

VIA FEDERAL RULEMAKING PORTAL

April 25, 2023

Docket Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Attention: Docket ID No. EPA-HQ-OAR-2022-0814

Re: Findings of Substantial Inadequacy and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction

Dear Docket Administrator:

The Connecticut Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to comment on the United States Environmental Protection Agency's (EPA's) "State Implementation Plans: Findings of Substantial Inadequacy and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" (the SIP Call).¹ Connecticut is included in the SIP Call for the startup, shutdown, and malfunction (SSM) provisions in Connecticut's rule addressing air emissions from municipal waste combustors (MWCs). DEEP respectfully requests that EPA remove Connecticut from the SIP Call and address the SSM provisions in question for all states through the planned Clean Air Act (CAA) Section 129 standards review concerning MWCs.

The regulatory provision that EPA has found inadequate is section 22a-174-38(c)(11) of the Regulations of Connecticut State Agencies (RCSA).² RCSA section 22a-174-38 was adopted in 1999 as the enforceable mechanism for Connecticut's State Plan for Municipal Waste Combustors, which EPA approved as a state plan under Section 129 of the Clean Air Act.³ Section 22a-174-38 is based on the emissions guidelines for MWCs in 40 CFR 60 Subpart Cb, which refers to the compliance and performance testing requirements of 40 CFR 60 Subpart Eb. Subpart Eb allows emissions during SSM periods in MWCs to be excluded from compliance

¹ 88 FR 11842 (24 February 2023).

² While the notice refers to subdivision (11) in its entirety, only a portion of subdivision (11) is included in Connecticut's SIP, as follows:

*(11) The emission limits specified in this subsection shall apply at all times except during periods of startup, shutdown or malfunction as specified in this subdivision: (A) The duration of each startup, shutdown or malfunction period shall be limited to three hours per occurrence for all MWC * * * ; and (B) The provisions of subparagraph (A) of this subdivision shall not apply to opacity limits. However, during each period of startup, shutdown or malfunction, the opacity limits shall not be exceeded during more than five (5) 6-minute arithmetic average measurements.*

In the final rule, DEEP requests that EPA correct the regulatory provisions for which Connecticut is SIP-called and limit those provisions only to those included in the SIP, as listed above.

³ The State Plan was approved effective 06/20/2000 (65 FR 21354; 05/22/2000).

calculations.⁴ RCSA subsection 22a-174-38(c)(11) is developed directly from these federal emissions guidelines.

In addition to serving as the enforceable mechanism for the state plan, portions of RCSA section 22a-174-38 were submitted as a SIP strengthening measure and approved by EPA on December 6, 2001.⁵ DEEP had adopted more stringent nitrogen oxide (NO_x) emission limits than those of the emissions guidelines, and these emissions limits were used to make up a shortfall of NO_x reductions for ozone attainment planning purposes. The NO_x limits and related provisions approved into the SIP included the 3-hour SSM exemption and the opacity exemption (five (5) 6-minute arithmetic average measurements) of RCSA section 22a-174-38.

Connecticut is not unique in having a state regulation for municipal waste combustors that is based on EPA's emissions guidelines. Many such state regulations also include the SSM provisions of the emissions guidelines.⁶ Some states have also included such provisions in their SIPs.⁷ However, no other states are included in the SIP Call for such provisions. While DEEP understands that the SIP Call is not intended to be a complete solution to SSM, EPA's failure to include all similar state MWC SSM provisions now is administratively and environmentally inefficient, leading to continuing unlawful emissions in some states and creating a patchwork of state solutions over multiple years. A far better approach would have EPA addressing all such state MWC SSM provisions with a single national rule. The timing for such a national solution is ideal.

EPA recently issued an information request⁸ in preparation for a CAA Section 129 review of the New Source Performance Standards (NSPS) and emissions guidelines for MWCs. Using the responsive information collected from states and the recent provisions approved in the Federal Good Neighbor Plan for the 2015 Ozone National Ambient Air Quality Standards (Good Neighbor Plan),⁹ EPA can solve the problem of SSM provisions in multiple states by developing and including a national solution to SSM provisions in the coming MWC NSPS and emissions guidelines update. Such an update could even be associated with a SIP Call for those states that

⁴ 40 CFR 60.58b(a):

(a) The provisions for startup, shutdown, and malfunction are provided in [paragraphs \(a\)\(1\) and \(a\)\(2\)](#) of this section.

(1) Except as provided by [§ 60.56b](#), the standards under this subpart apply at all times except during periods of startup, shutdown, and malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence, except as provided in [paragraph \(a\)\(1\)\(iii\)](#) of this section. During periods of startup, shutdown, or malfunction, monitoring data shall be dismissed or excluded from compliance calculations, but shall be recorded and reported in accordance with the provisions of [40 CFR 60.59b\(d\)\(7\)](#).

(2) The opacity limits for air curtain incinerators specified in [§ 60.56b](#) apply at all times as specified under [§ 60.56b](#) except during periods of malfunction. Duration of malfunction periods are limited to 3 hours per occurrence.

⁵ 66 FR 63311.

⁶ See, e.g., Code of Massachusetts Regulations Section 310.7.08(2)(g) and Code of Maryland Regulations Section 26.11.08.08.

⁷ See, e.g., New York Codes, Rules, and Regulations 6-219-10.2.

⁸ Letter to intergovernmental associations dated 02/28/2023 in Docket EPA-HQ-OAR-2022-0920: Reviewing Emission Standards for Clean Air Act Section 129 Pollutants from the Large Municipal Waste Combustor Source Category.

⁹ Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Primary Ozone National Ambient Air Quality Standard; March 15, 2023 (EPA-HQ-OAR-2021-0668).

have included such provisions in state SIPs. A national solution to SSM provisions is far more efficient than an iterative, state-by-state approach.

Furthermore, EPA has created one approach to startup and shutdown in the recently promulgated Federal Good Neighbor Plan for the 2015 Ozone National Ambient Air Quality Standards (Good Neighbor Plan), which states:

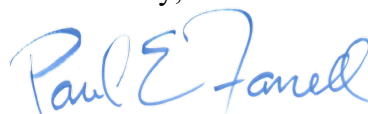
The EPA recognizes that the final emissions limits for steady-state operations cannot be achieved during periods of emissions limits startup, shutdown, and malfunction. This is primarily due to the fact that during periods of startup and shutdown, additional ambient air is introduced into the units, resulting in higher oxygen concentrations. Therefore, the EPA is finalizing provisions applicable during periods of startup and shutdown that do not require correction of CEMS data to 7 percent oxygen but do require that such data be measured at stack oxygen content. This approach is consistent with EPA regulations applicable during startup and shutdown periods for other solid-waste incinerators under the NSPS for Commercial and Industrial Solid Waste Incineration Units. See 40 CFR part 60, subparts CCCC and DDDD.¹⁰

From the Good Neighbor Plan, EPA has a ready-made approach to include in the updated NSPS and emissions guidelines so that MWCs in all states would be subject to the same SSM provisions.

Should EPA not accept DEEP's recommendation to remove Connecticut from the SIP Call and address MWC SSM provisions in a national rulemaking, DEEP supports that EPA retain the proposed 18-month timeline for submission of a SIP revision to address the SSM provisions of RCSA section 22a-174-38. While DEEP could merely remove the offending provision from its SIP within the 18-month timeframe, a real solution would require a rulemaking to amend RCSA section 22a-174-38, which would require a minimum of 18 months due to Connecticut's lengthy rule adoption process.

DEEP supports EPA's efforts to eliminate excess emissions and ensure that emissions limitations are achieving their intended result. DEEP has no SSM provisions in any of its air quality regulations but for RCSA section 22a-174-38, which were adopted because of their inclusion in EPA's emissions guidelines and NSPS for MWCs. DEEP will be glad to address such provisions, but it would be more efficient for EPA to develop and apply SSM provisions uniformly to all states with similar provisions. By ensuring citizens of all states are offered the same air quality benefit on the same timing, a national approach would be both equitable and not potentially viewed as arbitrary.

Sincerely,



Paul E. Farrell
Acting Bureau Chief

¹⁰ Good Neighbor Plan. Pre-publication version at VI.B.6.