

Regulation of the
Department of Energy and Environmental Protection

Concerning

**Amendment of Sections 22a-174-29 and Section 22a-174-3c
of the Regulations of Connecticut State Agencies,
Reduction in Regulatory Burdens for Low Emitting Sources**

Regulations adopted after July 1, 2013, become effective upon posting to the website of the Secretary of the State, or at a later date specified within the regulation.

Website posted on
April 6, 2016

Effective Date
April 6, 2016

Approved by the Attorney General on
February 17, 2016

Approved by the Legislative Regulation Review Committee on
March 22, 2016

Received and filed in the Office of the Secretary of the State on
April 4, 2016

Electronic copy with agency head certification statement
submitted to the Office of the Secretary of the State on
April 4, 2016

This regulation will be published in the Connecticut Law Journal

Form Regs-2 (NEW 7/2013)
State of Connecticut
Office of the Secretary of the State
Legislation and Elections Administration Division

Purpose and Legal Disclaimer: This form was designed to facilitate submission of the "statement from the department head" required by CGS 4-172(a) as amended by PA 12-92, Section 6. This form does not constitute legal advice. The Office of the Secretary of the State (SOTS) is not authorized to provide legal advice to state agencies. Consult with your agency's legal counsel before completing and submitting this form for filing

Instructions: (1) Save a copy of this document to your computer; (2) To enter data, use the Tab key to move between fields, or click-and-highlight an entire <text field>; (3) When complete, submit to your agency's legal counsel for review and approval; (4) After approval by counsel, PRINT and submit to your agency head for his/her original signature; (5) Scan the originally-signed form and submit it as an email attachment, along with the electronic copy of the regulation that the statement certifies, to regulations.sots@ct.gov; (6) retain the originally-signed copy for your agency's regulation-making record.

Submit the electronic copy and its certification statement to the Secretary of the State at regulations.sots@ct.gov concurrently with the paper copy of the original regulation, as required by CGS Section 4-172 as amended.

Electronic Copy Certification Statement

I, **Mike Sullivan, Deputy Commissioner of the Department of Energy and Environmental Protection**, in accordance with the provisions of Section 4-172 of the *General Statutes of the State of Connecticut*, **do hereby certify:**

That the electronic copy of a regulation concerning **Reductions in regulatory burdens for low emitting sources**, which was approved by the Legislative Regulation Review Committee on **March 22, 2016**, and which shall be submitted electronically for filing to the Secretary of the State by **Paula Gomez** of this agency on **or before April 5, 2016**, is a true and accurate copy of the original regulation approved in accordance with Sections 4-169 and 4-170 of the *General Statutes of the State of Connecticut*.

In testimony whereof, I have hereunto set my hand on April 1, 2016.



(Signature of agency head)

State of Connecticut
REGULATION
of the

NAME OF AGENCY:

Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION:

**Amendment of Sections 22a-174-29 and
Section 22a-174-3c
of the
Regulations of Connecticut State Agencies (RCSA)
Reduction in Regulatory Burdens for Low Emitting Sources**

Section 1. Subdivision (2) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) No person, who is required to [obtain] maintain compliance with a permit under section 22a-174-3a of the Regulations of Connecticut State Agencies [or, who, between July 1, 1986 and March 15, 2002, should have applied for and obtained a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies,] shall cause or permit the emission of any hazardous air pollutant listed in Table 29-1, 29-2 or 29-3 of this section from any stationary source or modification at a concentration at the discharge point in excess of the maximum allowable stack concentration unless such source is in compliance with the provisions of subsection (d)(3) of this section. [The commissioner shall not apply the provisions of this subdivision to the owner or operator of any stationary source who applied for a permit to construct under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to March 1, 1986 and who received a notice of a complete application prior to July 1, 1986 or to any other owner or operator who received a permit to construct prior to July 1, 1986. Notwithstanding the foregoing, all resources recovery facilities and all incinerators shall meet the standards of this subdivision for all hazardous air pollutants.] The owner or operator of a stationary source who was issued a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to July 1, 1986 shall be required to comply with Tables 29-2 and 29-3 of this section upon modification of such permit.

Sec. 2. Subdivision (4) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is amended to read as follows:

(4) The owner or operator of any stationary source or modification not subject to the provisions of subdivision (2) or subdivision (6) of this subsection that emits or may emit a hazardous air pollutant shall comply with the requirements of subdivision (2) of this subsection if the commissioner determines, through ambient monitoring, that the HLV is exceeded as a result of the emissions from that stationary source.

Sec. 3. Subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is amended by adding subdivision (6), as follows:

(NEW)

(6) The owner or operator of any incinerator shall not cause or permit the emission of any hazardous air pollutant listed in Table 29-1, 29-2 or 29-3 of this section from such incinerator at a concentration at the discharge point in excess of the maximum allowable stack concentration.

Sec. 4. Subsection (a) of section 22a-174-3c of the Regulations of Connecticut State Agencies is amended to read as follows:

(a) Limitations on potential to emit.

