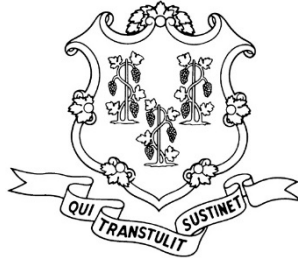


Attachment A  
GENERAL STATUTES  
OF  
CONNECTICUT

*Revised to January 1, 2015*



*(Prepared under the direction of the Legislative Commissioners' Office)*

**Sec. 16a-21a. Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency.** (a)(1) The amount of sulfur content of the following fuels sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For number two heating oil, three-tenths of one per cent, and (B) for number two off-road diesel fuel, three-tenths of one per cent.

(2) Notwithstanding subdivision (1) of this subsection, the amount of sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For the period beginning July 1, 2014, and ending June 30, 2018, five hundred parts per million, and (B) on and after July 1, 2018, fifteen parts per million.

(b) The Commissioner of Energy and Environmental Protection may suspend the requirements of subsection (a) of this section if the commissioner finds that the physical availability of fuel which complies with such requirements is inadequate to meet the needs of residential, commercial or industrial users in this state and that such inadequate physical availability constitutes an emergency provided the commissioner shall specify in writing the period of time such suspension shall be in effect.

(NEW) (c) The Commissioner of Energy and Environmental Protection may enforce the provisions of subsections (a) and (b) of this section utilizing the methodologies and standards specified in section 22a-174-19b of the regulations of Connecticut state agencies.<sup>15</sup>

(P.A. 95-68, S. 1, 2; P.A. 06-143, S. 1; P.A. 08-124, S. 6; P.A. 10-74, S. 1; P.A. 11-80, S. 1; P.A. 13-298, S. 46.)

History: P.A. 95-68 effective January 1, 1996; P.A. 06-143 added new Subsecs. (b), (c) and (d) re graduated permissible sulfur contents for number two heating oil, added new Subsec. (e) re permissible sulfur content for number two off-road diesel fuel, redesignated existing Subsec. (b) as Subsec. (f), allowed suspension of requirements of Subsecs. (a) to (e) if commissioner finds inadequate physical fuel availability

---

<sup>15</sup> Added in [PA 15-160](#)

constitutes an emergency and made technical changes, effective June 6, 2006; P.A. 08-124 made technical changes in Subsecs. (b) to (e), effective June 2, 2008; P.A. 10-74 amended Subsec. (a) by designating existing provisions as Subdiv. (1), making technical changes therein and adding Subdiv. (2) re weight percentage sulfur content limit of number two heating oil and Subdiv. (3) re when provisions of Subdiv. (2) shall take effect, effective July 1, 2011; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (f), effective July 1, 2011; P.A. 13-298 amended Subsec. (a) to replace “July 1, 2011,” with “July 1, 2014,” “June 30, 2014,” with “June 30, 2018,” and “fifty parts per million” with “five hundred parts per million” in Subdiv. (2)(A), to replace “July 1, 2014,” with “July 1, 2018,” in Subdiv. (2)(B) and to delete former Subdiv. (3) re date provisions take effect, deleted former Subsecs. (b) to (e) re maximum sulfur content, and designated existing Subsec. (f) as Subsec. (b) and amended same to make a conforming change, effective July 8, 2013.

Attachment B- Brush Definition  
*Final Regulation (Portion for Submission)*

**Sec. 22a-174-1. Definitions.**

(19) "Brush" means shrubs, vegetation or prunings, the diameter of which is not greater than three inches at the widest point.

## Attachment B- Brush Definition

### *Notice*

#### **Notice of Intent to Amend and Repeal the Air Quality Regulations and to Revise the State Implementation Plan for Air Quality**

The Commissioner of the Department of Environmental Protection (DEP) hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to make a series of minor revisions to certain air pollution regulations and repeal one regulation. Certain of the revised requirements will be submitted to the U.S. Environmental Protection Agency as revisions to the State Implementation Plan for air quality and others will be submitted as revisions to the Section 129 State Plan for Municipal Waste Combustors.

The revisions and repeal are summarized as follows:

- Section 22a-174-1 of the Regulations of Connecticut State Agencies (RCSA) sets out definitions of general applicability to the air quality regulations. This proposal adds definitions of “brush,” “distillate oil” and “biodiesel fuel;” revises the definitions of “incinerator” and “residual oil;” and deletes the definition of “multiple-chamber incinerator.”
- RCSA sections 22a-174-3b and 22a-174-3c are revised to specify that small boilers, heaters, drying ovens and furnaces may combust biodiesel fuel blends when operating under RCSA sections 22a-174-3b and 22a-174-3c.
- The definition of “affected unit” in RCSA section 22a-174-19a(a) is replaced with a definition independent of a reference to another regulation but describing the same group of emissions units. Other definitions in RCSA section 22a-174-19a(a) are eliminated consistent with proposed deletions.
- Obsolete portions of RCSA section 22a-174-19a are deleted. The obsolescence results from prohibitions on emissions trading established in section 22a-198 of the Connecticut General Statutes (CGS) or, for subsection (f), the passage of time.
- In RCSA section 22a-174-22c, a formula allocating allowances from the energy efficiency and renewable energy set-aside is corrected. Also, the date of reference for federal regulations incorporated into RCSA section 22a-174-22c is changed to take into account revisions to the referenced federal regulations, which occurred after the adoption of RCSA section 22a-174-22c.
- RCSA section 22a-174-25, which serves only to designate an effective date of June 1, 1972 for certain defunct regulations, is repealed.
- RCSA section 22a-174-38 is revised to correct minor inconsistencies resulting from a July 2008 amendment.

All interested persons are invited to comment on the proposal. Comments should be submitted no later than 4:30 PM on August 3, 2009 to Merrily A. Gere, DEP, Bureau of Air Management, Engineering & Enforcement, 79 Elm Street, Hartford, Connecticut 06106-5127. Comments may be submitted by post, facsimile to (860) 424-4064 or by electronic mail to [merrily.gere@ct.gov](mailto:merrily.gere@ct.gov).

In addition to accepting written comments, DEP will also hold the public hearing described below. Any person giving oral comment at the hearing will be asked to submit a written copy of such comments.

**PUBLIC HEARING**  
**July 30, 2009 at 10:30AM**  
**Department of Environmental Protection, 5th Floor, Holcombe Room**  
**79 Elm Street, Hartford, CT**

Copies of the proposal and a statement required by CGS section 22a-6(h) are available for public inspection during normal business hours from Sharon Rowe-Johnson at the Bureau of Air Management, Engineering & Enforcement, 5th Floor, 79 Elm Street, Hartford, CT. Additional copies are also available for review at the Law Reference Desk at the Connecticut State Library, Torrington Public Library, New London Public Library and Bridgeport Public Library. The same documents are posted on DEP's website at the following location:

[http://www.ct.gov/dep/cwp/view.asp?a=2684&q=331220&depNav\\_GID=1619](http://www.ct.gov/dep/cwp/view.asp?a=2684&q=331220&depNav_GID=1619)

For further information, contact Sharon Rowe-Johnson of the Bureau of Air Management at (860) 424-4152 or by electronic mail to [sharon.rowe-johnson@ct.gov](mailto:sharon.rowe-johnson@ct.gov).

DEP is an affirmative action/equal opportunity employer. In conformance with the Americans with Disabilities Act, individuals with disabilities who need information in an alternative format to benefit from or participate in DEP's programs and services should call 860-424-3051 or 860-418-5937 and make such a request of the Affirmative Action Office. Requests for accommodations to attend the above-referenced hearing must be made at least two weeks prior to the scheduled date.

The authority to adopt the proposal is granted by CGS sections 22a-6 and 22a-174. This notice is required pursuant to CGS sections 22a-6 and 4-168 and 40 Code of Federal Regulations 51.102.

June 3, 2009  
Date

/s/ Amey W. Marrella  
Amey W. Marrella  
Acting Commissioner



Attachment B- Brush Definition

*Hearing Report*

**EXHIBIT E**

**HEARING REPORT**

**Prepared Pursuant to Section 4-168(d) of the  
Connecticut General Statutes and  
Section 22a-3a-3(d)(5) of the Department of Environmental Protection Rules of Practice**

**Regarding the  
Amendment of Sections 22a-174-1, 22a-174-3b(c)(1), 22a-174-3b(c)(3), 22a-174-3c(b)(2) and  
(3), 22a-174-3c(b)(6), 22a-174-19a(a), 22a-174-19a(e) and (f), 22a-174-19a(g)(3),  
22a-174-19a(h), 22a-174-19a(i)(2), 22a-174-22c and 22a-174-38(g) and (i)(3) of the  
Regulations of Connecticut State Agencies (RCSA); and  
Repeal of RCSA Section 22a-174-25**

**Hearing Officer:  
Merrily A. Gere**

**Date of Hearing: July 30, 2009**

On June 3, 2009, the Commissioner of the Department of Environmental Protection (DEP) signed a notice of intent to amend various sections of the Regulations of Connecticut State Agencies (RCSA), namely sections 22a-174-1, 22a-174-3b(c)(1), 22a-174-3b(c)(3), 22a-174-3c(b)(2) and (3), 22a-174-3c(b)(6), 22a-174-19a(a), 22a-174-19a(e) and (f), 22a-174-19a(g)(3), 22a-174-19a(h), 22a-174-19a(i)(2), 22a-174-22c and 22a-174-38(g) and (i)(3), and to repeal RCSA section 22a-174-25. Pursuant to such notice, a public hearing was held on July 30, 2009, with the public comment period closing on August 3, 2009.

**I. Hearing Report Content**

As required by section 4-168(d) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies the principal reasons in support of the proposal, and summarizes and responds to the comment on the proposal. A final recommended version of the text is also provided.

A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1.

**II. Summary of Proposal**

This proposal comprises a series of minor and generally technical changes to the air quality regulations. The changes are summarized as follows:

- RCSA section 22a-174-1 sets out definitions of general applicability to the air quality regulations. This proposal adds definitions of “brush,” “distillate oil” and “biodiesel

*Hearing Report*

fuel;” revises the definitions of “incinerator” and “residual oil;” and deletes the definition of “multiple-chamber incinerator.”

- RCSA sections 22a-174-3b and 22a-174-3c are revised to specify that small boilers, heaters, drying ovens and furnaces may combust biodiesel fuel blends when operating under RCSA sections 22a-174-3b and 22a-174-3c.
- The definition of “affected unit” in RCSA section 22a-174-19a(a) is replaced with a definition independent of a reference to another regulation but describing the same group of emissions units. Other definitions in RCSA section 22a-174-19a(a) are eliminated consistent with proposed deletions.
- Obsolete portions of RCSA section 22a-174-19a are deleted. The obsolescence results from prohibitions on emissions trading established in CGS section 22a-198 or, for subsection (f), the passage of time.
- In RCSA section 22a-174-22c, a formula allocating allowances from the energy efficiency and renewable energy set-aside is corrected. Also, the date of reference for federal regulations incorporated into RCSA section 22a-174-22c is changed to take into account revisions to the referenced federal regulations, which occurred after the adoption of RCSA section 22a-174-22c.
- RCSA section 22a-174-25, which serves only to designate an effective date of June 1, 1972 for certain defunct regulations, is repealed.
- RCSA section 22a-174-38 is revised to correct minor inconsistencies resulting from a July 2008 amendment.

The text of the proposal is set out in Attachment 2 of this report.

**III. Opposition to Proposal**

No comments opposed DEP’s intent to seek final adoption of this proposal. No component of the proposal was opposed in comment.

**IV. Summary of Comments**

Written comments were received only from:

Anne Arnold, Manager  
Air Quality Planning Unit  
U.S. Environmental Protection Agency  
Region 1  
One Congress Street Suite 1100  
Boston, MA 02114-2023

**General comment**

**Comment:** EPA noted that the proposal is comprised of improvements or appropriate updates to the regulations and requires no specific comment.

**Response:** CTDEP notes EPA’s classification of the proposal as improving and updating the air quality regulations.



**Additional Comment of Hearing Officer**

The definition of “emission limitation” in RCSA section 22a-174-1 contains a misprint, which should be corrected, as follows:

(37) “Emission limitation” and “Emission standard” means “~~emissions~~ **emission** limitation” and “emission standard” as defined in 40 CFR 51.100(z).

**V. Conclusion**

Based upon the comments addressed in this Hearing Report, I recommend the proposal be revised as recommended herein and that the recommended final proposal, included as Attachment 3 to this report, shall be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, certain provisions be submitted to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan.

---

/s/Merrily A. Gere  
Hearing Officer

August 19, 2009  
Date

## **ATTACHMENT 1**

### **Federal Standards Analysis Pursuant to Section 22a-6(h) of the General Statutes Amendment of Sections 22a-174-1, 22a-174-3b, 22a-174-3c, 22a-174-19a, 22a-174-22c, 22a-174-38 and Repeal of Section 22a-174-25 of the Regulations of Connecticut State Agencies**

In accordance with the requirements of section 22a-6(h) of the Connecticut General Statutes (CGS), in the matter of the proposed revision of sections 22a-174-1, 22a-174-3b, 22a-174-3c, 22a-174-19a, 22a-174-22c, 22a-174-38 and repeal of section 22a-174-25 of the Regulations of Connecticut State Agencies (RCSA), the Department of Environmental Protection (DEP) has performed a comparison with federal provisions, which is set out below.

Regarding the addition of or revision to definitions in RCSA section 22a-174-1:

- The definition of “brush” has no federal analogue. DEP is adding the definition of brush in relation to open burning restrictions provided in CGS section 22a-174(f). While the U.S. Environmental Protection Agency (EPA) has approved a number of state open burning programs into State Implementation Plans and operates a certification program for wood stoves, there is no comparable federal program regulating open burning of brush and therefore no analogous definition.
- EPA does categorize oil as distillate, residual or biodiesel in various regulatory and registration programs including new source performance standards (NSPS), national emission standards for hazardous air pollutants and in EPA’s fuels and fuel additives registration program. While the definitions vary in some minor respects, most federal definitions rely on specifications of ASTM International to define fuel types. Those same ASTM International fuel specifications are the basis for the new definitions and revisions of this proposal.

RCSA sections 22a-174-3b and 22a-174-3c prescribe operating requirements for small boilers, heaters, drying ovens and furnaces, if the owner chooses to operate such equipment under one of those sections. The sections include limitations on the amount or sulfur content of fuel used. The revisions clarify that biodiesel fuel blends are acceptable for use in equipment operated under one of the sections. There is no analogous federal program that provides “permit-by-rule” requirements for similar equipment. EPA has promulgated NSPS for boilers (i.e., 40 CFR 60, subparts D, Da, Db and Dc) that vary with construction date and size. The NSPS generally regulate boilers larger than those eligible for operation under RCSA sections 22a-174-3b and 22a-174-3c and allow for a variety of fuel types.

Regarding the revision of RCSA section 22a-174-19a(a): The definition of “affected unit” in RCSA section 22a-174-19a(a) is replaced with a definition independent of references to other air quality regulations. The revised definition continues to refer to the same group of emissions units, and so the revision does not change the applicability or function of the regulation. As this change is administrative, there are no analogous federal requirements. Other definitions in RCSA section 22a-174-19a are deleted given the concurrent deletion of certain portions of the regulation, including the trading requirements. The deletions are responsive to prohibitions on trading prescribed in CGS section 22a-198, which are state requirements limiting sulfur dioxide

*Hearing Report*

emissions from large power plants. The federal Acid Rain program also regulates sulfur dioxide emissions from large power plants and other stationary sources, and that federal program allows for emissions trading.

Regarding the revision of RCSA section 22a-174-22c:

- RCSA section 22a-174-22c incorporates federal regulations by reference. The date of reference for the federal regulations incorporated into RCSA section 22a-174-22c is changed to take into account revisions to the referenced federal regulations, which occurred after the adoption of RCSA section 22a-174-22c. Thus, consistency between the state and federal Clean Air Interstate Rule programs is maintained.
- A revision to a formula for the allocation of allowances in RCSA section 22a-174-22c's energy efficiency and renewable energy set aside is also proposed. This set aside is a state program element without a federal counterpart, so there are no analogous federal standards to use as a comparison for the change to the formula.

RCSA section 22a-174-38 was revised in July 2008 in response to revisions to underlying federal emissions guidelines for municipal waste combustors, which were promulgated on May 10, 2006 (71 FR 27324). The July 2008 revision created minor inconsistencies in performance testing requirements that were not recognized until the revisions were effective. Those inconsistencies are addressed, thereby allowing RCSA section 22a-174-38 to be approved as the effective mechanism of a state plan under CAA section 129. Such approval requires that RCSA section 22a-174-38 be at least as stringent as the federal emissions guidelines for municipal waste combustors.

The repeal of RCSA section 22a-174-25 is an administrative change with no impact on requirements applied to sources, and, therefore, there are no analogous federal requirements.

May 26, 2009

Date

Bureau of Air Management

Merrily A. Gere

/s/ Merrily A. Gere

Attachment B- Brush Definition  
*Hearing Report*

**ATTACHMENT 2**  
**Proposed Text**

## Attachment B- Brush Definition

### *Hearing Report*

#### **Section 1. Section 22a-174-1 of the Regulations of Connecticut State Agencies is amended as follows:**

Except as may otherwise be provided, as used in Section 22a-174-1 to 22a-174-200, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply. Unless otherwise indicated, references to the Code of Federal Regulations mean the Code of Federal Regulations in effect as of March 15, 2002:

- (1) “Act” means the Federal Clean Air Act, 42 USC Sections 7401 to 7671q and Public Law 101-549.
- (2) “Actual emissions” has the same meaning as in 40 CFR 51.165(a)(1)(xii)(A) to (E), inclusive.
- (3) “Administrator” means the Administrator of the United States Environmental Protection Agency.
- (4) “Affected state or states” means the Commonwealth of Massachusetts, the States of New York, Rhode Island and any other state located within fifty (50) miles of a Connecticut Title V source.
- (5) “Air pollutant” means dust, fumes, mist, smoke, other particulate matter, vapor, gas, aerosol, odorous substances, or any combination thereof, but does not include carbon dioxide except in accordance with regulations adopted pursuant to sections 22a-174d or 22a-174j of the Connecticut General Statutes, uncombined water vapor or water droplets, or molecular oxygen expressed as O<sub>2</sub> or nitrogen.
- (6) “Air pollution” means the presence in the ambient air of one or more air pollutants or any combination thereof in such quantities and of such characteristics and duration as to be, or likely to be, injurious to public welfare or the environment, to the health of human, plant or animal life, or to property, or as unreasonably to interfere with the enjoyment of life and property.
- (7) “Air pollution control equipment” means any equipment which is designed to reduce emissions of air pollutants from a stationary source.
- (8) “Allowable emissions” means “allowable emissions” as defined in 40 CFR 51.165(a)(1)(xi).
- (9) “Ambient air” means that portion of the atmosphere, external to buildings, to which the general public has access.
- (10) “AAQS” or “Ambient air quality standard” means any standard which establishes the largest allowable concentration of a specific pollutant in the ambient air of a region or subregion as established by the United States Environmental Protection Agency or by the commissioner and which is listed in section 22a-174-24 of the Regulations of Connecticut State Agencies.

(11) “Architectural coating” means a coating used for residential or commercial buildings and their appurtenances, or industrial buildings, or other outdoor structures.

(12) “Attainment” means that the quality of the ambient air, as determined by the Administrator, meets the Ambient Air Quality Standards for a given air pollutant.

(13) “Attainment area” means a geographic area which has been designated by the Administrator as attainment pursuant to 40 CFR 81 in accordance with the provisions of 42 USC 7407.

(14) “Baseline concentration” means “baseline concentration” as defined in 40 CFR 51.166(b)(13)(i) TO (ii)(b), inclusive.

(15) “Best Available Control Technology” or “BACT” means an emission limitation, including a limitation on visible emissions, based upon the maximum degree of reduction for each applicable air pollutant emitted from any proposed stationary source or modification which the commissioner, on a case-by-case basis, determines is achievable in accordance with section 22a-174-3a of the Regulations of Connecticut State Agencies. BACT may include, without limitation, the application of production processes, work practice standards or available methods, systems, and techniques, including fuel cleaning or treatment, the use of clean fuels, or innovative techniques for the control of such air pollutant.

(16) “Begin actual construction” means “begin actual construction” as defined in 40 CFR 51.165(a)(1)(xv).

(17) “Biodiesel fuel” means the liquid fuel composed of mono alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, which fuel conforms to ASTM D6751-08, Standard Specification for Biodiesel Fuel Blend Stock for Middle Distillate Fuels, or the current active version thereof.

(18) “Brush” means shrubs, vegetation or prunings, the diameter of which is not greater than three inches at the widest point.

[(17)] (19) “BTU” means British thermal unit, which is the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

[(18)] (20) “CAS Number” means the number given to a compound by the American Chemical Society's Chemical Abstract Service.

[(19)] (21) “CFR” means the Code of Federal Regulations.

[(20)] (22) “Combustion efficiency” means the percentage calculated in accordance with the following formula:

$$CE = \frac{[CO_2]}{[CO_2]_{max}} \times 100$$

$$[ \text{CO} ] + [ \text{CO}_2 ]$$

where: CE = Combustion efficiency in percent;  
CO<sub>2</sub> = Amount of carbon dioxide;  
CO = Amount of carbon monoxide; and  
CO and CO<sub>2</sub> are both measured in volume units.

[(21)] (23) “Commence operation” means the owner or operator of the stationary source has begun or caused to begin, any activity which has the potential to emit any air pollutant.

[(22)] (24) “Commence construction” means that the owner or operator of the proposed stationary source or proposed modification to a stationary source has all necessary permits or approvals required pursuant to the Act, any regulations adopted thereunder and section 22a-174-1, et seq. of the Regulations of Connecticut State Agencies, and has either:

- (A) Begun, or caused to begin, a continuous program of physical on-site construction of the source, subject to the permit issued by the commissioner, without any breaks in such construction of more than eighteen months; or
- (B) Entered into binding agreements or contractual obligations to undertake actual construction of the source within a reasonable time, which cannot be canceled or modified without substantial economic loss to the owner or operator.

[(23)] (25) “Commissioner” means the Commissioner of Environmental Protection, or any member of the Department or any local air pollution control official or agency authorized by the commissioner, acting singly or jointly, to whom the commissioner assigns any function arising under the provisions of these regulations.

[(24)] (26) “Construction” means “construction” as defined in 40 CFR 51.165 (a)(1)(xviii).

[(25)] (27) “CEM” or “Continuous emission monitoring” means a system for continuously measuring the emissions of any pollutant from a stationary source.

[(26)] (28) “CERC” or “Continuous emissions reduction credit” means a real, quantifiable, surplus, permanent and enforceable reduction of an air pollutant at a source which is:

- (A) Certified by the commissioner through a SIP approved plan; and
- (B) Generated over an uninterrupted period of time in increments of one ton of a specified air pollutant.

[(27)] (29) “Criteria air pollutant” means any air pollutant for which an ambient air quality standard has been established by the Administrator in accordance with Section 107 of the Act.

[(28)] (30) “Department” means the Department of Environmental Protection.

[(29)] (31) “Dioxin emissions” means the total emissions of polychlorodibenzo-p-dioxins (PCDDs) and polychlorodibenzofurans (PCDFs) converted to the toxic equivalence amount of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). For the purposes of this definition, the commissioner shall determine the toxic equivalence amount of 2,3,7,8-TCDD by multiplying the concentration of each isomer in the sample by the appropriate Toxic Equivalency Factor (TEF) set forth in Table 1-1 and then adding the products to obtain the total dioxin emissions in the sample.

<b>Table 1-1</b>	
FORM OF DIOXIN EMISSIONS	TEF
monochlorodibenzo-p-dioxin	0
dichlorodibenzo-p-dioxin	0
trichlorodibenzo-p-dioxin	0
2,3,7,8-tetrachlorodibenzo-p-dioxin	1.0
Other tetrachlorodibenzo-p-dioxins	0.01
1,2,3,7,8-pentachlorodibenzo-p-dioxin	0.5
other pentachlorodibenzo-p-dioxins	0.005
1,2,3,4,7,8-hexachlorodibenzo-p-dioxin	0.04
1,2,3,6,7,8-hexachlorodibenzo-p-dioxin	0.04
1,2,3,7,8,9-hexachlorodibenzo-p-dioxin	0.04
other hexachlorodibenzo-p-dioxins	0.0004
1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin	0.001
other heptachlorodibenzo-p-dioxins	0.00001
octachlorodibenzo-p-dioxin	0
monochlorodibenzofuran	0



dichlorodibenzofuran	0
trichlorodibenzofuran	0
2,3,7,8-tetrachlorodibenzofuran	0.1
other tetrachlorodibenzofurans	0.001
1,2,3,7,8-pentachlorodibenzofuran	0.1
2,3,4,7,8-pentachlorodibenzofuran	0.1
other pentachlorodibenzofurans	0.001
1,2,3,4,7,8-hexachlorodibenzofuran	0.01
1,2,3,6,7,8-hexachlorodibenzofuran	0.01
2,3,4,6,7,8-hexachlorodibenzofuran	0.01
1,2,3,7,8,9-hexachlorodibenzofuran	0.01
other hexachlorodibenzofurans	0.0001
1,2,3,4,6,7,8-heptachlorodibenzofuran	0.001
1,2,3,4,7,8,9-heptachlorodibenzofuran	0.001
other heptachlorodibenzofurans	0.00001
octachlorodibenzofuran	0

[(30)] (32) “Discharge point” means any stack or area from which a hazardous air pollutant is released into the ambient air.

[(31)] (33) “Dispersion technique” means “dispersion technique” as defined in 40 CFR 51.100(hh).

(34) “Distillate oil” or “distillate fuel oil” means any fuel oil of No. 1 or No. 2 grades, as defined by ASTM D396-09, Standard Specification for Fuel Oils, or the current active version thereof.

[(32)] (35) “DERC” or “Discrete emission reduction credit” means the real, quantifiable, surplus, permanent, and enforceable reduction of an air pollutant at a source, which is:

- (A) Certified by the commissioner through a SIP approved plan; and
- (B) Generated during a specified period of time.

[(33)] (36) “Emission” means the release or discharge of an air pollutant into the ambient air from any source.

[(34)] (37) “Emission limitation” and “Emission standard” means “emissions limitation” and “emission standard” as defined in 40 CFR 51.100(z).

[(35)] (38) “Emission unit” means “emission unit” as defined in 40 CFR 51.165(a)(1)(vii).

[(36)] (39) “ERC” or “Emission reduction credit” means real, quantifiable, surplus, permanent, and enforceable reductions of air pollutant emissions from a source, when such reductions are certified by the commissioner through a SIP approved plan and recorded as CERCs or DERCS.

[(37)] (40) “Excessive concentration” means “excessive concentration” as defined in 40 CFR 51.000(kk).

[(38)] (41) “Federally enforceable” means “federally enforceable” as defined in 40 CFR 51.165(a)(1)(xiv).

[(39)] (42) “Flare” means an apparatus, device, process, or procedure for the burning of flammable gases or vapors at or near the exit of a stack, flue or vent.

[(40)] (43) “Fuel-burning equipment” means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

[(41)] (44) “Fugitive dust” means solid airborne particulate matter emitted from any source other than through a stack.

[(42)] (45) “Fugitive emissions” means fugitive dust or those emissions that cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

[(43)] (46) “Good engineering practice (GEP) stack height” means “good engineering practice (GEP) stack height” as defined in 40 CFR 51.100(ii).

[(44)] (47) “Hazardous air pollutant,” except as otherwise provided in section 22a-174-3a of the Regulations of Connecticut State Agencies, means a substance listed in section 22a-174-29 of the Regulations of Connecticut State Agencies.

[(45)] (48) “Hazard limiting value” or “HLV” means the highest acceptable concentration of a hazardous air pollutant in the ambient air, pursuant to section 22a-174-29 of the Regulations of Connecticut State Agencies. The primary use of this term is in the derivation of the maximum allowable stack concentration for a source.

[(46)] (49) “Heat input” means the total gross calorific value of all fuels burned, measured in BTU by ASTM Method D2015-66, D240-64, or D1826-64, using the highest heating value of each fuel.

[(47)] (50) “Incinerator” means any device, apparatus, equipment, slab, or structure used for destroying, reducing, or salvaging, by fire or heat, any material or substance including, but not limited to, refuse, rubbish, garbage, trade waste, debris or scrap; or facilities for cremating human or animal remains provided that, for the purposes of this definition, sources primarily combusting the following used oil types are not incinerators:

- (A) Used oil meeting the specifications of 40 CFR 279.11; or
- (B) Used oil burned in space heaters meeting the requirements of 40 CFR 279.23.

[(48)] (51) “Indian governing body” has the same meaning as in 40 CFR 51.166(b)(28).

[(49)] (52) “Indian reservation” means “Indian reservation” as defined in 40 CFR 51.166(b)(27).

[(50)] (53) “Indirect source” means any building, structure, facility installation, or combination thereof, that has or leads to associated activity as a result of which an air pollutant is or may be emitted. Indirect sources include, but are not limited to: shopping centers, sports complexes, drive-in theaters or restaurants, parking lots or garages, residential, commercial, industrial or institutional buildings or developments, amusement parks and other recreational areas, highways, and airports.

[(51)] (54) “Indirect source construction permit” means a permit issued by the commissioner authorizing the construction of an indirect source.

[(52)] (55) “Innovative control technology” means “innovative control technology” as defined in 40 CFR 51.166 (b)(19).

[(53)] (56) “Internal offset” means any federally enforceable reduction of actual emissions from one or more stationary sources on the same premises which are used to offset potential emissions increases from a proposed stationary source on such premises in accordance with the provisions of section 22a-174-3a(l) of the Regulations of Connecticut State Agencies.

[(54)] (57) “LAER” or “Lowest Achievable Emission Rate” means “lowest achievable emission rate” as defined in 40 CFR 51.165(a)(1)(xiii).

[(55)] (58) “Major modification” means “major modification” as defined in 40 CFR 51.165 (a)(1)(v), provided that, for the purposes of this definition, the term “significant” has the same meaning as in 40 CFR 51.166(b)(23)(i) and:

- (A) The values for nitrogen oxides as an ozone precursor and volatile organic compounds are each twenty-five (25) tons per year, and
- (B) Asbestos, beryllium and vinyl chloride are excluded.

[(56)] (59) “Major source baseline date” means January 6, 1975 for particulate matter and sulfur dioxide and February 8, 1988 for nitrogen dioxide.

[(57)] (60) “Major stationary source” means “major stationary source” as defined 40 CFR 51.165(a)(1)(iv), provided that:

- (A) A stationary source that emits or has the potential to emit twenty-five (25) tons per year of volatile organic compounds or nitrogen oxides as an ozone precursor in any severe ozone nonattainment area is a “major stationary source[.];” and
- (B) A stationary source that emits or has the potential to emit fifty (50) tons per year of volatile organic compounds or nitrogen oxides as an ozone precursor in any serious ozone nonattainment area is a “major stationary source.”

[(58)] (61) “Malfunction” means “malfunction” as defined in 40 CFR 60.2.

[(59)] (62) “MACT” or “Maximum achievable control technology” means a method of achieving an emission limitation or reducing the emission of hazardous air pollutants as determined by the commissioner pursuant to section 22a-174-33(e) of the Regulations of Connecticut State Agencies or by the Administrator pursuant to 40 CFR 63.

[(60)] (63) “Maximum allowable stack concentration” or “MASC” is the maximum allowable concentration of a hazardous air pollutant in the exhaust gas stream at the discharge point of a stationary source under actual operating conditions.

[(61)] (64) “Maximum capacity” means the design maximum hourly capacity of a stationary source or highest demonstrated hourly capacity of a stationary source, whichever is greater, multiplied by 365 days per year and 24 hours per day, or some other time period as may be accepted by the commissioner.

[(62)] (65) “Maximum uncontrolled emissions” means the rate of emissions for a source, determined without the application of air pollution control equipment unless the source is incapable of being operated without the air pollution control equipment, of a particular air pollutant where such rate is calculated using:

- (A) The maximum capacity of the source unless the commissioner determines that the source is physically unable to operate at that capacity or unless the maximum

capacity is limited by restrictions on production rates, hours of operation, or types of materials processed, stored or combusted either through permit conditions or other order of the commissioner; and

- (B) Information from the Compilation of Air Pollutant Emission Factors (AP-42) published by the U. S. Environmental Protection Agency, relevant source test data or other information deemed more representative by the commissioner.

[(63)] (66) “Minor permit modification” means a change to a permit that is required for the permittee to lawfully engage in any of the activities or proposed activities at a stationary source as identified in section 22a-174-2a(e) of the Regulations of Connecticut State Agencies.

[(64)] (67) “Minor source” means any stationary source which emits, and has the potential to emit, pollutants at rates or in amounts lower than those specified in subdivision [(57)] (60) of this [subsection] section.

[(65)] (68) “Minor source baseline date” means June 7, 1988 for particulate matter, December 17, 1984 for sulfur dioxide and June 7, 1988 for nitrogen dioxide.

[(66)] (69) “Mobile source” means a source designed or constructed to move from one location to another during normal operation except portable equipment and includes, but is not limited to, automobiles, buses, trucks, tractors, earth moving equipment, hoists, cranes, aircraft, locomotives operating on rails, vessels for transportation on water, lawnmowers, and other small home appliances.

[(67)] (70) “Modification” or “modified source” means with respect to a stationary source, any physical change or change in the method of operation that would result in an exceedance of the allowable emissions of any individual air pollutant, any increase in the maximum capacity, or any potential emissions of any individual air pollutant not previously emitted, except that:

- (A) Routine maintenance, repair or replacement at a stationary source shall not be considered a physical change; and
- (B) The following shall not be considered a change in the method of operation:
  - (i) any increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility and such increase does not cause or allow an exceedance of the rates or emission limits authorized by a permit, order, or judgement for such a source, or
  - (ii) any increase in hours of operation and such increase does not cause or allow an exceedance of the rates or emissions limits authorized by a permit, order, or judgement for such source.

[(68)] (71) “Monitoring” means any action or procedure that is used to determine actual emissions from a stationary source or compliance with the requirements of any permit, order, statute or regulation.

[(69)] “Multiple-chamber incinerator” means any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning and which consists of two or more refractory lined combustion furnaces in a series, physically separated by refractory walls and interconnected by gas passage ports or ducts that employs adequate design parameters necessary for maximum combustion of the material to be burned.

(70)] (72) “Net emissions increase” means “net emissions increase” as defined in 40 CFR 51.165(a)(1)(vi) provided that:

- (A) For the purposes of this definition, the phrase “this section” found in 40 CFR 51.165(a)(1)(vi)(C)(2) refers to sections 22a-174-3a(k) and (l) of the Regulations of Connecticut State Agencies, and
- (B) Any increases or decreases in actual emissions at a stationary source are creditable only if such increases or decreases occurred within the previous five (5) years of the present modification.

[(71)] (73) “Nitrogen oxides” or “NO<sub>x</sub>” means the sum of all oxides of nitrogen, expressed as nitrogen dioxide.

[(72)] (74) “Non-attainment” means that the quality of the ambient air, as measured by the commissioner, fails to meet any Ambient Air Quality Standard for a given pollutant for which such standards have been established by the United States Environmental Protection Agency.

[(73)] (75) “Non-attainment air pollutant” means the particular air pollutant for which an area is designated as a non-attainment area, except that volatile organic compounds and nitrogen oxides are non-attainment air pollutants for ozone non-attainment areas.

[(74)] (76) “Non-attainment area” means a geographic area which has been designated as non-attainment pursuant to 40 CFR 81 in accordance with the provisions of 42 USC 7407 (section 107 of the Act).

[(75)] (77) “Non-minor permit modification” means a change to a permit that is required for the permittee to lawfully engage in any of the activities or proposed activities at a stationary source as identified in section 22a-174-2a(d) of the Regulations of Connecticut State Agencies.

[(76)] (78) “Offset fill pipe” means a fill pipe that has bends or angles such that a straight sleeve cannot be installed.

[(77)] (79) “Opacity” means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

[(78)] (80) ["Open-burning"] "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack or flue.

[(79)] (81) "Operator" means the person or persons who are legally responsible for the operation of a source of air pollution.

[(80)] (82) "Organic compounds" means any chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

[(81)] (83) "Particulate matter" or "PM" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid in the ambient air.

[(82)] (84) "PM 2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method set forth in 40 CFR 50, Appendix L, and designated as a reference method in accordance with 40 CFR 53 or by an equivalent method approved by the Administrator in accordance with 40 CFR 53.

[(83)] (85) "PM 10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method set forth in 40 CFR 50, Appendix M, and designated as a reference method in accordance with 40 CFR 53 or by an equivalent method approved by the Administrator in accordance with 40 CFR 53.

[(84)] (86) "Permit" means any license issued pursuant to Chapter 446c of the Connecticut General Statutes.

[(85)] (87) "Person" means "person" as defined in section 22a-170 of the Connecticut General Statutes.

[(86)] (88) "Potential emissions" or "potential to emit" means the maximum capacity of a stationary source, including all physical and operational limitations, to emit any air pollutant, including fugitive emissions to the extent quantifiable, provided that:

- (A) Any physical limitation on such capacity, not including air pollution control equipment, shall be treated as part of the stationary source as determined by the commissioner or Administrator; and
- (B) Any operational limitation on such capacity, including air pollution control equipment, or a restriction on the hours of operation or on the type or amount of material processed, stored or combusted, shall be treated as part of the stationary source if the limitation or restriction is practicably enforceable.

[(87)] (89) "Practicably enforceable" means:

- (A) Any federally enforceable emission limitation or restriction on potential emissions; or
- (B) Any emission limitation or restriction on the potential emissions set forth in a permit, order, regulation or statute issued or administered by the commissioner, provided such emission limitation or operational restriction:
  - (i) identifies the subject stationary source or category of stationary source,
  - (ii) specifies an emission limitation using a short term emissions rate for such stationary source expressed in pounds per hour, pounds per unit of production or concentration levels sufficient to calculate the actual emissions from such stationary source or specifies an operational restriction for such stationary source such as hours of operation or fuel use restrictions sufficient to calculate the actual emissions from such source,
  - (iii) specifies appropriate monitoring to determine compliance with such limitation or restriction specified in accordance with subparagraph (ii) of this subdivision provided that if a twelve month rolling average is selected, the monitoring shall be CEM or equivalent, and
  - (iv) if an emission limitation or operational restriction is required to demonstrate that a state or federal standard does not apply, such emission limitation or restriction shall be calculated in accordance with subparagraph (ii) of this subdivision and expressed using the shortest technically and economically feasible averaging period, in no case longer than a twelve month rolling average. If a twelve month rolling average is selected, the monitoring shall be CEM or equivalent.

[(88)] (90) “Premises” means the grouping of all stationary sources at any one location and owned or under the control of the same person or persons.

[(89)] (91) “Process changes to control air pollution” means any modification that alters or implements production processes or available methods, including fuel switching, systems, techniques, work practice standards, operational standards or a combination thereof which is designed and implemented for the primary purpose of reducing emissions of air pollutants from a stationary source.

[(90)] (92) “Process source” means any operation, process, or activity except:

- (A) The burning of fuel for indirect heating in which the products of combustion do not come in contact with process material;
- (B) The burning of refuse; and
- (C) The processing of salvageable material by burning.



[(91)] (93) “Reasonably Available Control Technology” or “RACT” means the lowest emission limitation that a particular stationary source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

[(92)] (94) “Reconstruct” or “reconstruction” means the renovation or re-building of a stationary source in accordance with the provisions 40 CFR 60.15. A reconstructed stationary source shall be considered a new stationary source. The use of an alternative fuel or raw material by reason of an order in effect pursuant to sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974, or superseding legislation, or by reason of a Natural Gas Curtailment Plan pursuant to the Federal Power Act, or by reason of an order or rule pursuant to section 125 of the Clean Air Act, shall not be considered reconstruction.

[(93)] (95) “Region” means a Connecticut intrastate Air Quality Control Region or the Connecticut portion of an interstate Air Quality Control Region as defined by the EPA in 40 CFR 81.

[(94)] (96) “Residual oil” means any fuel oil of No. 4, No. 5, or No. 6 grades, as defined by [American Society for Testing and Materials D396] ASTM D396-09, Standard Specification for Fuel Oils, or the current active version thereof.

[(95)] (97) “Resources recovery facility” means “resources recovery facility” as defined in section 22a-207(9) of the Connecticut General Statutes.

[(96)] (98) “Ringelmann chart” means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

[(97)] (99) “Secondary emissions” mean “secondary emissions” as defined in 40 CFR 51.165(a)(1)(viii).

[(98)] (100) “Serious non-attainment area for ozone” means all towns within the State of Connecticut, except those towns located in the severe non-attainment area for ozone.

[(99)] (101) “Severe non-attainment area for ozone” means the towns of Bethel, Bridgeport, Bridgewater, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, New Milford, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Stratford, Trumbull, Weston, Westport and Wilton.

[(100)] (102) “Solid waste” means unwanted or discarded materials, including solid, liquid, semisolid, or contained gaseous material.

[(101)] (103) “Source” means any property, real or personal, which emits or may emit any air pollutant.

[(102)] (104) “Stack” means “stack” as defined in 40 CFR 51.100 (ff), provided that stack shall also include a flare.

[(103)] (105) “Standard conditions” means a dry gas temperature of 68 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (20 degrees C, 760 mmHg).

[(104)] (106) “State” as used in the phrase "any other state" means state, region, territory, commonwealth, military reservation, or Indian reservation.

[(105)] (107) “State implementation plan” or “SIP” means a plan required by section 110 of Act which has been approved by the Administrator.

[(106)] (108) “Stationary source” means “stationary source” as defined in 40 CFR 51.165(a)(1)(i) and (ii), provided that any portable emissions unit which is moved from site to site but remains stationary during operation is a stationary source.

[(107)] (109) “Stripping facility” means any stationary source, except air pollution control equipment, the primary purpose of which is to remove organic compounds from water, soil or any other material.

[(108)] (110) “Submerged fill pipe” means any fill pipe the discharge opening of which remains entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

[(109)] (111) “Subregion” means a subdivision of a Region, as determined by the commissioner.

[(110)] (112) “Tank” means any vessel for containing liquids or gases.

[(111)] (113) “Title V source” means “Title V source” as defined in 22a-174-33 of the Regulations of Connecticut State Agencies.

[(112)] (114) “Throughput” means the rate, by volume or mass, of production in a manufacturing process, where the combined quantities of all materials introduced into the process, excluding air and water, are used to determine such rate.

[(113)] (115) “Total suspended particulate” means particulate matter as measured by the method described in 40 CFR 50, Appendix B.

[(114)] (116) “Unclassifiable area” means a geographic area which has not been designated either as an attainment area or a non-attainment area pursuant to 40 CFR 81 in accordance with the provisions of section 107 of the Clean Air Act.

[(115)] (117) “Volatile organic compound” or “VOC” means “volatile organic compound” as defined in 40 CFR 51.100(s), as amended from time to time.

[(116)] (118) “Waste water separator” means any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or another container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

[(117)] (119) “Watercourse” means “watercourses” as defined in 22a-38(16) of the Connecticut General Statutes.

**Sec. 2. Section 22a-174-3b(c)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(1) The owner or operator of an external combustion unit shall properly maintain equipment and operate such unit in accordance with the following requirements:

- (A) Maximum rated heat input shall not exceed the following limitations:
  - (i) 50 MMBtu/hr for sources burning gaseous fuels,
  - (ii) 25 MMBtu/hr for sources burning distillate [fuel] oil or a blend of distillate oil and biodiesel fuel, and
  - (iii) 15 MMBtu/hr for sources burning residual [fuel] oil or a blend of residual oil and biodiesel fuel;
- (B) Fuel use shall not exceed the following limitations:
  - (i) natural gas usage shall not exceed 214 million cubic feet in any twelve (12) month rolling aggregate,
  - (ii) propane usage shall not exceed 1.57 million gallons in any twelve (12) month rolling aggregate,
  - (iii) distillate [fuel] oil usage, inclusive of blends of distillate oil and biodiesel fuel, shall not exceed 704,000 gallons in any twelve (12) month rolling aggregate,
  - (iv) residual [fuel] oil usage, inclusive of blends of residual oil and biodiesel fuel, shall not exceed 191,000 gallons in any twelve (12) month rolling aggregate, and
  - (v) use of any combination of the fuels listed in subparagraphs (B)(i) to (B)(iv) of this subdivision shall not result in emissions of any individual air pollutant greater than [fifteen (15)] 15 tons per year in any twelve (12) month rolling aggregate;
- (C) Fuel content shall be as follows:

- (i) any residual [fuel] oil, inclusive of blends of residual oil and biodiesel fuel, used shall contain 0.5%, or less, sulfur by weight, dry basis, and
  - (ii) no fuel oil used shall be blended with waste oil or solvent;
- (D) The height of any stack associated with the unit shall be the greater of:
- (i) [ten (10)] 10 meters, or
  - (ii) the lesser of 1.3 times the building height or maximum building width; and
- (E) A tune-up of the external combustion unit shall be performed on an annual basis.

**Sec. 3. Section 22a-174-3b(c)(3) of the Regulations of Connecticut State Agencies is amended to read as follows:**

- (3) The owner or operator of an external combustion unit may make and maintain records of the following information, as applicable:
- (A) Records of the fuel type and quantity used, in gallons or million cubic feet, for each month and each twelve (12) month rolling aggregate;
  - (B) If the fuel used is residual oil or a blend of residual oil and biodiesel fuel, records of the sulfur content for each nongaseous fuel shipment received;
  - (C) If multiple fuels are used, records of the quantity in tons of each criteria pollutant emitted for each month and each twelve (12) month rolling aggregate; and
  - (D) The date each annual tune-up is performed.

**Sec. 4. Section 22a-174-3c(b)(2) and (3) of the Regulations of Connecticut State Agencies is amended to read as follows:**

- (2) The owner or operator of an external combustion unit or units using distillate [fuel] oil or a blend of distillate oil and biodiesel fuel and operating to limit potential emissions in accordance with this section shall:
- (A) Limit distillate [fuel] oil purchased, inclusive of blends of distillate oil and biodiesel fuel, for the premises to equal to or less than 328,000 gallons in any calendar year; and
  - (B) Not exceed a heat input for each external combustion unit of 25 [mmBTU/hr] MMBtu/hr.

(3) The owner or operator of an external combustion unit or units using residual [fuel] oil, or a blend of residual oil and biodiesel fuel, and operating to limit potential emissions in accordance with this section shall:

- (A) Limit residual [fuel] oil purchased, inclusive of blends of residual oil and biodiesel fuel, for the premises to equal to or less than 89,000 gallons in any calendar year; and
- (B) Not exceed a heat input for each external combustion unit of 15 [mmBTU/hr] MMBtu/hr.

**Sec. 5. Section 22a-174-3c(b)(6) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(6) The owner or operator of an emergency engine or engines using distillate [fuel] oil, or a blend of distillate oil and biodiesel fuel, and operating to limit potential emissions in accordance with this section shall limit distillate [fuel] oil purchase for the premises, inclusive of blends of distillate oil and biodiesel fuel, to equal to or less than 21,000 gallons in any calendar year.

**Sec. 6. Section 22a-174-19a(a) of the Regulations of Connecticut State Agencies is amended as follows:**

(a) **Definitions.** For purposes of this section:

(1) “Affected state” means “affected states” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

(2) “Affected unit” means [any emissions unit subject to the provisions of section 22a-174-22b of the Regulations of Connecticut State Agencies, the Post-2002 Nitrogen Oxides Budget Program.] a fossil-fuel fired:

- (A) Stationary source that serves a generator with a nameplate capacity of 15 MW or more; or
- (B) Boiler or indirect heat exchanger with a maximum heat input capacity of 250 MMBtu/hr or more.

(3) “Average emissions rate” means a determination of the rate of SO<sub>2</sub> emissions, measured in pounds of SO<sub>2</sub> per MMBtu, in any calendar quarter from either a single affected unit or from two or more affected units. Average emissions rate for a single unit is calculated by dividing the total quarterly SO<sub>2</sub> emissions, in pounds, from such unit by the total quarterly heat input, in MMBtu, for such unit. Average emissions rate for two or more units is calculated by dividing the total quarterly SO<sub>2</sub> emissions, in pounds, from all such units by the total quarterly heat input, in MMBtu, for all such units.

(4) “Calendar quarter” means the period of January 1 to March 31, inclusive, April 1 to June 30, inclusive, July 1 to September 30, inclusive or October 1 to December 31, inclusive.

(5) “Connecticut State SO<sub>2</sub> Retirement Account” means a general allowance tracking system account established by the commissioner under 40 CFR 73.31 for the purpose of permanently holding SO<sub>2</sub> allowances retired by the owners or operators of affected units in accordance with the provisions of subsection (d) of this section.

(6) “Continuous emissions monitoring system” or “CEMS” means any equipment used to sample, analyze and measure SO<sub>2</sub> emissions to provide a permanent record of such emissions expressed in pounds per MMBtu.

(7) “Emissions unit” means “emission unit” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

[(8) “Early reduction credit” means a reduction of SO<sub>2</sub> during calendar years 1999, 2000, 2001 or 2002 below the most stringent SO<sub>2</sub> emission rate applicable to an affected unit pursuant to subsection (h)(5)(B) of this section.

(9) “Generation period” means the period of time during which reductions in emissions of an air pollutant are implemented.]

[(10)](8) “MMBtu” means million BTU of heat input.

[(11)](9) “Retire” or “retirement” when referring to SO<sub>2</sub> allowances, means the permanent withdrawal of SO<sub>2</sub> allowances by the Administrator from any allowance tracking system account to the Connecticut SO<sub>2</sub> Allowance Retirement Account in an amount equal to the number of tons of SO<sub>2</sub> emitted by each affected unit.

[(12)](10) “Sulfur dioxide” or “SO<sub>2</sub>” means a gas that at standard conditions has the molecular form SO<sub>2</sub>.

[(13) “Sulfur dioxide Discrete Emission Reduction Credit” or “SO<sub>2</sub> DERC” means the reduction of one ton of sulfur dioxide at a stationary source during the generation period, which the commissioner has certified in writing as real, quantifiable, surplus, permanent, and enforceable. Early reduction credits shall qualify as SO<sub>2</sub> DERCs.]

[(14)](11) “Title IV SO<sub>2</sub> allowance” or “SO<sub>2</sub> allowance” means an authorization allocated to a Title IV source by the Administrator, pursuant to Title IV of the federal Clean Air Act (42 USC 7651d, et seq.) and 40 CFR Parts 72 and 73, to emit up to one ton of SO<sub>2</sub> during or after a specified calendar year.

[(15)](12) “Title IV source” means an affected unit that is also subject to Phase II of the acid rain control requirements set forth in Title IV of the federal Clean Air Act (42 USC 7651d, et seq.).

**Sec. 7. Subsections (e) and (f) of section 22a-174-19a of the Regulations of Connecticut State Agencies are amended to read as follows:**

**(e) Sulfur dioxide emissions standards and fuel sulfur limits effective on and after January 1, 2003.** Notwithstanding the provisions of subsection (b) of this section [and except as provided in subsection (f) of this section], this subsection shall apply, on and after January 1, 2003, to the owner or operator of a Title IV source that is also an affected unit or units. On and after January 1, 2003, such owner or operator shall:

(1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 0.3 % sulfur, by weight (dry basis);

(2) Meet an average emission rate of equal to or less than 0.33 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at a premises; or

(3) Meet an average emission rate of equal to or less than 0.3 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at a premises[; or].

[(4) Meet an average emission rate equal to or less than 0.3 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter in accordance with the provisions of subsection (h) of this section, provided that each affected unit or units:

(A) Combusts liquid fuel, gaseous fuel or a combination of each, provided that each fuel possess a fuel sulfur limit of equal to or less than 0.5 % sulfur, by weight (dry basis), or

(B) Meets an actual quarterly average emission rate that does not exceed 0.55 pounds SO<sub>2</sub> per MMBtu.]

**(f) [Compliance extension for sulfur dioxide emission standards and fuel sulfur limits.] Reserved.**

(1) The commissioner may authorize an extension, to expire no later than June 1, 2003, to comply with the requirements of subsection (c) or (e) of this section upon the request of an owner or operator of an affected unit provided such request is filed with the commissioner no later than 120 days before the applicable compliance date of subsection (c) or (e) of this section.

(2) Before granting or denying a request for an extension pursuant to subdivision (1) of this subsection, the commissioner shall make a finding, after consultation with the Department of Public Utility Control, to determine whether the provisions of this section will substantially impact the reliable generation or delivery of electricity to residential, commercial and industrial users in the state. The commissioner may hold a public hearing prior to granting or denying such request for an extension.

(3) The commissioner may impose conditions and limitations by permit or order when granting a request for an extension under subdivision (1) of this subsection.

(4) Any extension authorized under subdivision (1) of this subsection shall require that the owner or operator of an affected unit, through a permit or order, comply with the requirements of subsection (c) or (e) of this subsection by reconstructing the existing affected unit, replacing the existing affected unit with a new source, or submitting to an emissions cap. The commissioner may require such emissions cap be equivalent to, or less than, the quantity of emissions that would have been emitted had the source complied with the requirements of subsection (c) or (e). Any emissions cap shall expire no later than June 1, 2003 and any reconstruction or replacement shall be completed no later than June 1, 2003.

(5) The extension provided by this subsection shall not relieve the owner or operator of an affected source of the requirements to comply with any applicable provision of this section, including subsection (d) of this section.]

**Sec. 8. Section 22a-174-19a(g)(3) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(3) No later than thirty days after the termination of any suspension of fuel sulfur limits made pursuant to this subsection, the owner or operator of an affected unit or units shall report to the commissioner in writing the amount of SO<sub>2</sub> emissions in excess of those that would have occurred had the use of compliant fuel at the affected source not been interrupted. If such excess SO<sub>2</sub> emissions from any premises exceed fifty tons, the commissioner may require that the owner or operator of such affected unit or units offset such SO<sub>2</sub> emissions [through the use of emission reduction trading in accordance with the provisions of subsection (h) of this section].

**Sec. 9. Section 22a-174-19a(h) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(h) [Emissions reduction trading.] Reserved.**

[(1) The owner or operator of an affected unit may use SO<sub>2</sub> DERCS or SO<sub>2</sub> allowances to comply with the applicable emission limitations set forth in subsection (e)(4) of this section pursuant to a permit or order issued by the commissioner.

(2) Such owner or operator shall retire one (1) SO<sub>2</sub> DERC for each ton or part thereof of SO<sub>2</sub> emitted in excess of the applicable emission limitation in subsection (e)(4) of this section. In the alternative, an owner or operator may retire four (4) SO<sub>2</sub> allowances for each ton or part thereof of SO<sub>2</sub> emitted in excess of the applicable emission limitation in subsection (e)(4) of this section.

(3) Any creation or use of SO<sub>2</sub> DERCS for the purpose of this subsection shall be consistent with the provisions of 40 CFR 51, Subpart U and the U.S. Environmental Protection Agency's "Emission Trading Policy Statement," published December 4, 1986 (Federal Register, Volume 51, page 43814).



(4) The owner or operator of any affected facility using SO<sub>2</sub> allowances as a means of compliance with the provisions of this subsection and subsection (e)(4) of this section shall ensure that such allowances were originally issued by the Administrator to a Title IV source located in the state of Connecticut or in any affected state.

(5) The owner or operator of any affected unit that reduces SO<sub>2</sub> emissions for the purpose of generating early reduction credits or SO<sub>2</sub> DERCS may request that the commissioner approve such early reduction credits or SO<sub>2</sub> DERCS in writing by permit or order provided that such reductions are:

- (A) Real, quantifiable, surplus, permanent and enforceable; and
- (B) Based on an emissions rate that is the most stringent of:
  - (i) 0.3 pounds SO<sub>2</sub> per MMBtu,
  - (ii) Permitted allowable emissions of the affected unit, or
  - (iii) The actual emissions of the affected unit.]

**Sec. 10. Section 22a-174-19a(i)(2) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(2) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the average SO<sub>2</sub> emission rate limits of subsections (c)(2), (c)(3), (e)(2)[,] or (e)(3) [or (e)(4)] of this section shall make and keep records in accordance with the following:

- (A) For affected units that are also Title IV sources, hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of 40 CFR 75;
- (B) For affected units that are not Title IV sources:
  - (i) hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of either 40 CFR [Parts] 60 or 75, or
  - (ii) if any affected unit does not have a CEMS in accordance with either 40 CFR [Parts] 60 or 75, then hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS or other monitoring system; and
- (C) For all affected units, quarterly facility SO<sub>2</sub> emission rate averages, determined by dividing total quarterly SO<sub>2</sub> emissions by total quarterly heat input values for all affected units at the facility.

**Sec. 11. Subsection (f)(1)(E) of the section 22a-174-22c of the Regulations of Connecticut State Agencies is amended to read as follows:**

- (E) Allocate to the compliance account of each Proponent of an EEP saving thermal or mechanical energy in a manufacturing process where energy consumption is measured on a unit of production basis, the number of CAIR NO<sub>x</sub> Ozone Season allowances equal to the amount determined by the following equation, subject to the limitation in subparagraph (H) of this subdivision:

$$\left[ \frac{\left( \frac{EC_1}{PP_1} - \frac{EC_2}{PP_2} \right) \times PP_2 \times NE_2 \times \left( \frac{NE_1}{NE_2} \right)}{2000 \frac{lb}{ton}} \right]$$

$$\frac{\left( \frac{EC_1}{PP_1} - \frac{EC_2}{PP_2} \right) \times PP_2 \times NE_2 \times \left[ 1 + \left( \frac{NE_1 - NE_2}{NE_1} \right) \right]}{2000 \frac{lb}{ton}}$$

**Sec. 12. Table 22c-1 of section 22a-174-22c of the Regulations of Connecticut State Agencies is amended to read as follows:**

<b>Table 22c-1</b> <b>40 Code of Federal Regulations Part 96</b> <b>Provisions Incorporated by Reference as of [December 13, 2006] <u>October 19, 2007</u></b>	
<b>Subpart AAAA-CAIR NO<sub>x</sub> Ozone Season Trading Program General Provisions</b>	
Section 96.302	Definitions.
Section 96.303	Measurements, abbreviations, and acronyms.
Section 96.305	Retired unit exemption.
Section 96.306	Standard requirements.
Section 96.307	Computation of time.
Section 96.308	Appeal procedures.
<b>Subpart BBBB-CAIR Designated Representative for CAIR NO<sub>x</sub> Ozone Season Sources</b>	
Section 96.310	Authorization and responsibilities of CAIR designated representative.
Section 96.311	Alternate CAIR designated representative.

*Hearing Report*

Section 96.312	Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.
Section 96.313	Certificate of representation.
Section 96.314	Objections concerning CAIR designated representative.
Section 96.315	Delegation by CAIR designated representative and alternate CAIR designated representative.
<b>Subpart CCCC-Permits</b>	
Section 96.320	General CAIR NO <sub>x</sub> Ozone Season Trading Program permit requirements.
Section 96.321	Submission of CAIR permit applications.
Section 96.322	Information requirements for CAIR permit applications.
Section 96.323	CAIR permit contents and term.
Section 96.324	CAIR permit revisions.
<b>Subpart FFFF-CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System</b>	
Section 96.351	Establishment of accounts.
Section 96.352	Responsibilities of CAIR authorized account representative.
Section 96.353	Recordation of CAIR NO <sub>x</sub> Ozone Season allowance allocations.
Section 96.354	Compliance with CAIR NO <sub>x</sub> emissions limitation.
Section 96.355	Banking.
Section 96.356	Account error.
Section 96.357	Closing of general accounts.
<b>Subpart GGGG-CAIR NO<sub>x</sub> Ozone Season Allowance Transfers</b>	
Section 96.360	Submission of CAIR NO <sub>x</sub> Ozone Season allowance transfers.
Section 96.361	EPA recordation.
Section 96.362	Notification.
<b>Subpart HHHH-Monitoring and Reporting</b>	
Section 96.370	General requirements.
Section 96.371	Initial certification and recertification procedures.
Section 96.372	Out of control periods.
Section 96.373	Notifications.
Section 96.374 (Except as provided in subsection (i)(3) of this section)	Recordkeeping and reporting.
Section 96.375	Petitions.

**Sec. 13. Section 22a-174-25 of the Regulations of Connecticut State Agencies is repealed.**

**Sec. 14. Section 22a-174-38(g)(4) of the Regulations of Connecticut State Agencies is amended as follows:**

(4) The particulate matter control device temperature limits [and] , municipal waste combustor unit load limit and the average carbon mass feed rate may be waived temporarily by the commissioner to allow evaluation of system performance, testing of new technology or control technologies or diagnostic testing, provided that any such temporary waiver is authorized through a permit or order issued prior to an evaluation of system performance, testing of new technology or control technologies or diagnostic testing.

**Sec. 15. Section 22a-174-38(g) of the Regulations of Connecticut State Agencies is amended by the addition of subdivision (6), as follows:**

(NEW)

(6) Notwithstanding subdivision (5) of this subsection, during the annual dioxin/furan or mercury performance test and the two weeks preceding the annual dioxin/furan or mercury performance test, no limit is applicable for the average mass carbon feed rate if the provisions of subdivision (4) of this subsection are met.

**Sec. 16. Section 22a-174-38(i)(3) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(3) Notwithstanding subdivision (2) of this subsection, upon demonstration for two (2) consecutive years that the dioxin/furan emission levels from all units at a MWC plant for which construction commenced prior to September 20, 1994 are less than fifteen (15) ng/dscm total mass or, for all units for which construction, modification or reconstruction commenced on or after September 20, 1994, and are less than seven (7) ng/dscm total mass, the MWC owner or operator shall only be required to conduct performance testing for dioxin/furan on one unit at that MWC plant. The owner or operator shall rotate performance testing among units [no more than twelve (12) months following the previous performance test] in a fixed sequence so that each unit is tested at the same frequency. One unit at the plant shall be tested at least once per calendar year, and such test shall be conducted no less than nine calendar months and no more than 15 calendar months following the previous performance test. If in any year following the year of election of such reduced testing, the dioxin/furan emission test results indicate a level equal to or greater than fifteen (15) ng/dscm total mass for any unit for which construction commenced prior to September 20, 1994, or greater than seven (7) ng/dscm total mass for any unit for which construction, modification or reconstruction commenced on or after September 20, 1994, then the MWC owner or operator shall resume testing of all units at the MWC plant during the next annual performance test. The owner or operator shall continue to test all units on an annual basis until the performance tests for all units indicate dioxin/furan emission levels that meet the requirements of this subdivision, at which time the owner/operator may resume testing in accordance with this subdivision.

**Statement of purpose:** This proposal comprises a series of minor but necessary revisions to the air quality regulations. Each section of the proposal is described below.

**Section 1:** A definition of “brush” is added to section 22a-174-1 of the Regulations of Connecticut State Agencies (RCSA) to facilitate the Commissioner’s ability to authorize or prohibit open burning, as provided in section 22a-174(f) of the Connecticut General Statutes (CGS).

Definitions of “distillate oil” and “biodiesel fuel” referencing ASTM International standards are included to identify these fuels when combusted in equipment operated pursuant to the air quality regulations. The definition of “residual oil” is revised to specify the current ASTM International standard.

In the definition of “incinerator,” the exclusion for certain sources burning waste oil is qualified as those sources primarily burning waste oil. The definition of “multiple-chamber incinerator” is deleted as it is no longer in use in the air quality regulations.

**Sections 2 through 5:** RCSA sections 22a-174-3b and 22a-174-3c are revised to specify that small boilers, heaters, drying ovens and furnaces may combust biodiesel fuel blends when operating under RCSA sections 22a-174-3b and 22a-174-3c. Absent revision, RCSA sections 22a-174-3b and 22a-174-3c appear to prohibit the use of biodiesel fuel blends.

**Section 6:** The definition of “affected unit” in RCSA section 22a-174-19a(a) relies on a reference to RCSA section 22a-174-22b, which will be repealed in 2010. The definition of affected unit is replaced with a definition that is independent of a reference to another regulation but that designates the same group of emissions units. Other definitions in RCSA section 22a-174-19a(a) are eliminated consistent with proposed deletions.

**Sections 7 through 10:** Obsolete portions of RCSA section 22a-174-19a are deleted. The obsolescence results from prohibitions on emissions trading established in CGS section 22a-198 or, for subsection (f), the passage of time.

**Section 11:** In RCSA section 22a-174-22c, a formula for allocating allowances from the energy efficiency and renewable energy set-aside is corrected.

**Section 12:** RCSA section 22a-174-22c incorporates federal regulations by reference. The date for the referenced federal regulations is changed to take into account revisions to the federal regulations, which occurred after the adoption of RCSA section 22a-174-22c.

**Section 13:** RCSA section 22a-174-25, which serves only to designate an effective date of June 1, 1972 for now defunct regulations, is repealed.

**Sections 14 through 16:** RCSA section 22a-174-38 was revised in July 2008 in response to revisions to underlying federal emissions guidelines for municipal waste combustors. The July 2008 revision created minor inconsistencies in performance testing requirements that were not recognized until the revisions became effective. Those inconsistencies are addressed.

Attachment B- Brush Definition  
*Hearing Certification*

**HEARING CERTIFICATION**

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding the proposed amendment of :

- 1) The public hearing was held on July 30, 2009 as announced in the notice of hearing (copy attached);
- 2) In accordance with the notice, materials were available for review in each Air Quality Control Region (AQCR) in Connecticut;
- 3) Copies of the notice were mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published in four area newspapers as follows:

<u>Newspaper</u>	<u>AQCR</u>	<u>Date</u>
Connecticut Post	43	June 23, 2009
Hartford Courant	42	June 23, 2009
New London Day	41	June 23, 2009
The Register Citizen	44	June 23, 2009

February 26, 2010  
Date

\_\_\_\_\_  
/s/Merrily A. Gere  
Bureau of Air Management

R-39 Rev. 03/2012  
(Title page)

**IMPORTANT:** Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

**State of Connecticut**  
**REGULATION**  
of

---

NAME OF AGENCY

Department of Energy and Environmental Protection

---

**Concerning**

---

SUBJECT MATTER OF REGULATION

Revision of the Low Emission Vehicle II and Adoption of the Low Emission Vehicle III programs

---

Section 1. Subsections (a) to (c), (e) to (h) and (i) of Section 22a-174-36b of the Regulations of Connecticut State Agencies are amended to read as follows:

**Section 22a-174-36b. Low Emission Vehicle II Program.**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles II program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations, for the purposes of this section:

- (1) "Advanced technology vehicle" means any PZEV, AT PZEV or ZEV.
- (2) "Air contaminant emission control system" means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or system or engine modification on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems, and crankcase ventilating systems.
- (3) "Alternative fuel" means any fuel that is commonly or commercially known or sold as one of the following: M-100 fuel methanol, M-85 fuel methanol, E-100 fuel ethanol, E-85 fuel ethanol, compressed natural gas, liquefied petroleum gas, or hydrogen.
- (4) "AT PZEV" means advanced technology partial zero emission vehicle.
- (5) "CARB" means the California Air Resources Board.

Attachment C—LEV III  
*Final Regulation*

(6) "Certified" means the finding by CARB that a motor vehicle, motor vehicle engine, or motor vehicle engine family, or air contaminant emission control system has satisfied the criteria adopted by CARB for the control of specified air contaminants from motor vehicles.

(7) "Dual-fuel" means a motor vehicle that is engineered and designed to be capable of operating on a petroleum fuel and on another fuel that is stored separately on-board the vehicle.

(8) "Emergency vehicle" means any publicly owned vehicle operated by a peace officer in performance of his or her duties, any authorized vehicle used for fighting fires or responding to emergency fire calls, any publicly owned authorized vehicle used by emergency medical technicians or paramedics, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, or an ambulance.

(9) "Emission control label" means the permanent stickers required by CARB and affixed to all passenger cars, light duty trucks and medium-duty vehicles certified for sale in California.

(10) "Emissions-related part" means any automotive part that affects any regulated emissions from a motor vehicle or motor vehicle engine that is subject to California or federal emissions standards, as set forth in California Code of Regulations, Title 13, section 1900(b)(3).

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Executive Order" means an Executive Order of CARB.

(13) "Fleet average emissions" means a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases and all greenhouse gases from all vehicles that are subject to this section, sold in the State of Connecticut in any applicable model year.

(14) "Fuel-flexible" means an alternative fuel motor vehicle that is engineered and designed for operation using any alternative fuel mixture or blend.

(15) "Greenhouse gas" means any of the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.

(16) "Greenhouse gas vehicle test group" means "greenhouse gas vehicle test group" as defined in California Code of Regulations, Title 13, section 1961.1.



(17) "Heavy-duty vehicle" means any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

(18) "Hybrid electric vehicle" or "HEV" means a motor vehicle which allows power to be delivered to the driver wheels solely by a battery powered electric motor but which also incorporates the use of a combustion engine to provide power to the battery, or any vehicle which allows power to be delivered to the drive wheels by either a combustion engine and/or by battery powered electric motor.

(19) "Independent low volume manufacturer" means "independent low volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

(20) "Large volume manufacturer" means "large volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

~~[(20)]~~ (21) "Light-duty truck" or "LDT" means any 2008 and subsequent model-year motor vehicle certified to the standards in California Code of Regulations, Title 13, section 1961(a)(1) having a gross vehicle weight rating of 8500 pounds or less, and any other motor vehicle rated at 6000 pounds or less, that is designed primarily for the purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

~~[(21)]~~~~(22)~~ "Loaded vehicle weight" or "LVW" means vehicle curb weight plus 300 pounds.

~~[(22)]~~~~(23)~~ "Low Emission Vehicle II program" means the standards for motor vehicles, motor vehicle engines and related provisions that the State of California has adopted and is permitted to adopt under 42 USC 7543 and that the Commissioner is permitted to adopt under 42 USC 7507 as required by section 22a-174g of the Connecticut General Statutes for the implementation of such program in Connecticut.

~~[(23)]~~~~(24)~~ "Medium-duty passenger vehicle" means "medium-duty passenger vehicle" as defined in California Code of Regulations, Title 13, section 1900.

~~[(24)]~~~~(25)~~ "Medium-duty vehicle" means "medium-duty vehicle" as defined in California Code of Regulations, Title 13, section 1900.

~~[(25)]~~~~(26)~~ "Military tactical vehicles and equipment" means those vehicles defined by California Code of Regulations, 13, section 1905.

*Final Regulation*

[(26)](27) "Model year" means "model year" as defined in 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 40 CFR 85.2304, inclusive.

[(27)](28) "Neighborhood electric vehicle" or "NEV" means a motor vehicle certified to zero emission vehicle standards and meets the definition of "low speed vehicle" either in California Code of Regulations, Title 13, section 385.5 or in 49 CFR 571.500.

[(28)](29) "New vehicle" means any passenger car or light duty truck with 7,500 miles or fewer on its odometer.

[(29)](30) "NMOG" means non-methane organic gas;

[(30)](31) "Passenger car" or "PC" means any motor vehicle designed primarily for transportation of persons having a design capacity of twelve persons or less.

[(31)](32) "Offset vehicle" means a vehicle that has been certified by the State of California as set forth in the California Code of Regulations, Title 13, section 1960.5.

[(32)](33) "PZEV" means partial ZEV as defined in California Code of Regulations, Title 13, section 1962.

[(33)](34) "Small volume manufacturer" means "small volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

[(34)](35) "Travel provision" means the provision of the California Code of Regulations that entitles a manufacturer to full credit for each Type III ZEV placed in service prior to model year 2012 in California or any other state that has adopted the California ZEV mandate.

[(35)](36) "Vehicle" means any motor vehicle.

[(36)](37) "VECs" means vehicle equivalent credits.

[(37)](38) "ZEV" means a zero emission vehicle.

**(b) Applicability.**

(1) This section shall apply to all 2008 [and subsequent] through 2014 model year passenger cars and light duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

Attachment C-LEV III  
Final Regulation

(2) This section shall apply to all 2009 [and subsequent] through 2014 model year medium-duty vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

(3) The greenhouse gas emission standards set forth in [subsection (c) (1) (H)] subparagraph(c) (1) (G) of this section and related provisions in this section shall apply to all 2009 [and subsequent] through 2016 model year passenger cars, light-duty trucks and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2008 [or subsequent] through 2014 model year passenger car or light duty truck or a 2009 [or subsequent] through 2014 model year medium-duty vehicle or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

- (A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(g) or (h), 1960.1, 1961(a), 1962(a) or 1962.1(a);
- [(B)] [Until December 31, 2008, the emission control label and smog index label or environmental performance label requirements set forth in the California Code of Regulations, Title 13, section 1965;]
- [(C)] (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;
- [(D)] (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;
- [(E)] (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.1;
- [(F)] (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;

[(G)] (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

[(H)] (G) The greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.1; and

[(I)] (H) On or after January 1, 2009, the emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965[.] or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85,86, and 600.

(2) **ZEV mandate.**

(A) [In] For the 2008 through 2017 model [year]years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962 using Connecticut specific vehicle numbers.

(B) Alternative compliance mechanisms. As an alternative means of compliance with the requirements of subparagraph (A) of this subdivision, an automobile manufacturer may instead opt to comply with the provisions of subsection (m) of this section.

(C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive Connecticut credits for those sales. Such credits shall be transferred annually using the ZEV credit account transfer ratio determined in accordance with subsection (m) (3), as applicable to the manufacturer.

(D) [Beginning with]For the 2009 through 2017 model [year]years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962.1 using Connecticut specific vehicle numbers.

(E) Optional Section 177 State Compliance Path. Large volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d)(5)(E)(3) shall inform the commissioner in writing of such election no later than September 1, 2014.

(3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), (k), and (n) of this section.

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;
- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold or designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such

**Attachment C–LEV III  
Final Regulation**

resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

**(e) Emission standards, warranty, recall and miscellaneous provisions.**

Each manufacturer and each new 2008 through 2017 [and subsequent] model year passenger car and light-duty truck that is subject to this section shall comply with each applicable standard set forth in Table 36b-1 and incorporated by reference herein:

<b>Table 36b-1</b>		
<b>California Code of Regulations (CCR)</b>		
<b>Title 13</b>		
<b>Provisions Incorporated by Reference</b>		
<b>Title 13 CCR</b>	<b>Title</b>	<b>Section Amended Date</b>
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	[04/17/09] <u>12/31/12</u>
<b><u>Article 2 Approval of Motor Vehicle Pollution Control Devices</u></b>		
<b><u>(New Vehicles)</u></b>		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	[10/11/07] <u>12/31/12</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	[03/26/04] <u>12/31/12</u>
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 [and Subsequent] through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[06/16/08] <u>12/31/12</u>

**Attachment C–LEV III  
Final Regulation**

Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 [and Subsequent] <u>through 2016</u> Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	[01/01/06] <u>8/7/12</u>
Section 1962	Zero Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[4/17/09] <u>2/13/10</u>
Section 1962.1	Zero Emission Vehicle Standards for 2009 [and Subsequent] <u>through 2017</u> Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	[4/17/09] <u>12/31/12</u>
Section 1965	Emission Control and, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model Year Vehicles	[06/16/08] <u>8/7/12</u>
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[11/09/07] <u>8/7/12</u>
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	[11/09/07] <u>8/7/12</u>
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	[01/04/08] <u>12/31/12</u>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	[01/04/08] <u>8/7/12</u>
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	11/09/07

Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
<b>Article 1 Assembly Line Testing.</b>		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	[11/27/99] <u>8/7/12</u>
<b>Article 2 Enforcement of New and In-use Vehicle Standards</b>		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	[01/04/08] 12/8/10
Section 2112	Definitions.	[11/15/03] 8/7/12
	Appendix A to Article 2.1.	[11/15/03]



**Attachment C–LEV III**  
**Final Regulation**

		8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	[01/04/08] 12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	[01/04/08] 12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	[8/21/02] 8/7/12
Section 2140	Notification of In-Use Results.	[8/21/02] 8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	[01/04/08]

**Attachment C–LEV III**  
**Final Regulation**

		12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	[11/27/99] 12/8/10
Section 2145	Field Information Report.	[11/27/99] 8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	[8/21/02] 8/7/12
Section 2148	Evaluation of Need for Recall.	[11/27/99] 8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>[Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action]</b>		
[Section 2166]	[General Provisions.]	[01/04/08]
[Section 2166.1]	[Definitions.]	[01/04/08]
[Section 2167]	[Emission Warranty Information Report.]	[01/04/08]
[Section 2168]	[Supplemental Emissions Warranty Information Report.]	[01/04/08]
[Section 2169]	[Recall and Corrective Action for Failures of Exhaust After-Treatment Devices.]	[01/04/08]
[Section 2170]	[Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines).]	[01/04/08]
[Section 2171]	[Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction.]	[01/04/08]
[Section 2172]	[Notification of Required Recall or Corrective Action by the Executive Officer.]	[01/04/08]
[Section 2172.1]	[Ordered or Voluntary Corrective Action Plan.]	[01/04/08]
[Section 2172.2]	[Approval and Implementation of Corrective Action Plan.]	[01/04/08]
[Section 2172.3]	[Notification of Owners.]	[01/04/08]
[Section 2172.4]	[Repair Label.]	[01/04/08]
[Section 2172.5]	[Proof of Correction Certificate.]	[01/04/08]
[Section 2172.6]	[Preliminary Tests.]	[01/04/08]

**Attachment C-LEV III  
Final Regulation**

[Section 2172.7]	[Communication with Repair Personnel.]	[01/04/08]
[Section 2172.8]	[Recordkeeping and Reporting.]	[01/04/08]
[Section 2172.9]	[Extension of Time.]	[01/04/08]
[Section 2173]	[Penalties.]	[01/04/08]
[Section 2174]	[Availability of Public Hearing.]	[01/04/08]
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	[9/17/91] <u>8/8/12</u>

**(f) Fleet average requirements, reporting and projections, and delivery reporting requirements.**

(1) Effective for 2008 [and subsequent] through 2014 model years, the fleet average NMOG gas emission values from passenger cars and light-duty trucks vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, sections 1960.1(g) (2) and 1961(b) (1), except as provided in section 1960.1(g) (2) and 1961(b) (1). Effective for 2008 and subsequent model years, manufacturers may earn and bank NMOG credits in accordance with California Code of Regulations, Title 13, section 1961, except NMOG credits earned prior to model year 2011 shall be treated as though they were earned in model year 2011 and no debits shall be carried forward after model year 2011.

(2) Effective for 2009 [and subsequent] through 2014 model years, each manufacturer shall comply with the medium-duty vehicle phase-in requirements and, for 2004 and subsequent model years, may earn and bank VECs, both in accordance with California Code of Regulations, Title 13, section 1961, except VECs earned prior to model year 2012 shall be treated as though they were earned in model year 2012.

(3) A manufacturer that certifies vehicles equipped with direct ozone reduction technologies is eligible to receive NMOG credits for use in fleet average compliance determinations. A manufacturer shall submit to the commissioner a CARB Executive Order, obtained in accordance with California Code of Regulations Title 13, section 1960.1(g) (1), which shall determine the value of such credits for vehicles delivered for sale in the State of Connecticut, when the manufacturer submits its annual NMOG fleet average report.

(4) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State

of Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1960.1(g)(2) and 1961(c).

(5) Commencing with the 2008 model year, each manufacturer shall report to the commissioner, using the same format used to report such information to CARB, the average emissions of its fleet delivered for sale in the State of Connecticut. The report shall be submitted to the commissioner, or the commissioner's designee, no later than March 1<sup>st</sup> of the calendar year succeeding the end of the model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(6) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2008 model year, each manufacturer shall submit annually, to the commissioner, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(7) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a large volume manufacturer for each 2009 [and subsequent]through 2016 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(8) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a small volume manufacturer or an independent low volume manufacturer [for each 2016 and subsequent]through model year 2016 are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(9) Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles subject to the greenhouse gas provisions of this section in the State of Connecticut in accordance with the provisions set forth in California Code of Regulations, Title 13, section 1961.1.

**(g) Fleet Average Emissions Reporting Requirements.**

(1) For the purposes of determining compliance with the requirements of subsections (c)(3) and (e) of this section, [commencing with] for the 2008 through 2014 model years, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report

which demonstrates that such manufacturer has met the fleet average emissions requirements for its fleet delivered for sale in Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

[(2) Prior to the commencement of each model year, commencing with the 2008 model year, each manufacturer shall submit, to the Department, a projection of the fleet average emissions for vehicles to be delivered for sale in Connecticut during such model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.]

[(3)](2) [Commencing with] For the 2009 through 2016 model [year] years, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to CARB. Such report shall be filed with the commissioner by [March 1<sup>st</sup>] May 1<sup>st</sup> of the calendar year succeeding the end of the model year and shall include the number of greenhouse gas vehicle test groups certified pursuant to subsection (m) (5) of this section, delineated by model type, delivered for sale into the State of Connecticut.

**(h) Fleet average enforcement.** If, commencing with the 2011 model year and for each [subsequent]applicable model year thereafter, the report issued by a manufacturer pursuant to subsection (g) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36b-1 of this section, during a model year, the manufacturer [must]shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Reports [must] shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state. Enforcement of the medium-duty vehicle phase-in requirements shall begin in the 2012 model year.

**(i) Reporting and offset vehicle reporting.**

(1) The manufacturer shall [submit one] make available upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. [to the commissioner within thirty (30) days of receiving the Executive Order from CARB.] To the extent such reports are available electronically, the manufacturer shall submit such records in an electronic format acceptable to the commissioner.

(2) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to

Attachment C-LEV III  
*Final Regulation*

Page 16 of 31

this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

(3) Offset vehicle reporting. Commencing with the 2008 model year, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, each manufacturer shall report to the commissioner the number of offset vehicles, categorized by model type, delivered for sale into the State of Connecticut during such model year. The report shall also include the total number of the manufacturer's fleet delivered for sale into the State of Connecticut.

Sec 2. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-36c, as follows:

**Section 22a-174-36c. Low Emission Vehicle III Program.**  
**(NEW)**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles III program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations and in Section 22a-174-36b of the Regulations of Connecticut State Agencies, for the purposes of this section:

(1) "Transitional Zero Emission Vehicle" or ("TZEV") means transitional Zero emission vehicle as defined in California Code of Regulations, Title 13, section 1962.2.

(2) "East Region Pool" means east region pool as defined in California Code of Regulations, Title 13, section 1962.2.

**(b) Applicability.**

This section shall apply to all 2015 and subsequent model year passenger cars, light duty trucks, and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2015 or subsequent model year passenger car, light duty truck, or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

- (A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(h), 1961.2 or 1962.2;
- (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1961.2;
- (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

Attachment C–LEV III  
*Final Regulation*

Page 18 of 31

- (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;
  - (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;
  - (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235;
  - (G) Beginning with the 2017 model year, the greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.3; and
  - (H) The emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965 or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85, 86, and 600.
- (2) ZEV mandate.
- (A) Beginning with the 2018 model year, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements set forth in the California Code of Regulations, Title 13, section 1962.2 using Connecticut specific vehicle numbers.
  - (B) Optional Section 177 State Compliance Path. Large Volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d)(5)(E)(3) shall inform the commissioner in writing of such election no later than September 1, 2014.
  - (C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive proportional credits for those sales.



Attachment C—LEV III  
*Final Regulation*

Page 19 of 31

(3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), and (k) of this section.

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;
- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold or designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

Attachment C–LEV III  
*Final Regulation*

**(e) Emission standards, warranty, recall and miscellaneous provisions.**

Each manufacturer and each new 2015 and subsequent model year passenger car, light-duty truck and medium-duty vehicle shall comply with each applicable standard set forth in Table 36c-1 and incorporated by reference herein:

Table 36c-1		
California Code of Regulations (CCR)		
<i>Title 13</i>		
Provisions Incorporated by Reference		
Title 13 CCR	Title	Section Amended Date
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	12/31/12
<b>Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)</b>		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	12/31/12
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	12/31/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/31/12

**Attachment C–LEV III**  
**Final Regulation**

Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 through 2016 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1962	Zero Emission Vehicle Standards for 2005 through 2017 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	2/13/10
Section 1962.2	Zero Emission Vehicle Standards for 2018 and subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1962.3	California Vehicle Charging Requirements	8/7/12
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	8/7/12
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	8/7/12

Attachment C-LEV III

*Final Regulation*

Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	12/31/12
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	8/7/12
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	10/9/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
<b>Article 1 Assembly Line Testing.</b>		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	8/7/12
<b>Article 2 Enforcement of New and In-use Vehicle Standards</b>		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to	11/27/99

**Attachment C–LEV III  
Final Regulation**

	the 2001 Model-Year.	
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	12/8/10
Section 2112	Definitions.	8/7/12
	Appendix A to Article 2.1.	8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	8/7/12
Section 2140	Notification of In-Use Results.	8/7/12

<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	12/8/10
Section 2145	Field Information Report.	8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	8/7/12
Section 2148	Evaluation of Need for Recall.	8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	8/8/12

**(f) Fleet average requirements.**

(1) Effective for 2015 and subsequent model years, the fleet average NMOG plus NOx emission values from passenger cars, light-duty trucks and medium-duty vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, section 1961.2. Effective for 2015 and subsequent model years, manufacturers may earn and bank credits in accordance with California Code of Regulations, Title 13, section 1961.2.

(2) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State of Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1961.2.

**(g) Reporting requirements.**

(1) Compliance and fleet average reporting requirements. For the purposes of determining compliance with the requirements set forth in subsection (c)(3) of this section, commencing with the 2015 model year, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report which demonstrates that such manufacturer has met the fleet average emissions requirements for its fleet delivered for sale in Connecticut. Such report shall include the

average emissions of its fleet delivered for sale in the State of Connecticut.

(2) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2015 model year, each manufacturer shall submit annually, to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut.

(3) The manufacturer shall make available to the commissioner upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. To the extent such reports are available electronically, the manufacturer shall submit such records in an electronic format acceptable to the commissioner.

(4) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

**(h) Fleet average enforcement.**

If, commencing with the 2015 model year and for each subsequent model year thereafter, the report issued by a manufacturer pursuant to subsection (g)(1) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36c-1 of this section, during a model year, the manufacturer shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Report shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state.

**(i) Warranty requirements.**

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall provide a warranty to the ultimate purchaser and each subsequent purchaser that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2035 through 2038, 2040 and 2046.

(2) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall include the emission control system warranty statement that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2039 modified, as may be necessary, to inform Connecticut vehicle owners of the applicability of the California warranty. The manufacturer shall also provide a telephone number on such statement appropriate for the State of Connecticut.

**(j) Recalls.**

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall undertake an action equivalent to that required by any order or enforcement action taken by CARB, or any voluntary or influenced emission-related recall initiated by any manufacturer pursuant to or required by California Code of Regulations, Title 13, sections 2101 through 2120, 2122 through 2133, and 2135 through 2149, unless within thirty (30) days of CARB approval of such recall, the manufacturer demonstrates to the commissioner that such recall is not applicable to vehicles registered in the State of Connecticut.

(2) For vehicles subject to an action pursuant to subdivision (1) of this subsection, each manufacturer shall notify owners of vehicles registered in the State of Connecticut in accordance with the requirements set forth in California Code of Regulations, Title 13, sections 2118 or 2127, provided that such notification shall contain a telephone number appropriate for use by vehicle owners or operators in the State of Connecticut.

**(k) ZEV requirements and reporting.**

(1) Each manufacturer subject to the zero emission vehicle provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, Code of California Regulations, Title 13, section 1962.2.

(2) ZEV Compliance reporting. Each manufacturer shall submit a ZEV compliance report to the Department along with annual sales reports no later than May 1st following the completed model year. The compliance report shall include vehicle sales organized by engine family and identify the number and type of Connecticut credits earned. Such report may be amended based on late sales.

(3) Optional 177 State Compliance Path. Manufacturers that choose the optional 177 state path set forth in 1962.1(d)(5)(E)(3) shall notify the Commissioner no later than September 1, 2014.



(4) Pooling Compliance reporting requirements. For the purposes of determining compliance with optional path set forth in Title 13, 1962.1(d)(5)(E)(3), each manufacturer electing the alternative compliance path shall submit a report to the Department no later than May 1<sup>st</sup> following the completed model year. The report shall include vehicles placed into service in the east region pool, organized by vehicle type.

(5) Any manufacturer who fails to meet the requirements of its respective optional compliance path as determined by California in Title 13, subsection 1961.2(d)(5)(E)(3), shall be subject to the primary compliance path of the ZEV mandate provisions set forth in Title 13, section 1962.2(b) from the year following the first year of noncompliance.

**(1) Greenhouse gas emission standards and related requirements.**

(1) Each manufacturer subject to the greenhouse gas provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, California Code of Regulations, Title 13, section 1961.3.

(2) For all 2009 and subsequent model year vehicles, manufacturers may demonstrate compliance based on the total number of passenger cars, light-duty trucks, and medium-duty passenger vehicles certified to the California exhaust emission standards in California Code of Regulations, Title 13, section 1961.1, which are produced and delivered for sale in Connecticut, California, and all other states that have adopted California's greenhouse gas emission standards pursuant to section 177 of the Clean Air Act. A manufacturer that fails to comply under the provisions of this subdivision shall be subject to applicable penalties and shall be required to comply with the greenhouse gas standards pursuant to subdivision (1) of this subsection.

(3) National Compliance Option. For the 2012 through 2016 model years, a manufacturer may elect to demonstrate compliance with the California exhaust emissions standards by demonstrating compliance with the national greenhouse gas program pursuant to California Code of Regulations, Title 13, section 1961.1. A manufacturer with outstanding greenhouse gas debits at the end of the 2011 model year shall submit a plan to the Department describing how the debits will be offset utilizing credits earned under the national greenhouse gas program.

(4) Greenhouse gas reporting requirements. For the purpose of determining compliance with the greenhouse gas requirements of this section, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information

Attachment C—LEV III  
*Final Regulation*

Page 28 of 31

to CARB. If the voluntary compliance option described in subdivision (2) of this section is used, a manufacturer shall report separate data for the multi-state pool and the Connecticut portion of such pool. Such report shall be filed with the commissioner by May 1st of the calendar year succeeding the end of the model year.

**(m) Incorporation by reference. Availability and interpretation of referenced material.**

(1) In accordance with the provisions of section 22a-174g of the Connecticut General Statutes, this section incorporates by reference certain sections of Title 13, California Code of Regulations relating to the implementation and the administration of the Low Emission Vehicle III program in the State of Connecticut. Table 36c-1 lists the sections of Title 13, California Code of Regulations incorporated by reference and the respective amended date for each section.

(2) Copies of the relevant sections of Title 13, California Code of Regulations incorporated by reference in this section are available by contacting:

Connecticut Department of Energy and Environmental Protection  
Bureau of Air Management  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106  
(860) 424-3027

(3) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate, "California" shall mean "Connecticut."

**(n) Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

Attachment C–LEV III  
*Final Regulation*

R-39 Rev. 03/2012  
(Statement of Purpose page)

**Statement of Purpose**

*Pursuant to CGS Section 4-170(b)(3), “Each proposed regulation shall have a statement of its purpose following the final section of the regulation.” Enter the statement here.*

**Statement of Purpose**

The Department of Energy and Environmental Protection is proposing to amend section 22a-174-36b and adopt section 22a-174-36c to make revisions to the Low Emission Vehicle (LEV) II program and adopt the LEV III program. The LEV II program establishes vehicle emission standards for passenger cars and light-duty trucks during the 2008-14 timeframe. The LEV II program also includes the Zero Emission Vehicle (ZEV) program, which requires the sale of cleaner vehicle in the state, and the vehicle greenhouse gas (GHG) program, that regulates GHG emissions from vehicles. The LEV III program will establish vehicle emission standards for the 2015-2025 timeframe and includes an extension of the ZEV program and vehicle GHG programs. The LEV programs are an integral part of Connecticut’s clean air strategy, and are an integral part of the emissions control strategy for passenger vehicles.

**Attachment C–LEV III**  
**Final Regulation**

R-39 Rev. 03/2012  
(Certification page—see Instructions on back)

**CERTIFICATION**

*This certification statement must be completed in full, including items 3 and 4, if they are applicable.*

- 1) I hereby certify that the above (check one)  Regulations  Emergency Regulations
- 2) are (check all that apply)  adopted  amended  repealed by this agency pursuant to the following authority(ies): (complete all that apply)

a. Connecticut General Statutes section(s) 22a-174g.

b. Public Act Number(s) \_\_\_\_\_.  
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

- 3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the **Connecticut Law Journal** on 19 March 2013;  
(Insert date of notice publication if publication was required by CGS Section 4-168.)

- 4) And that a public hearing regarding the proposed regulations was held on 18 April 2013;  
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

- 5) And that said regulations are **EFFECTIVE** (check one, and complete as applicable)

When filed with the Secretary of the State

OR  on (insert date) \_\_\_\_\_

DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Commissioner, DEEP
------	--	---

**APPROVED** by the **Attorney General** as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
------	---	---------------------------------

Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.

(For Regulation Review Committee Use ONLY)

- Approved  Rejected without prejudice
- Approved with technical corrections  Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
---	------	---

**Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.**

DATE	SIGNED (Secretary of the State)	BY
------	---------------------------------	----

(For Secretary of the State Use ONLY)

**Attachment C–LEV III**  
**Final Regulation**

R-39 Rev. 03/2012  
(Instructions page)

**GENERAL INSTRUCTIONS**

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets [ ]. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at [http://www.cga.ct.gov/lco/pdfs/Regulations\\_Drafting\\_Manual.pdf](http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf).

**CERTIFICATION STATEMENT INSTRUCTIONS**

*(Numbers below correspond to the numbered sections of the statement)*

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2. a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.  
b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.

## ADMINISTRATIVE REGULATIONS

*Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.*

*A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated March 5, 2013.*

### DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

#### Notice of Intent to Adopt Permanent Regulations on Low Emissions Vehicles and Zero Emissions Vehicles pursuant to Connecticut General Statutes Section 22a-174g and Amend the State Implementation Plan for Air Quality

The Commissioner of the Department of Energy and Environmental Protection (DEEP) hereby gives notice of the intent to amend existing, and adopt new permanent, regulations for the Low Emissions Vehicles (LEV) and Zero Emissions Vehicles (ZEV) programs pursuant to Connecticut General Statutes (C.G.S.) Section 22a-174g. These programs, which are also referred to as the California Clean Cars program, are a critical element of the DEEP's strategy to reduce smog and other pollutants, including greenhouse gases, from passenger vehicles and light duty trucks. Furthermore, Connecticut is required to maintain consistency with the California Clean Cars program under Section 177 of the Clean Air Act (CAA). This proposal amends R.C.S.A. section 22a-174-36b and adopts new section 22a-174-36c, in a manner that is identical to recent actions by the California Air Resources Board regarding the California program and meets the statutory requirements of C.G.S. Section 22a-174g. Upon adoption, the LEV regulations will be submitted to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan for air quality.

All interested persons are invited to comment on the proposal. Comments should be submitted no later than 4:30 PM on April 19, 2013 to Paul Kritzler, DEEP, Bureau of Air Management, 79 Elm Street, Hartford, Connecticut 06106-5127. Comments may be submitted by post, facsimile to (860) 706-5339 or by electronic mail to [Paul.Kritzler@ct.gov](mailto:Paul.Kritzler@ct.gov).

In addition to accepting written comments, DEEP will also hold the public hearing described below. Any person giving oral comment at the hearing will be asked to submit a written copy of such comments.

#### PUBLIC HEARING

April 18, 2013

2:00 p.m.

DEEP, 5th Floor, Holcombe Room  
79 Elm Street, Hartford, CT 06106

Individuals interested in receiving notification of such notices automatically via electronic mail may make such a request through the DEEP's website as follows:

## Attachment C-LEV III

### *Notice*

<http://www.ct.gov/deep/eAlerts/subscribe.asp>

Copies of the proposed regulation, the fiscal impact analysis, and a statement required by C.G.S. Section 22a-6(h) are available for public inspection during normal business hours at the Bureau of Air Management, 5th Floor, 79 Elm Street, Hartford, CT. The same documents are posted on DEEP's website at:

[http://www.ct.gov/deep/cwp/view.asp?a=2684&q=331220&depNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&q=331220&depNav_GID=1619)

For further information, contact Paul Kritzler of the Bureau of Air Management at (860) 424-3889 or by electronic mail at [Paul.Kritzler@ct.gov](mailto:Paul.Kritzler@ct.gov).

DEEP is an affirmative action/equal opportunity employer and service provider. In conformance with the Americans with Disabilities Act, DEEP makes every effort to provide equally effective services for persons with disabilities. Individuals with disabilities who need this information in an alternative format, to allow them to benefit and/or participate in the agency's programs and services, should call 860-424-3194 or e-mail the ADA Coordinator, at [deep.hrmed@ct.gov](mailto:deep.hrmed@ct.gov). Persons who are hearing impaired should call the State of Connecticut relay number 711. Requests for accommodations must be made at least two weeks prior to the program date.

The authority to adopt these regulations is granted by C.G.S. Section 22a-174g. This notice is required pursuant to C.G.S. Section 22a-6, Section 4-168 and 40 Code of Federal Regulations 51.102.

Macky McCleary  
*Deputy Commissioner*

---

## DEPARTMENT OF CONSUMER PROTECTION

---

### Notice of Intent to Adopt Regulations

In accordance with the authority granted in Connecticut General Statutes, Sections 21a-408h, 21a-408i and 21a-408m, the Department of Consumer Protection, hereby intends to amend the Regulations of Connecticut State Agencies by adding Sections 21a-408-1 through Sections 21a-408-70 concerning the Palliative Use of Marijuana.

Purpose: These regulations establish the regulatory framework for the palliative use of marijuana pursuant to Chapter 420f of the Connecticut General Statutes.

Summary: These new regulations set standards for:

- 1) Patients and patient caregivers;
- 2) Physician certifications that permit patients to receive marijuana;
- 3) Dispensaries;
- 4) Producers of marijuana;
- 5) Security requirements for handling and storing marijuana; and
- 6) Adding qualifying medical conditions that can be treated with marijuana.

Legal Effects: These regulations establish standards for patients, caregivers, physicians, dispensaries and producers. If followed, these standards provide immunity from state criminal action for the possession and use of marijuana. These regulations

Attachment C–LEV III  
*Hearing Attendees*

Providing Oral Comments at Hearing:

Jennifer Rushlow, Staff Attorney  
Conservation Law Foundation  
62 Summer St.  
Boston, MA 02110

Laura Dooley  
Auto Alliance of Automobile Manufacturers

Martin Mador, Legislative Chair  
Sierra Club, Connecticut Chapter  
645 Farmington Avenue  
Hartford, CT 06105

David Boomer  
Connecticut Automotive Retailers Association  
36 Trumbull Street  
Hartford, CT 06103

Providing Written Comments:

Anne E. Arnold  
Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109

John M. Cabaniss Jr., Director  
Global Automakers  
1050 K Street, NW, Suite 650  
Washington, DC 20001

Steven P. Douglas, Senior Director  
Auto Alliance of Automobile Manufacturers  
1415 L Street, Suite 1190  
Sacramento, CA 95814

James T. Fleming  
Connecticut Automotive Retailers Association  
36 Trumbull Street  
Hartford, CT 06103

Conservation Law Foundation, Connecticut Fund for the Environment, Environment Connecticut, Sierra Club, Clear Water Action, Environment Northeast





**Exhibit E**

**HEARING REPORT**

**Prepared Pursuant to Section 4-168(d) of the Connecticut General Statutes and Section 22a-33a-3(d)(5) of the Department of Energy and Environmental Protection Rules of Practice**

**Regarding Regulations for the Abatement of Air Pollution**

**Proposed Revisions to Section 22a-174-36b and Adoption of Section 22a-174-36c of the Regulations of Connecticut State Agencies (R.C.S.A.)**

**Hearing Officer: Paul Kritzler**

**Date of Hearing: April 18, 2013**

**I. Overview**

On March 4, 2013, the Commissioner of the Connecticut Department of Energy and Environmental Protection (Department) signed a notice of intent to revise section 22a-174-36b and adopt section 22a-174-36c of the R.S.C.A. Pursuant to such notice, the Department provided an opportunity for a public hearing and written comment. The public hearing was held at the Department headquarters in Hartford, Connecticut on April 18, 2013. Written comments were accepted through the end of the public comment period on April 19, 2013.

As required by section 4-168(d) of the Connecticut General Statutes (C.G.S.), this report describes the regulations proposed for hearing; the principal reasons for support of the Department's proposed revisions; the principal considerations presented in oral and written comments in opposition to the Department's proposed revisions; all comments and responses thereto on the proposed revisions; and the final wording of the proposed revisions. Those individuals who submitted timely comments are identified in Attachment 1.

This report also contains a statement pursuant to C.G.S. section 22a-6(h).

**II. Compliance with Section 22a-6(h) of the Connecticut General Statutes**

Pursuant to section 22a-6(h) of the C.G.S., the Commissioner of the Department is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a regulatory proposal that differ from federal standards or procedures either within the regulatory language or through supplemental documentation accompanying the proposal. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under C.G.S. Title 4, Chapter 54 and make such explanation publicly available at the time of the notice of public hearing required under C.G.S. section 4-168. In accordance with the requirements of C.G.S. section 22a-6(h), the following statement was entered into the

Attachment C—LEV III  
*Hearing Report*

May 15, 2013

public administrative record in the matter of the proposed revisions to various sections of the air quality regulations, as scheduled for public hearing on April 18, 2013.

This proposal includes two changes to the Department's air quality programs that will amend the existing Connecticut Low Emission Vehicle (LEV) II Zero Emission Vehicle (ZEV) programs and adopt the LEV III program as well as extend the ZEV program. The Department has performed a comparison of the proposed revisions with analogous federal laws and regulations, namely the Clean Air Act (CAA) and standards and procedures in 40 Code of Federal Regulations. A section-by-section comparison of the proposal with federal standards and procedures follows.

**With respect to both revisions**, the Environmental Protection Agency (EPA) on January 9, 2013 [granted a waiver](#) of Clean Air Act Preemption for California's Advanced Clean Car Program (which encompasses both the LEV III and ZEV programs) and a [within the Scope confirmation](#) for the ZEV amendments for 2017 and earlier model years. Such a waiver finds that the California standards must be at least as protective of public health and welfare, in the aggregate, as applicable federal standards, and that California's determination of such standards was not arbitrary and capricious. Additionally, granting this waiver indicates that California's standards are consistent with section 209(b) of the CAA, and that it has a need for such standards to meet its compelling and extraordinary conditions.

**With respect to the amendment of RCSA section 22a-174-36b concerning the Low Emission Vehicle (LEV) II program**, the revisions are intended to maintain the consistency of Connecticut's LEV program with California's LEV program. There are two federally sanctioned programs from which a state may choose to comply in the United States, the federal Tier II emissions program located in Title II of the CAA until 2017 and Tier III thereafter, or the California LEV program. In 2004, Connecticut adopted the California LEV II program. Since adoption, the "identity" provisions of CAA section 177 and C.G.S. section 22a-174g require the Department to update its LEV program in response to changes in California's LEV program. California last amended the LEV program on August 7, 2012. The amendments to the LEV II program are largely incorporated by reference, ensuring that Connecticut remains identical to the California program, which has received a federal waiver of preemption.

**With respect to the adoption of section 22a-174-36c concerning the Low Emission Vehicle III Program**, California adopted the LEV III program on August 7, 2012, and included provisions for vehicles for the 2015-2025 model year, harmonization of national standards, increased durability, better warranty protections, and increased technical vehicle volume requirements, all of which this proposal incorporates by reference into R.C.S.A. section 22a-174-36c. LEV III also assigns upstream emissions to ultra-low greenhouse gas technologies and requires a higher bar for air conditioning credits than the federal system. California also revised its ZEV program in August 2012, and extended the program from 2018 to 2022. The revisions also include a greater measure of compliance flexibility for ZEV credit banking requirements, all of which this proposal incorporates by reference into R.C.S.A. section 22a-174-36c. Since the Department adopted the California ZEV program through incorporation by reference, there are no differences between the revisions in R.C.S.A. section 22a-174-36c and the revisions to the California program.

May 15, 2013

### **III. Summary of the Revisions as Proposed**

The Commissioner of the Department is proposing to amend existing, and adopt new permanent, regulations for the LEV and ZEV programs pursuant to Connecticut General Statutes (C.G.S.) Section 22a-174g. These programs, which are also referred to as the California Clean Cars program, are a critical element of the Department's strategy to reduce smog-forming emissions and other pollutants, including greenhouse gases, from passenger vehicles and light duty trucks. This proposal amends R.C.S.A. section 22a-174-36b and adopts new section 22a-174-36c, in a manner that is identical to recent actions by the California Air Resources Board regarding the California program and meets the statutory requirements of C.G.S. Section 22a-174g.

Specifically the proposal will adopt the following major elements:

- A reduction of fleet average emissions of new passenger cars (PCs), light-duty trucks (LDTs) and medium-duty passenger vehicles (MDPVs) to super ultra-low-emission vehicle (SULEV) levels by 2025;
- Replacement of separate Non-methane Organic Gas (NMOG) and oxides of nitrogen (NO<sub>x</sub>) standards with combined NMOG plus NO<sub>x</sub> standards;
- An increase of full useful life durability requirements from 120,000 miles to 150,000 miles;
- More stringent particulate matter (PM) standards for light- and medium-duty vehicles, which will help to reduce the health effects and premature deaths associated with these emissions;
- Zero fuel evaporative emission standards for PCs and LDTs, and more stringent evaporative standards for medium- and heavy-duty vehicles (HDVs);

### **IV. Support for the Proposal**

The principal argument in support for the proposed rule changes is that, in addition to being required to update the LEV II and adopt the LEV III standards by both federal and state law, the proposed changes will lead to improved public health and air quality improvements through more stringent emissions standards that will lead to vehicles 75% cleaner than 2014 vehicles.

### **V. Opposition to the Proposal**

The principal argument in opposition of the proposed rule changes is that the Department should withhold adoption of the proposed ZEV rules for 2018 and beyond due to concerns about the ZEV requirement. Opposition to the ZEV requirement arises out of concerns over the potential market given the cost of the vehicles, infrastructure challenges and other factors, which may negatively affect the sales of advanced technology vehicles.

May 15, 2013

## **VI. Summary of Comments**

All comments submitted are summarized below with the Department's responses. Individuals submitting timely comment on the proposed amendments are identified in Attachment A to this report. Summaries of the comments submitted and the Department's responses are as follows:

### **A. General Comments**

#### Comments by Global Automakers

**1. Comment:** Global Automakers supports the harmonization of the California Clean Cars Program and the EPA Tier III program as it relates to the GHG, fuel economy and criteria pollutant emission standards.

**Response:** The Department appreciates the support for a harmonized national program for GHG/ fuel economy and criteria pollutant emission standards. A harmonized national program should provide nationwide environmental benefits and economies of scale to assist automakers compliance efforts. The Department notes however that EPA has not finalized the Tier III proposal.

**2. Comment:** Success of the ZEV program will depend on a partnership between the automakers and the states to provide the infrastructure necessary to support new technology vehicles.

**Response:** The Department is committed to working with stakeholders to identify the appropriate infrastructure required to sustain an advanced technology vehicle market in Connecticut and encourage the purchase and use of electric vehicles (EV). To that end, the Department's [Comprehensive Energy Strategy](#) has identified electric vehicle EV charging infrastructure as an important goal of the statewide transportation energy strategy. The Department should explore all opportunities to leverage private investment in alternative fueled vehicle infrastructure and lead by example in the use of advanced technology vehicles. In addition, the State of Connecticut is investing approximately \$1 million in fast charging infrastructure along the I-95 corridor, a municipal grant program, and other initiatives to support development of additional public charging infrastructure throughout the state.

**3. Comment:** Global Automakers recommends technical amendments to the required reporting date for the GHG sales volumes in section 22a-174-36c (l) (4) to amend the reporting date from March 1<sup>st</sup> to May 1<sup>st</sup> in line with the reporting dates in California.

**Response:** The Department agrees with the recommended change and has made the appropriate revisions to the proposed language to make the reporting date May 1<sup>st</sup>. The proposed text for section 22a-174-36b subsection (g) now reads:

“[(3)](2) [Commencing with] For the 2009 through 2016 model [year] years, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to

Attachment C–LEV III  
*Hearing Report*

May 15, 2013

CARB. Such report shall be filed with the commissioner by [~~March 1<sup>st</sup>~~] May 1<sup>st</sup> of the calendar year succeeding the end of the model year and shall include the number of greenhouse gas vehicle test groups certified pursuant to subsection (m)(5) of this section, delineated by model type, delivered for sale into the State of Connecticut.”

The proposed text for new section 22a-174-36c subsection (l) now reads:

“(4) Greenhouse gas reporting requirements. For the purpose of determining compliance with the greenhouse gas requirements of this section, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to CARB. If the voluntary compliance option described in subsection (l)(2) of this section is used, a manufacturer shall report separate data for the multi-state pool and the Connecticut portion of such pool. Such report shall be filed with the commissioner by ~~March 1<sup>st</sup>~~ May 1<sup>st</sup> of the calendar year succeeding the end of the model year.”

**4. Comment:** Global Automakers recommend technical changes in subsection (e) to update the incorporation dates in line with the California rulemaking dates.

**Response:** The Department agrees with the recommended changes. Please see the response to Comment 17.

**5. Comment:** Global Automakers recommend the Department adopt California’s “deem to comply” provisions for the 2017 through 2025 model years. Currently the Department’s provisions only grant the “deem to comply” provisions through the 2016 model year, whereas California amended its program to grant the “deem to comply” provisions through model year 2025 in a December 2012 rulemaking.

**Response:** The Department agrees with Global Automakers and has amended the proposal in section 22a-174-36c(l)(3) in line with the suggested changes. The proposed text of section 22a-174-36c(l)(3) now reads:

“(3) National Compliance Option. For the 2012 through ~~2016~~ 2025 model years, a manufacturer may elect to demonstrate compliance with the California exhaust emissions standards by demonstrating compliance with the national greenhouse gas program...”

## **B. Comments in Opposition**

### Comments by the Connecticut Automotive Retailers Association

These comments represent those received at the hearing by David Boomer on behalf of the Connecticut Automotive Retailers Association and written comments received by James T. Fleming on behalf of the Connecticut Automotive Retailers Association.

**6. Comment:** Due to the adoption by EPA of the Tier III requirements, which harmonize with the California LEV program for Greenhouse Gas (GHG) and criteria pollutants, the Department should repeal its LEV and ZEV regulations.

May 15, 2013

**Response:** As stated in sections III and IV of this report, the LEV and ZEV program will significantly reduce emissions from passenger vehicles and light-duty trucks while also helping with the transition to the next generation of vehicle technology. While the Department strongly supports the EPA’s adoption of Tier III standards as a means to reduce national levels of air pollution, EPA has yet to finalize this proposal. The Department is also required to remain consistent with the California LEV program by section 22a-174g of the C.G.S. and section 177 of the CAA.

**7. Comment:** The Department should not adopt ZEV program standards for 2018 and beyond due to economic concerns of the effects that such a program will have on Connecticut’s auto retailers. If enacted, the standards would require automotive retailers to have 15 percent of their fleet of new light-duty vehicles available for sale at their dealerships be zero emission vehicles by 2025. This requirement could harm the Connecticut dealer’s economic wellbeing if those vehicles cannot be sold or if consumers choose to purchase vehicles out of state.

**Response:** The Department believes, as do the auto manufacturers, that the market for ZEVs will significantly evolve over the next 13 years. Auto manufacturers are now bringing to the market a variety of vehicles to meet multiple customer needs, with more models planned for the future. At the same time, the CAA section 177 states in the region, who have also adopted the standards, including New York, New Jersey, Massachusetts, Rhode Island, Vermont, Maryland and Connecticut are working to develop infrastructure to ensure motorists’ ease of use for ZEVs and eliminate “range anxiety” that may slow the uptake of ZEVs within the new vehicle market.

It is also important to keep in mind that the ZEV program serves as a convergence point for Connecticut’s energy, environmental and economic interests. Energy price, which is a function of both energy supply and security, will play an integral role in consumer uptake of ZEVs by 2025. With these interrelated interests in mind, the Department developed the [Comprehensive Energy Strategy](#) (CES) with a focus on the future energy supply. The CES, citing the U.S. Energy Information Administration “Annual Energy Outlook 2011 report,” estimates the price of gasoline in Connecticut will exceed \$5 per gallon by 2025. Higher gasoline prices will improve the market for ZEVs by offsetting initial purchase costs (which will decline over the next 13 years as it has for any newly introduced technology, like automatic transmissions, airbags or anti-lock brakes) with lower operating costs over the life of the vehicle. The Department’s ongoing focus on energy diversification strategies will lead to more options, not just for stationary energy users, but for the transportation sector as well.

The ZEV program is not a dealer specific sales requirement; rather it is a fleet-wide requirement on the largest manufacturers being adopted throughout the Northeast and Mid-Atlantic. Adopting the 2018 ZEV standards now, which include credit banking, trading and regional pooling options, provides certainty and compliance flexibility for auto manufacturers who must meet the standards. The pooling option allows manufacturers to place more ZEVs with dealers or in states where they sell well and fewer ZEVs where they do not sell as well. Given the competitive nature of this regional program, the Department should work closely with the automobile retailers to ensure

AttachmentC-LEVIII  
*Hearing Report*

May 15, 2013

Connecticut is better positioned than our neighboring states to receive advanced technology vehicles and develop the new jobs that will go along with keeping these vehicles on the road.

**8. Comment:** The required infrastructure, financial incentives and economic investment to support the ZEV mandate in 2018 does not currently exist in Connecticut.

**Response:** The Department is aware of the need for electric vehicle infrastructure and has initiated efforts to work through a robust stakeholder process to identify and adopt realistic and workable infrastructure options in partnership with interested stakeholders. The Department should continue to work closely with stakeholders to assess needs, develop and implement a plan that is informed and will facilitate the deployment of advanced technology vehicles. Additionally, see the Department's response to comment #2.

Comments by Auto Alliance of Automobile Manufacturers

These comments represent those received at the hearing by Laura Dooley on behalf of the Auto Alliance of Automobile Manufacturers (Auto Alliance) and written comments received by Stephen P. Douglas on behalf of the Auto Alliance.

**9. Comment:** The Auto Alliance recommends that the Department amend the regulation to include explicit NMOG plus NOx Fleet Average Pooling provisions. Specifically the Auto Alliance recommends adding to 22a-174-36c (f)(3) and (f)(4) to read as follows:

(3) Manufacturers may demonstrate compliance based on the total number of passenger cars, light-duty trucks, and medium-duty passenger vehicles certified to the California exhaust emission standards in California Code of Regulations, Title 13, section 1961.2, which are produced and delivered for sale in Connecticut, California, and all other states that have adopted California's Low Emission Vehicle standards pursuant to section 177 of the Clean Air Act. A Manufacturer that fails to comply under the provisions of this subdivision shall be subject to the applicable penalties and shall be required to comply with the NMOG plus NOx fleet average emissions standards pursuant to subsection (h) of this section.

(4) Manufacturers may demonstrate compliance based on the total number of medium-duty passenger vehicles certified to the California exhaust emission standards in California Code of Regulations, Title 13, section 1961.2, which are produced and delivered for sale in Connecticut, California, and all other states that have adopted California's Low Emission Vehicle standards pursuant to section 177 of the Clean Air Act. A Manufacturer that fails to comply under the provisions of this subdivision shall be subject to the applicable penalties and shall be required to comply with the NMOG plus NOx fleet average emissions standards pursuant to subsection (h) of this section.

**Response:** The Department does not think inclusion of explicit provisions is necessary at this time. The Department incorporates 13 C.C.R. section 1961.2 by reference in subsection (e) of the proposed regulation. The incorporation of that section grants the

May 15, 2013

automobile manufacturers the ability to meet the requirement through any available path in the California regulation, including the pooling provisions for NMOG plus NOx fleet average requirements.

**10. Comment:** The Auto Alliance recommends the Department withhold adoption of the 2018 and beyond ZEV regulations to allow for additional information to make a more informed decision on adoption of the proposed regulations.

**Response:** Please see the response to Comment #7. Additionally, the California Air Resource Board (CARB) has stated its intention to undergo a mid-term review of the ZEV program in 2018, which will evaluate the program goals and requirements and consider any adjustments that may be necessary for the program at that time.

**11. Comment:** The Auto Alliance recommends technical amendments to the required reporting date for the GHG sales volumes in section 22a-174-36c(1)(4) to amend the reporting date from March 1<sup>st</sup> to May 1<sup>st</sup> in line with the reporting dates in California.

**Response:** See response to Comment #3.

**12. Comment:** The Auto Alliance recommends technical changes in subsection (e) to update the incorporation dates with the California rulemaking dates.

**Response:** The Department agrees with the recommended changes. Please see the response to Comment #17.

### **C. Comments in Support**

#### Comments by Sierra Club

These comments represent those received at the hearing by Martin Mador on behalf of the Sierra Club and written comments received by Jessie Prentice-Dunn in conjunction with the Conservation Law Foundation, Connecticut Fund for the Environment, Environment Connecticut, Clean Water Action, and Environment Northeast

**13. Comment:** Adoption of the proposal will result in health and environmental benefits in Connecticut by reducing the emissions that contribute to smog formation, which can cause long-term health effects such as asthma. Adoption of these standards is also needed to guarantee Connecticut remain in attainment for NOx and respond to the threat of global warming, as required in the Global Warming Solutions Act. There are also expected economic benefits for consumers who will save up to \$6000 in fuel costs savings over the life of a new vehicle.

**Response:** The Department takes note and appreciates the support of Sierra Club for the proposal.

#### Comments by Jennifer Rushlow on behalf of Conservation Law Foundation (CLF)

**14. Comment:** CLF encourages the Department to take additional steps necessary to develop the infrastructure necessary to support new technology vehicles. Without the necessary infrastructure and with the continuation of the “travel provisions” until 2017, which allow



Attachment C–LEV III  
*Hearing Report*

May 15, 2013

manufacturers to meet their commitments to the program from vehicles placed in California, Connecticut risks losing EV's to other regions in the immediate future. The "travel provisions" are a provision of the ZEV program which allow vehicle manufacturers to place vehicles for sale in California and travel a proportional value of that credit to the 177 states.

**Response:** See response to Comment #2.

Comments from CLF, Environment Northeast, Environment Connecticut, Sierra Club, Connecticut Fund for the Environment and Clean Water Action Connecticut (CLF et al.)

**15. Comment:** CLF et al. support the proposed adoption of the Advanced Clean Cars Program, as required by section 22a-174g of the C.G.S. and section 177 of the CAA. The proposal will help reduce mobile source pollution in the state and help to improve air quality. The GHG reductions from the proposed revisions will also help the Department reach the goals set forth in the Global Warming Solutions Act.

**Response:** The Department takes note and appreciates the support of CLF et al. for the proposal.

Comments from the Environmental Protection Agency, Region 1

**16. Comment:** EPA supports Connecticut's adoption of the proposal to revise the LEV II and ZEV programs and adopt the LEV III program.

**Response:** The Department takes note and appreciates the support of EPA for the proposal.

**17. Comment:** EPA would not be able to approve these Connecticut regulations into the Connecticut State Implementation Plan without revisions to 22a-174-36b and 22a-174-36c, specifically subsection (e). See attachment 4 for EPA suggested revisions.

**Response:** The Department appreciates EPA's careful review of its proposal. The Department has reviewed EPA's suggested revisions and has revised the incorporation dates in sections 22a-174-36b(e) and 22a-174-36c(e) as follows, consistent with the operational dates in the relevant sections of the California Code of Regulations:

**22a-174-36b:**

<p><b>Table 36b-1</b></p> <p><b>California Code of Regulations (CCR)</b></p> <p><b>Title 13</b></p> <p><b>Provisions Incorporated by Reference</b></p>
--

**Attachment C-LEV III**  
**Hearing Report**

May 15, 2013

<b>Title 13 CCR</b>	<b>Title</b>	<b>Section Amended Date</b>
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	[04/17/09] <u>12/31/12</u>
<b><u>Article 2 Approval of Motor Vehicle Pollution Control Devices</u></b> <b><u>(New Vehicles)</u></b>		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	[10/11/07] <u>12/31/12</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	[03/26/04] <u>12/31/12</u>
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 [and Subsequent] <u>through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles</u>	[06/16/08] <u>12/31/12</u>
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 [and Subsequent] <u>through 2016 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.</u>	[01/01/06] <u>8/7/12</u>
Section 1962	Zero Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[4/17/09] <u>2/13/10</u>
Section 1962.1	Zero Emission Vehicle Standards for 2009 [and Subsequent] <u>through 2017 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles</u>	[4/17/09] <u>12/31/12</u>
Section 1965	Emission Control and, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model Year Vehicles	[06/16/08] <u>8/7/12</u>
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[11/09/07] <u>8/7/12</u>

**Attachment C–LEV III  
Hearing Report**

May 15, 2013

Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	[11/09/07] <u>8/7/12</u>
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	[01/04/08] <u>12/31/12</u>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	[01/04/08] 8/7/12
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	11/09/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
<b>Article 1 Assembly Line Testing.</b>		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	[11/27/99] <u>8/7/12</u>
<b>Article 2 Enforcement of New and In-use Vehicle Standards</b>		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-	11/27/99

**Attachment C-LEVIII**  
**Hearing Report**

May 15, 2013

	Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	[01/04/08] 12/8/10
Section 2112	Definitions.	[11/15/03] 8/7/12
	Appendix A to Article 2.1.	[11/15/03] 8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	[01/04/08] 12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	[01/04/08] 12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99

**Attachment C–LEVIII**

**Hearing Report**

May 15, 2013

Section 2139	Testing.	[8/21/02] 8/7/12
Section 2140	Notification of In-Use Results.	[8/21/02] 8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	[01/04/08] 12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	[11/27/99] 12/8/10
Section 2145	Field Information Report.	[11/27/99] 8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	[8/21/02] 8/7/12
Section 2148	Evaluation of Need for Recall.	[11/27/99] 8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>[Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action]</b>		
[Section 2166]	[General Provisions.]	[01/04/08]
[Section 2166.1]	[Definitions.]	[01/04/08]
[Section 2167]	[Emission Warranty Information Report.]	[01/04/08]
[Section 2168]	[Supplemental Emissions Warranty Information Report.]	[01/04/08]
[Section 2169]	[Recall and Corrective Action for Failures of Exhaust After-Treatment Devices.]	[01/04/08]
[Section 2170]	[Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines).]	[01/04/08]
[Section 2171]	[Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction.]	[01/04/08]
[Section 2172]	[Notification of Required Recall or Corrective Action by the Executive Officer.]	[01/04/08]
[Section 2172.1]	[Ordered or Voluntary Corrective Action Plan.]	[01/04/08]
[Section 2172.2]	[Approval and Implementation of	[01/04/08]

**Attachment C-LEVIII**  
**Hearing Report**

May 15, 2013

	Corrective Action Plan.]	
[Section 2172.3]	[Notification of Owners.]	[01/04/08]
[Section 2172.4]	[Repair Label.]	[01/04/08]
[Section 2172.5]	[Proof of Correction Certificate.]	[01/04/08]
[Section 2172.6]	[Preliminary Tests.]	[01/04/08]
[Section 2172.7]	[Communication with Repair Personnel.]	[01/04/08]
[Section 2172.8]	[Recordkeeping and Reporting.]	[01/04/08]
[Section 2172.9]	[Extension of Time.]	[01/04/08]
[Section 2173]	[Penalties.]	[01/04/08]
[Section 2174]	[Availability of Public Hearing.]	[01/04/08]
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	[9/17/91] <u>8/8/12</u>

**22a-174-36c:**

Table 36c-1  California Code of Regulations (CCR) Title 13 Provisions Incorporated by Reference		
Title 13 CCR	Title	Section Amended Date
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	12/31/12
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	12/31/12
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	12/31/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/31/12

**Attachment C–LEVIII**  
**Hearing Report**

Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 through 2016 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1962	Zero Emission Vehicle Standards for 2005 through 2017 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	2/13/10
Section 1962.2	Zero Emission Vehicle Standards for 2018 and subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1962.3	California Vehicle Charging Requirements	8/7/12
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	8/7/12
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	8/7/12
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	12/31/12
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	8/7/12
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and	11/10/07

May 15, 2013

	Definitions	
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
Article 1 Assembly Line Testing.		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	8/7/12
Article 2 Enforcement of New and In-use Vehicle Standards		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	12/8/10
Section 2112	Definitions.	8/7/12
	Appendix A to Article 2.1.	8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95



**Attachment C–LEVIII**

**Hearing Report**

May 15, 2013

Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	8/7/12
Section 2140	Notification of In-Use Results.	8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	12/8/10
Section 2145	Field Information Report.	8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	8/7/12
Section 2148	Evaluation of Need for Recall.	8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	8/8/12

May 15, 2013

--	--	--

**VII. Comments of the Hearing Officer**

The hearing officer suggests the following additional revisions to the proposal to correct minor errors.

(1) Concerning the table located in Section 22a-174-36b subsection (e). The title of the table should be revised from “Table 36c-1” to “Table 36b-1” to reflect the text of the table as it exists in the current regulation.

(2) Concerning the exemption in Section 22a-174-36b subsection (d) (7). The present text reads “A vehicle sold designed exclusively for off-highway use;” and should be revised to read “A vehicle sold or designed exclusively for off-highway use;” to be grammatically correct.

(3) Concerning the exemption in Section 22a-174-36c subsection (d) (7). The present text reads “A vehicle sold designed exclusively for off-highway use;” and should be revised to read “A vehicle sold or designed exclusively for off-highway use;” to be grammatically correct.

(4) Concerning the exemption in Section 22a-174-36b subsection (f) (8). The proposed text currently reads:

“(8) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a small volume manufacturer or an independent low volume manufacturer for each 2016 [and subsequent]through 2016 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.”

The text should be revised to properly reflect the California regulation’s applicability until 2025:

“(8) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a small volume manufacturer or an independent low volume manufacturer for each 2016 [and subsequent]through 2025 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.”

(5) Concerning the optional path citation in 22a-174-36c(c) (2) (B). The citation to the California Code of Regulations currently reads “1962.1(d)(5)(E)3” and should be revised to “1962.1(d)(5)(E)(3)” for proper citation.

May 15, 2013

(6) Concerning the optional path citations in 22a-174-36c(k) (3), (k) (4) and (k) (5). The proposed text does not contain the correct citation to the California Code of Regulations. The current text reads:

“(3) Optional 177 State Compliance Path. Manufacturers that choose the optional 177 state path set forth in 1962.1(c) shall notify the Commissioner no later than September 1, 2014.

(4) Pooling Compliance reporting requirements. For the purposes of determining compliance with optional path set forth in Title 13, 1962.1(c), each manufacturer electing the alternative compliance path shall submit a report to the Department no later than May 1<sup>st</sup> following the completed model year. The report shall include vehicles placed into service in the east region pool, organized by vehicle type.

(5) Any manufacturer who fails to meet the requirements of its respective alternative compliance path as determined by California in Title 13, subsection 1961.2(e), shall be subject to primary compliance path of the ZEV mandate provisions set forth in Title 13, section 1962.2(b) from the year following the first year of noncompliance.”

The final text should be revised to read the proper citation to the California Code of Regulations. Additionally the word phrase “alternative compliance path” in (5) should be revised to read “optional compliance path” to remain consistent with the rest of the section:

(3) Optional 177 State Compliance Path. Manufacturers that choose the optional 177 state path set forth in 1962.1(d) (5) (E) (3) shall notify the Commissioner no later than September 1, 2014.

(4) Pooling Compliance reporting requirements. For the purposes of determining compliance with optional path set forth in Title 13, 1962.1(d) (5) (E) (3), each manufacturer electing the [alternative] optional compliance path shall submit a report to the Department no later than May 1<sup>st</sup> following the completed model year. The report shall include vehicles placed into service in the east region pool, organized by vehicle type.

(5) Any manufacturer who fails to meet the requirements of its respective optional compliance path as determined by California in Title 13, subsection 1961.2(d) (5) (E) (3), shall be subject to primary compliance path of the ZEV mandate provisions set forth in Title 13, section 1962.2(b) from the year following the first year of noncompliance.”

### **VIII. Final Text of the Proposed Amendment**

May 15, 2013

The final text of the proposed amendments to R.C.S.A. section 22a-174-36b and R.C.S.A. section 22a-174-36c, as indicated in this hearing report is located at Attachment 3 to this report.

**IX. Conclusion**

I recommend that the proposed final revisions, as contained herein in Attachment 3, be submitted by the Commissioner of the Department of Energy and Environmental Protection for Approval by the Attorney General and the Legislative Regulations Review Committee.

---

/s/Paul Kritzler  
Hearing Officer

---

May 15, 2013  
Date

May 15, 2013

Attachment C-LEVIII  
*Hearing Report*

**Attachment 1**  
**List of Individuals Providing Comment**

May 15, 2013

Attachment C–LEVIII  
*Hearing Report*

Providing Oral Comments at Hearing:

Jennifer Rushlow, Staff Attorney  
Conservation Law Foundation  
62 Summer St.  
Boston, MA 02110

Laura Dooley  
Auto Alliance of Automobile Manufacturers

Martin Mador, Legislative Chair  
Sierra Club, Connecticut Chapter  
645 Farmington Avenue  
Hartford, CT 06105

David Boomer  
Connecticut Automotive Retailers Association  
36 Trumbull Street  
Hartford, CT 06103

Providing Written Comments:

Anne E. Arnold  
Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109

John M. Cabaniss Jr., Director  
Global Automakers  
1050 K Street, NW, Suite 650  
Washington, DC 20001

Steven P. Douglas, Senior Director  
Auto Alliance of Automobile Manufacturers  
1415 L Street, Suite 1190  
Sacramento, CA 95814

James T. Fleming  
Connecticut Automotive Retailers Association  
36 Trumbull Street  
Hartford, CT 06103

Conservation Law Foundation, Connecticut Fund for the Environment, Environment Connecticut, Sierra Club, Clean Water Action, Environment Northeast

May 15, 2013

Attachment C–LEVIII  
*Hearing Report*

**Attachment 2**  
**Proposal**

Attachment C-LEVIII  
Hearing Report

May 15, 2013

Section 1. Subsections (a) to (c), (e) to (h) and (i) of Section 22a-174-36b of the Regulations of Connecticut State Agencies are amended to read as follows:

**Section 22a-174-36b. Low Emission Vehicle II Program.**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles II program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations, for the purposes of this section:

- (1) "Advanced technology vehicle" means any PZEV, AT PZEV or ZEV.
- (2) "Air contaminant emission control system" means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or system or engine modification on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems, and crankcase ventilating systems.
- (3) "Alternative fuel" means any fuel that is commonly or commercially known or sold as one of the following: M-100 fuel methanol, M-85 fuel methanol, E-100 fuel ethanol, E-85 fuel ethanol, compressed natural gas, liquefied petroleum gas, or hydrogen.
- (4) "AT PZEV" means advanced technology partial zero emission vehicle.
- (5) "CARB" means the California Air Resources Board.
- (6) "Certified" means the finding by CARB that a motor vehicle, motor vehicle engine, or motor vehicle engine family, or air contaminant emission control system has satisfied the criteria adopted by CARB for the control of specified air contaminants from motor vehicles.
- (7) "Dual-fuel" means a motor vehicle that is engineered and designed to be capable of operating on a petroleum fuel and on another fuel that is stored separately on-board the vehicle.
- (8) "Emergency vehicle" means any publicly owned vehicle operated by a peace officer in performance of his or her duties, any authorized vehicle used for fighting fires or responding to emergency fire calls, any publicly owned authorized vehicle used by emergency medical technicians or paramedics, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, or an ambulance.



Attachment C-LEVIII  
Hearing Report

May 15, 2013

(9) "Emission control label" means the permanent stickers required by CARB and affixed to all passenger cars, light duty trucks and medium-duty vehicles certified for sale in California.

(10) "Emissions-related part" means any automotive part that affects any regulated emissions from a motor vehicle or motor vehicle engine that is subject to California or federal emissions standards, as set forth in California Code of Regulations, Title 13, section 1900(b)(3).

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Executive Order" means an Executive Order of CARB.

(13) "Fleet average emissions" means a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases and all greenhouse gases from all vehicles that are subject to this section, sold in the State of Connecticut in any applicable model year.

(14) "Fuel-flexible" means an alternative fuel motor vehicle that is engineered and designed for operation using any alternative fuel mixture or blend.

(15) "Greenhouse gas" means any of the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.

(16) "Greenhouse gas vehicle test group" means "greenhouse gas vehicle test group" as defined in California Code of Regulations, Title 13, section 1961.1.

(17) "Heavy-duty vehicle" means any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

(18) "Hybrid electric vehicle" or "HEV" means a motor vehicle which allows power to be delivered to the driver wheels solely by a battery powered electric motor but which also incorporates the use of a combustion engine to provide power to the battery, or any vehicle which allows power to be delivered to the drive wheels by either a combustion engine and/or by battery powered electric motor.

(19) "Independent low volume manufacturer" means "independent low volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

(20) "Large volume manufacturer" means "large volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

Attachment C–LEVIII  
*Hearing Report*

May 15, 2013

[(20)] (21) "Light-duty truck" or "LDT" means any 2008 and subsequent model-year motor vehicle certified to the standards in California Code of Regulations, Title 13, section 1961(a)(1) having a gross vehicle weight rating of 8500 pounds or less, and any other motor vehicle rated at 6000 pounds or less, that is designed primarily for the purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

[(21)] (22) "Loaded vehicle weight" or "LVW" means vehicle curb weight plus 300 pounds.

[(22)] (23) "Low Emission Vehicle II program" means the standards for motor vehicles, motor vehicle engines and related provisions that the State of California has adopted and is permitted to adopt under 42 USC 7543 and that the Commissioner is permitted to adopt under 42 USC 7507 as required by section 22a-174g of the Connecticut General Statutes for the implementation of such program in Connecticut.

[(23)] (24) "Medium-duty passenger vehicle" means "medium-duty passenger vehicle" as defined in California Code of Regulations, Title 13, section 1900.

[(24)] (25) "Medium-duty vehicle" means "medium-duty vehicle" as defined in California Code of Regulations, Title 13, section 1900.

[(25)] (26) "Military tactical vehicles and equipment" means those vehicles defined by California Code of Regulations, 13, section 1905.

[(26)] (27) "Model year" means "model year" as defined in 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 40 CFR 85.2304, inclusive.

[(27)] (28) "Neighborhood electric vehicle" or "NEV" means a motor vehicle certified to zero emission vehicle standards and meets the definition of "low speed vehicle" either in California Code of Regulations, Title 13, section 385.5 or in 49 CFR 571.500.

[(28)] (29) "New vehicle" means any passenger car or light duty truck with 7,500 miles or fewer on its odometer.

[(29)] (30) "NMOG" means non-methane organic gas;

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

[(30)](31) "Passenger car" or "PC" means any motor vehicle designed primarily for transportation of persons having a design capacity of twelve persons or less.

[(31)](32) "Offset vehicle" means a vehicle that has been certified by the State of California as set forth in the California Code of Regulations, Title 13, section 1960.5.

[(32)](33) "PZEV" means partial ZEV as defined in California Code of Regulations, Title 13, section 1962.

[(33)](34) "Small volume manufacturer" means "small volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

[(34)](35) "Travel provision" means the provision of the California Code of Regulations that entitles a manufacturer to full credit for each Type III ZEV placed in service prior to model year 2012 in California or any other state that has adopted the California ZEV mandate.

[(35)](36) "Vehicle" means any motor vehicle.

[(36)](37) "VECs" means vehicle equivalent credits.

[(37)](38) "ZEV" means a zero emission vehicle.

**(b) Applicability.**

(1) This section shall apply to all 2008 [and subsequent] through 2014 model year passenger cars and light duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

(2) This section shall apply to all 2009 [and subsequent] through 2014 model year medium-duty vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

(3) The greenhouse gas emission standards set forth in [subsection (c) (1) (H)] subparagraph(c) (1) (G) of this section and related provisions in this section shall apply to all 2009 [and subsequent] through 2016 model year passenger cars, light-duty trucks and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2008 [or subsequent] through 2014 model year passenger car or light duty truck or a 2009 [or subsequent] through 2014 model year medium-duty vehicle or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

(A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(g) or (h), 1960.1, 1961(a), 1962(a) or 1962.1(a);

[(B)] [Until December 31, 2008, the emission control label and smog index label or environmental performance label requirements set forth in the California Code of Regulations, Title 13, section 1965;]

[(C)] (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

[(D)] (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

[(E)] (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.1;

[(F)] (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;

[(G)] (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

[(H)] (G) The greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.1; and

[(I)] (H) On or after January 1, 2009, the emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965[.] or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85,86, and 600.

(2) **ZEV mandate.**

(A) [In] For the 2008 through 2017 model [year]years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of

Attachment C-LEVIII  
Hearing Report

May 15, 2013

Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962 using Connecticut specific vehicle numbers.

- (B) Alternative compliance mechanisms. As an alternative means of compliance with the requirements of subparagraph (A) of this subdivision, an automobile manufacturer may instead opt to comply with the provisions of subsection (m) of this section.
- (C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive Connecticut credits for those sales. Such credits shall be transferred annually using the ZEV credit account transfer ratio determined in accordance with subsection (m) (3), as applicable to the manufacturer.
- (D) [Beginning with] For the 2009 through 2017 model [year] years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962.1 using Connecticut specific vehicle numbers.
- (E) Optional path. Large volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d) (5) (E) (3) shall inform the commissioner in writing of such election no later than September 1, 2014.

(3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), (k), and (n) of this section.

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;

May 15, 2013

- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

**(e) Emission standards, warranty, recall and miscellaneous provisions.**

Each manufacturer and each new 2008 through 2017 [and subsequent] model year passenger car and light-duty truck that is subject to this section shall comply with each applicable standard set forth in Table 36b-1 and incorporated by reference herein:

<b>Table 36b-1</b>		
<b>California Code of Regulations (CCR)</b>		
<b>Title 13</b>		
<b>Provisions Incorporated by Reference</b>		
<b>Title 13 CCR</b>	<b>Title</b>	<b>Section Amended Date</b>
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	[04/17/09] 8/7/12

**Attachment C-LEVIII**  
**Hearing Report**

May 15, 2013

<b>Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)</b>		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	[10/11/07] <u>8/7/12</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	[03/26/04] <u>8/7/12</u>
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 [and Subsequent] <u>through 2019</u> Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[06/16/08] <u>8/7/12</u>
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 [and Subsequent] <u>through 2016</u> Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	[01/01/06] <u>8/7/12</u>
Section 1962	Zero Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[4/17/09] <u>2/13/10</u>
Section 1962.1	Zero Emission Vehicle Standards for 2009 [and Subsequent] <u>through 2017</u> Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	[4/17/09] <u>8/7/12</u>
Section 1965	Emission Control and, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model Year Vehicles	[06/16/08] <u>8/7/12</u>
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[11/09/07] <u>8/7/12</u>
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	[11/09/07] <u>8/7/12</u>

**Attachment C–LEVIII**  
**Hearing Report**

May 15, 2013

Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	[01/04/08] <u>8/7/12</u>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	[01/04/08] <u>8/7/12</u>
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	11/09/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
<b>Article 1 Assembly Line Testing.</b>		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	[11/27/99] <u>8/7/12</u>
<b>Article 2 Enforcement of New and In-use Vehicle Standards</b>		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99



May 15, 2013

<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	01/04/08
Section 2112	Definitions.	[11/15/03] 8/7/12
	Appendix A to Article 2.1.	11/15/03
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	01/04/08
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	01/04/08
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	[8/21/02] 8/7/12
Section 2140	Notification of In-Use Results.	[8/21/02] 8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	01/04/08

**Attachment C-LEVIII**  
**Hearing Report**

May 15, 2013

Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	11/27/99
Section 2145	Field Information Report.	[11/27/99] 8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	[8/21/02] 8/7/12
Section 2148	Evaluation of Need for Recall.	11/27/99
Section 2149	Notification of Subsequent Action.	2/23/90
<b>Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action</b>		
Section 2166	General Provisions.	01/04/08
Section 2166.1	Definitions.	01/04/08
Section 2167	Emission Warranty Information Report.	01/04/08
Section 2168	Supplemental Emissions Warranty Information Report.	01/04/08
Section 2169	Recall and Corrective Action for Failures of Exhaust After-Treatment Devices.	01/04/08
Section 2170	Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines).	01/04/08
Section 2171	Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction.	01/04/08
Section 2172	Notification of Required Recall or Corrective Action by the Executive Officer.	01/04/08
Section 2172.1	Ordered or Voluntary Corrective Action Plan.	01/04/08
Section 2172.2	Approval and Implementation of Corrective Action Plan.	01/04/08
Section 2172.3	Notification of Owners.	01/04/08
Section 2172.4	Repair Label.	01/04/08
Section 2172.5	Proof of Correction Certificate.	01/04/08
Section 2172.6	Preliminary Tests.	01/04/08
Section 2172.7	Communication with Repair Personnel.	01/04/08
Section 2172.8	Recordkeeping and Reporting.	01/04/08
Section 2172.9	Extension of Time.	01/04/08

May 15, 2013

Section 2173	Penalties.	01/04/08
Section 2174	Availability of Public Hearing.	01/04/08
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	[9/17/91] <u>8/7/12</u>

**(f) Fleet average requirements, reporting and projections, and delivery reporting requirements.**

(1) Effective for 2008 [and subsequent] through 2014 model years, the fleet average NMOG gas emission values from passenger cars and light-duty trucks vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, sections 1960.1(g) (2) and 1961(b) (1), except as provided in section 1960.1(g) (2) and 1961(b) (1). Effective for 2008 and subsequent model years, manufacturers may earn and bank NMOG credits in accordance with California Code of Regulations, Title 13, section 1961, except NMOG credits earned prior to model year 2011 shall be treated as though they were earned in model year 2011 and no debits shall be carried forward after model year 2011.

(2) Effective for 2009 [and subsequent] through 2014 model years, each manufacturer shall comply with the medium-duty vehicle phase-in requirements and, for 2004 and subsequent model years, may earn and bank VECs, both in accordance with California Code of Regulations, Title 13, section 1961, except VECs earned prior to model year 2012 shall be treated as though they were earned in model year 2012.

(3) A manufacturer that certifies vehicles equipped with direct ozone reduction technologies is eligible to receive NMOG credits for use in fleet average compliance determinations. A manufacturer shall submit to the commissioner a CARB Executive Order, obtained in accordance with California Code of Regulations Title 13, section 1960.1(g) (1), which shall determine the value of such credits for vehicles delivered for sale in the State of Connecticut, when the manufacturer submits its annual NMOG fleet average report.

(4) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State of Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1960.1(g) (2) and 1961(c).

(5) Commencing with the 2008 model year, each manufacturer shall report to the commissioner, using the same format used to report such information to CARB, the average emissions of its fleet delivered for sale in the State of Connecticut. The report shall be submitted to the commissioner, or the commissioner's designee, no later than March

May 15, 2013

1<sup>st</sup> of the calendar year succeeding the end of the model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(6) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2008 model year, each manufacturer shall submit annually, to the commissioner, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(7) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a large volume manufacturer for each 2009 [and subsequent]through 2016 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(8) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a small volume manufacturer or an independent low volume manufacturer for each 2016 [and subsequent]through 2025 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(9) Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles subject to the greenhouse gas provisions of this section in the State of Connecticut in accordance with the provisions set forth in California Code of Regulations, Title 13, section 1961.1.

**(g) Fleet Average Emissions Reporting Requirements.**

(1) For the purposes of determining compliance with the requirements of subsections (c) (3) and (e) of this section, [commencing with] in the 2008 through 2014 model years, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report which demonstrates that such manufacturer has met the fleet average emissions requirements for

May 15, 2013

its fleet delivered for sale in Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

[(2) Prior to the commencement of each model year, commencing with the 2008 model year, each manufacturer shall submit, to the Department, a projection of the fleet average emissions for vehicles to be delivered for sale in Connecticut during such model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.]

[(3)](2) [Commencing with] For the 2009 through 2016 model [year] years, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to CARB. Such report shall be filed with the commissioner by March 1<sup>st</sup> of the calendar year succeeding the end of the model year and shall include the number of greenhouse gas vehicle test groups certified pursuant to subsection (m) (5) of this section, delineated by model type, delivered for sale into the State of Connecticut.

**(h) Fleet average enforcement.** If, commencing with the 2011 model year and for each [subsequent]applicable model year thereafter, the report issued by a manufacturer pursuant to subsection (g) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36b-1 of this section, during a model year, the manufacturer [must]shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Reports [must] shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state. Enforcement of the medium-duty vehicle phase-in requirements shall begin in the 2012 model year.

**(i) Reporting and offset vehicle reporting.**

(1) The manufacturer shall [submit one] make available upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. [to the commissioner within thirty (30) days of receiving the Executive Order from CARB.] To the extent such reports are available electronically, the manufacturer shall submit such records in an electronic format acceptable to the commissioner.

(2) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

May 15, 2013

(3) Offset vehicle reporting. Commencing with the 2008 model year, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, each manufacturer shall report to the commissioner the number of offset vehicles, categorized by model type, delivered for sale into the State of Connecticut during such model year. The report shall also include the total number of the manufacturer's fleet delivered for sale into the State of Connecticut.

### **Statement of Purpose**

The Department of Energy and Environmental Protection is proposing to amend section 22a-174-36b and adopt section 22a-174-36c to make revisions to the Low Emission Vehicle (LEV) II program and adopt the LEV III program. The LEV II program establishes vehicle emission standards for passenger cars and light-duty trucks during the 2008-14 timeframe. The LEV II program also includes the Zero Emission Vehicle (ZEV) program, which requires the sale of cleaner vehicle in the state, and the vehicle greenhouse gas (GHG) program, that regulates GHG emissions from vehicles. The LEV III program will establish vehicle emission standards for the 2015-2025 timeframe and includes an extension of the ZEV program and vehicle GHG programs. The LEV programs are an integral part of Connecticut's clean air strategy, and are an integral part of the emissions control strategy for passenger vehicles.

May 15, 2013

Sec 2. The Regulations of Connecticut State Agencies are amended by the addition of section 22a-174-36c, as follows:

**Section 22a-174-36c. Low Emission Vehicle III Program.**

**(NEW)**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles III program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations and in Section 22a-174-36b of the Regulations of Connecticut State Agencies. In addition, the following definitions apply:

- (1) "Transitional Zero Emission Vehicle" or ("TZEV") means transitional Zero emission vehicle as defined in California Code of Regulations, Title 13, section 1962.2.
- (2) "East Region Pool" means east region pool as defined in California Code of Regulations, Title 13, section 1962.2.

**(b) Applicability.**

This section shall apply to all 2015 and subsequent model year passenger cars, light duty trucks, and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2015 or subsequent model year passenger car, light duty truck, or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

- (A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(h), 1961.2 and 1962.2;
- (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1961.2;
- (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

- (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;
  - (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;
  - (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235;
  - (G) Beginning with the 2017 model year, the greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.3; and
  - (H) The emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965 or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85, 86, and 600.
- (2) ZEV mandate.
- (A) Beginning with the 2018 model year, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements set forth in the California Code of Regulations, Title 13, section 1962.2 using Connecticut specific vehicle numbers.
  - (B) Optional path. Large Volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d)(5)(E)3 shall inform the commissioner in writing of such election no later than September 1, 2014.
  - (C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive proportional credits for those sales.
- (3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), and (k) of this section.



Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;
- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

**(e) Emission standards, warranty, recall and miscellaneous provisions.**

Each manufacturer and each new 2015 and subsequent model year passenger car, light-duty truck and medium-duty vehicle shall comply with each applicable standard set forth in Table 36c-1 and incorporated by reference herein:

May 15, 2013

Table 36c-1		
California Code of Regulations (CCR)		
Title 13		
Provisions Incorporated by Reference		
Title 13 CCR	Title	Section Amended Date
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	8/7/12
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	8/7/12
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	8/7/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 through 2016 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	8/17/12
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	8/17/12
Section 1962	Zero Emission Vehicle Standards for 2005 through 2017 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	2/13/10
Section 1962.2	Zero Emission Vehicle Standards for 2018 and subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	8/17/12

**Attachment C–LEVIII**

**Hearing Report**

May 15, 2013

Section 1962.3	California Vehicle Charging Requirements	8/17/12
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	12/04/03
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	8/7/12
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	8/7/12
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	8/7/12
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	11/10/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement.	12/26/90

May 15, 2013

Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
Article 1 Assembly Line Testing.		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	8/7/12
Article 2 Enforcement of New and In-use Vehicle Standards		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	11/27/99
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	1/4/08
Section 2112	Definitions.	8/7/12
	Appendix A to Article 2.1.	11/15/03
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	1/04/08
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	1/04/08
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	8/7/12
Section 2140	Notification of In-Use Results.	8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	12/28/00
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	11/27/99
Section 2145	Field Information Report.	8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	8/7/12
Section 2148	Evaluation of Need for Recall.	11/27/99
Section 2149	Notification of Subsequent Action.	2/23/90
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	9/17/91

**(f) Fleet average requirements.**

(1) Effective for 2015 and subsequent model years, the fleet average NMOG plus NOx emission values from passenger cars, light-duty trucks and medium-duty vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, section 1961.2. Effective for 2015 and subsequent model years, manufacturers may earn and bank credits in accordance with California Code of Regulations, Title 13, section 1961.2.

(2) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State of Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1961.2.

**(g) Reporting requirements.**

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

(1) Compliance and fleet average reporting requirements. For the purposes of determining compliance with the requirements set forth in subsection (c)(3) of this section, commencing with the 2015 model year, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report which demonstrates that such manufacturer has met the fleet average emissions requirements for its fleet delivered for sale in Connecticut. Such report shall include the average emissions of its fleet delivered for sale in the State of Connecticut.

(2) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2015 model year, each manufacturer shall submit annually, to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut.

(3) The manufacturer shall make available to the commissioner upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. To the extent such reports are available electronically, the manufacturer shall submit such records in an electronic format acceptable to the commissioner.

(4) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

**(h) Fleet average enforcement.**

If, commencing with the 2015 model year and for each subsequent model year thereafter, the report issued by a manufacturer pursuant to subsection (g)(1) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36c-1 of this section, during a model year, the manufacturer shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Reports shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state.

**(i) Warranty requirements.**

May 15, 2013

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall provide a warranty to the ultimate purchaser and each subsequent purchaser that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2035 through 2038, 2040 and 2046.

(2) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall include the emission control system warranty statement that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2039 modified as may be necessary to inform Connecticut vehicle owners of the applicability of the California warranty. The manufacturer shall also provide a telephone number on such statement appropriate for the State of Connecticut.

**(j) Recalls.**

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall undertake an action equivalent to that required by any order or enforcement action taken by CARB, or any voluntary or influenced emission related recall initiated by any manufacturer pursuant to or required by California Code of Regulations, Title 13, sections 2101 through 2120, 2122 through 2133, and 2135 through 2149, unless within thirty (30) days of CARB approval of such recall, the manufacturer demonstrates to the commissioner that such recall is not applicable to vehicles registered in the State of Connecticut.

(2) For vehicles subject to an action pursuant to subdivision (1) of this subsection, each manufacturer shall notify owners of vehicles registered in the State of Connecticut in accordance with the requirements set forth in California Code of Regulations, Title 13, sections 2118 or 2127, provided that such notification shall contain a telephone number appropriate for use by vehicle owners or operators in the State of Connecticut.

**(k) ZEV requirements and reporting.**

(1) Each manufacturer subject to the zero emission vehicle provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, Code of California Regulations, Title 13, section 1962.2.

(2) ZEV Compliance reporting. Each manufacturer shall submit a ZEV compliance report to the Department along with annual sales reports no later than May 1st following the completed model year. The compliance report shall include vehicle sales organized by engine family and identify the number and type of Connecticut credits earned. Such report may be amended based on late sales.

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

(3) Optional 177 State Compliance Path. Manufacturers that choose the optional 177 state path set forth in 1962.1(c) shall notify the Commissioner no later than September 1, 2014.

(4) Pooling Compliance reporting requirements. For the purposes of determining compliance with optional path set forth in Title 13, 1962.1(c), each manufacturer electing the alternative compliance path shall submit a report to the Department no later than May 1<sup>st</sup> following the completed model year. The report shall include vehicles placed into service in the east region pool, organized by vehicle type.

(5) Any manufacturer who fails to meet the requirements of its respective alternative compliance path as determined by California in Title 13, subsection 1961.2(e), shall be subject to primary compliance path of the ZEV mandate provisions set forth in Title 13, section 1962.2(b) from the year following the first year of noncompliance.

**(1) Greenhouse gas emission standards and related requirements.**

(1) Each manufacturer subject to the greenhouse gas provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, Code of California Regulations, Title 13, section 1961.3.

(2) For all 2009 and subsequent model year vehicles, manufacturers may demonstrate compliance based on the total number of passenger cars, light-duty trucks, and medium-duty passenger vehicles certified to the California exhaust emission standards in California Code of Regulations, Title 13, section 1961.1, which are produced and delivered for sale in Connecticut, California, and all other states that have adopted California's greenhouse gas emission standards pursuant to section 177 of the Clean Air Act. A manufacturer that fails to comply under the provisions of this subdivision shall be subject to applicable penalties and shall be required to comply with the greenhouse gas standards pursuant to subdivision (1) of this subsection.

(3) National Compliance Option. For the 2012 through 2016 model years, a manufacturer may elect to demonstrate compliance with the California exhaust emissions standards by demonstrating compliance with the national greenhouse gas program pursuant to California Code of Regulations, Title 13, section 1961.1. A manufacturer with outstanding greenhouse gas debits at the end of the 2011 model year shall submit a plan to the Department describing how the debits will be offset utilizing credits earned under the national greenhouse gas program.

(4) Greenhouse gas reporting requirements. For the purpose of determining compliance with the greenhouse gas requirements of this section, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut,



May 15, 2013

using the same format used to report such information to CARB. If the voluntary compliance option described in subsection (1)(2) of this section is used, a manufacturer shall report separate data for the multi-state pool and the Connecticut portion of such pool. Such report shall be filed with the commissioner by March 1st of the calendar year succeeding the end of the model year.

**(m) Incorporation by reference. Availability and interpretation of referenced material.**

(1) In accordance with the provisions of section 22a-174g of the Connecticut General Statutes, this section incorporates by reference certain sections of Title 13, California Code of Regulations relating to the implementation and the administration of the Low Emission Vehicle III program in the State of Connecticut. Table 36c-1 lists the sections of Title 13, California Code of Regulations incorporated by reference and the respective amended date for each section.

(2) Copies of the relevant sections of Title 13, California Code of Regulations incorporated by reference in this section are available by contacting:

Connecticut Department of Energy and Environmental Protection  
Bureau of Air Management  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106  
(860) 424-3027

(3) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate, "California" shall mean "Connecticut."

**(n) Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

**Statement of Purpose**

The Department of Energy and Environmental Protection is proposing to amend section 22a-174-36b and adopt section 22a-174-36c to make revisions to the Low Emission Vehicle (LEV) II program and adopt the LEV III program. The LEV II program establishes vehicle emission standards for passenger cars and light-duty trucks during the 2008-14 timeframe. The LEV II program also includes the Zero Emission Vehicle (ZEV) program, which requires the sale of cleaner vehicle in the state, and the vehicle greenhouse gas (GHG) program, that regulates GHG emissions from vehicles. The LEV III program will establish vehicle emission standards for the 2015-2025 timeframe and includes an extension of the ZEV

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

program and vehicle GHG programs. The LEV programs are an integral part of Connecticut's clean air strategy, and are an integral part of the emissions control strategy for passenger vehicles.

May 15, 2013

**Attachment 3**  
**Final Text of the Proposal, Based on Recommendations in the**  
**Hearing Officer’s Report**

Section 1. Subsections (a) to (c), (e) to (h) and (i) of Section 22a-174-36b of the Regulations of Connecticut State Agencies are amended to read as follows:

**Section 22a-174-36b. Low Emission Vehicle II Program.**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles II program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations, for the purposes of this section:

- (1) "Advanced technology vehicle" means any PZEV, AT PZEV or ZEV.
- (2) "Air contaminant emission control system" means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or system or engine modification on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems, and crankcase ventilating systems.
- (3) "Alternative fuel" means any fuel that is commonly or commercially known or sold as one of the following: M-100 fuel methanol, M-85 fuel methanol, E-100 fuel ethanol, E-85 fuel ethanol, compressed natural gas, liquefied petroleum gas, or hydrogen.
- (4) "AT PZEV" means advanced technology partial zero emission vehicle.
- (5) "CARB" means the California Air Resources Board.
- (6) "Certified" means the finding by CARB that a motor vehicle, motor vehicle engine, or motor vehicle engine family, or air contaminant emission control system has satisfied the criteria adopted by CARB for the control of specified air contaminants from motor vehicles.
- (7) "Dual-fuel" means a motor vehicle that is engineered and designed to be capable of operating on a petroleum fuel and on another fuel that is stored separately on-board the vehicle.
- (8) "Emergency vehicle" means any publicly owned vehicle operated by a peace officer in performance of his or her duties, any authorized vehicle used for fighting fires or responding to emergency fire calls, any publicly owned authorized vehicle used by emergency medical technicians or paramedics, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, or an ambulance.

(9) "Emission control label" means the permanent stickers required by CARB and affixed to all passenger cars, light duty trucks and medium-duty vehicles certified for sale in California.

(10) "Emissions-related part" means any automotive part that affects any regulated emissions from a motor vehicle or motor vehicle engine that is subject to California or federal emissions standards, as set forth in California Code of Regulations, Title 13, section 1900(b)(3).

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Executive Order" means an Executive Order of CARB.

(13) "Fleet average emissions" means a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases and all greenhouse gases from all vehicles that are subject to this section, sold in the State of Connecticut in any applicable model year.

(14) "Fuel-flexible" means an alternative fuel motor vehicle that is engineered and designed for operation using any alternative fuel mixture or blend.

(15) "Greenhouse gas" means any of the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.

(16) "Greenhouse gas vehicle test group" means "greenhouse gas vehicle test group" as defined in California Code of Regulations, Title 13, section 1961.1.

(17) "Heavy-duty vehicle" means any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

(18) "Hybrid electric vehicle" or "HEV" means a motor vehicle which allows power to be delivered to the driver wheels solely by a battery powered electric motor but which also incorporates the use of a combustion engine to provide power to the battery, or any vehicle which allows power to be delivered to the drive wheels by either a combustion engine and/or by battery powered electric motor.

(19) "Independent low volume manufacturer" means "independent low volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

(20) "Large volume manufacturer" means "large volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

Attachment C-LEVIII  
Hearing Report

[(20)] (21) "Light-duty truck" or "LDT" means any 2008 and subsequent model-year motor vehicle certified to the standards in California Code of Regulations, Title 13, section 1961(a)(1) having a gross vehicle weight rating of 8500 pounds or less, and any other motor vehicle rated at 6000 pounds or less, that is designed primarily for the purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

[(21)] (22) "Loaded vehicle weight" or "LVW" means vehicle curb weight plus 300 pounds.

[(22)] (23) "Low Emission Vehicle II program" means the standards for motor vehicles, motor vehicle engines and related provisions that the State of California has adopted and is permitted to adopt under 42 USC 7543 and that the Commissioner is permitted to adopt under 42 USC 7507 as required by section 22a-174g of the Connecticut General Statutes for the implementation of such program in Connecticut.

[(23)] (24) "Medium-duty passenger vehicle" means "medium-duty passenger vehicle" as defined in California Code of Regulations, Title 13, section 1900.

[(24)] (25) "Medium-duty vehicle" means "medium-duty vehicle" as defined in California Code of Regulations, Title 13, section 1900.

[(25)] (26) "Military tactical vehicles and equipment" means those vehicles defined by California Code of Regulations, 13, section 1905.

[(26)] (27) "Model year" means "model year" as defined in 40 CFR 85.2302 and determined in accordance with the provisions of 40 CFR 85.2301 through 40 CFR 85.2304, inclusive.

[(27)] (28) "Neighborhood electric vehicle" or "NEV" means a motor vehicle certified to zero emission vehicle standards and meets the definition of "low speed vehicle" either in California Code of Regulations, Title 13, section 385.5 or in 49 CFR 571.500.

[(28)] (29) "New vehicle" means any passenger car or light duty truck with 7,500 miles or fewer on its odometer.

[(29)] (30) "NMOG" means non-methane organic gas;

[(30)](31) "Passenger car" or "PC" means any motor vehicle designed primarily for transportation of persons having a design capacity of twelve persons or less.

[(31)](32) "Offset vehicle" means a vehicle that has been certified by the State of California as set forth in the California Code of Regulations, Title 13, section 1960.5.

[(32)](33) "PZEV" means partial ZEV as defined in California Code of Regulations, Title 13, section 1962.

[(33)](34) "Small volume manufacturer" means "small volume manufacturer" as defined in California Code of Regulations, Title 13, section 1900.

[(34)](35) "Travel provision" means the provision of the California Code of Regulations that entitles a manufacturer to full credit for each Type III ZEV placed in service prior to model year 2012 in California or any other state that has adopted the California ZEV mandate.

[(35)](36) "Vehicle" means any motor vehicle.

[(36)](37) "VECs" means vehicle equivalent credits.

[(37)](38) "ZEV" means a zero emission vehicle.

**(b) Applicability.**

(1) This section shall apply to all 2008 [and subsequent] through 2014 model year passenger cars and light duty trucks sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

(2) This section shall apply to all 2009 [and subsequent] through 2014 model year medium-duty vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

(3) The greenhouse gas emission standards set forth in [subsection (c) (1) (H)] subparagraph(c) (1) (G) of this section and related provisions in this section shall apply to all 2009 [and subsequent] through 2016 model year passenger cars, light-duty trucks and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

May 15, 2013

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2008 [or subsequent] through 2014 model year passenger car or light duty truck or a 2009 [or subsequent] through 2014 model year medium-duty vehicle or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

(A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(g) or (h), 1960.1, 1961(a), 1962(a) or 1962.1(a);

[(B)] [Until December 31, 2008, the emission control label and smog index label or environmental performance label requirements set forth in the California Code of Regulations, Title 13, section 1965;]

[(C)] (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

[(D)] (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

[(E)] (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.1;

[(F)] (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;

[(G)] (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

[(H)] (G) The greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.1; and

[(I)] (H) On or after January 1, 2009, the emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965[.] or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85,86, and 600.

(2) **ZEV mandate.**

(A) [In] For the 2008 through 2017 model [year]years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of



Attachment C–LEVIII  
Hearing Report

Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962 using Connecticut specific vehicle numbers.

- (B) Alternative compliance mechanisms. As an alternative means of compliance with the requirements of subparagraph (A) of this subdivision, an automobile manufacturer may instead opt to comply with the provisions of subsection (m) of this section.
- (C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive Connecticut credits for those sales. Such credits shall be transferred annually using the ZEV credit account transfer ratio determined in accordance with subsection (m) (3), as applicable to the manufacturer.
- (D) [Beginning with] For the 2009 through 2017 model [year] years, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements, including early credit, banking, and travel provisions, set forth in the California Code of Regulations, Title 13, section 1962.1 using Connecticut specific vehicle numbers.
- (E) Optional path. Large volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d) (5) (E) (3) shall inform the commissioner in writing of such election no later than September 1, 2014.

(3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), (k), and (n) of this section.

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;

**Attachment C-LEVIII**  
**Hearing Report**

May 15, 2013

- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold or designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

**(e) Emission standards, warranty, recall and miscellaneous provisions.** Each manufacturer and each new 2008 through 2017 [and subsequent] model year passenger car and light-duty truck that is subject to this section shall comply with each applicable standard set forth in Table 36b-1 and incorporated by reference herein:

<b>Table 36b-1</b>		
<b>California Code of Regulations (CCR)</b>		
<b>Title 13</b>		
<b>Provisions Incorporated by Reference</b>		
<b>Title 13 CCR</b>	<b>Title</b>	<b>Section Amended Date</b>
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	[04/17/09] 12/31/12

**Attachment C–LEVIII  
Hearing Report**

<b>Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)</b>		
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	[10/11/07] <u>12/31/12</u>
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	[03/26/04] <u>12/31/12</u>
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 [and Subsequent] through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[06/16/08] <u>12/31/12</u>
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 [and Subsequent] through 2016 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	[01/01/06] <u>8/7/12</u>
Section 1962	Zero Emission Vehicle Standards for 2005 through 2008 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[4/17/09] <u>2/13/10</u>
Section 1962.1	Zero Emission Vehicle Standards for 2009 [and Subsequent] through 2017 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	[4/17/09] <u>12/31/12</u>
Section 1965	Emission Control and, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model Year Vehicles	[06/16/08] <u>8/7/12</u>
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	[11/09/07] <u>8/7/12</u>
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	[11/09/07] <u>8/7/12</u>

**Attachment C–LEVIII**  
**Hearing Report**

Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	[01/04/08] <u>12/31/12</u>
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	[01/04/08] <u>8/7/12</u>
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	11/09/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	[11/09/07] <u>8/7/12</u>
Section 2039	Emission Control System Warranty Statement.	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
<b>Article 1 Assembly Line Testing.</b>		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	[11/27/99] <u>8/7/12</u>
<b>Article 2 Enforcement of New and In-use Vehicle Standards</b>		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99

Attachment C-LEVIII  
Hearing Report

<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	[01/04/08] 12/8/10
Section 2112	Definitions.	[11/15/03] 8/7/12
	Appendix A to Article 2.1.	[11/15/03] 8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	[01/04/08] 12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95
Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	[01/04/08] 12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	[8/21/02] 8/7/12
Section 2140	Notification of In-Use Results.	[8/21/02] 8/7/12

**Attachment C–LEVIII**  
**Hearing Report**

<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	[01/04/08] 12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	[11/27/99] 12/8/10
Section 2145	Field Information Report.	[11/27/99] 8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	[8/21/02] 8/7/12
Section 2148	Evaluation of Need for Recall.	[11/27/99] 8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>[Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action]</b>		
[Section 2166]	[General Provisions.]	[01/04/08]
[Section 2166.1]	[Definitions.]	[01/04/08]
[Section 2167]	[Emission Warranty Information Report.]	[01/04/08]
[Section 2168]	[Supplemental Emissions Warranty Information Report.]	[01/04/08]
[Section 2169]	[Recall and Corrective Action for Failures of Exhaust After-Treatment Devices.]	[01/04/08]
[Section 2170]	[Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines).]	[01/04/08]
[Section 2171]	[Recall and Corrective Action for Vehicles without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction.]	[01/04/08]
[Section 2172]	[Notification of Required Recall or Corrective Action by the Executive Officer.]	[01/04/08]
[Section 2172.1]	[Ordered or Voluntary Corrective Action Plan.]	[01/04/08]
[Section 2172.2]	[Approval and Implementation of Corrective Action Plan.]	[01/04/08]
[Section 2172.3]	[Notification of Owners.]	[01/04/08]
[Section 2172.4]	[Repair Label.]	[01/04/08]

Attachment C–LEVIII  
*Hearing Report*

[Section 2172.5]	[Proof of Correction Certificate.]	[01/04/08]
[Section 2172.6]	[Preliminary Tests.]	[01/04/08]
[Section 2172.7]	[Communication with Repair Personnel.]	[01/04/08]
[Section 2172.8]	[Recordkeeping and Reporting.]	[01/04/08]
[Section 2172.9]	[Extension of Time.]	[01/04/08]
[Section 2173]	[Penalties.]	[01/04/08]
[Section 2174]	[Availability of Public Hearing.]	[01/04/08]
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	[9/17/91] <u>8/8/12</u>

**(f) Fleet average requirements, reporting and projections, and delivery reporting requirements.**

(1) Effective for 2008 [and subsequent] through 2014 model years, the fleet average NMOG gas emission values from passenger cars and light-duty trucks vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, sections 1960.1(g) (2) and 1961(b) (1), except as provided in section 1960.1(g) (2) and 1961(b) (1). Effective for 2008 and subsequent model years, manufacturers may earn and bank NMOG credits in accordance with California Code of Regulations, Title 13, section 1961, except NMOG credits earned prior to model year 2011 shall be treated as though they were earned in model year 2011 and no debits shall be carried forward after model year 2011.

(2) Effective for 2009 [and subsequent] through 2014 model years, each manufacturer shall comply with the medium-duty vehicle phase-in requirements and, for 2004 and subsequent model years, may earn and bank VECs, both in accordance with California Code of Regulations, Title 13, section 1961, except VECs earned prior to model year 2012 shall be treated as though they were earned in model year 2012.

(3) A manufacturer that certifies vehicles equipped with direct ozone reduction technologies is eligible to receive NMOG credits for use in fleet average compliance determinations. A manufacturer shall submit to the commissioner a CARB Executive Order, obtained in accordance with California Code of Regulations Title 13, section 1960.1(g) (1), which shall determine the value of such credits for vehicles delivered for sale in the State of Connecticut, when the manufacturer submits its annual NMOG fleet average report.

(4) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State of

Attachment C-LEVIII  
Hearing Report

Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1960.1(g)(2) and 1961(c).

(5) Commencing with the 2008 model year, each manufacturer shall report to the commissioner, using the same format used to report such information to CARB, the average emissions of its fleet delivered for sale in the State of Connecticut. The report shall be submitted to the commissioner, or the commissioner's designee, no later than March 1<sup>st</sup> of the calendar year succeeding the end of the model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(6) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2008 model year, each manufacturer shall submit annually, to the commissioner, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

(7) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a large volume manufacturer for each 2009 [and subsequent] through 2016 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(8) The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in the State of Connecticut by a small volume manufacturer or an independent low volume manufacturer for each 2016 [and subsequent] through 2016 model year are established as, and shall be determined in accordance with, the provisions set forth in California Code of Regulations, Title 13, sections 1961.1.

(9) Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles subject to the greenhouse gas provisions of this section in the State of Connecticut in accordance with the provisions set forth in California Code of Regulations, Title 13, section 1961.1.

**(g) Fleet Average Emissions Reporting Requirements.**



Attachment C-LEVIII  
Hearing Report

(1) For the purposes of determining compliance with the requirements of subsections (c) (3) and (e) of this section, [commencing with] in the 2008 through 2014 model years, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report which demonstrates that such manufacturer has met the fleet average emissions requirements for its fleet delivered for sale in Connecticut. Commencing with the 2009 model year, such report shall include medium-duty vehicles.

[(2) Prior to the commencement of each model year, commencing with the 2008 model year, each manufacturer shall submit, to the Department, a projection of the fleet average emissions for vehicles to be delivered for sale in Connecticut during such model year. Commencing with the 2009 model year, such report shall include medium-duty vehicles.]

[(3)](2) [Commencing with] For the 2009 through 2016 model [year] years, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to CARB. Such report shall be filed with the commissioner by [March 1<sup>st</sup>] May 1<sup>st</sup> of the calendar year succeeding the end of the model year and shall include the number of greenhouse gas vehicle test groups certified pursuant to subsection (m) (5) of this section, delineated by model type, delivered for sale into the State of Connecticut.

**(h) Fleet average enforcement.** If, commencing with the 2011 model year and for each [subsequent]applicable model year thereafter, the report issued by a manufacturer pursuant to subsection (g) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36b-1 of this section, during a model year, the manufacturer [must]shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Reports [must] shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state. Enforcement of the medium-duty vehicle phase-in requirements shall begin in the 2012 model year.

**(i) Reporting and offset vehicle reporting.**

(1) The manufacturer shall [submit one] make available upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. [to the commissioner within thirty (30) days of receiving the Executive Order from CARB.] To the extent such reports are available electronically, the manufacturer

shall submit such records in an electronic format acceptable to the commissioner.

(2) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

(3) Offset vehicle reporting. Commencing with the 2008 model year, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, each manufacturer shall report to the commissioner the number of offset vehicles, categorized by model type, delivered for sale into the State of Connecticut during such model year. The report shall also include the total number of the manufacturer's fleet delivered for sale into the State of Connecticut.

### **Statement of Purpose**

The Department of Energy and Environmental Protection is proposing to amend section 22a-174-36b and adopt section 22a-174-36c to make revisions to the Low Emission Vehicle (LEV) II program and adopt the LEV III program. The LEV II program establishes vehicle emission standards for passenger cars and light-duty trucks during the 2008-14 timeframe. The LEV II program also includes the Zero Emission Vehicle (ZEV) program, which requires the sale of cleaner vehicle in the state, and the vehicle greenhouse gas (GHG) program, that regulates GHG emissions from vehicles. The LEV III program will establish vehicle emission standards for the 2015-2025 timeframe and includes an extension of the ZEV program and vehicle GHG programs. The LEV programs are an integral part of Connecticut's clean air strategy, and are an integral part of the emissions control strategy for passenger vehicles.

Sec 2. The Regulations of Connecticut State Agencies are amended by the addition of section 22a-174-36c, as follows:

**Section 22a-174-36c. Low Emission Vehicle III Program.**  
**(NEW)**

**(a) Definitions and abbreviations.** Provided that any term related to the administration of the Low Emission Vehicles III program not defined in this subsection shall be as defined or described in Title 13 of the California Code of Regulations and in Section 22a-174-36b of the Regulations of Connecticut State Agencies. In addition, the following definitions apply:

- (3) "Transitional Zero Emission Vehicle" or ("TZEV") means transitional Zero emission vehicle as defined in California Code of Regulations, Title 13, section 1962.2.
- (4) "East Region Pool" means east region pool as defined in California Code of Regulations, Title 13, section 1962.2.

**(b) Applicability.**

This section shall apply to all 2015 and subsequent model year passenger cars, light duty trucks, and medium-duty passenger vehicles sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received, in the State of Connecticut except that this subdivision shall not apply to those vehicles listed in subsection (d) of this section.

**(c) Prohibitions and compliance requirements.**

(1) Unless subject to an exemption listed in subsection (d) of this section, no person shall sell or register, offer for sale or lease, import, deliver, purchase, rent, lease, acquire or receive a new 2015 or subsequent model year passenger car, light duty truck, or medium-duty passenger vehicle in the State of Connecticut unless such vehicle is certified to California emission standards and meets:

- (A) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1956.8(h), 1961.2 and 1962.2;
- (B) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1961.2;
- (C) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

Attachment C-LEVIII  
Hearing Report

- (D) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;
  - (E) The assembly-line testing procedure requirements set forth in the California Code of Regulations, Title 13, section 2062;
  - (F) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235;
  - (G) Beginning with the 2017 model year, the greenhouse gas emission standards set forth in the California Code of Regulations, Title 13, section 1961.3; and
  - (H) The emission control label and environmental performance label requirements, including smog and greenhouse gas index scores, set forth in the California Code of Regulations, Title 13, section 1965 or the Federal Fuel Economy and Emission Label, set forth in 40 CFR parts 85, 86, and 600.
- (2) ZEV mandate.
- (A) Beginning with the 2018 model year, each manufacturer's sales fleet of passenger cars and light duty trucks produced and delivered for sale in the State of Connecticut shall contain at least the same percentage of ZEVs subject to the same requirements set forth in the California Code of Regulations, Title 13, section 1962.2 using Connecticut specific vehicle numbers.
  - (B) Optional path. Large Volume manufacturers and intermediate volume manufacturers that elect the optional path set forth in the California Code of Regulations, Title 13, subdivision 1962.1(d)(5)(E)(3) shall inform the commissioner in writing of such election no later than September 1, 2014.
  - (C) Until such time that NEVs can be legally registered in Connecticut and operated with restrictions no more stringent than imposed by the State of California, manufacturers that generate ZEV credits in California through the sale of NEVs shall receive proportional credits for those sales.
- (3) All vehicle manufacturers shall comply with the fleet average, warranty, recall and other applicable requirements set forth in subsections (e), (f), (g), (h), (i), (j), and (k) of this section.

Attachment C-LEVIII  
*Hearing Report*

**(d) Exemptions.** The following vehicles shall not be subject to this section:

- (1) A vehicle transferred by inheritance;
- (2) A vehicle transferred by decree of divorce, dissolution or legal separation entered by a court of competent jurisdiction;
- (3) A vehicle purchased by a nonresident prior to establishing residency in the State of Connecticut;
- (4) A vehicle sold for the purpose of being wrecked or dismantled;
- (5) A vehicle sold directly from one dealer to another dealer;
- (6) A vehicle sold for registration out of state;
- (7) A vehicle sold or designed exclusively for off-highway use;
- (8) A vehicle that has been certified to standards promulgated pursuant to the authority contained in 42 U.S.C. 7521 and which is in the possession of a rental agency in Connecticut and is next rented with a final destination outside of Connecticut;
- (9) An emergency vehicle;
- (10) A military tactical vehicle;
- (11) A vehicle exempted by California Health and Safety Code, section 43656; or
- (12) A vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident that was damaged or became inoperative beyond reasonable repair or was stolen while out of this state, provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen.

**(e) Emission standards, warranty, recall and miscellaneous provisions.**

Each manufacturer and each new 2015 and subsequent model year passenger car, light-duty truck and medium-duty vehicle shall comply with each applicable standard set forth in Table 36c-1 and incorporated by reference herein:

**Attachment C-LEVIII**  
**Hearing Report**

Table 36c-1		
California Code of Regulations (CCR)		
Title 13		
Provisions Incorporated by Reference		
Title 13 CCR	Title	Section Amended Date
<b>Chapter 1 Motor Vehicle Pollution Control Devices</b>		
<b>Article 1 General Provisions</b>		
Section 1900	Definitions	12/31/12
Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles)		
Section 1956.8(g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	12/31/12
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	12/31/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	12/31/12
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 through 2016 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.	8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12
Section 1962	Zero Emission Vehicle Standards for 2005 through 2017 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	2/13/10
Section 1962.2	Zero Emission Vehicle Standards for 2018 and subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	12/31/12

**Attachment C-LEVIII**

**Hearing Report**

May 15, 2013

Section 1962.3	California Vehicle Charging Requirements	8/7/12
Section 1965	Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles	8/7/12
Section 1968.1	Malfunction and Diagnostic System Requirements - 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	11/27/99
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	8/7/12
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	12/31/12
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	8/7/12
<b>Article 6 Emission Control System Warranty</b>		
Section 2035	Purpose, Applicability and Definitions	11/10/07
Section 2036	Defects Warranty Requirements for 1979 through 1989 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles; 1979 and Subsequent Model Year Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.	5/15/99
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	8/7/12
Section 2039	Emission Control System Warranty Statement.	12/26/90

**Attachment C-LEVIII**  
**Hearing Report**

Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	1/16/79
<b>Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing.</b>		
Article 1 Assembly Line Testing.		
Section 2062	Assembly-line Test Procedures 1998 and Subsequent Model-years.	8/7/12
Article 2 Enforcement of New and In-use Vehicle Standards		
Section 2101	Compliance Testing and Inspection - New Vehicle Selection, Evaluation and Enforcement Action.	11/27/99
Section 2109	New Vehicle Recall Provisions.	12/30/83
Section 2110	Remedial Action for Assembly-Line Quality Audit Testing of Less than a Full Calendar Quarter of Production Prior to the 2001 Model-Year.	11/27/99
<b>Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls.</b>		
Section 2111	Applicability.	12/8/10
Section 2112	Definitions.	8/7/12
	Appendix A to Article 2.1.	8/7/12
Section 2113	Initiation and Approval of Voluntary and Influenced Recalls.	1/26/95
Section 2114	Voluntary and Influenced Recall Plans.	11/27/99
Section 2115	Eligibility for Repair.	1/26/95
Section 2116	Repair Label.	1/26/95
Section 2117	Proof of Correction Certificate.	1/26/95
Section 2118	Notification.	1/26/95
Section 2119	Record keeping and Reporting Requirements.	11/27/99
Section 2120	Other Requirements Not Waived.	1/26/95
<b>Article 2.2 Procedures for In-Use Vehicle Ordered Recalls.</b>		
Section 2122	General Provisions.	12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls.	1/26/95
Section 2124	Availability of Public Hearing.	1/26/95
Section 2125	Ordered Recall Plan.	1/26/95
Section 2126	Approval and Implementation of Recall Plan.	1/26/95
Section 2127	Notification of Owners.	1/26/95
Section 2128	Repair Label.	1/26/95
Section 2129	Proof of Correction Certificate.	1/26/95
Section 2130	Capture Rates and Alternative Measures.	11/27/99
Section 2131	Preliminary Tests.	1/26/95
Section 2132	Communication with Repair Personnel.	1/26/95



**Attachment C-LEVIII**  
**Hearing Report**

Section 2133	Record keeping and Reporting Requirements.	1/26/95
Section 2135	Extension of Time.	1/26/95
<b>Article 2.3 In-Use Vehicle Enforcement Test Procedures.</b>		
Section 2136	General Provisions.	12/8/10
Section 2137	Vehicle Selection.	12/28/00
Section 2138	Restorative Maintenance.	11/27/99
Section 2139	Testing.	8/7/12
Section 2140	Notification of In-Use Results.	8/7/12
<b>Article 2.4 Procedures for Reporting Failure of Emission-Related Components.</b>		
Section 2141	General Provisions.	12/8/10
Section 2142	Alternative Procedures.	2/23/90
Section 2143	Failure Levels Triggering Recall.	11/27/99
Section 2144	Emission Warranty Information Report.	12/8/10
Section 2145	Field Information Report.	8/7/12
Section 2146	Emissions Information Report.	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards.	8/7/12
Section 2148	Evaluation of Need for Recall.	8/7/12
Section 2149	Notification of Subsequent Action.	2/23/90
<b>Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks.</b>		
Section 2235	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks Requirements.	8/8/12

**(f) Fleet average requirements.**

(1) Effective for 2015 and subsequent model years, the fleet average NMOG plus NOx emission values from passenger cars, light-duty trucks and medium-duty vehicles produced and delivered for sale in the State of Connecticut by a manufacturer for each model year shall not exceed the fleet average numbers set forth in California Code of Regulations, Title 13, section 1961.2. Effective for 2015 and subsequent model years, manufacturers may earn and bank credits in accordance with California Code of Regulations, Title 13, section 1961.2.

(2) Credits and debits may be accrued and utilized based upon each manufacturer's sales of vehicles subject to this part in the State of Connecticut, pursuant to the provisions set forth in the California Code of Regulations Title 13, sections 1961.2.

**(g) Reporting requirements.**

(1) Compliance and fleet average reporting requirements. For the purposes of determining compliance with the requirements set forth in subsection (c)(3) of this section, commencing with the 2015 model year, each manufacturer shall submit annually to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report which demonstrates that such manufacturer has met the fleet average emissions requirements for its fleet delivered for sale in Connecticut. Such report shall include the average emissions of its fleet delivered for sale in the State of Connecticut.

(2) Delivery reporting requirements. For the purposes of determining compliance with the requirements of this section, commencing with the 2015 model year, each manufacturer shall submit annually, to the Department, by March 1<sup>st</sup> of the calendar year succeeding the end of the model year, a report documenting total deliveries for sale of vehicles in each engine family over that model year in the State of Connecticut.

(3) The manufacturer shall make available to the commissioner upon request a copy of the California Executive Order and Certificate of Conformity relating to certification of new motor vehicles for each engine family to be sold in the State of Connecticut. To the extent such reports are available electronically, the manufacturer shall submit such records in an electronic format acceptable to the commissioner.

(4) For the purposes of determining compliance with this section, the commissioner may require any vehicle manufacturer subject to this section to submit any documentation the commissioner deems necessary to the effective administration and enforcement of this section including all certification materials submitted to CARB.

**(h) Fleet average enforcement.**

If, commencing with the 2015 model year and for each subsequent model year thereafter, the report issued by a manufacturer pursuant to subsection (g)(1) of this section demonstrates noncompliance with the fleet average emission standards incorporated by reference into this section and set forth in Table 36c-1 of this section, during a model year, the manufacturer shall within sixty (60) days file a Fleet Average Enforcement Report with the commissioner documenting such noncompliance. The Fleet Average Enforcement Report shall identify all vehicle models delivered for sale into the State of Connecticut and their corresponding certification standards and the percentage of each model delivered for sale into the State of Connecticut and California in relation to total fleet sales in the respective state.

**(i) Warranty requirements.**

Attachment C-LEVIII  
*Hearing Report*

May 15, 2013

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall provide a warranty to the ultimate purchaser and each subsequent purchaser that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2035 through 2038, 2040 and 2046.

(2) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall include the emission control system warranty statement that complies with the requirements set forth in California Code of Regulations, Title 13, sections 2039 modified as may be necessary to inform Connecticut vehicle owners of the applicability of the California warranty. The manufacturer shall also provide a telephone number on such statement appropriate for the State of Connecticut.

**(j) Recalls.**

(1) For all 2015 and subsequent model year vehicles subject to the provisions of this section, each manufacturer shall undertake an action equivalent to that required by any order or enforcement action taken by CARB, or any voluntary or influenced emission-related recall initiated by any manufacturer pursuant to or required by California Code of Regulations, Title 13, sections 2101 through 2120, 2122 through 2133, and 2135 through 2149, unless within thirty (30) days of CARB approval of such recall, the manufacturer demonstrates to the commissioner that such recall is not applicable to vehicles registered in the State of Connecticut.

(2) For vehicles subject to an action pursuant to subdivision (1) of this subsection, each manufacturer shall notify owners of vehicles registered in the State of Connecticut in accordance with the requirements set forth in California Code of Regulations, Title 13, sections 2118 or 2127, provided that such notification shall contain a telephone number appropriate for use by vehicle owners or operators in the State of Connecticut.

**(k) ZEV requirements and reporting.**

(1) Each manufacturer subject to the zero emission vehicle provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, Code of California Regulations, Title 13, section 1962.2.

(2) ZEV Compliance reporting. Each manufacturer shall submit a ZEV compliance report to the Department along with annual sales reports no later than May 1st following the completed model year. The compliance report shall include vehicle sales organized by engine family and identify the number and type of Connecticut credits earned. Such report may be amended based on late sales.

Attachment C-LEVIII  
*Hearing Report*

(3) Optional 177 State Compliance Path. Manufacturers that choose the optional 177 state path set forth in 1962.1(d)(5)(E)(3) shall notify the Commissioner no later than September 1, 2014.

(4) Pooling Compliance reporting requirements. For the purposes of determining compliance with optional path set forth in Title 13, 1962.1(d)(5)(E)(3), each manufacturer electing the alternative compliance path shall submit a report to the Department no later than May 1<sup>st</sup> following the completed model year. The report shall include vehicles placed into service in the east region pool, organized by vehicle type.

(5) Any manufacturer who fails to meet the requirements of its respective optional compliance path as determined by California in Title 13, subsection 1961.2(d)(5)(E)(3), shall be subject to primary compliance path of the ZEV mandate provisions set forth in Title 13, section 1962.2(b) from the year following the first year of noncompliance.

**(1) Greenhouse gas emission standards and related requirements.**

(1) Each manufacturer subject to the greenhouse gas provisions of this section shall demonstrate compliance with such provisions as required by, and in accordance with, Code of California Regulations, Title 13, section 1961.3.

(2) For all 2009 and subsequent model year vehicles, manufacturers may demonstrate compliance based on the total number of passenger cars, light-duty trucks, and medium-duty passenger vehicles certified to the California exhaust emission standards in California Code of Regulations, Title 13, section 1961.1, which are produced and delivered for sale in Connecticut, California, and all other states that have adopted California's greenhouse gas emission standards pursuant to section 177 of the Clean Air Act. A manufacturer that fails to comply under the provisions of this subdivision shall be subject to applicable penalties and shall be required to comply with the greenhouse gas standards pursuant to subdivision (1) of this subsection.

(3) National Compliance Option. For the 2012 through 2016 model years, a manufacturer may elect to demonstrate compliance with the California exhaust emissions standards by demonstrating compliance with the national greenhouse gas program pursuant to California Code of Regulations, Title 13, section 1961.1. A manufacturer with outstanding greenhouse gas debits at the end of the 2011 model year shall submit a plan to the Department describing how the debits will be offset utilizing credits earned under the national greenhouse gas program.

(4) Greenhouse gas reporting requirements. For the purpose of determining compliance with the greenhouse gas requirements of this

section, each manufacturer shall report the average greenhouse gas emissions of its fleet delivered for sale in the State of Connecticut, using the same format used to report such information to CARB. If the voluntary compliance option described in subsection (1)(2) of this section is used, a manufacturer shall report separate data for the multi-state pool and the Connecticut portion of such pool. Such report shall be filed with the commissioner by May 1st of the calendar year succeeding the end of the model year.

**(m) Incorporation by reference. Availability and interpretation of referenced material.**

(1) In accordance with the provisions of section 22a-174g of the Connecticut General Statutes, this section incorporates by reference certain sections of Title 13, California Code of Regulations relating to the implementation and the administration of the Low Emission Vehicle III program in the State of Connecticut. Table 36c-1 lists the sections of Title 13, California Code of Regulations incorporated by reference and the respective amended date for each section.

(2) Copies of the relevant sections of Title 13, California Code of Regulations incorporated by reference in this section are available by contacting:

Connecticut Department of Energy and Environmental Protection  
Bureau of Air Management  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106  
(860) 424-3027

(3) For purposes of applying the incorporated sections of the California Code of Regulations, unless clearly inappropriate, "California" shall mean "Connecticut."

**(n) Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

**Statement of Purpose**

The Department of Energy and Environmental Protection is proposing to amend section 22a-174-36b and adopt section 22a-174-36c to make revisions to the Low Emission Vehicle (LEV) II program and adopt the LEV III program. The LEV II program establishes vehicle emission standards for passenger cars and light-duty trucks during the 2008-14 timeframe. The LEV II program also includes the Zero Emission Vehicle (ZEV) program, which requires the sale of cleaner vehicle in the state, and the vehicle greenhouse gas (GHG) program, that regulates GHG emissions from vehicles. The LEV III program will establish vehicle emission standards for the 2015-2025 timeframe and includes an extension of the ZEV program and vehicle GHG programs. The LEV programs are an integral part of Connecticut's clean air strategy, and are an integral part of the emissions control strategy for passenger vehicles.



### HEARING CERTIFICATION

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding the proposed amendment or adoption of various sections of the air quality regulations:

- 1) The public hearing was held on April 18, 2013 as announced in the notice of hearing;
- 2) In accordance with the notice, materials were available for review at the Department of Energy and Environmental Protection and posted on the Department's website;
- 3) Copies of the notice were mailed electronically to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) Public notice was published in the Connecticut Law Journal on March 19, 2013 and on the Department of Energy and Environmental Protection's website on March 6, 2013.

\_\_\_\_\_  
/s/Paul Kritzler  
Hearing Officer

May 15, 2013

\_\_\_\_\_  
Date

## Attachment D - Addressing Connecticut's Good Neighbor Obligations to Other States Under CAA section 110(a)(2)(D)(i)(I)

CAA section 110(a)(2)(D)(i)(I) requires each state's implementation plan to prohibit emissions which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any national ambient air quality standard. This attachment documents how Connecticut has met these "good neighbor" requirements for the 2012 PM<sub>2.5</sub> NAAQS.

EPA finalized designations for the 2012 PM<sub>2.5</sub> NAAQS<sup>16</sup> on December 18, 2014 (with technical revisions on March 31, 2015). As shown in Figure D-1, EPA designated all of Connecticut and adjacent states as attainment areas for the 2012 NAAQS. There are also no nonattainment areas located elsewhere in New England, the states generally downwind of Connecticut. The closest nonattainment areas are in Pennsylvania (3 areas) and Ohio (1 area), all located generally upwind of Connecticut and at least 115 miles from the nearest Connecticut border. Figure 1 also displays the most recent annual PM<sub>2.5</sub> design values, for 2014, which verify current NAAQS compliance in Connecticut and all nearby attainment areas. Figure D-2 shows annual PM<sub>2.5</sub> design value trends over the last decade for Connecticut and the nearby states of New York, New Jersey, Massachusetts and Rhode Island. Design values in each state have been steadily declining and have remained in compliance with the 2012 NAAQS since at least 2011. Therefore, monitoring data verify that there are no nonattainment issues in states that are nearby or downwind of Connecticut.

In addition, future emissions of PM<sub>2.5</sub> and important PM<sub>2.5</sub> precursor species are expected to decline over at least the next decade, providing assurance that maintenance of the 2012 PM<sub>2.5</sub> NAAQS in Connecticut and nearby states will continue. For example, Figure D-3 summarizes projected emission trends through 2025 for the southwestern portion of Connecticut.<sup>17</sup> Emissions of PM<sub>2.5</sub>, NO<sub>x</sub> and SO<sub>2</sub> are projected to decrease by 22%, 52% and 43%, respectively between 2007 and 2025. Note that the estimates do not include the post-2017 benefits of the federal Tier 3 motor vehicle low-sulfur gasoline and new vehicle emission standards which will begin taking effect in the 2017 timeframe and further reduce emissions as older vehicles are gradually replaced by newer Tier 3 compliant vehicles. When considered together, the compliant monitoring levels in nearby states and the projection of continued future decline in emissions from Connecticut sources demonstrate that Connecticut has met the good neighbor requirements of CAA section 110(a)(2)(D)(i)(I).

As additional weight-of-evidence, The Department of Energy and Environmental Protection (the Department) examined the results of EPA modeling conducted for the Cross-State Air Pollution Rule (CSAPR)<sup>18</sup>. The CSAPR modeling was targeted at assessing states' transport contributions for the 1997 and 2006 PM<sub>2.5</sub> NAAQS. Nonetheless, the Department considers the results for 2012 as informative for determining Connecticut's impacts on downwind areas because they are representative of impacts occurring during the 2012-2014 period that was used by EPA to establish designations for the 2012 NAAQS.

The Department examined EPA's CSAPR modeling results for 2012 to identify all out-of-state monitors where Connecticut emissions caused an impact of at least 1% of the 2012 NAAQS (i.e., at least 0.12 µg/m<sup>3</sup> for the annual NAAQS of 12.0 µg/m<sup>3</sup>), see Figure D-4. None of the receptors in Connecticut at impacts 1% or more of the standard

---

<sup>16</sup> Details regarding EPA's designations for the 2012 PM<sub>2.5</sub> NAAQS are posted at: <http://www.epa.gov/pmdesignations/2012standards/regs.htm>

<sup>17</sup> Fairfield and New Haven Counties in southwest Connecticut are part of the NY/NJ/CT attainment/maintenance area for the 1997 and 2006 PM<sub>2.5</sub> NAAQS. The emission projections described for southwest Connecticut are documented in [DEEP's maintenance SIP](#) for that area. EPA published approval of that SIP in the [September 24, 2013 Federal Register](#). Similar levels of reductions are projected to occur throughout the rest of Connecticut.

<sup>18</sup> Technical Support Documents for the Final Cross-State Air Pollution Rule (CSAPR) and the Supplemental Notice of Proposed Rulemaking (SNPR): <http://www3.epa.gov/airtransport/CSAPR/techinfo.html>



have attainment or maintenance problems. Table D-1 lists the details for three of the CT-impacted monitors mapped in Figure D-4 -- all located in Hamden County, MA -- and the corresponding CSAPR modeled results for 2012 for both the “average” and “maximum” scenarios evaluated by EPA (which relate to the nonattainment and maintenance prongs, respectively, of CAA section 110(a)(2)(D)(i)(I)). As shown in the table, the modeling results indicate 2012 compliance for the annual PM<sub>2.5</sub> NAAQS at the three CT-impacted monitors. The modeling results also indicate that impacts from Connecticut in 2012 were less than the 1% screening threshold at all other out-of-state monitors, including those located in the upwind Pennsylvania and Ohio nonattainment areas, as well as at all monitors projected by EPA’s CSAPR modeling to exceed the NAAQS in 2012 (see Figure D-4). Furthermore, as was previously shown in Figure D-2, monitored design values in Massachusetts (including the Hamden County, MA monitors) have maintained compliance with the 2012 NAAQS since 2008. Thus, EPA’s CSAPR modeling results support the conclusions of the monitoring data analysis described earlier and provide additional evidence that Connecticut has met the good neighbor requirements for the 2012 PM<sub>2.5</sub> NAAQS.

Figure D-1. PM<sub>2.5</sub> Attainment and Nonattainment Areas in the Northeast

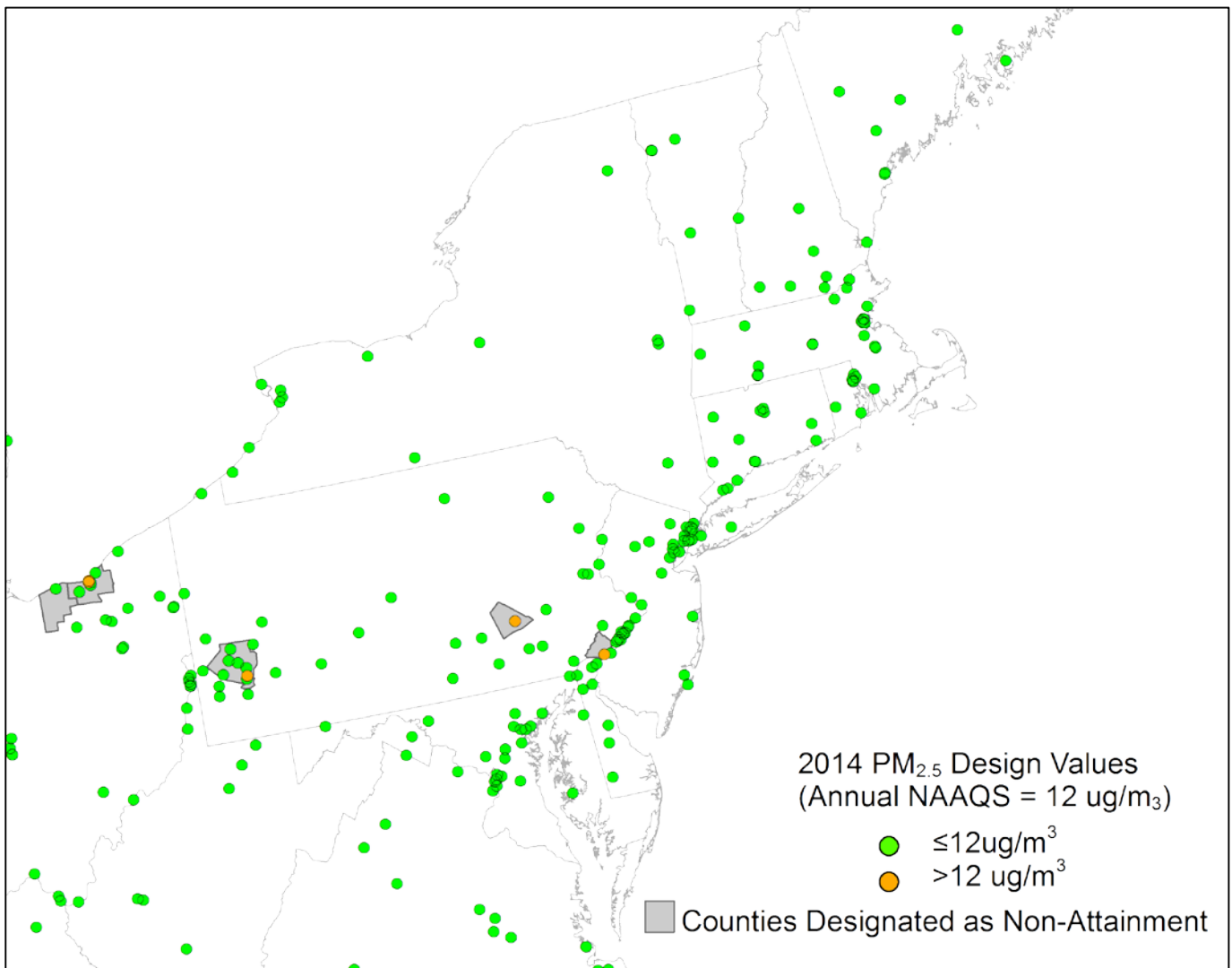


Figure D-2. Annual Design Value Trends for Connecticut and Neighboring States

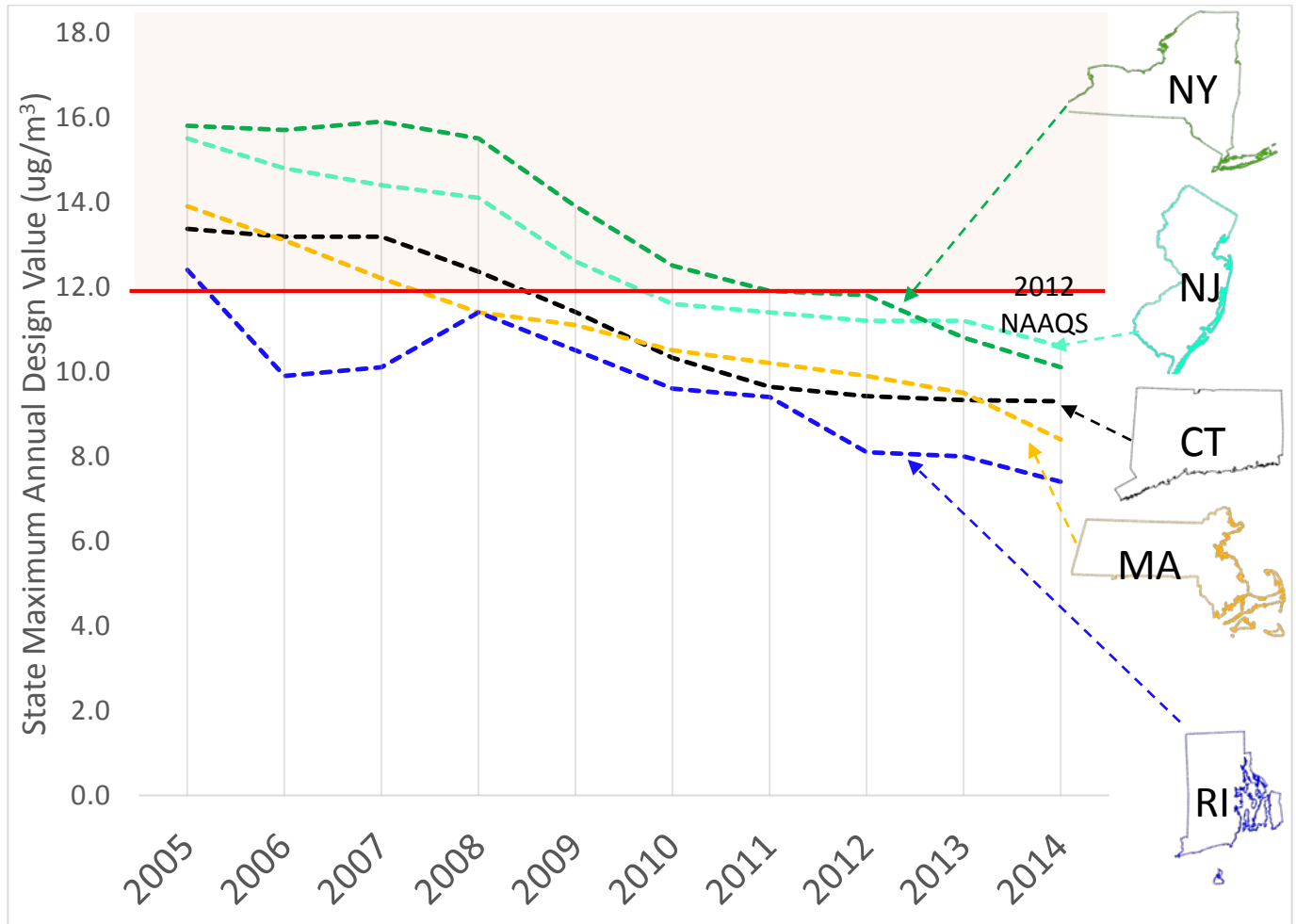
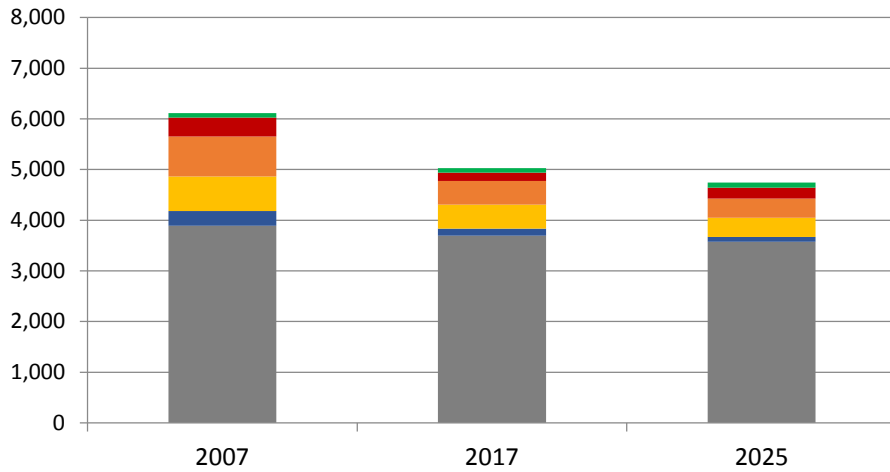
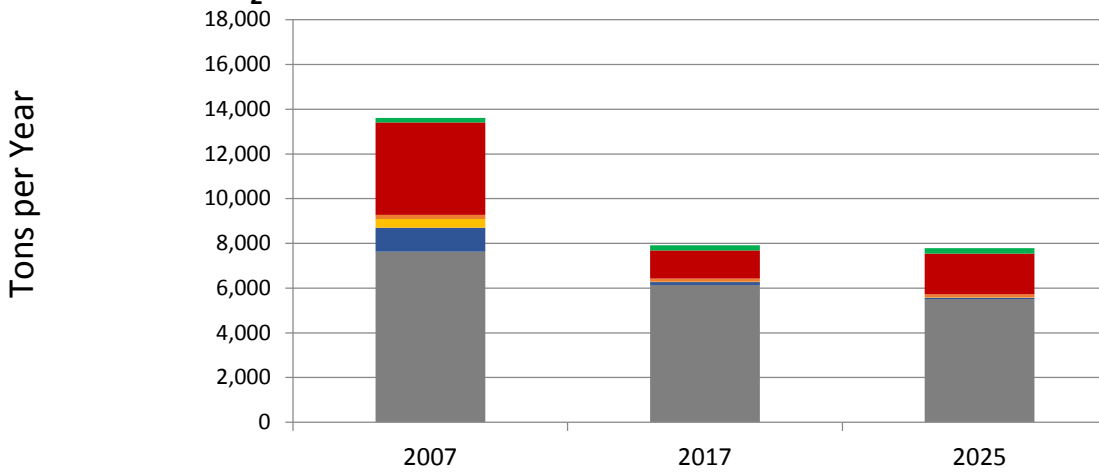


Figure D-3. Emission Estimates Trends for Fairfield and New Haven Counties

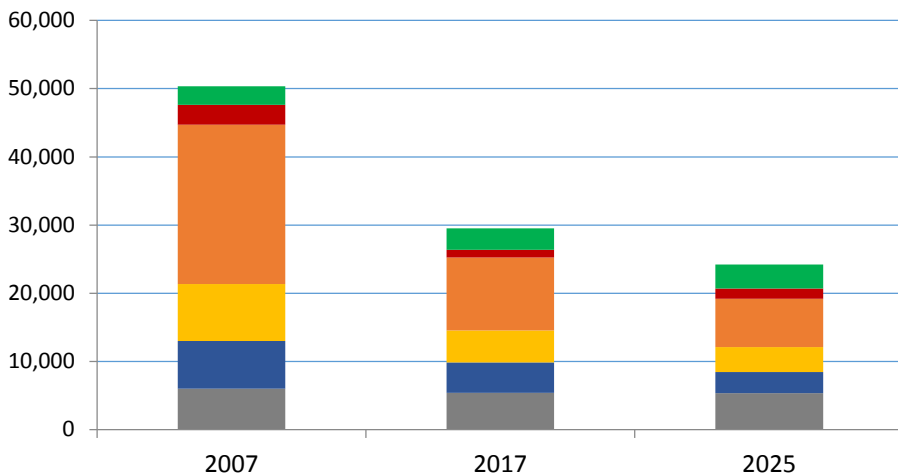
### PM<sub>2.5</sub> Emission Trends



### SO<sub>2</sub> Emission Trends



### NO<sub>x</sub> Emission Trends



- EGU
- Non-EGU Point
- On-Road
- Off-Road
- Marine
- Area

Figure D-4. Connecticut Contributions to Modeled Violating Monitors in 2012 (Based on EPA's CSAPR Modeling Results)

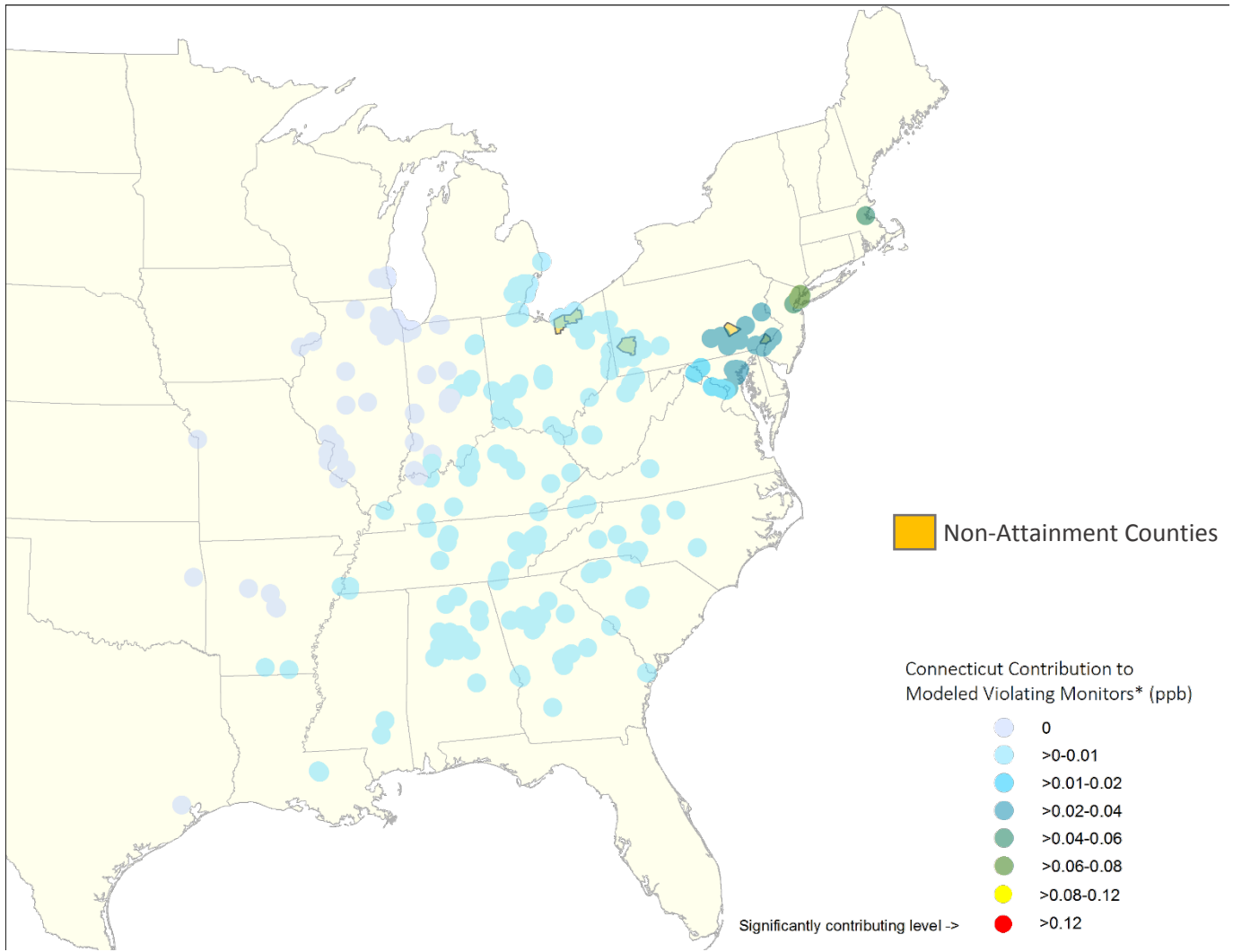


Table D-1. CSAPR modeling results at all out-of-state monitors with impacts from CT emissions of at least 1% of the 2012 annual PM2.5 NAAQS

Monitoring Locations with CSAPR Modeled Impacts from CT of at Least 1% of the 2012 PM2.5 NAAQS*			CSAPR Modeled Annual PM2.5 Design Values		CSAPR Modeled 2012 CT Impact (µg/m3)	CSAPR Modeled Compliance in 2012?
State	County	Site ID	2012 Base Case Average Values (µg/m3)	2012 Base Case Maximum Values (µg/m3)		
Massachusetts	Hampden	250130008	8.56	8.82	0.16	Yes
Massachusetts	Hampden	250130016	10.70	11.00	0.18	Yes
Massachusetts	Hampden	250132009	10.41	10.45	0.18	Yes

\* The 1% impact threshold is 0.12 µg/m<sup>3</sup> (i.e., 1% of the 12.0 µg/m<sup>3</sup> NAAQS).

State of Connecticut  
**REGULATION**  
of the

---

NAME OF AGENCY:

Energy and Environmental Protection

---

**Concerning**

---

SUBJECT MATTER OF REGULATION:

**Amendment of Section 22a-174-19 of the  
Regulations of Connecticut State Agencies (RCSA)  
Control of Sulfur Compound Emissions  
Amendment of Section 22a-174-19a of the RCSA  
Control of Sulfur Dioxide Emissions from Power Plants and Other Large  
Stationary Sources of Air Pollution  
Amendment of Sections 22a-174-5(a) and 22a-174-5(b)(1) of the RCSA  
Methods for sampling, emission testing, sample analysis and reporting  
Adoption of Section 22a-174-19b of the RCSA  
Sulfur Content Limitations for Stationary Sources**

---

**Section 1. Section 22a-174-19 of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(a) [Fuel combustion.** (a)(1) Definitions. As used in subsections (a) through (f) inclusive:

“Combustible” means the heat-producing constituents of a fuel.

“Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

“Fuel” means a substance containing combustibles used for producing heat, light, power or energy.

“Fuel merchant” means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, fuel, including agents, brokers, wholesalers, distributors, or producers who sell commercial or noncommercial fuel.

“Fuel user” means any person who stores or utilizes commercial or non-commercial fuel for the purpose of creating by combustion heat, light, power, or energy.

“Gross heat input” means the total energy requirement for a premise for twelve (12) consecutive months.

“Heat input” means the actual firing rate of the fuel burning equipment.

“Premise” means the grouping of all air pollutant emitting activities or sources at any one location and owned or under the control of the same person or persons.

“Stack” or “chimney” means a flue, conduit or opening permitting particulate or gaseous emission into the open air, or constructed or arranged for such purpose.

“Sulfur dioxide (SO<sub>2</sub>)” means a colorless gas at standard conditions which has the molecular formula SO<sub>2</sub>.

“Sulfur oxides (SO<sub>x</sub>)” means any compound made up only of sulfur and oxygen which for the purpose of this regulation will be calculated as sulfur dioxide (SO<sub>2</sub>).

(a)(2) Fuel users

(a)(2)(i) No person, except as provided in subparagraphs (a)(2)(ii), (a)(3)(i) and (a)(3)(ii), shall use or burn fuel which contains sulfur in excess of a maximum of one percent (1.0%) by weight (dry basis). Additionally, no fuel user shall cause or permit the installation or operation of any fuel burning equipment with a heat input of 250,000 BTU per hour or more which uses fuel containing any solid fuel without first obtaining the Commissioner’s approval by the issuance of a stationary source operating permit for this purpose, unless the fuel user demonstrates to the Commissioner’s satisfaction that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment are 1.1 pounds per million BTU of heat input or less.

(ii) Under conditions of fuel shortage emergency, as determined by the Commissioner, higher percentages of sulfur may be permitted by express approval of the Commissioner for temporary periods.

(a)(3) Use of fuel containing other than one percent (1%) sulfur.

(a)(3)(ii) Air pollution control/energy trade program. Notwithstanding the provisions of subsection (a)(2), the Commissioner may approve: (i) combustion of a mixture of fuels, or (ii) combustion of a single fuel, which contain(s) more than one percent (1.0 percent) sulfur by weight (dry basis) provided that:

- (A) The emissions of sulfur compounds (expressed as sulfur dioxide) from a given premise do not exceed 0.55 pounds per million BTU of gross heat input;
- (B) The owner or operator of the premise applies for and obtains, prior to the burning of such fuel, a stationary source operating permit for this purpose; and
- (C) The emissions do not prevent or interfere with either the attainment or maintenance of any applicable air quality standard.

(a)(3)(ii) Emission limitation. Notwithstanding the provisions of subdivision (a)(2) the Commissioner may approve the combustion of a single fuel or a mixture of fuels which

contain(s) more than one percent (1%) sulfur by weight (dry basis) for any fuel burning equipment provided that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment do not exceed 1.1 pounds per million BTU of heat input.

(a)(3)(iii) Ambient impact. Notwithstanding the provisions of subdivision (a)(2) or subparagraphs (a)(3)(i) and (ii) the Commissioner shall, by permit or order, limit the emission of sulfur compounds (expressed as sulfur dioxide) from any fuel burning equipment on a given premise to less than 1.1 pounds per million BTU of heat input for any source which interferes with the attainment or maintenance of any applicable air quality standard.

(a)(4) Fuel merchants

(a)(4)(i) No fuel merchant, except as provided in subparagraphs (a)(4)(ii) and (iii) shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut fuel which contains in excess of one percent (1.0%) sulfur by weight (dry basis).

(a)(4)(ii) In other than conditions of fuel shortage emergency described under subsection (a)(2)(ii), fuel merchants seeking to store, offer for sale, sell, deliver for use or exchange in trade, for use in Connecticut, and fuel users seeking to create by combustion heat, light, power, or energy from fuels containing sulfur in excess of the maximums set by subsection (a)(2) under the conditions specified in subsection (a)(3) shall obtain the prior approval of the Commissioner.

(a)(4)(iii) The Commissioner may allow a fuel merchant to store, sell, or deliver fuel, which contains more than one percent (1%) sulfur by weight (dry basis) to any fuel user who has been authorized to use such fuel by:

(A) A variance pursuant to 22a-174-13; or

(B) A permit pursuant to 22a-174-3; or

(C) Approval pursuant to 22a-174-19(a)(2)(ii); or

(D) Approval pursuant to 22a-174-19(a)(3); or

(E) Authorization as a result of any other action taken by the Commissioner.

The Commissioner may take such action under this subparagraph without requiring any notice or hearing.

(a)(5) The Commissioner may require submission of fuel analyses, results of stack sampling, or both, prepared at the expense of the merchant or user, to ensure compliance with the provisions of subsections (a)(1) through (a)(7) inclusive, and no person shall fail to submit such data when requested to do so by the Commissioner.



(a)(6) Persons selling fuels in Connecticut shall maintain records of sales of all fuel containing sulfur and shall make these records available for inspection by the Commissioner or his representative during normal business hours. This section shall not apply to any of the following fuels which have sulfur contents below two-tenths of one percent (0.2%) by weight (dry basis): distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel.

(a)(7) The provisions of subsection (a)(1) through (a)(6) inclusive shall not apply to fuels used by oceangoing vessels.

(a)(8) No person shall cause or permit the flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide in concentrations greater than 10 grains per 100 standard cubic feet (23 gm/100 scm) of gas.

(a)(9)(i) The provisions of subsections (a)(2)(i) above shall not apply to any coal burning equipment used primarily for educational or historical demonstrations or exhibits provided that the emissions from such fuel burning equipment do not interfere with either the attainment or maintenance of any applicable air quality standard. These sources shall include, but are not limited to, blacksmith's forges, steam locomotives, and steamboats, provided, however, that such sources do not use or burn fuel which contains sulfur in excess of one and one-half percent (1.5%) by weight (dry basis).

(ii) As a prerequisite for exemption under the provisions of subsections (a)(9)(i), owners shall notify the Commissioner prior to commencement of said operation.

(iii) The Commissioner may revoke or modify an exemption under subsection (a)(9) if he determines that operation of the source will (1) prevent or interfere with the attainment or maintenance of any applicable air quality air standards, or (2) create a substantial health problem.

(iv) All fuel merchants are authorized to sell fuel to any owner or operator granted an exemption pursuant to subsection (a)(9) above. In addition to the requirements of subsection (a)(7) above, all records shall include the sulfur content of the fuel.] **Reserved.**

(b) Sulfuric acid plants.

No person shall cause or permit sulfur [oxides] compound, expressed as sulfur dioxide, emissions which exceed 6.5 pounds per ton (3.25 kg/ metric ton) of one hundred percent (100%) acid produced.

(c) Sulfur recovery plants.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from a sulfur recovery plant to exceed 0.01 pounds (kg) per pound (kg) of sulfur processed.

(d) Nonferrous smelters.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from primary non-ferrous smelters to exceed that set forth according to the following equations.

Copper smelters:  $Y = 0.2 X$

Zinc smelters:  $Y = 0.564 X[0.85] \underline{0.85}$

Lead smelters:  $Y = 0.98 X[0.77] \underline{0.77}$

Where X is the total sulfur fed to the smelter in lb/hr and Y is the allowable sulfur dioxide emissions in lb/hr.

(e) Sulfite pulp mills.

No person shall cause or permit the total sulfite pulp mill emissions of sulfur [oxides] compounds, expressed as sulfur dioxide, from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 pounds per air-dried ton (4.5 kg/metric ton) of pulp produced.

(f) Other process sources.

Notwithstanding the provisions of section 22a-174-18(f) of the Regulations of Connecticut State Agencies, process sources not covered in subsections (b) through (e) of this section shall not emit sulfur [oxides] compounds [(], expressed as sulfur dioxide)], in the stack effluent in concentrations [which] that exceed 500 parts per million at standard temperature and pressure.

**Sec. 2. Section 22a-174-19a(c) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(c) [Sulfur dioxide emission standards and fuel sulfur limits effective on and after January 1, 2002.** On and after January 1, 2002 and except as provided in subsection (f) of this section, the owner or operator of an affected unit or units shall:

(1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 0.5 % sulfur, by weight (dry basis);

(2) Meet an average emission rate of equal to or less than 0.55 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at the premises; or

(3) Meet an average emission rate of equal to or less than 0.5 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at the premises.] **Reserved.**

**Sec. 3. Section 22a-174-19a(d)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(1) No later than the following March 1, for each calendar year, [commencing January 1, 2002,] the owner or operator of each affected unit that is also a Title IV source shall retire one SO<sub>2</sub> allowance, rounded up to the next whole ton, for each ton of SO<sub>2</sub> emitted in the state of Connecticut. This requirement is in addition to any other requirements imposed on the owner or operator of a Title IV source by the Administrator under 40 CFR [Parts]72 and 73.

**Sec. 4. Section 22a-174-19a(e) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(e) Sulfur dioxide emissions standards and fuel sulfur limits [effective on and after January 1, 2003].** [Notwithstanding the provisions of subsection (b) of this section, this subsection shall apply, on and after January 1, 2003, to the owner or operator of a Title IV source that is also an affected unit or units. On and after January 1, 2003, such] The owner or operator of an affected unit shall:

- (1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 3000 ppm (0.3 % sulfur, by weight) [(dry basis)];
- (2) Meet an average emission rate of equal to or less than 0.33 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at a premises; or
- (3) Meet an average emission rate of equal to or less than 0.3 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at a premises.

**Sec. 5. Subsection (g)(1) of section 22a-174-19a of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(g) Fuel emergencies.**

(1) The commissioner may suspend the requirements of subsection [(c) or] (e) of this section for the owner or operator of any affected unit using a low-sulfur fuel. For the purposes of this subsection, a low-sulfur fuel is any solid, liquid or gaseous fuel with a sulfur content equal to or less than [0.5% by weight, dry basis] 3000 ppm (0.3% by weight). Such suspension shall be made only when the commissioner finds that the availability of fuel that complies with such requirements is inadequate to meet the needs of residential, commercial and industrial users in this state and that such inadequate supply constitutes an emergency.

**Sec. 6. Section 22a-174-19a(i) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(i) Record keeping.**

(1) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the applicable fuel sulfur limits of [subsections (c)(1) or] subsection (e)(1) of this section shall make and keep records in accordance with the following:

- (A) If fuel with sulfur content not exceeding an applicable fuel sulfur limit is the only fuel purchased and combusted by an affected unit, then the owner or operator shall make and keep records that demonstrate the fuel sulfur content of each shipment of fuel received; or
- (B) If fuel with sulfur content above any applicable limit is blended at the premises for combustion in an affected unit or units, the owner or operator shall make and keep daily records demonstrating that all fuel combusted at the affected unit or units meets the applicable fuel sulfur limits of subsection [(c)(1) or] (e)(1) of this section. Fuel sulfur analysis shall be conducted in accordance with the American Society for Testing and Material (ASTM) test method D4294 and automatic sampling equipment shall conform to ASTM test method D4177-82, or a more recent version of the same method. (Copies of ASTM test methods [D4294 and D4177-82] referenced in this section may be obtained from the Department of Environmental Protection, Bureau of Air Management, 79 Elm Street, 5th floor, Hartford, CT 06106-5127; (860) 424-3027).

(2) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the average SO<sub>2</sub> emission rate limits of subsections [(c)(2), (c)(3),] (e)(2) or (e)(3) of this section shall make and keep records in accordance with the following:

- (A) For affected units that are also Title IV sources, hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of 40 CFR 75;
- (B) For affected units that are not Title IV sources:
  - (i) hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of either 40 CFR 60 or 75, or
  - (ii) if any affected unit does not have a CEMS in accordance with either 40 CFR 60 or 75, then hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS or other monitoring system; and

- (C) For all affected units, quarterly facility SO<sub>2</sub> emission rate averages, determined by dividing total quarterly SO<sub>2</sub> emissions by total quarterly heat input values for all affected units at the facility.

(3) The owner or operator of an affected unit shall keep the records specified in subdivision (1) or (2) of this subsection at the premises for a period of five years. [Such records need not be maintained for distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel, provided such fuels have a sulfur content below (0.3% by weight) (dry basis) and are the only fuels combusted at the affected unit. This exemption shall not apply when such fuels are combusted in combination with other fuels having sulfur contents above (0.3% by weight) (dry basis).]

**Sec. 7. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-19b as follows:**

**(NEW)**

**Section 22a-174-19b. Fuel Sulfur Content Limitations for Stationary Sources.**

**(a) Definitions.** For the purposes of this section, the definitions provided in this subsection shall apply. Terms used in this section that are not defined in this subsection are as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

(1) “Aviation fuel” means a refined petroleum distillate defined in ASTM D1655, Standard Specification for Aviation Turbine Fuels, or the current active version thereof. “Aviation fuel” includes Jet A and Jet A-1 but does not include Jet B.

(2) “Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

(3) “Fuel” means distillate fuel oil, residual oil, blends of distillate fuel oil and biodiesel fuel, blends of residual oil and biodiesel fuel, aviation fuel or kerosene.

(4) “Kerosene” means a refined petroleum distillate defined in ASTM D3699-08, Standard Specification for Kerosine, or the current active version thereof.

(5) “Sulfur dioxide” or “SO<sub>2</sub>” means a gas that at standard conditions has the molecular form SO<sub>2</sub>.

**(b) Applicability.** Except as provided in subsection (c) or (e) of this section, this section applies to any person who, on or after July 1, 2014, sells, supplies, offers for sale, stores, delivers or exchanges in trade in the state of Connecticut any fuel for combustion in a stationary source in the state of Connecticut and to any person who, on or after July 1, 2014, combusts any fuel in a stationary source within the state of Connecticut.

**(c) Exemptions.** The persons and fuels identified in this subsection are exempt from regulation pursuant to this section.

- (1) The requirements of this section shall not apply to the fuel combusted in a mobile source.
- (2) This section shall not apply to any person storing fuel in the state of Connecticut for shipment, sale and use outside of the state of Connecticut.
- (3) Fuel stored in the state of Connecticut that meets any applicable sulfur content limitation at the time it is stored in the state of Connecticut may be stored, offered for sale, sold, delivered or exchanged in trade for combustion in the state of Connecticut and combusted in the state of Connecticut even if the sulfur content limitation applicable at the time of storage has been changed subsequent to the date of storage.
- (4) This section shall not apply to a person combusting fuel in fuel-burning equipment undergoing testing as part of a research and development program.
- (5) The requirements of this section shall not apply to:
  - (A) A person combusting fuel in a stationary source for which the fuel is subject to limitation under section 22a-174-19a of the Regulations of Connecticut State Agencies; or
  - (B) A person selling or storing fuel for sale to a person identified in subparagraph (A) of this subdivision.
- (6) The requirements of this section shall not apply to a person who sells, supplies, offers for sale, stores for sale or combusts number two heating oil subject to the sulfur content limitations of section 16a-21a of the Connecticut General Statutes.
- (7) Any fuel in equipment that is leased or rented outside of the state of Connecticut for use in Connecticut may be combusted in the state of Connecticut regardless of the sulfur content, provided that all refueling of such leased or rented equipment performed while in Connecticut complies with the fuel sulfur content limits of Table 19b-1 of this section.

**(d) Fuel oil sulfur content limitations.**

- (1) No person shall store, offer for sale, sell, deliver or exchange in trade, for combustion in a stationary source in the state of Connecticut, fuel that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 of this section, except as provided in subsection (c) or (e) of this section.
- (2) No person shall combust fuel in a stationary source that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 of this section, except as provided in subsection (c) or (e) of this section.
- (3) Notwithstanding compliance with subdivision (1) or (2) of this subsection, the commissioner may, by permit or order, impose additional restrictions on any owner or operator

to limit the emission of sulfur compounds, expressed as sulfur dioxide, from any stationary source combusting fuel if the commissioner determines that operation of such equipment interferes with the attainment or maintenance of any applicable ambient air quality standard.

<b>Table 19b-1</b>		
<b>Fuel Type</b>	<b>Maximum Fuel Sulfur Content</b>	
	<b>Effective July 1, 2014 through June 30, 2018</b>	<b>Effective on and after July 1, 2018</b>
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%) by weight	15 ppm (0.0015%) by weight
Residual oil or residual oil blended with biodiesel fuel	10,000 ppm (1.0 %) by weight	3000 ppm (0.3%) by weight
Aviation fuel combusted in a stationary source	3000 ppm (0.3%) by weight	3000 ppm (0.3%) by weight
Kerosene	400 ppm (0.04%) by weight	15 ppm (0.0015%) by weight

**(e) Fuel shortage emergency.**

(1) Under conditions of fuel shortage emergency, as determined by the commissioner, the commissioner may approve in writing the sale or combustion of fuel with a sulfur content that exceeds the applicable limitation in Table 19b-1 of this section. Any person seeking an approval under this subsection shall submit a request in writing to the Bureau of Air Management, Director of Engineering and Enforcement, where such request shall include:

- (A) A detailed statement describing the reason for the fuel shortage and the acute nature of the shortage. A fuel shortage may be of a type for firing in a particular emission source or generally throughout the state;
- (B) A statement that the acute nature of the shortage is the only reason for the request; and
- (C) A signature of a responsible official as described in section 22a-174-2a(a) of the Regulations of Connecticut State Agencies.

(2) The commissioner may approve a request under this subsection provided:

- (A) The requester has provided sufficient information concerning the fuel shortage;

- (B) The request states that the acute nature of the shortage is the sole reason for the request;
  - (C) The request is signed by a responsible official; and
  - (D) Approval of the request will not create a condition that will cause imminent danger to the environment or public health.
- (3) The commissioner shall notify the Administrator within five days of granting a request to sell or combust fuel that exceeds the limitations in Table 19b-1 of this section.
- (4) In approving any request under this subparagraph, the commissioner shall specify in writing the period of time such suspension shall be in effect, where such time shall not exceed 90 days.
- (5) The provisions of this subsection shall be pre-empted when the Governor declares that an energy or fuel supply emergency exists.

**(f) Compliance determinations.**

- (1) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall determine the sulfur content and quantity of each type of fuel sold.
- (2) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall provide certification of the sulfur content of the fuel to each purchaser of fuel.
- (3) Sulfur content shall be analyzed in accordance with American Society for Testing and Material (ASTM) test method D4294-10, *Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry*, or D7039-07, *Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-ray Fluorescence Spectrometry*, or the current active version thereof, and automatic sampling equipment shall conform to ASTM test method D4177-95(2010), *Standard Practice for Automatic Sampling of Petroleum and Petroleum Products*, or the current active version thereof.
- (4) A person may request the use of a method to analyze the sulfur content of fuel other than the method identified in subdivision (3) of this subsection, if the method is approved by a voluntary standards body such as ASTM or the International Standards Organization. Such a request shall name and describe the alternative method for which approval is sought, the approving organization, and shall be submitted to the commissioner and Administrator for review and approval. Such alternative method may not be the sole method used to determine the sulfur content of fuel until approved by the commissioner and the Administrator.



**(g) Record keeping and reporting for fuel users and merchants.**

(1) Persons selling and combusting fuels in Connecticut subject to the requirements of this section shall maintain records of information necessary for the commissioner to determine compliance with the requirements of this subsection.

(2) Any person who sells fuel shall maintain records of the sulfur content of fuels sold, the heating value and the quantities of fuels sold.

(3) Any person combusting fuel shall maintain records of the sulfur content of the fuel combusted and the quantity purchased for combustion. A written certification or a written contract with a fuel supplier is sufficient to satisfy the requirements of this subdivision if the certification or contract identifies:

(A) The name of the fuel seller;

(B) The type of fuel purchased;

(C) The sulfur content of the fuel purchased; and

(D) The method used to determine the sulfur content of the fuel purchased.

(4) All records made to demonstrate compliance with the requirements of this subsection shall be:

(A) Made available to the commissioner to inspect and copy upon request; and

(B) Maintained for five (5) years from the date such record is created.

**Sec. 8. Section 22a-174-5(a) and (b)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(a) All sampling, emission testing, and reporting shall be done in accordance with procedures prescribed by or acceptable to the Commissioner under [subsection] section 22a-174-5(d) of the Regulations of Connecticut State Agencies or specified in another section of the Regulations of Connecticut State Agencies adopted under chapter 446c of the Connecticut General Statutes.

(b) Sampling and emission testing methods.

(1) Analysis for the sulfur content of liquid fuels shall be done according to the American Society for Testing and Materials method D 4294, D 7039 or the most current methods approved by the American Society for Testing and Materials for the analysis of sulfur content of liquid fuels.

### **Statement of Purpose**

The primary purpose of this proposal is to reduce the sulfur content of fuel oils burned in stationary sources to reduce emissions of sulfur dioxide (SO<sub>2</sub>), an air pollutant and a contributor to the formation of the pollutant fine particulate matter (PM<sub>2.5</sub>). The reduction in SO<sub>2</sub> emissions is important to reduce visibility-impairing emissions that contribute to regional haze and protect the public health from the adverse health impacts of SO<sub>2</sub> and PM<sub>2.5</sub> pollution.

Connecticut is a member of a regional planning organization, the Mid-Atlantic/Northeast Visibility Union (MANEVU), which coordinates regional haze planning efforts to comply with section 169A of the federal Clean Air Act. In 2007, recognizing that SO<sub>2</sub> is the main contributor to visibility impairment, the MANEVU states agreed to pursue fuel sulfur content limitations for distillate and residual fuel oils.

The significant new elements of this proposal are those of new section 22a-174-19b of the Regulations of Connecticut State Agencies (RCSA), which include fuel sulfur content restrictions for distillate, residual, kerosene and aviation fuels used in all non-mobile equipment such as boilers, turbines and engines. These new fuel sulfur content restrictions are much more stringent than those of current RCSA section 22a-174-19. RCSA section 22a-174-19 is a regulation of general applicability that currently includes fuel sulfur content restrictions higher than those proposed in RCSA section 22a-174-19b. The less stringent fuel sulfur content restrictions of RCSA section 22a-174-19 are eliminated in this proposal. RCSA section 22a-174-19a includes provisions to limit SO<sub>2</sub> emissions from large electric generating units and industrial boilers, and those requirements are not changed by this proposal. RCSA section 22a-174-5(a) includes clarifying language and RCSA section 22a-174-5(b)(1) adds an allowable test method.

The more stringent fuel sulfur content limitations will mainly impact fuel suppliers, who will need to obtain compliant fuels, maintain records of the sulfur content of fuel sold and provide a certification to purchasers concerning the sulfur content of fuel.

The proposal recognizes that Connecticut General Statutes (CGS) section 22a-198 regulates the sulfur content of fuel used in large electric generating units and industrial boilers, and the regulation does not revise the sulfur content limitations for those sources. The proposal also recognizes the authority of CGS section 16a-21a, as amended by the Connecticut General Assembly in the 2013 legislative session, to limit the sulfur content of home heating oil and off-road diesel fuel. The fuels regulated by CGS section 16a-21a are exempt from regulation under the proposal. However, under CGS section 16a-21a, the sulfur content of home heating oil is subject to the same sulfur content limitations as distillate fuel oil in new RCSA section 22a-174-19b, and the standards apply on the same schedule.

Attachment E- Methods for Sampling, Emissions Testing, Sample Analysis and Reporting

*Final Regulation*

REGS-1 Rev. 09/2013

**CERTIFICATION**

Page 14 of 14

**I hereby certify that the above Regulation(s).**

- 1) **is/are (check all that apply)**  adopted  amended  repealed by this agency pursuant to the following authority (ies): *(complete all that apply)*  
 a. **Connecticut General Statutes section(s)** 22a-174, 22a-198.  
 b. **Public Act Number(s)** \_\_\_\_\_.

**And I further certify**

- 2) that **Notice of Intent** to adopt, amend, or repeal said regulation(s) was electronically submitted to the Secretary of the State on 8/20/13, and posted to the Secretary's regulations website on 8/21/13;
- 3) and that a public hearing regarding the proposed regulation(s) was held on 10/9/13 or  that no public hearing was held;
- 4) and that notice of **Decision to Take Action** on said regulations was electronically submitted to the Secretary of the State on \_\_\_\_\_, and posted to the Secretary's regulations website on \_\_\_\_\_;
- 5) and that said regulation(s) is/are **EFFECTIVE**  
 When posted online by the Secretary of the State.  
**OR**  on *(insert date)* \_\_\_\_\_.

<b>6) SIGNED (Head of Board, Agency or Commission)</b>	OFFICIAL TITLE, DULY AUTHORIZED	DATE
--	---------------------------------	------

**APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended**

DATE	SIGNED <i>(Attorney General or AG's designated representative)</i>	OFFICIAL TITLE, DULY AUTHORIZED
------	--	---------------------------------

*Proposed regulations are DEEMED APPROVED by the Attorney General in accordance with CGS Section 4-169, as amended, if the Attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

--	--	--

***(For Regulation Review Committee Use ONLY)***

APPROVED  in WHOLE or WITH  technical corrections  deletions  substitute pages

DEEMED APPROVED, pursuant to CGS 4-170(c), as amended.

Rejected without Prejudice  Disapproved, pursuant to CGS 4-170(c), as amended.

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED <i>(Administrator, Legislative Regulation Review Committee)</i>
---	------	--

**In accordance with CGS Section 4-172, as amended by PA 13-247 and PA 13-274, one certified paper copy and one electronic copy with agency head certification statement received on the date(s) specified below.**

DATE	SIGNED <i>(Secretary of the State)</i>	BY
------	--	----

<p><i>(For Secretary of the State Use ONLY)</i>  <b>Date Posted to SOTS Regulations Website:</b>  <input type="text"/></p> <p><b>Date Electronic Copy Forwarded to the Commission on Official Legal Publications:</b>  <input type="text"/></p>	<p><b>SOTS file stamp:</b></p>
---	--------------------------------



Connecticut Department of  
**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

## **NOTICE OF DECISION TO TAKE ACTION ON PROPOSED REGULATIONS**

### **Revision of Section 22a-174-19, 22a-174-19a, 22a-174-5(a) and 22a-174-5(b)(1) of the Regulations of Connecticut State Agencies (RCSA) Adoption of Section 22a-174-19b of the RCSA**

In accordance with the provisions of Section 4-168(d) of the General Statutes of the State of Connecticut (CGS), as amended, the Department of Energy and Environmental Protection (DEEP) hereby gives notice that it has decided to proceed with proposed regulations concerning amendment of Regulations of Connecticut State Agencies (RCSA) sections 22a-174-19, 22a-174-19a, 22a-174-5(a) and 22a-174-5(b)(1) and adoption of RCSA section 22a-174-19b. Notice of intent to adopt, amend, or repeal these regulations was posted to the regulations webpage of the Secretary of the State on August 21, 2013. The public hearing was held on October 9, 2013 and the comment period was open until October 10, 2013.

As required by the Freedom of Information Act and CGS Section 4-168(d), the following items are available for copying at the address specified below, and, by the alternate methods detailed:

- (A) The final wording of the proposed regulation; and
- (B) A Hearing Officer's report, which includes a statement of the principal reasons in support of this intended action, a statement of the principal considerations in opposition to this intended action, and a statement of the agency's reasons for accepting or rejecting such considerations.

#### **Address where copies of items (A) and (B), above, can be viewed or obtained:**

Department of Environmental Protection  
Bureau of Air Management  
Fifth Floor  
79 Elm Street  
Hartford, Connecticut 06106

#### **In addition, these items are available for viewing and printing on the following website:**

[http://www.ct.gov/deep/cwp/view.asp?a=2684&q=331220&deepNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&q=331220&deepNav_GID=1619)

#### **In addition, these items can be obtained by contacting the following staff member:**

Wendy Jacobs  
[Wendy.jacobs@ct.gov](mailto:Wendy.jacobs@ct.gov)  
Telephone: (860) 424-3457

Date Prepared: December 24, 2013

Attachment E- Methods for Sampling, Emissions Testing, Sample Analysis and Reporting  
*Hearing Attendees*



[www.ct.gov/deep](http://www.ct.gov/deep)

Affirmative Action/Equal Opportunity Employer

**Attachment C**

**Public Hearing Attendees**

Robert Silvestri  
PSEG Power Connecticut LLC  
1 Atlantic Street  
Bridgeport, CT 06604

Steve Guveyan  
Executive Director  
Connecticut Petroleum Council  
44 Capitol Ave., Suite 103-B  
Hartford, CT 06106

Shawn Konary  
Director, Environmental-East  
NRG Energy  
211 Carnegie Center  
Princeton, NJ 08540

Department of Energy & Environmental Protection  
Wendy Jacobs  
Merrily Gere  
Dan Vesa



**HEARING REPORT**  
**Prepared Pursuant to Section 4-168(d) of the**  
**Connecticut General Statutes and**  
**Section 22a-3a-3(d)(5) of the Department of Energy and Environmental Protection**  
**Rules of Practice**

**Regarding**  
**Amendment of Air Quality Regulations Concerning**  
**Control of Sulfur Compound Emissions and Control of**  
**Sulfur Dioxide Emissions from Power Plants and Other**  
**Large Stationary Sources of Air Pollution**

**Adoption of Air Quality Regulations Concerning Fuel**  
**Sulfur Content Limitations for Stationary Sources**

**Hearing Officer:**  
**Wendy Jacobs**

**Date of Hearing: October 9, 2013**

On August 21, 2013, the Commissioner of the Department of Energy and Environmental Protection (DEEP) published a notice of intent to control sulfur compound emission by amending sections 22a-174-19 and 22a-174-19a of the Regulations of Connecticut State Agencies (RCSA) and adopting RCSA section 22a-174-19b. Pursuant to such notice, a public hearing was held on October 9, 2013, with the public comment period closing on October 10, 2013.

**I. Hearing Report Content**

As required by section 4-168(d) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies principal reasons in support of and in opposition to the proposal, and summarizes and responds to all comments on the proposal.

The proposal is included as Attachment 2 to this report. A final revised version of the proposal based on the recommendations in this report is included as Attachment 3. A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1.

**II. Summary of Proposal**

The primary purpose of the proposal is to limit the sulfur content of fuel oils burned in stationary sources to reduce emissions of sulfur dioxide (SO<sub>2</sub>), an air pollutant and a contributor to the formation of the pollutant fine particulate matter (PM<sub>2.5</sub>). The reduction in SO<sub>2</sub> emissions is important to reduce visibility-impairing emissions that contribute to regional haze and protect the public health from the adverse health impacts of SO<sub>2</sub> and PM<sub>2.5</sub> pollution. This proposal does not regulate the sulfur content of heating oil to which CGS section 16a-21a applies. DEEP is

proposing to:

- Adopt, in new section 22a-174-19b of the Regulations of Connecticut State Agencies (RCSA), fuel sulfur content restrictions for distillate, residual, kerosene and aviation fuels used in all non-mobile equipment for purposes other than heating;
- Eliminate the less stringent fuel sulfur content restrictions of RCSA section 22a-174-19; and
- Remove outdated provisions in RCSA section 22a-174-19a, without changing the current requirements regulating SO<sub>2</sub> emissions from large electric generating units and industrial boilers.
- Clarify language in RCSA section 22a-174-5(a) and add a test method to RCSA section 22a-174-5(b)(1).

### **III. Opposition to the Proposal**

No submitted comments oppose adoption of this proposal.

### **IV. Summary of Comments**

No oral comments were given at the hearing.

Written comments were received from the following persons:

1. Michael J. Smeriglio  
Executive Director of Facilities Management  
Stamford Health Systems, Inc.  
Stamford Hospital  
30 Shelburne Road  
Stamford, CT 06904
2. Donald C. DiCristofaro, CCM  
President  
Blue Sky Environmental LLC  
P.O. Box 603  
Hingham, MA 02043
3. Eric J. Brown  
Director, Energy & Environmental Policy  
CBIA  
350 Church Street  
Hartford, CT 06103
4. Pamela F. Faggert  
Vice President and Chief Environmental Officer  
Dominion Resource Services, Inc.  
5000 Dominion Boulevard  
Glen Allen, VA 23060

5. Anne Arnold, Manager  
Air Quality Planning Unit  
United States Environmental Protection Agency  
Region I  
5 Post Office Square Suite 100  
Boston, Massachusetts 02109-3912

All comments submitted are summarized below with DEEP's responses. Commenters are associated with the individual comments below by the number assigned above. When changes to the proposed text are indicated in response to comment, new text is in bold font and deleted text is in strikethrough font.

**Comment 1:** The commenter supports Section 22a-174-19b, particularly the proposed new maximum sulfur content limits for distillate fuel listed in Table 19b-1 of subsection (d). The commenter also supports the exemption language in subsection (c)(3) that allows the use of any fuel that will not meet the sulfur content limits effective July 1, 2014 to be continued to be stored, offered for sale, delivered or combusted so long as it meets any applicable sulfur content limitations at the time it is stored, sold or delivered. The commenter also supports subsection (e) regarding a fuel shortage emergency.

**Commenter submitting this comment: 1**

**Response:** DEEP acknowledges the commenter's support for the proposal.

**Comment 2:** The commenter endorses the proposed changes, particularly the new regulations proposed as Section 22a-174-19b. The proposed lower sulfur standards will reduce emissions of sulfur dioxide, an air pollutant and contributor to the formation of fine particulate matter. By lowering the maximum fuel sulfur content as per Table 19b-1, the regulatory permitting burden for many small boilers will be greatly eased by eliminating the need for a new source review permit since the potential to emit for all criteria pollutants will be less than 15 tons per year. The commenter also supports the exemption language in subsection (c)(3) that allows the use of any fuel that will not meet the sulfur content limits effective July 1, 2014 to be continued to be stored, offered for sale, delivered or combusted so long as it meets any applicable sulfur content limitations at the time it is stored, sold or delivered. Finally, the commenter supports subsection (e) regarding a fuel shortage emergency.

**Commenter submitting this comment: 2**

**Response:** DEEP acknowledges the commenter's support for the proposal and agrees with the assessment of the impact on permitting for some small boilers.

**Comment 3:** From discussions among the commenter and fuel suppliers, the commenter's understanding is that 15 ppm maximum fuel sulfur content aviation fuel is not available in the marketplace currently and there are no plans in the fuel production industry to develop such a fuel in the foreseeable future, including by mid-2018. Also, any new aviation fuel would first need to be reviewed and approved by the Federal Aviation Administration (FAA), typically a very lengthy process. As a result, the proposed 15 ppm limit for aviation fuel in Table 19b-1 would effectively require a special fuel unique to Connecticut. Given the very small Connecticut



market for aviation fuel combusted in stationary sources, it is extremely unlikely that such a fuel would be developed and available to Connecticut facilities subject to RCSA section 22a-174-19b.

In other recent instances regarding fuel specifications (e.g., for gasoline and home heating oil), DEEP and the General Assembly have deliberately chosen to avoid creating significant market disruption and unique burdens on Connecticut businesses from state-specific fuel standards that are not in sync with market offerings. This same approach is warranted here. The commenter therefore requests that the proposed 15 ppm limit for aviation fuel combusted in a stationary source be removed from any final RCSA section 22a-174-19b regulation that may be adopted.

**Commenter submitting this comment: 3**

**Response:** DEEP did not intend for a separate Connecticut aviation fuel market to be created by the imposition of a 15 ppm fuel sulfur content limit. DEEP recognizes the limitations imposed by FAA requirements. The 3000 ppm fuel sulfur content limit is consistent with FAA requirements. For the reasons stated in the comment, DEEP should revise Table 19b-1 in proposed RCSA section 22a-174-19b by removing the 15 ppm limit for aviation fuel and maintaining the 3000 ppm limit without change, as follows:

<b>Table 19b-1</b>		
<b>Fuel Type</b>	<b>Maximum Fuel Sulfur Content</b>	
	<b>Effective July 1, 2014 through June 30, 2018</b>	<b>Effective on and after July 1, 2018</b>
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%) by weight	15 ppm (0.0015%) by weight
Residual oil or residual oil blended with biodiesel fuel	10,000 ppm (1.0 %) by weight	3000 ppm (0.3%) by weight
Aviation fuel combusted in a stationary source	3000 ppm (0.3%) by weight	<del>15-3000</del> 3000 ppm (0.0015-0.3 %) by weight
Kerosene	400 ppm (0.04%) by weight	15 ppm (0.0015%) by weight

**Comment 4:** In RCSA 22a-174-1, DEEP defines “stationary source” as:

*(11) “Stationary source” means “stationary source” as defined in 40 CFR 51.165(a)(1)(i) and (ii), provided that any portable emissions unit which is moved from site to site but remains stationary during operation is a stationary source (emphasis added).*

Given this definition of stationary source, the commenter is concerned that, to the extent non-road engines, such as trailer-mounted compressors and generators, are considered stationary sources and become subject to the sulfur-in-fuel requirements, out-of-state contractor and rental

equipment brought into the state could contain any grade fuel. Even in-state rental units that have been previously rented out-of-state may likewise contain fuel of unknown grade. New England is a region of small states and doing business over borders is common.

For these reasons, the commenter recommends that DEEP provide either an exemption for all non-road engines or include a provision that would provide a temporary waiver of the requirements until the engine's existing fuel supply is used up. The commenter suggests the following language for consideration to be added to the exemption provisions of new Section 22a-174-19b(c):

*“Temporary leased or rented equipment that may have previously been fuelled out-of-state will be compliant with this section if fuel consistent with the requirements of Table 19b-1 is exclusively used to replenish the fuel supply.”*

**Commenter submitting this comment: 4**

**Response:** The DEEP should allow for the use of existing fuel that may not meet the requirements of RCSA section 22a-174-19b in temporary leased or rented equipment, provided that all fuel used to refuel such temporary leased or rented equipment while the equipment is used in Connecticut meets the requirements of RCSA section 22a-174-19b. DEEP should add new subdivision (7) to RCSA section 22a-174-19b(c) to address the use of non-road engines that are leased or rented:

**(c)(7) Any fuel in equipment that is leased or rented outside of the state of Connecticut for use in Connecticut may be combusted in the state of Connecticut regardless of the sulfur content, provided that all refueling of such leased or rented equipment performed while in Connecticut complies with the fuel sulfur content limits of Table 19b-1 of this section.**

**Comment 5:** In a letter dated February 6, 2013, the commenter provided comments on draft revisions to Section 22a-174-19. DEEP has adequately addressed the commenter's previous comments in the current proposal.

The commenter supports the adoption of the proposed sulfur in fuel oil limitations. The commenter notes that similar limits have already been adopted by neighboring states, specifically New York, Massachusetts, Maine, and Vermont, in order to meet Regional Haze obligations.

The commenter encourages DEEP to submit the new and amended regulations, once adopted, to the Environmental Protection Agency (EPA) as a State Implementation Plan revision.

**Commenter submitting this comment: 5**

**Response:** DEEP notes the commenter's support for the proposal and agrees that, as stated in the notice for this proposal, DEEP should submit the adopted new and amended regulations to EPA as a State Implementation Plan revision.

**V. Comments of Hearing Officer**

The hearing officer suggests the following additional revisions to the proposal. The suggested revisions are minor, noncontroversial and will make for a clearer final proposal.

(1) The word “Parts” is unnecessary and should be removed from RCSA section 22a-174-19a(d)(1) as follows:

(1) No later than the following March 1, for each calendar year, [commencing January 1, 2002,] the owner or operator of each affected unit that is also a Title IV source shall retire one SO<sub>2</sub> allowance, rounded up to the next whole ton, for each ton of SO<sub>2</sub> emitted in the state of Connecticut. This requirement is in addition to any other requirements imposed on the owner or operator of a Title IV source by the Administrator under 40 CFR ~~Parts~~ 72 and 73.

(2) The phrase “of this section” should be added to proposed new RCSA section 22a-174-19b(d)(1) after the reference to Table 19b-1 as follows:

(1) No person shall store, offer for sale, sell, deliver or exchanged in trade, for combustion in a stationary source in the state of Connecticut, fuel that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 **of this section**, except as provided in subsection (c) or (e) of this section.

(3) DEEP already includes severability provisions in RCSA section 22a-174-15. Therefore, proposed new RCSA section 22a-174-19b(h) is unnecessary and should be deleted as follows:

~~(h) — Severability.~~

~~Each provision of this section shall be deemed severable, and in the event that any provision in this section is held to be invalid, the remainder of this section shall continue in full force and effect.~~

## VI. Conclusion

Based upon the comments addressed in this Hearing Report, I recommend the proposal be revised as recommended herein and that the recommended final proposal, included as Attachment 3 to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, be submitted to the EPA as a SIP revision.

/s/ Wendy Jacobs  
Wendy Jacobs, Hearing Officer

December 17, 2013  
Date

Attachment E- Methods for Sampling, Emissions Testing, Sample Analysis and Reporting  
Hearing Report

**ATTACHMENT 1**

**STATEMENT PURSUANT TO SECTION 22a-6(h) OF THE GENERAL STATUTES:  
PROPOSED REVISIONS TO THE  
SULFUR CONTENT OF FUEL COMBUSTED IN STATIONARY SOURCES**

Pursuant to section 22a-6(h) of the Connecticut General Statutes (CGS), the Commissioner of the Department of Energy and Environmental Protection (the Department) is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a regulatory proposal that differ from federal standards or procedures. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under CGS Title 4, Chapter 54 and make such explanation publicly available at the time of the publication of the notice of intent required under CGS section 4-168.

In accordance with the requirements of CGS section 22a-6(h), the following statement is entered into the administrative record in the matter of the proposed revisions to sections 22a-174-19 and 19a of the Regulations of Connecticut State Agencies (RCSA) and the adoption of RCSA section 22a-174-19b.

The proposal reduces the sulfur content of fuel oils burned in stationary sources to reduce emissions of sulfur dioxide (SO<sub>2</sub>), an air pollutant and a contributor to the formation of the pollutant fine particulate matter (PM<sub>2.5</sub>). The more stringent fuel sulfur content limits will mainly impact fuel suppliers. DEEP is proposing to:

- Adopt fuel sulfur content restrictions for distillate, residual, kerosene and aviation fuels used in all non-mobile equipment such as boilers, turbines and engines in new section 22a-174-19b of the Regulations of Connecticut State Agencies (RCSA);
- Eliminate the less stringent fuel sulfur content restrictions of RCSA section 22a-174-19; and
- Remove outdated provisions in RCSA section 22a-174-19a regulating SO<sub>2</sub> emissions from large electric generating units and industrial boilers.

No Federal law establishes standards or requirements regarding the sulfur content of the fuel oil regulated by the proposed revisions to RCSA sections 22a-174-19 and 19a or the adoption of RCSA section 22a-174-19b. The Federal government does set standards for the sulfur content of fuel oil used in motor vehicles 40 Code of Federal Regulations (CFR) 80.520 but does not have parallel requirements for fuel oil sold to be burned in stationary sources across sources types. The New Source Performance Standards of 40 CFR 60 and the National Emission Standards for Hazardous Air Pollutants of 40 CFR 63 require the use of fuel oil with a sulfur content equivalent to this proposal (distillate fuel with a sulfur content of 15 ppm or less) for many individual fuel-burning source categories.

In summary, the requirements of the proposal are an activity that is not regulated by the Federal government, although the resulting fuel sulfur content of fuel used in certain source categories is the same as that required in certain specific Federal requirements pertaining to air quality.

12 August 2013  
Date

/s/Merrily A. Gere  
Merrily A. Gere  
Bureau of Air Management

## **Attachment 2**

### **Proposal**

**Section 1. Section 22a-174-19 of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(a) [Fuel combustion.** (a)(1) Definitions. As used in subsections (a) through (f) inclusive:

“Combustible” means the heat-producing constituents of a fuel.

“Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

“Fuel” means a substance containing combustibles used for producing heat, light, power or energy.

“Fuel merchant” means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, fuel, including agents, brokers, wholesalers, distributors, or producers who sell commercial or noncommercial fuel.

“Fuel user” means any person who stores or utilizes commercial or non-commercial fuel for the purpose of creating by combustion heat, light, power, or energy.

“Gross heat input” means the total energy requirement for a premise for twelve (12) consecutive months.

“Heat input” means the actual firing rate of the fuel burning equipment.

“Premise” means the grouping of all air pollutant emitting activities or sources at any one location and owned or under the control of the same person or persons.

“Stack” or “chimney” means a flue, conduit or opening permitting particulate or gaseous emission into the open air, or constructed or arranged for such purpose.

“Sulfur dioxide (SO<sub>2</sub>)” means a colorless gas at standard conditions which has the molecular formula SO<sub>2</sub>.

“Sulfur oxides (SO<sub>x</sub>)” means any compound made up only of sulfur and oxygen which for the purpose of this regulation will be calculated as sulfur dioxide (SO<sub>2</sub>).

(a)(2) Fuel users

(a)(2)(i) No person, except as provided in subparagraphs (a)(2)(ii), (a)(3)(i) and (a)(3)(ii), shall use or burn fuel which contains sulfur in excess of a maximum of one percent (1.0%) by weight (dry basis). Additionally, no fuel user shall cause or permit the installation or operation of any fuel burning equipment with a heat input of 250,000 BTU per hour or more which uses fuel containing any solid fuel without first obtaining the Commissioner’s approval by the issuance of a stationary source operating permit for this purpose, unless the fuel user demonstrates to the Commissioner’s satisfaction that the

emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment are 1.1 pounds per million BTU of heat input or less.

(ii) Under conditions of fuel shortage emergency, as determined by the Commissioner, higher percentages of sulfur may be permitted by express approval of the Commissioner for temporary periods.

(a)(3) Use of fuel containing other than one percent (1%) sulfur.

(a)(3)(ii) Air pollution control/energy trade program. Notwithstanding the provisions of subsection (a)(2), the Commissioner may approve: (i) combustion of a mixture of fuels, or (ii) combustion of a single fuel, which contain(s) more than one percent (1.0 percent) sulfur by weight (dry basis) provided that:

- (A) The emissions of sulfur compounds (expressed as sulfur dioxide) from a given premise do not exceed 0.55 pounds per million BTU of gross heat input;
- (B) The owner or operator of the premise applies for and obtains, prior to the burning of such fuel, a stationary source operating permit for this purpose; and
- (C) The emissions do not prevent or interfere with either the attainment or maintenance of any applicable air quality standard.

(a)(3)(ii) Emission limitation. Notwithstanding the provisions of subdivision (a)(2) the Commissioner may approve the combustion of a single fuel or a mixture of fuels which contain(s) more than one percent (1%) sulfur by weight (dry basis) for any fuel burning equipment provided that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment do not exceed 1.1 pounds per million BTU of heat input.

(a)(3)(iii) Ambient impact. Notwithstanding the provisions of subdivision (a)(2) or subparagraphs (a)(3)(i) and (ii) the Commissioner shall, by permit or order, limit the emission of sulfur compounds (expressed as sulfur dioxide) from any fuel burning equipment on a given premise to less than 1.1 pounds per million BTU of heat input for any source which interferes with the attainment or maintenance of any applicable air quality standard.

(a)(4) Fuel merchants

(a)(4)(i) No fuel merchant, except as provided in subparagraphs (a)(4)(ii) and (iii) shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut fuel which contains in excess of one percent (1.0%) sulfur by weight (dry basis).

(a)(4)(ii) In other than conditions of fuel shortage emergency described under subsection (a)(2)(ii), fuel merchants seeking to store, offer for sale, sell, deliver for use or exchange in trade, for use in Connecticut, and fuel users seeking to create by combustion heat, light, power, or energy from fuels containing sulfur in excess of the maximums set by subsection (a)(2) under the conditions specified in subsection (a)(3) shall obtain the prior approval of the Commissioner.

- (a)(4)(iii) The Commissioner may allow a fuel merchant to store, sell, or deliver fuel, which contains more than one percent (1%) sulfur by weight (dry basis) to any fuel user who has been authorized to use such fuel by:
- (A) A variance pursuant to 22a-174-13; or
  - (B) A permit pursuant to 22a-174-3; or
  - (C) Approval pursuant to 22a-174-19(a)(2)(ii); or
  - (D) Approval pursuant to 22a-174-19(a)(3); or
  - (E) Authorization as a result of any other action taken by the Commissioner.

The Commissioner may take such action under this subparagraph without requiring any notice or hearing.

- (a)(5) The Commissioner may require submission of fuel analyses, results of stack sampling, or both, prepared at the expense of the merchant or user, to ensure compliance with the provisions of subsections (a)(1) through (a)(7) inclusive, and no person shall fail to submit such data when requested to do so by the Commissioner.
- (a)(6) Persons selling fuels in Connecticut shall maintain records of sales of all fuel containing sulfur and shall make these records available for inspection by the Commissioner or his representative during normal business hours. This section shall not apply to any of the following fuels which have sulfur contents below two-tenths of one percent (0.2%) by weight (dry basis): distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel.
- (a)(7) The provisions of subsection (a)(1) through (a)(6) inclusive shall not apply to fuels used by oceangoing vessels.
- (a)(8) No person shall cause or permit the flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide in concentrations greater than 10 grains per 100 standard cubic feet (23 gm/100 scm) of gas.
- (a)(9)(i) The provisions of subsections (a)(2)(i) above shall not apply to any coal burning equipment used primarily for educational or historical demonstrations or exhibits provided that the emissions from such fuel burning equipment do not interfere with either the attainment or maintenance of any applicable air quality standard. These sources shall include, but are not limited to, blacksmith's forges, steam locomotives, and steamboats, provided, however, that such sources do not use or burn fuel which contains sulfur in excess of one and one-half percent (1.5%) by weight (dry basis).
- (ii) As a prerequisite for exemption under the provisions of subsections (a)(9)(i), owners shall notify the Commissioner prior to commencement of said operation.

(iii) The Commissioner may revoke or modify an exemption under subsection (a)(9) if he determines that operation of the source will (1) prevent or interfere with the attainment or maintenance of any applicable air quality air standards, or (2) create a substantial health problem.

(iv) All fuel merchants are authorized to sell fuel to any owner or operator granted an exemption pursuant to subsection (a)(9) above. In addition to the requirements of subsection (a)(7) above, all records shall include the sulfur content of the fuel.] **Reserved.**

(b) Sulfuric acid plants.

No person shall cause or permit sulfur [oxides] compound, expressed as sulfur dioxide, emissions which exceed 6.5 pounds per ton (3.25 kg/ metric ton) of one hundred percent (100%) acid produced.

(c) Sulfur recovery plants.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from a sulfur recovery plant to exceed 0.01 pounds (kg) per pound (kg) of sulfur processed.

(d) Nonferrous smelters.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from primary non-ferrous smelters to exceed that set forth according to the following equations.

Copper smelters:  $Y = 0.2 X$

Zinc smelters:  $Y = 0.564 X^{[0.85]}_{0.85}$

Lead smelters:  $Y = 0.98 X^{[0.77]}_{0.77}$

Where X is the total sulfur fed to the smelter in lb/hr and Y is the allowable sulfur dioxide emissions in lb/hr.

(e) Sulfite pulp mills.

No person shall cause or permit the total sulfite pulp mill emissions of sulfur [oxides] compounds, expressed as sulfur dioxide, from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 pounds per air-dried ton (4.5 kg/metric ton) of pulp produced.

(f) Other process sources.

Notwithstanding the provisions of section 22a-174-18(f) of the Regulations of Connecticut State Agencies, process sources not covered in subsections (b) through (e) of this section shall not emit sulfur [oxides] compounds [( ), expressed as sulfur dioxide)], in the stack effluent in concentrations [which] that exceed 500 parts per million at standard temperature and pressure.



**Sec. 2. Section 22a-174-19a(c) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(c) [Sulfur dioxide emission standards and fuel sulfur limits effective on and after January 1, 2002.** On and after January 1, 2002 and except as provided in subsection (f) of this section, the owner or operator of an affected unit or units shall:

- (1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 0.5 % sulfur, by weight (dry basis);
- (2) Meet an average emission rate of equal to or less than 0.55 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at the premises; or
- (3) Meet an average emission rate of equal to or less than 0.5 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at the premises.] **Reserved.**

**Sec. 3. Section 22a-174-19a(d)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(1) No later than the following March 1, for each calendar year, [commencing January 1, 2002,] the owner or operator of each affected unit that is also a Title IV source shall retire one SO<sub>2</sub> allowance, rounded up to the next whole ton, for each ton of SO<sub>2</sub> emitted in the state of Connecticut. This requirement is in addition to any other requirements imposed on the owner or operator of a Title IV source by the Administrator under 40 CFR Parts 72 and 73.

**Sec. 4. Section 22a-174-19a(e) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(e) Sulfur dioxide emissions standards and fuel sulfur limits [effective on and after January 1, 2003].** [Notwithstanding the provisions of subsection (b) of this section, this subsection shall apply, on and after January 1, 2003, to the owner or operator of a Title IV source that is also an affected unit or units. On and after January 1, 2003, such] The owner or operator of an affected unit shall:

- (1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 3000 ppm (0.3 % sulfur, by weight) [(dry basis)];
- (2) Meet an average emission rate of equal to or less than 0.33 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at a premises; or
- (3) Meet an average emission rate of equal to or less than 0.3 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at a premises.

**Sec. 5. Section (g)(1) of section 22a-174-19a of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(g) Fuel emergencies.**

(1) The commissioner may suspend the requirements of subsection [(c) or] (e) of this section for the owner or operator of any affected unit using a low-sulfur fuel. For the purposes of this subsection, a low-sulfur fuel is any solid, liquid or gaseous fuel with a sulfur content equal to or less than [0.5% by weight, dry basis] 3000 ppm (0.3% by weight). Such suspension shall be made only when the commissioner finds that the availability of fuel that complies with such requirements is inadequate to meet the needs of residential, commercial and industrial users in this state and that such inadequate supply constitutes an emergency.

**Sec. 6. Section 22a-174-19a(i) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(i) Record keeping.**

(1) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the applicable fuel sulfur limits of [subsections (c)(1) or] subsection (e)(1) of this section shall make and keep records in accordance with the following:

- (A) If fuel with sulfur content not exceeding an applicable fuel sulfur limit is the only fuel purchased and combusted by an affected unit, then the owner or operator shall make and keep records that demonstrate the fuel sulfur content of each shipment of fuel received; or
- (B) If fuel with sulfur content above any applicable limit is blended at the premises for combustion in an affected unit or units, the owner or operator shall make and keep daily records demonstrating that all fuel combusted at the affected unit or units meets the applicable fuel sulfur limits of subsection [(c)(1) or] (e)(1) of this section. Fuel sulfur analysis shall be conducted in accordance with the American Society for Testing and Material (ASTM) test method D4294 and automatic sampling equipment shall conform to ASTM test method D4177-82, or a more recent version of the same method. (Copies of ASTM test methods [D4294 and D4177-82] referenced in this section may be obtained from the Department of Environmental Protection, Bureau of Air Management, 79 Elm Street, 5<sup>th</sup> floor, Hartford, CT 06106-5127; (860) 424-3027).

(2) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the average SO<sub>2</sub> emission rate limits of subsections [(c)(2), (c)(3),] (e)(2) or (e)(3) of this section shall make and keep records in accordance with the following:

- (A) For affected units that are also Title IV sources, hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of 40 CFR 75;
- (B) For affected units that are not Title IV sources:

- (i) hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of either 40 CFR 60 or 75, or
  - (ii) if any affected unit does not have a CEMS in accordance with either 40 CFR 60 or 75, then hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS or other monitoring system; and
- (C) For all affected units, quarterly facility SO<sub>2</sub> emission rate averages, determined by dividing total quarterly SO<sub>2</sub> emissions by total quarterly heat input values for all affected units at the facility.
- (3) The owner or operator of an affected unit shall keep the records specified in subdivision (1) or (2) of this subsection at the premises for a period of five years. [Such records need not be maintained for distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel, provided such fuels have a sulfur content below (0.3% by weight) (dry basis) and are the only fuels combusted at the affected unit. This exemption shall not apply when such fuels are combusted in combination with other fuels having sulfur contents above (0.3% by weight) (dry basis).]

**Sec. 7. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-19b as follows:**

**(NEW)**

**Section 22a-174-19b. Fuel Sulfur Content Limitations for Stationary Sources.**

- (a) Definitions.** For the purposes of this section, the definitions provided in this subsection shall apply. Terms used in this section that are not defined in this subsection are as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.
- (1) “Aviation fuel” means a refined petroleum distillate defined in ASTM D1655, Standard Specification for Aviation Turbine Fuels, or the current active version thereof. “Aviation fuel” includes Jet A and Jet A-1 but does not include Jet B.
  - (2) “Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.
  - (3) “Fuel” means distillate fuel oil, residual oil, blends of distillate fuel oil and biodiesel fuel, blends of residual oil and biodiesel fuel, aviation fuel or kerosene.
  - (4) “Kerosene” means a refined petroleum distillate defined in ASTM D3699-08, Standard Specification for Kerosine, or the current active version thereof.
  - (5) “Sulfur dioxide” or “SO<sub>2</sub>” means a gas that at standard conditions has the molecular form SO<sub>2</sub>.
- (b) Applicability.** Except as provided in subsection (c) or (e) of this section, this section applies to any person who, on or after July 1, 2014, sells, supplies, offers for sale, stores, delivers

or exchanges in trade in the state of Connecticut any fuel for combustion in a stationary source in the state of Connecticut and to any person who, on or after July 1, 2014, combusts any fuel in a stationary source within the state of Connecticut.

**(c) Exemptions.** The persons and fuels identified in this subsection are exempt from regulation pursuant to this section.

(1) The requirements of this section shall not apply to the fuel combusted in a mobile source.

(2) This section shall not apply to any person storing fuel in the state of Connecticut for shipment, sale and use outside of the state of Connecticut.

(3) Fuel stored in the state of Connecticut that meets any applicable sulfur content limitation at the time it is stored in the state of Connecticut may be stored, offered for sale, sold, delivered or exchanged in trade for combustion in the state of Connecticut and combusted in the state of Connecticut even if the sulfur content limitation applicable at the time of storage has been changed subsequent to the date of storage.

(4) This section shall not apply to a person combusting fuel in fuel-burning equipment undergoing testing as part of a research and development program.

(5) The requirements of this section shall not apply to:

(A) A person combusting fuel in a stationary source for which the fuel is subject to limitation under section 22a-174-19a of the Regulations of Connecticut State Agencies; or

(B) A person selling or storing fuel for sale to a person identified in subparagraph (A) of this subdivision.

(6) The requirements of this section shall not apply to a person who sells, supplies, offers for sale, stores for sale or combusts number two heating oil subject to the sulfur content limitations of section 16a-21a of the Connecticut General Statutes.

**(d) Fuel oil sulfur content limitations.**

(1) No person shall store, offer for sale, sell, deliver or exchange in trade, for combustion in a stationary source in the state of Connecticut, fuel that contains sulfur in excess of the applicable limitation set forth in Table 19b-1, except as provided in subsection (c) or (e) of this section.

(2) No person shall combust fuel in a stationary source that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 of this section, except as provided in subsection (c) or (e) of this section.

(3) Notwithstanding compliance with subdivision (1) or (2) of this subsection, the commissioner may, by permit or order, impose additional restrictions on any owner or operator to limit the emission of sulfur compounds, expressed as sulfur dioxide, from any stationary

source combusting fuel if the commissioner determines that operation of such equipment interferes with the attainment or maintenance of any applicable ambient air quality standard.

<b>Table 19b-1</b>		
<b>Fuel Type</b>	<b>Maximum Fuel Sulfur Content</b>	
	<b>Effective July 1, 2014 through June 30, 2018</b>	<b>Effective on and after July 1, 2018</b>
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%) by weight	15 ppm (0.0015%) by weight
Residual oil or residual oil blended with biodiesel fuel	10,000 ppm (1.0 %) by weight	3000 ppm (0.3%) by weight
Aviation fuel combusted in a stationary source	3000 ppm (0.3%) by weight	15 ppm (0.0015%) by weight
Kerosene	400 ppm (0.04%) by weight	15 ppm (0.0015%) by weight

**(e) Fuel shortage emergency.**

(1) Under conditions of fuel shortage emergency, as determined by the commissioner, the commissioner may approve in writing the sale or combustion of fuel with a sulfur content that exceeds the applicable limitation in Table 19b-1 of this section. Any person seeking an approval under this subsection shall submit a request in writing to the Bureau of Air Management, Director of Engineering and Enforcement, where such request shall include:

- (A) A detailed statement describing the reason for the fuel shortage and the acute nature of the shortage. A fuel shortage may be of a type for firing in a particular emission source or generally throughout the state;
- (B) A statement that the acute nature of the shortage is the only reason for the request; and
- (C) A signature of a responsible official as described in section 22a-174-2a(a) of the Regulations of Connecticut State Agencies.

(2) The commissioner may approve a request under this subsection provided:

- (A) The requester has provided sufficient information concerning the fuel shortage;
- (B) The request states that the acute nature of the shortage is the sole reason for the request;

- (C) The request is signed by a responsible official; and
  - (D) Approval of the request will not create a condition that will cause imminent danger to the environment or public health.
- (3) The commissioner shall notify the Administrator within five days of granting a request to sell or combust fuel that exceeds the limitations in Table 19b-1 of this section.
- (4) In approving any request under this subparagraph, the commissioner shall specify in writing the period of time such suspension shall be in effect, where such time shall not exceed 90 days.
- (5) The provisions of this subsection shall be pre-empted when the Governor declares that an energy or fuel supply emergency exists.

**(f) Compliance determinations.**

- (1) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall determine the sulfur content and quantity of each type of fuel sold.
- (2) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall provide certification of the sulfur content of the fuel to each purchaser of fuel.
- (3) Sulfur content shall be analyzed in accordance with American Society for Testing and Material (ASTM) test method D4294-10, *Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry*, or D7039-07, *Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-ray Fluorescence Spectrometry*, or the current active version thereof, and automatic sampling equipment shall conform to ASTM test method D4177-95(2010), *Standard Practice for Automatic Sampling of Petroleum and Petroleum Products*, or the current active version thereof.
- (4) A person may request the use of a method to analyze the sulfur content of fuel other than the method identified in subdivision (3) of this subsection, if the method is approved by a voluntary standards body such as ASTM or the International Standards Organization. Such a request shall name and describe the alternative method for which approval is sought, the approving organization, and shall be submitted to the commissioner and Administrator for review and approval. Such alternative method may not be the sole method used to determine the sulfur content of fuel until approved by the commissioner and the Administrator.

**(g) Record keeping and reporting for fuel users and merchants.**

- (1) Persons selling and combusting fuels in Connecticut subject to the requirements of this section shall maintain records of information necessary for the commissioner to determine compliance with the requirements of this subsection.

(2) Any person who sells fuel shall maintain records of the sulfur content of fuels sold, the heating value and the quantities of fuels sold.

(3) Any person combusting fuel shall maintain records of the sulfur content of the fuel combusted and the quantity purchased for combustion. A written certification or a written contract with a fuel supplier is sufficient to satisfy the requirements of this subdivision if the certification or contract identifies:

(A) The name of the fuel seller;

(B) The type of fuel purchased;

(C) The sulfur content of the fuel purchased; and

(D) The method used to determine the sulfur content of the fuel purchased.

(4) All records made to demonstrate compliance with the requirements of this subsection shall be:

(A) Made available to the commissioner to inspect and copy upon request; and

(B) Maintained for five (5) years from the date such record is created.

**(h) Severability.**

Each provision of this section shall be deemed severable, and in the event that any provision in this section is held to be invalid, the remainder of this section shall continue in full force and effect.

**Sec. 8. Section 22a-174-5(a) and (b)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(a) All sampling, emission testing, and reporting shall be done in accordance with procedures prescribed by or acceptable to the Commissioner under [subsection] section 22a-174-5(d) of the Regulations of Connecticut State Agencies or specified in another section of the Regulations of Connecticut State Agencies adopted under chapter 446c of the Connecticut General Statutes.

(b) Sampling and emission testing methods.

(1) Analysis for the sulfur content of liquid fuels shall be done according to the American Society for Testing and Materials method D 4294, D 7039 or the most current methods approved by the American Society for Testing and Materials for the analysis of sulfur content of liquid fuels.

**Statement of purpose:** The primary purpose of this proposal is to reduce the sulfur content of fuel oils burned in stationary sources to reduce emissions of sulfur dioxide (SO<sub>2</sub>), an air pollutant and a contributor to the formation of the pollutant fine particulate matter (PM<sub>2.5</sub>). The reduction in SO<sub>2</sub> emissions is important to reduce visibility-impairing emissions that contribute to regional haze and protect the public health from the adverse health impacts of SO<sub>2</sub> and PM<sub>2.5</sub> pollution.

Connecticut is a member of a regional planning organization, the Mid-Atlantic/Northeast Visibility Union (MANEVU), which coordinates regional haze planning efforts to comply with section 169A of the federal Clean Air Act. In 2007, recognizing that SO<sub>2</sub> is the main contributor to visibility impairment, the MANEVU states agreed to pursue fuel sulfur content limitations for distillate and residual fuel oils.

The significant new elements of this proposal are those of new section 22a-174-19b of the Regulations of Connecticut State Agencies (RCSA), which include fuel sulfur content restrictions for distillate, residual, kerosene and aviation fuels used in all non-mobile equipment such as boilers, turbines and engines. These new fuel sulfur content restrictions are much more stringent than those of current RCSA section 22a-174-19. RCSA section 22a-174-19 is a regulation of general applicability that currently includes fuel sulfur content restrictions higher than those proposed in RCSA section 22a-174-19b. The less stringent fuel sulfur content restrictions of RCSA section 22a-174-19 are eliminated in this proposal. RCSA section 22a-174-19a includes provisions to limit SO<sub>2</sub> emissions from large electric generating units and industrial boilers, and those requirements are not changed by this proposal.

The more stringent fuel sulfur content limitations will mainly impact fuel suppliers, who will need to obtain compliant fuels, maintain records of the sulfur content of fuel sold and provide a certification to purchasers concerning the sulfur content of fuel.

The proposal recognizes that Connecticut General Statutes (CGS) section 22a-198 regulates the sulfur content of fuel used in large electric generating units and industrial boilers, and the regulation does not revise the sulfur content limitations for those sources. The proposal also recognizes the authority of CGS section 16a-21a, as amended by the Connecticut General Assembly in the 2013 legislative session, to limit the sulfur content of home heating oil and offroad diesel fuel. The fuels regulated by CGS section 16a-21a are exempt from regulation under the proposal. However, under CGS section 16a-21a, the sulfur content of home heating oil is subject to the same sulfur content limitations as distillate fuel oil in new RCSA section 22a-174-19b, and the standards apply on the same schedule.



### **Attachment 3**

## **Final Text of the Proposal, Based on Recommendations in the Hearing Officer's Report**

**Section 1. Section 22a-174-19 of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(a) [Fuel combustion.** (a)(1) Definitions. As used in subsections (a) through (f) inclusive:

“Combustible” means the heat-producing constituents of a fuel.

“Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

“Fuel” means a substance containing combustibles used for producing heat, light, power or energy.

“Fuel merchant” means any person who offers for sale or sells, transfers, or provides in retail or wholesale trade, fuel, including agents, brokers, wholesalers, distributors, or producers who sell commercial or noncommercial fuel.

“Fuel user” means any person who stores or utilizes commercial or non-commercial fuel for the purpose of creating by combustion heat, light, power, or energy.

“Gross heat input” means the total energy requirement for a premise for twelve (12) consecutive months.

“Heat input” means the actual firing rate of the fuel burning equipment.

“Premise” means the grouping of all air pollutant emitting activities or sources at any one location and owned or under the control of the same person or persons.

“Stack” or “chimney” means a flue, conduit or opening permitting particulate or gaseous emission into the open air, or constructed or arranged for such purpose.

“Sulfur dioxide (SO<sub>2</sub>)” means a colorless gas at standard conditions which has the molecular formula SO<sub>2</sub>.

“Sulfur oxides (SO<sub>x</sub>)” means any compound made up only of sulfur and oxygen which for the purpose of this regulation will be calculated as sulfur dioxide (SO<sub>2</sub>).

(a)(2) Fuel users

(a)(2)(i) No person, except as provided in subparagraphs (a)(2)(ii), (a)(3)(i) and (a)(3)(ii), shall use or burn fuel which contains sulfur in excess of a maximum of one percent (1.0%) by weight (dry basis). Additionally, no fuel user shall cause or permit the installation or operation of any fuel burning equipment with a heat input of 250,000 BTU per hour or more which uses fuel containing any solid fuel without first obtaining the Commissioner's approval by the issuance of a stationary source operating permit for this

purpose, unless the fuel user demonstrates to the Commissioner's satisfaction that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment are 1.1 pounds per million BTU of heat input or less.

(ii) Under conditions of fuel shortage emergency, as determined by the Commissioner, higher percentages of sulfur may be permitted by express approval of the Commissioner for temporary periods.

(a)(3) Use of fuel containing other than one percent (1%) sulfur.

(a)(3)(ii) Air pollution control/energy trade program. Notwithstanding the provisions of subsection (a)(2), the Commissioner may approve: (i) combustion of a mixture of fuels, or (ii) combustion of a single fuel, which contain(s) more than one percent (1.0 percent) sulfur by weight (dry basis) provided that:

- (A) The emissions of sulfur compounds (expressed as sulfur dioxide) from a given premise do not exceed 0.55 pounds per million BTU of gross heat input;
- (B) The owner or operator of the premise applies for and obtains, prior to the burning of such fuel, a stationary source operating permit for this purpose; and
- (C) The emissions do not prevent or interfere with either the attainment or maintenance of any applicable air quality standard.

(a)(3)(ii) Emission limitation. Notwithstanding the provisions of subdivision (a)(2) the Commissioner may approve the combustion of a single fuel or a mixture of fuels which contain(s) more than one percent (1%) sulfur by weight (dry basis) for any fuel burning equipment provided that the emissions of sulfur compounds (expressed as sulfur dioxide) from such equipment do not exceed 1.1 pounds per million BTU of heat input.

(a)(3)(iii) Ambient impact. Notwithstanding the provisions of subdivision (a)(2) or subparagraphs (a)(3)(i) and (ii) the Commissioner shall, by permit or order, limit the emission of sulfur compounds (expressed as sulfur dioxide) from any fuel burning equipment on a given premise to less than 1.1 pounds per million BTU of heat input for any source which interferes with the attainment or maintenance of any applicable air quality standard.

(a)(4) Fuel merchants

(a)(4)(i) No fuel merchant, except as provided in subparagraphs (a)(4)(ii) and (iii) shall store, offer for sale, sell, make available, deliver for use or exchange in trade for use in Connecticut fuel which contains in excess of one percent (1.0%) sulfur by weight (dry basis).

(a)(4)(ii) In other than conditions of fuel shortage emergency described under subsection (a)(2)(ii), fuel merchants seeking to store, offer for sale, sell, deliver for use or exchange in trade, for use in Connecticut, and fuel users seeking to create by combustion heat, light, power, or energy from fuels containing sulfur in excess of the maximums set by subsection (a)(2) under the conditions specified in subsection (a)(3) shall obtain the prior

approval of the Commissioner.

(a)(4)(iii) The Commissioner may allow a fuel merchant to store, sell, or deliver fuel, which contains more than one percent (1%) sulfur by weight (dry basis) to any fuel user who has been authorized to use such fuel by:

(A) A variance pursuant to 22a-174-13; or

(B) A permit pursuant to 22a-174-3; or

(C) Approval pursuant to 22a-174-19(a)(2)(ii); or

(D) Approval pursuant to 22a-174-19(a)(3); or

(E) Authorization as a result of any other action taken by the Commissioner.

The Commissioner may take such action under this subparagraph without requiring any notice or hearing.

(a)(5) The Commissioner may require submission of fuel analyses, results of stack sampling, or both, prepared at the expense of the merchant or user, to ensure compliance with the provisions of subsections (a)(1) through (a)(7) inclusive, and no person shall fail to submit such data when requested to do so by the Commissioner.

(a)(6) Persons selling fuels in Connecticut shall maintain records of sales of all fuel containing sulfur and shall make these records available for inspection by the Commissioner or his representative during normal business hours. This section shall not apply to any of the following fuels which have sulfur contents below two-tenths of one percent (0.2%) by weight (dry basis): distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel.

(a)(7) The provisions of subsection (a)(1) through (a)(6) inclusive shall not apply to fuels used by oceangoing vessels.

(a)(8) No person shall cause or permit the flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide in concentrations greater than 10 grains per 100 standard cubic feet (23 gm/100 scm) of gas.

(a)(9)(i) The provisions of subsections (a)(2)(i) above shall not apply to any coal burning equipment used primarily for educational or historical demonstrations or exhibits provided that the emissions from such fuel burning equipment do not interfere with either the attainment or maintenance of any applicable air quality standard. These sources shall include, but are not limited to, blacksmith's forges, steam locomotives, and steamboats, provided, however, that such sources do not use or burn fuel which contains sulfur in excess of one and one-half percent (1.5%) by weight (dry basis).

(ii) As a prerequisite for exemption under the provisions of subsections (a)(9)(i), owners shall notify the Commissioner prior to commencement of said operation.

Attachment E- Methods for Sampling, Emissions Testing, Sample Analysis and Reporting  
*Hearing Report*

Post Hearing

4

(iii) The Commissioner may revoke or modify an exemption under subsection (a)(9) if he determines that operation of the source will (1) prevent or interfere with the attainment or maintenance of any applicable air quality air standards, or (2) create a substantial health problem.

(iv) All fuel merchants are authorized to sell fuel to any owner or operator granted an exemption pursuant to subsection (a)(9) above. In addition to the requirements of subsection (a)(7) above, all records shall include the sulfur content of the fuel.] **Reserved.**

(b) Sulfuric acid plants.

No person shall cause or permit sulfur [oxides] compound, expressed as sulfur dioxide, emissions which exceed 6.5 pounds per ton (3.25 kg/ metric ton) of one hundred percent (100%) acid produced.

(c) Sulfur recovery plants.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from a sulfur recovery plant to exceed 0.01 pounds (kg) per pound (kg) of sulfur processed.

(d) Nonferrous smelters.

No person shall cause or permit the emission of sulfur [oxides] compounds, expressed as sulfur dioxide, from primary non-ferrous smelters to exceed that set forth according to the following equations.

Copper smelters:  $Y = 0.2 X$

Zinc smelters:  $Y = 0.564 X^{0.85}$  0.85

Lead smelters:  $Y = 0.98 X^{0.77}$  0.77

Where X is the total sulfur fed to the smelter in lb/hr and Y is the allowable sulfur dioxide emissions in lb/hr.

(e) Sulfite pulp mills.

No person shall cause or permit the total sulfite pulp mill emissions of sulfur [oxides] compounds, expressed as sulfur dioxide, from blow pits, washer vents, storage tanks, digester relief, recovery system, etc., to exceed 9.0 pounds per air-dried ton (4.5 kg/metric ton) of pulp produced.

(f) Other process sources.

Notwithstanding the provisions of section 22a-174-18(f) of the Regulations of Connecticut State Agencies, process sources not covered in subsections (b) through (e) of this section shall not emit sulfur [oxides] compounds [(], expressed as sulfur dioxide[)]<sub>2</sub> in the stack effluent in concentrations [which] that exceed 500 parts per million at standard temperature and pressure.

**Sec. 2. Section 22a-174-19a(c) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(c) **[Sulfur dioxide emission standards and fuel sulfur limits effective on and after January 1, 2002.** On and after January 1, 2002 and except as provided in subsection (f) of this section, the owner or operator of an affected unit or units shall:

- (1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 0.5 % sulfur, by weight (dry basis);
- (2) Meet an average emission rate of equal to or less than 0.55 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at the premises; or
- (3) Meet an average emission rate of equal to or less than 0.5 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at the premises.] **Reserved.**

**Sec. 3. Section 22a-174-19a(d)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(1) No later than the following March 1, for each calendar year, [commencing January 1, 2002,] the owner or operator of each affected unit that is also a Title IV source shall retire one SO<sub>2</sub> allowance, rounded up to the next whole ton, for each ton of SO<sub>2</sub> emitted in the state of Connecticut. This requirement is in addition to any other requirements imposed on the owner or operator of a Title IV source by the Administrator under 40 CFR [Parts]72 and 73.

**Sec. 4. Section 22a-174-19a(e) of the Regulations of Connecticut State Agencies is amended to read as follows:**

(e) **Sulfur dioxide emissions standards and fuel sulfur limits [effective on and after January 1, 2003].** [Notwithstanding the provisions of subsection (b) of this section, this subsection shall apply, on and after January 1, 2003, to the owner or operator of a Title IV source that is also an affected unit or units. On and after January 1, 2003, such] The owner or operator of an affected unit shall:

- (1) Combust liquid fuel, gaseous fuel or a combination of each provided that each fuel possess a fuel sulfur limit of equal to or less than 3000 ppm (0.3 % sulfur, by weight) [(dry basis)];
- (2) Meet an average emission rate of equal to or less than 0.33 pounds SO<sub>2</sub> per MMBtu for each calendar quarter for an affected unit at a premises; or
- (3) Meet an average emission rate of equal to or less than 0.3 pounds SO<sub>2</sub> per MMBtu calculated for each calendar quarter, if such owner or operator averages the emissions from two or more affected units at a premises.

**Sec. 5. Subsection (g)(1) of section 22a-174-19a of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(g) Fuel emergencies.**

(1) The commissioner may suspend the requirements of subsection [(c) or] (e) of this section for the owner or operator of any affected unit using a low-sulfur fuel. For the purposes of this subsection, a low-sulfur fuel is any solid, liquid or gaseous fuel with a sulfur content equal to or less than [0.5% by weight, dry basis] 3000 ppm (0.3% by weight). Such suspension shall be made only when the commissioner finds that the availability of fuel that complies with such requirements is inadequate to meet the needs of residential, commercial and industrial users in this state and that such inadequate supply constitutes an emergency.

**Sec. 6. Section 22a-174-19a(i) of the Regulations of Connecticut State Agencies is amended to read as follows:**

**(i) Record keeping.**

(1) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the applicable fuel sulfur limits of [subsections (c)(1) or] subsection (e)(1) of this section shall make and keep records in accordance with the following:

- (A) If fuel with sulfur content not exceeding an applicable fuel sulfur limit is the only fuel purchased and combusted by an affected unit, then the owner or operator shall make and keep records that demonstrate the fuel sulfur content of each shipment of fuel received; or
- (B) If fuel with sulfur content above any applicable limit is blended at the premises for combustion in an affected unit or units, the owner or operator shall make and keep daily records demonstrating that all fuel combusted at the affected unit or units meets the applicable fuel sulfur limits of subsection [(c)(1) or] (e)(1) of this section. Fuel sulfur analysis shall be conducted in accordance with the American Society for Testing and Material (ASTM) test method D4294 and automatic sampling equipment shall conform to ASTM test method D4177-82, or a more recent version of the same method. (Copies of ASTM test methods [D4294 and D4177-82] referenced in this section may be obtained from the Department of Environmental Protection, Bureau of Air Management, 79 Elm Street, 5<sup>th</sup> floor, Hartford, CT 06106-5127; (860) 424-3027).

(2) The owner or operator of an affected unit who demonstrates compliance with this section by meeting the average SO<sub>2</sub> emission rate limits of subsections [(c)(2), (c)(3),] (e)(2) or (e)(3) of this section shall make and keep records in accordance with the following:

- (A) For affected units that are also Title IV sources, hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of 40 CFR 75;

- (B) For affected units that are not Title IV sources:
- (i) hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS in accordance with the applicable provisions of either 40 CFR 60 or 75, or
  - (ii) if any affected unit does not have a CEMS in accordance with either 40 CFR 60 or 75, then hourly SO<sub>2</sub> emission rate values determined from data measured by a CEMS or other monitoring system; and
- (C) For all affected units, quarterly facility SO<sub>2</sub> emission rate averages, determined by dividing total quarterly SO<sub>2</sub> emissions by total quarterly heat input values for all affected units at the facility.

(3) The owner or operator of an affected unit shall keep the records specified in subdivision (1) or (2) of this subsection at the premises for a period of five years. [Such records need not be maintained for distillate oil, motor vehicle fuel, aircraft fuel, or gaseous fuel, provided such fuels have a sulfur content below (0.3% by weight) (dry basis) and are the only fuels combusted at the affected unit. This exemption shall not apply when such fuels are combusted in combination with other fuels having sulfur contents above (0.3% by weight) (dry basis).]

**Sec. 7. The Regulations of Connecticut State Agencies are amended by adding section 22a-174-19b as follows:**

**(NEW)**

**Section 22a-174-19b. Fuel Sulfur Content Limitations for Stationary Sources.**

**(a) Definitions.** For the purposes of this section, the definitions provided in this subsection shall apply. Terms used in this section that are not defined in this subsection are as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

(1) “Aviation fuel” means a refined petroleum distillate defined in ASTM D1655, Standard Specification for Aviation Turbine Fuels, or the current active version thereof. “Aviation fuel” includes Jet A and Jet A-1 but does not include Jet B.

(2) “Combustion” means the rapid chemical combination of oxygen with the combustible element of a fuel resulting in the production of heat.

(3) “Fuel” means distillate fuel oil, residual oil, blends of distillate fuel oil and biodiesel fuel, blends of residual oil and biodiesel fuel, aviation fuel or kerosene.

(4) “Kerosene” means a refined petroleum distillate defined in ASTM D3699-08, Standard Specification for Kerosine, or the current active version thereof.

(5) “Sulfur dioxide” or “SO<sub>2</sub>” means a gas that at standard conditions has the molecular form SO<sub>2</sub>.

**(b) Applicability.** Except as provided in subsection (c) or (e) of this section, this section

applies to any person who, on or after July 1, 2014, sells, supplies, offers for sale, stores, delivers or exchanges in trade in the state of Connecticut any fuel for combustion in a stationary source in the state of Connecticut and to any person who, on or after July 1, 2014, combusts any fuel in a stationary source within the state of Connecticut.

**(c) Exemptions.** The persons and fuels identified in this subsection are exempt from regulation pursuant to this section.

(1) The requirements of this section shall not apply to the fuel combusted in a mobile source.

(2) This section shall not apply to any person storing fuel in the state of Connecticut for shipment, sale and use outside of the state of Connecticut.

(3) Fuel stored in the state of Connecticut that meets any applicable sulfur content limitation at the time it is stored in the state of Connecticut may be stored, offered for sale, sold, delivered or exchanged in trade for combustion in the state of Connecticut and combusted in the state of Connecticut even if the sulfur content limitation applicable at the time of storage has been changed subsequent to the date of storage.

(4) This section shall not apply to a person combusting fuel in fuel-burning equipment undergoing testing as part of a research and development program.

(5) The requirements of this section shall not apply to:

(A) A person combusting fuel in a stationary source for which the fuel is subject to limitation under section 22a-174-19a of the Regulations of Connecticut State Agencies; or

(B) A person selling or storing fuel for sale to a person identified in subparagraph (A) of this subdivision.

(6) The requirements of this section shall not apply to a person who sells, supplies, offers for sale, stores for sale or combusts number two heating oil subject to the sulfur content limitations of section 16a-21a of the Connecticut General Statutes.

(7) Any fuel in equipment that is leased or rented outside of the state of Connecticut for use in Connecticut may be combusted in the state of Connecticut regardless of the sulfur content, provided that all refueling of such leased or rented equipment performed while in Connecticut complies with the fuel sulfur content limits of Table 19b-1 of this section.

**(d) Fuel oil sulfur content limitations.**

(1) No person shall store, offer for sale, sell, deliver or exchange in trade, for combustion in a stationary source in the state of Connecticut, fuel that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 of this section, except as provided in subsection (c) or (e) of this section.



(2) No person shall combust fuel in a stationary source that contains sulfur in excess of the applicable limitation set forth in Table 19b-1 of this section, except as provided in subsection (c) or (e) of this section.

(3) Notwithstanding compliance with subdivision (1) or (2) of this subsection, the commissioner may, by permit or order, impose additional restrictions on any owner or operator to limit the emission of sulfur compounds, expressed as sulfur dioxide, from any stationary source combusting fuel if the commissioner determines that operation of such equipment interferes with the attainment or maintenance of any applicable ambient air quality standard.

<b>Table 19b-1</b>		
<b>Fuel Type</b>	<b>Maximum Fuel Sulfur Content</b>	
	<b>Effective July 1, 2014 through June 30, 2018</b>	<b>Effective on and after July 1, 2018</b>
Distillate fuel oil or distillate fuel oil blended with biodiesel fuel	500 ppm (0.05%) by weight	15 ppm (0.0015%) by weight
Residual oil or residual oil blended with biodiesel fuel	10,000 ppm (1.0 %) by weight	3000 ppm (0.3%) by weight
Aviation fuel combusted in a stationary source	3000 ppm (0.3%) by weight	3000 ppm (0.3%) by weight
Kerosene	400 ppm (0.04%) by weight	15 ppm (0.0015%) by weight

**(e) Fuel shortage emergency.**

(1) Under conditions of fuel shortage emergency, as determined by the commissioner, the commissioner may approve in writing the sale or combustion of fuel with a sulfur content that exceeds the applicable limitation in Table 19b-1 of this section. Any person seeking an approval under this subsection shall submit a request in writing to the Bureau of Air Management, Director of Engineering and Enforcement, where such request shall include:

- (A) A detailed statement describing the reason for the fuel shortage and the acute nature of the shortage. A fuel shortage may be of a type for firing in a particular emission source or generally throughout the state;
- (B) A statement that the acute nature of the shortage is the only reason for the request; and
- (C) A signature of a responsible official as described in section 22a-174-2a(a) of the Regulations of Connecticut State Agencies.

- (2) The commissioner may approve a request under this subsection provided:
- (A) The requester has provided sufficient information concerning the fuel shortage;
  - (B) The request states that the acute nature of the shortage is the sole reason for the request;
  - (C) The request is signed by a responsible official; and
  - (D) Approval of the request will not create a condition that will cause imminent danger to the environment or public health.
- (3) The commissioner shall notify the Administrator within five days of granting a request to sell or combust fuel that exceeds the limitations in Table 19b-1 of this section.
- (4) In approving any request under this subparagraph, the commissioner shall specify in writing the period of time such suspension shall be in effect, where such time shall not exceed 90 days.
- (5) The provisions of this subsection shall be pre-empted when the Governor declares that an energy or fuel supply emergency exists.
- (f) Compliance determinations.**
- (1) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall determine the sulfur content and quantity of each type of fuel sold.
- (2) Any person selling fuel subject to a sulfur content limitation set forth in Table 19b-1 shall provide certification of the sulfur content of the fuel to each purchaser of fuel.
- (3) Sulfur content shall be analyzed in accordance with American Society for Testing and Material (ASTM) test method D4294-10, *Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry*, or D7039-07, *Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-ray Fluorescence Spectrometry*, or the current active version thereof, and automatic sampling equipment shall conform to ASTM test method D4177-95(2010), *Standard Practice for Automatic Sampling of Petroleum and Petroleum Products*, or the current active version thereof.
- (4) A person may request the use of a method to analyze the sulfur content of fuel other than the method identified in subdivision (3) of this subsection, if the method is approved by a voluntary standards body such as ASTM or the International Standards Organization. Such a request shall name and describe the alternative method for which approval is sought, the approving organization, and shall be submitted to the commissioner and Administrator for review and approval. Such alternative method may not be the sole method used to determine the sulfur content of fuel until approved by the commissioner and the Administrator.

- (g) Record keeping and reporting for fuel users and merchants.**

- (1) Persons selling and combusting fuels in Connecticut subject to the requirements of this section shall maintain records of information necessary for the commissioner to determine compliance with the requirements of this subsection.
- (2) Any person who sells fuel shall maintain records of the sulfur content of fuels sold, the heating value and the quantities of fuels sold.
- (3) Any person combusting fuel shall maintain records of the sulfur content of the fuel combusted and the quantity purchased for combustion. A written certification or a written contract with a fuel supplier is sufficient to satisfy the requirements of this subdivision if the certification or contract identifies:
  - (A) The name of the fuel seller;
  - (B) The type of fuel purchased;
  - (C) The sulfur content of the fuel purchased; and
  - (D) The method used to determine the sulfur content of the fuel purchased.
- (4) All records made to demonstrate compliance with the requirements of this subsection shall be:
  - (A) Made available to the commissioner to inspect and copy upon request; and
  - (B) Maintained for five (5) years from the date such record is created.

**Sec. 8. Section 22a-174-5(a) and (b)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:**

- (a) All sampling, emission testing, and reporting shall be done in accordance with procedures prescribed by or acceptable to the Commissioner under [subsection] section 22a-174-5(d) of the Regulations of Connecticut State Agencies or specified in another section of the Regulations of Connecticut State Agencies adopted under chapter 446c of the Connecticut General Statutes.
- (b) Sampling and emission testing methods.
  - (1) Analysis for the sulfur content of liquid fuels shall be done according to the American Society for Testing and Materials method D 4294, D 7039 or the most current methods approved by the American Society for Testing and Materials for the analysis of sulfur content of liquid fuels.

**Statement of purpose:** The primary purpose of this proposal is to reduce the sulfur content of fuel oils burned in stationary sources to reduce emissions of sulfur dioxide (SO<sub>2</sub>), an air pollutant and a contributor to the formation of the pollutant fine particulate matter (PM<sub>2.5</sub>). The reduction in SO<sub>2</sub> emissions is important to reduce visibility-impairing emissions that contribute to regional haze and protect the public health from the adverse health impacts of SO<sub>2</sub> and PM<sub>2.5</sub> pollution.

Connecticut is a member of a regional planning organization, the Mid-Atlantic/Northeast Visibility Union (MANEVU), which coordinates regional haze planning efforts to comply with section 169A of the federal Clean Air Act. In 2007, recognizing that SO<sub>2</sub> is the main contributor to visibility impairment, the MANEVU states agreed to pursue fuel sulfur content limitations for distillate and residual fuel oils.

The significant new elements of this proposal are those of new section 22a-174-19b of the Regulations of Connecticut State Agencies (RCSA), which include fuel sulfur content restrictions for distillate, residual, kerosene and aviation fuels used in all non-mobile equipment such as boilers, turbines and engines. These new fuel sulfur content restrictions are much more stringent than those of current RCSA section 22a-174-19. RCSA section 22a-174-19 is a regulation of general applicability that currently includes fuel sulfur content restrictions higher than those proposed in RCSA section 22a-174-19b. The less stringent fuel sulfur content restrictions of RCSA section 22a-174-19 are eliminated in this proposal. RCSA section 22a-174-19a includes provisions to limit SO<sub>2</sub> emissions from large electric generating units and industrial boilers, and those requirements are not changed by this proposal. RCSA section 22a-174-5(a) includes clarifying language and RCSA section 22a-174-5(b)(1) adds an allowable test method.

The more stringent fuel sulfur content limitations will mainly impact fuel suppliers, who will need to obtain compliant fuels, maintain records of the sulfur content of fuel sold and provide a certification to purchasers concerning the sulfur content of fuel.

The proposal recognizes that Connecticut General Statutes (CGS) section 22a-198 regulates the sulfur content of fuel used in large electric generating units and industrial boilers, and the regulation does not revise the sulfur content limitations for those sources. The proposal also recognizes the authority of CGS section 16a-21a, as amended by the Connecticut General Assembly in the 2013 legislative session, to limit the sulfur content of home heating oil and off-road diesel fuel. The fuels regulated by CGS section 16a-21a are exempt from regulation under the proposal. However, under CGS section 16a-21a, the sulfur content of home heating oil is subject to the same sulfur content limitations as distillate fuel oil in new RCSA section 22a-174-19b, and the standards apply on the same schedule.



**Attachment D**

**HEARING CERTIFICATION**

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding the proposed amendment or adoption of various sections of the air quality regulations:

- 1) The public hearing was held on October 9, 2013 as announced in the notice of hearing (Attachment A);
- 2) In accordance with the notice, materials were available for review at the Department of Energy and Environmental Protection and posted on the Department's website;
- 3) Copies of the notice were mailed electronically to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to the Director of the Air Management Division of Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published the Connecticut Secretary of the State's website on August 21, 2013 and on the Department of Energy and Environmental Protection's website.

4/16/14  
Date

Wendy Jacobs  
Wendy Jacobs  
Bureau of Air Management

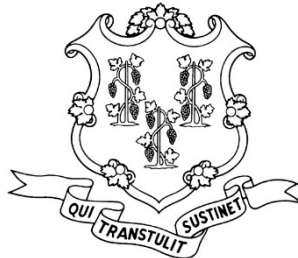
Attachment F- Notice Prior to Actions on Regulations

GENERAL STATUTES

OF

CONNECTICUT

*Revised to January 1, 2015*



*(Prepared under the direction of the Legislative Commissioners' Office)*

**Sec. 4-168. Notice prior to action on regulations. Fiscal notes. Hearing or public comment. Posting on eRegulations System. Adoption procedure. Emergency regulations. Technical amendments.** (a) Except as provided in subsections (g) and (h) of this section, an agency, not less than thirty days prior to adopting a proposed regulation, shall (1) post a notice of its intended action on the eRegulations System, which notice shall include (A) a specified public comment period of not less than thirty days, (B) a description sufficiently detailed so as to apprise persons likely to be affected of the issues and subjects involved in the proposed regulation, (C) a statement of the purposes for which the regulation is proposed, (D) a reference to the statutory authority for the proposed regulation, (E) when, where and how interested persons may obtain a copy of the small business impact and regulatory flexibility analysis required pursuant to section 4-168a, and (F) when, where and how interested persons may present their views on the proposed regulation; (2) post a copy of the proposed regulation on the eRegulations System; (3) give notice electronically to each joint standing committee of the General Assembly having cognizance of the subject matter of the proposed regulation; (4) give notice electronically or provide a paper copy notice, if requested, to all persons who have made requests to the agency for advance notice of its regulation-making proceedings; (5) provide a paper copy or electronic version of the proposed regulation to persons requesting it; and (6) prepare a fiscal note, including an estimate of the cost or of the revenue impact (A) on the state or any municipality of the state, and (B) on small businesses in the state, including an estimate of the number of small businesses subject to the proposed regulation and the projected costs, including but not limited to, reporting, recordkeeping and administrative, associated with compliance with the proposed regulation and, if applicable, the regulatory flexibility analysis prepared under section 4-168a. The governing body of any municipality, if requested, shall provide the agency, within twenty working days, with any information that may be necessary for analysis in preparation of such fiscal note.

(b) Except as provided in subsections (g) and (h) of this section, during the public comment period specified in subsection (a) of this section, all interested persons shall have reasonable opportunity to submit data, views or arguments in writing on the proposed regulation. The agency shall hold a public hearing on the proposed regulation if requested by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members, if notice of the request is received by the agency not later than fourteen days after the date of posting of the notice by the agency on the eRegulations System. The agency shall consider fully all written and oral submissions respecting the proposed regulation and revise the fiscal note prepared in accordance with the provisions of subdivision (6) of subsection (a) of this section to indicate any changes made in the proposed regulation. On and after the certification date, each agency shall post the proposed regulation and all documents prepared by the agency pursuant to this subsection and subsection (a) of this section on the eRegulations System. Prior to the certification date, each agency shall create and maintain a regulation-making record for each regulation proposed by such agency, which shall be made available to the public. No regulation shall be found invalid due to the failure of an agency to give notice to each committee of cognizance pursuant to subdivision (3) of subsection (a) of this section, provided one such committee has been so notified.

(c) If an agency is required by a public act to adopt regulations, the agency, not later than five months after the effective date of the public act or by the time specified in the public act, shall post on the eRegulations System notice of its intent to adopt regulations. If the agency fails to post the notice within such five-month period or by the time specified in the public act, the agency shall submit an electronic statement of its reasons for failure to do so to the Governor, the joint standing committee having cognizance of the subject matter of the regulations and the standing legislative regulation review committee and on and after the certification date, post such statement on the eRegulations System. The agency shall submit the required regulations to the standing legislative regulation review committee, as provided in subsection (b) of section 4-170, not later than one hundred eighty days after posting the notice of its intent to adopt regulations, or electronically submit a statement of its reasons for failure to do so to the committee.

(d) An agency may begin the regulation-making process under this chapter before the effective date of the public act requiring or permitting the agency to adopt regulations, but no regulation may take effect before the effective date of such act.

(e) After the close of the public comment period and prior to submission to the Attorney General, in accordance with section 4-169, the agency shall post on the eRegulations System a notice describing whether the agency has decided to move forward with the proposed regulation. The agency shall provide such notice electronically to all persons who have submitted oral or written comment on the proposed regulation and shall provide a paper copy of such notice to all persons who have submitted comments in a nonelectronic format. The agency shall also post on the eRegulations System: (1) The final wording of the proposed regulation; (2) a statement of the principal reasons in support of its intended action; and (3) a

statement of the principal considerations in opposition to its intended action as urged in written or oral comments on the proposed regulation and its reasons for rejecting such considerations.

(f) Except as provided in subsections (g) and (h) of this section, no regulation may be adopted, amended or repealed by any agency until it is (1) approved by the Attorney General as to legal sufficiency, as provided in section 4-169, (2) approved by the standing legislative regulation review committee, as provided in section 4-170, and (3) posted on the eRegulations System by the office of the Secretary of the State, as provided in section 4-172 and section 4-173b.

(g) (1) An agency may proceed to adopt an emergency regulation in accordance with this subsection without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable if (A) the agency finds that adoption of a regulation upon fewer than thirty days' notice is required (i) due to an imminent peril to the public health, safety or welfare or (ii) by the Commissioner of Energy and Environmental Protection in order to comply with the provisions of interstate fishery management plans adopted by the Atlantic States Marine Fisheries Commission or to meet unforeseen circumstances or emergencies affecting marine resources, (B) the agency states in writing its reasons for that finding, and (C) the Governor approves such finding in writing.

(2) An electronic copy shall be submitted to the standing legislative regulation review committee in the form prescribed in subsection (b) of section 4-170, together with a statement of the terms or substance of the intended action, the purpose of the action and a reference to the statutory authority under which the action is proposed, not later than ten days, excluding Saturdays, Sundays and holidays, prior to the proposed effective date of such regulation. The committee may approve or disapprove the emergency regulation, in whole or in part, within such ten-day period at a regular meeting, if one is scheduled, or may upon the call of either chairman or any five or more members hold a special meeting for the purpose of approving or disapproving the regulation, in whole or in part. Failure of the committee to act on such regulation within such ten-day period shall be deemed an approval. If the committee disapproves such regulation, in whole or in part, it shall notify the agency of the reasons for its action. An approved regulation, posted on the eRegulations System by the office of the Secretary of the State, may be effective for a period of not longer than one hundred twenty days renewable once for a period of not exceeding sixty days, provided notification of such sixty-day renewal is posted on the eRegulations System and an electronic copy of such notice is sent to the committee. The sixty-day renewal period may be extended an additional sixty days for emergency regulations described in subparagraph (A)(ii) of subdivision (1) of this subsection, provided the Commissioner of Energy and Environmental Protection requests of the standing legislative regulation review committee an extension of the renewal period at the time such regulation is submitted or not less than ten days before the first sixty-day renewal period expires and said committee approves such extension. Failure of the committee to act on such request within ten days shall be deemed an approval of the extension. Nothing in this subsection shall preclude an agency proposing such emergency regulation from adopting a permanent regulation that is identical or substantially similar to the emergency regulation, but such action shall not extend the effective date of the emergency regulation.



(3) If the necessary steps to adopt a permanent regulation, including the posting of notice of intent to adopt, preparation and submission of a fiscal note in accordance with the provisions of subsection (b) of section 4-170 and approval by the Attorney General and the standing legislative regulation review committee, are not completed prior to the expiration date of an emergency regulation, the emergency regulation shall cease to be effective on that date.

(h) If an agency finds (1) that technical amendments to an existing regulation are necessary because of (A) the statutory transfer of functions, powers or duties from the agency named in the existing regulation to another agency, (B) a change in the name of the agency, (C) the renumbering of the section of the general statutes containing the statutory authority for the regulation, or (D) a correction in the numbering of the regulation, and no substantive changes are proposed, or (2) that the repeal of a regulation is necessary because the section of the general statutes under which the regulation has been adopted has been repealed and has not been transferred or reenacted, it may elect to comply with the requirements of subsection (a) of this section or may proceed without prior notice or hearing, provided the agency has posted such amendments to or repeal of a regulation on the eRegulations System. Any such amendments to or repeal of a regulation shall be submitted in the form and manner prescribed in subsection (b) of section 4-170, to the Attorney General, as provided in section 4-169, and to the standing legislative regulation review committee, as provided in section 4-170, for approval and upon approval shall be submitted to the office of the Secretary of the State for posting on the eRegulations System with, in the case of renumbering of sections only, a correlated table of the former and new section numbers.

(i) No regulation adopted after October 1, 1985, is valid unless adopted in substantial compliance with this section. A proceeding to contest any regulation on the ground of noncompliance with the procedural requirements of this section shall be commenced within two years from the effective date of the regulation.

(1971, P.A. 854, S. 3; P.A. 73-616, S. 3; 73-620, S. 5, 19; P.A. 77-604, S. 82, 84; P.A. 78-283, S. 1; P.A. 79-623, S. 4, 5, 8; P.A. 80-471, S. 2; P.A. 83-277, S. 1, 3; P.A. 84-132; P.A. 85-608, S. 1; P.A. 86-250, S. 1, 4; P.A. 88-317, S. 3, 107; P.A. 90-124, S. 1; P.A. 94-179, S. 2; P.A. 96-16; P.A. 97-47, S. 26; P.A. 99-90, S. 2-4; P.A. 00-62; P.A. 05-288, S. 15, 16; P.A. 07-217, S. 9; P.A. 09-19, S. 1; P.A. 11-80, S. 1; 11-81, S. 4; 11-150, S. 18; P.A. 12-92, S. 2; P.A. 13-247, S. 28; 13-274, S. 3; P.A. 14-187, S. 2.)

History: P.A. 73-616 made technical changes; P.A. 73-620 required that requests to present arguments be made within 10 days of proposed regulation's publication and deleted provisions requiring publication of a defense of any regulation's adoption; P.A. 77-604 clarified procedure for adopting emergency regulations by requiring notice to and approval or rejection by regulation review committee at regular or special meeting; P.A. 78-283 allowed disapproval of emergency regulations in whole or in part, required notice to review committee of regulation's renewal and added provisions regarding adoption of emergency regulation as permanent regulation; P.A. 79-623 amended section to include provisions concerning fiscal notes, effective with respect to fiscal year ending June 30, 1980; P.A. 80-471 substantially amended section, in

Subsec. (a), changing notice requirement from 20 to 30 days, clarifying contents of notice statement and providing for mailing to interested persons and in Subsec. (b) requiring governor's approval of emergency regulations, changing date of notice to review committee from 5 to 10 days prior to regulation's effective date and requiring regulations to be filed in secretary of the state's office; P.A. 83-277 inserted new Subsec. (c) which sets forth the procedure governing the adoption of technical amendments to agency regulations, relettering former Subsec. (c) accordingly; P.A. 84-132 added requirement that agencies submit proposed regulations to committee within 180 days after publication of notice and permitted technical amendment of regulations without hearing when general statute under which regulations were adopted is repealed; P.A. 85-608 changed publication of notice requirement in Subsec. (a) from one year to five months or by the first day of November following the passage of the act, whichever is earlier; P.A. 86-250 made technical changes including relettering of subsections and deleted requirement that agencies publish notice of intent to adopt regulations by November first following passage of act requiring adoption; P.A. 88-317 relettered subsections and renumbered subdivisions, rearranged and rephrased provisions, made other technical revisions and amended Subsec. (c) to allow agency to begin regulation-making process before effective date of act requiring or authorizing regulations, effective July 1, 1989, and applicable to agency proceedings commenced on or after that date; P.A. 90-124 amended Subsec. (a) to require an agency, prior to adopting a regulation, to give notice of its intended action to each committee of the general assembly having cognizance of the subject of the regulation and provided that no regulation shall be found invalid due to an agency's failure to give such notice to each such committee if one such committee has been so notified; (Revisor's note: In 1993 the reference in Subsec. (d) to "subdivision (5) of subsection (a)" was changed editorially to "subdivision (6) of subsection (a)" to reflect renumbering of subdivisions in P.A. 90-124, S. 1); P.A. 94-179 amended Subsec. (a)(5) to require regulatory flexibility analysis to be included in fiscal note, if applicable (Revisor's note: Language newly designated as Subparas. (1) and (2) within Subdiv. (5) was redesignated by the Revisors as Subparas. (A) and (B) for statutory conformity); P.A. 96-16 amended Subsec. (f) to authorize emergency regulations by the Commissioner of Environmental Protection re fishery management and to make technical changes; P.A. 97-47 amended Subsec. (d) by substituting "the Freedom of Information Act, as defined in section 1-18a" for "chapter 3"; P.A. 99-90 amended Subsec. (b) by inserting "as provided in subsection (b) of section 4-170", amended Subsec. (f)(2) by requiring eighteen copies, instead of seventeen copies, to be submitted to regulation review committee and amended Subsec. (g) by inserting "or (D) a correction in the numbering of the regulation,"; P.A. 00-62 amended Subsec. (f)(2) by adding provision allowing additional 60 days for emergency fisheries regulations; P.A. 05-288 made technical changes in Subsecs. (a) and (g), effective July 13, 2005; P.A. 07-217 made a technical change in Subsec. (b), effective July 12, 2007; P.A. 09-19 amended Subsec. (a)(1) by adding new Subpara. (D) re small business impact and regulatory flexibility analyses and redesignating existing Subpara. (D) as Subpara. (E), and amended Subsec. (a)(5) by replacing "following" with "no later than the date of" and adding provision in Subpara. (B) re impact on small businesses; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (f), effective July 1, 2011; P.A. 11-81 amended Subsec. (a) by deleting

requirement for notice “by mail” in Subdivs. (2) and (3) and by changing “copy” to “paper copy or electronic version” in Subdiv. (4); P.A. 11-150 amended Subsec. (f)(2) to replace reference to 18 copies with “an electronic copy”; P.A. 12-92 amended Subsecs. (a), (b), (d), (e) and (f) to replace references to publication in Connecticut Law Journal or filing with references to posting online by the Secretary, amended Subsec. (a) to apply 30-day notice requirement to Subdivs. (2) to (5), to add “electronically” re notice, to limit fee to paper copies, to delete Subdiv. designators (6) to (8), to add reference to viewing online, to make technical changes and to require the Secretary and agency to post the notice and documents online and the Secretary to electronically notify interested persons, amended Subsec. (b) to make technical changes and to replace references to written statement with references to electronic statement, amended Subsec. (d) to add new Subdivs. (1) to (3) re posting on agency’s web site, submitting to the Secretary for online posting and mailing an electronic or paper copy, and to redesignate existing Subdivs. (1) to (3) as Subparas. (A) to (C), and amended Subsec. (g) to require agency to post amendments or repeal online and to make a technical change, effective July 1, 2013, and applicable to regulations noticed on and after that date; P.A. 13-247 replaced references to posting online with references to posting on eRegulations System, amended Subsecs. (a) and (b) to require agency rather than Secretary to post notice, to require on and after October 1, 2014, all documents including statement of failure to post notice of intent to adopt required regulations to be posted on eRegulations System, and to require provision of paper copy of notice if requested, and amended Subsec. (d) to delete reference to electronically mailing or mailing a paper copy of notice, effective July 1, 2013, and applicable to regulations noticed on and after that date; P.A. 13-274 made identical changes as P.A. 13-247, effective July 1, 2013, and applicable to regulations noticed on and after that date; P.A. 14-187 amended Subsec. (a) to make technical changes, changed requirement in Subsec. (a)(1)(A) to post a statement of terms or substance of proposed regulation to reference to public comment period of not less than 30 days, redesignated existing Subsec. (a)(1)(A) re detailed description of regulation as Subsec. (a)(1)(B), and redesignated existing Subsec. (a)(1)(B) to (E) as Subsec. (a)(1)(C) to (F), added new Subsec. (a)(2) re posting copy of the proposed regulation, redesignated existing Subsec. (a)(2) to (5) as Subsec. (a)(3) to (6), amended Subsec. (a)(4) to add “if requested” re paper copy and to delete provision re charging reasonable fee for notice if not electronic, amended Subsec. (a)(5) to delete reference to reasonable fee for paper copies, designated a portion of existing Subsec. (a) as Subsec. (b), redesignated existing Subsecs. (b) to (h) as Subsecs. (c) to (i), amended redesignated Subsec. (b) to make technical changes, delete provisions re oral comments at a hearing, the public right to inspect, copy, view online and print the fiscal note, change provisions re presenting oral argument to holding a public hearing, change reference to October 1, 2014, to reference to certification date, add reference to posting proposed regulation and change provision re electronic notification of regulation-making upon request to reference to creating a publicly available regulation-making record, amended redesignated Subsec. (c) to change reference to October 1, 2014, to reference to certification date, amended redesignated Subsec. (e) to change reference re posting regulation from 20 days before submission to regulation review committee to prior to submission to Attorney General, add reference to eRegulations System, delete former Subdiv. (1) and (2) designators and redesignate Subparas. (A) to (C) as Subdivs. (1) to (3), amended redesignated Subsec. (f) to

make a technical change, amended redesignated Subsec. (g)(2) to delete reference to submission of original of the emergency regulation, delete reference to the Secretary of the State posting notice of renewal, make technical changes and add provision precluding adoption of identical permanent regulation extending the date of the emergency regulation, effective October 1, 2014, and applicable to regulations noticed on and after that date.