of-control period begins and ends. Therefore, determination of these periods would not be a matter of discretionary judgment by CT DEEP.

EPA has determined that CT DEEP's source-monitoring SIP submittal strengthens its source monitoring requirements and, thus, the state's ability to detect violations of emission limits.

### **III. Proposed Action**

EPA is proposing to approve RCSA Section 22a-174-4a "Source monitoring, record keeping and reporting," except for section 22a-174-4a(g)(6). We are also proposing to approve modifications to sections 22a-174-20(a)(12), 22a-174-22e(m)(1), and 22a-174-22e(m)(4) into the Connecticut SIP. In addition, we are proposing to replace RCSA section 22a-174-4, which is currently in the Connecticut SIP, with RCSA section 22a-174-4a.

As described above, CT DEEP has adequately demonstrated that its source-monitoring SIP revisions would strengthen Connecticut's monitoring requirements and, thus, the state's ability to detect violations of emission limits. Moreover, these revisions will not interfere with attainment or maintenance of air quality standards or other applicable CAA requirements as required by section 110(l) of the CAA.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may

participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

#### **IV. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Connecticut's regulation section 22a-174-4a (source monitoring, record keeping and reporting), and modifications to sections 22a-174-20(a)(12), 22a-174-22e(m)(1), and 22a-174-22e(m)(4) as discussed in section II. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

EPA is also proposing to remove Connecticut's regulation section 22a-174-4 (source monitoring, record keeping and reporting), which was approved July 16, 2014 (79 FR 41427), from the Connecticut SIP.

#### **V. 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. *See* 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 proposed 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 proposed 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); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair

treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The Connecticut DEEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

#### **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:** February 23, 2024.

**David Cash,**  
*Regional Administrator,*  
*EPA Region 1.*

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