(1) Notwithstanding the definition of “potential emissions” or “potential to emit” in section 22a-174-1 of the Regulations of Connecticut State Agencies, the potential emissions or potential to emit of any individual air pollutant for [a stationary source] an emission unit or group of emission units of a single type identified in subdivision (2) of this subsection is [less than fifteen tons per year,] further limited by this section, unless otherwise determined by a permit or order of the commissioner, [if] provided the owner or operator operates the [source] emissions unit or group of emissions units to comply with all applicable requirements of subsections (b) and (c) of this section. The potential emissions of such emission unit or group of emission units of a single type shall be less than the following levels:

- (A) For each individual air pollutant including nitrogen oxides, carbon monoxide, particulate matter, PM10, PM2.5, volatile organic compounds, sulfur dioxide or lead, fifteen (15) tons per year;
- (B) For any individual federal hazardous air pollutant, ten (10) tons per year;
- (C) For the aggregate of federal hazardous air pollutants, ten (10) tons per year; and
- (D) For carbon dioxide equivalent emissions, ten thousand (10,000) tons per year.

(2) The owner or operator of any new or existing external combustion unit, automotive refinishing operation, nonmetallic mineral processing equipment, emergency engine or surface coating operation may limit potential emissions for all such emission units included at a stationary source pursuant to subdivision (1) of this subsection.

(3) For the purposes of this section, “federal hazardous air pollutant” means any air pollutant listed in section 112(b) of the Act, excluding those substances approved by the Administrator for exclusion.

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(Statement of Purpose page)

Statement of Purpose

Sections 1 - 3. The revisions to RCSA section 22a-174-29 remove requirements added during a transition in the Department's new source review permitting program regulations. Continued implementation of the transitional requirement results in inequity in how certain similar sources are treated depending on historic permitting requirements.

RCSA section 22a-174-29 provides limitations on toxic air emissions for all stationary sources. Sources that emit low levels of air pollutants and are below air permitting thresholds have fewer restrictions for toxic air emissions than the restrictions imposed on larger, more complex sources with levels of emissions that require air permits. In 2002, the Department increased the air emissions thresholds for permitting and adopted a permit-by-rule for smaller, less complex sources of air emissions. The sources operating under the permit-by-rule should not be held to all of the requirements of RCSA section 22a-174-29, but the transitional requirements in RCSA section 22a-174-29 are unclear in this respect.

Once implemented, this revision will require only those sources obligated to hold, and operate in compliance with, a new source review permit to meet more comprehensive requirements for toxic pollutant emissions. Sources that are operated under a permit-by-rule will be held to fewer requirements for toxic emissions, which is an appropriate result since the sources operated under a permit-by-rule are smaller and generally have lower levels of actual emissions than sources subject to permitting. The revision also addresses the application of RCSA section 22a-174-29 to sources issued new source review permits under a historic regulation. Revision or modification of any new source review permit will require the source to comply with all of the requirements of RCSA section 22a-174-29, regardless of how RCSA section 22a-174-29 was applied in the previously issued permit.

Section 4. This portion of the proposal adds a cap on hazardous air pollutants and carbon dioxide equivalent emissions to RCSA section 22a-174-3c. RCSA section 22a-174-3c allows owners of sources with high potential emissions but low actual emissions to limit the actual emissions by complying with simple facility-wide purchase requirements. RCSA section 22a-174-3c was designed primarily for use by small businesses lacking dedicated environmental compliance staff.

Operation of a source under the current requirements of RCSA section 22a-174-3c effectively limits hazardous air pollutants to a level below major source thresholds. Operation of a fuel-burning source under the current requirements of RCSA section 22a-174-3c also effectively limits carbon dioxide equivalent emissions (aka greenhouse gases) to a level well below permitting thresholds. By recognizing these restrictions in the regulation, source owners will have an enforceable mechanism under which such sources may stay below the applicability for federal standards for toxic air emissions and state and federal standards for greenhouse gases.

CERTIFICATION

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)
- Connecticut General Statutes section(s) 22a-174
 - Public Act Number(s) _____.

And I further certify

- that Notice of Intent to adopt, amend, or repeal said regulation(s) was electronically submitted to the Secretary of the State on February 24, 2015, and posted to the Secretary's regulations website on February 24, 2015;
- and that a public hearing regarding the proposed regulation(s) was held on April 8, 2015 or that no public hearing was held;
- and that notice of **Decision to Take Action** on said regulations will be electronically submitted to the Secretary of the State on September 8, 2015. The notice was posted to the Secretary's regulations website on September 11, 2015;
- and that said regulation(s) is/are **EFFECTIVE**
 When posted online by the Secretary of the State.
 OR on (insert date) _____.

6) SIGNED (Head of Board, Agency or Commission) 	OFFICIAL TITLE, DULY AUTHORIZED <u>Commissioner</u>	DATE <u>1/28/16</u>
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE <u>2/17/16</u>	SIGNED (Attorney General or AG's designated representative) Robert W. Clark	OFFICIAL TITLE, DULY AUTHORIZED <u>Special Counsel</u>
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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 <u>3-22-16</u>	SIGNED (Administrator, Legislative Regulation Review Committee)
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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 (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

Date Posted to SOTS Regulations Website:

Date Electronic Copy Forwarded to the Commission on Official Legal Publications:

SOTS file stamp: