

Secretary of the State File Number

6394

Regulation of the

Department of Energy and Environmental Protection
Concerning

**Amendments Necessary Due to the Revision of the Definition of "Severe
Non-Attainment Area for Ozone"**

Regulations adopted after July 1, 2013, become effective upon posting to the Connecticut eRegulations System, or at a later date if specified within the regulation.

Posted to the Connecticut eRegulations System on **November 13, 2023**

EFFECTIVE DATE

November 13, 2023

Approved by the Attorney General on

August 25, 2023

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October 24, 2023

Electronic copy with agency head certification statement electronically submitted to and received by the Office of the Secretary of the State on

November 6, 2023

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES
This form should be used only for regulations first noticed *on and after March 23, 2015*.

Electronic Copy Certification Statement

(Submitted in accordance with the provisions of section 4-172 of the Connecticut General Statutes)

Regulation of the
Department of Energy & Environmental Protection
Concerning
Amendments Necessary Due to the Ozone Reclassification:
RCSA sections 22a-174-1, 22a-174-22e and 22a-174-22f

Approved by the Legislative Regulation Review Committee: **24 October 2023**
eRegulations System Tracking Number: **PR2022-023, PR2022-027**

I hereby certify that the electronic copy of the above-referenced regulation submitted herewith to the Secretary of the State is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170 of the *Connecticut General Statutes*.

And I further certify that in accordance with the approval of Legislative Regulation Review Committee, all required technical corrections, page substitutions and deletions, if any, have been incorporated into said regulation.

In testimony whereof, I have hereunto
set my hand on **November 6, 2023**.

Katie S. Dykes

Katie S. Dykes, Commissioner
Department of Energy & Environmental
Protection

**Amendments Necessary Due to the
Revision of the Definition of “Severe Non-Attainment Area for Ozone”**

Section 1. Subsection (a) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(a) Definitions. For the purposes of this section, the following definitions apply. Any term not defined shall be as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies:

(1) “Affected unit” means 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.

(2) “Boiler serving an electric generating unit” or “boiler serving an EGU” means a steam generating unit used for generating electricity.

(3) “Bumped-up RACT unit” means an emission unit located at a facility with a potential to emit NO_x of not less than twenty-five (25) tons per year whereby such facility becomes a major stationary source of NO_x on or after November 7, 2022 solely as a result of the amendment of the definition of “severe non-attainment area for ozone” in RCSA section 22a-174-1 effective on *[insert effective date of said section]*.

~~[(3)]~~(4) “Combined cycle combustion turbine” means an internal combustion engine fueled by liquid or gaseous fuel, in which blades are driven by combustion gases to generate mechanical energy in the form of a rotating shaft that drives an electric generator which recovers heat from the turbine exhaust gases to generate steam that drives a steam turbine which drives an additional electric generator.

~~[(4)]~~(5) “Combined heat and power system” means a steam-generating unit that simultaneously produces both electric power and useful thermal energy from the same primary energy source.

~~[(5)]~~(6) “Combustion turbine” means an internal combustion engine fueled by liquid or gaseous fuel, in which blades are driven by combustion gases to generate mechanical energy in the form of a rotating shaft that drives an electric generator or other industrial equipment.

~~[(6)]~~(7) “Cyclone boiler” means a boiler that combusts fuel in a horizontal water-cooled cylinder before releasing the combustion gases into the boiler.

~~[(7)]~~(8) “Daily block average” means the arithmetic mean of all hourly emission concentrations or rates recorded when an emission unit is operating measured over the 24- hour period from 12 a.m. (midnight) to 12 a.m. (midnight).

~~[(8)]~~ (9) “Digester gas” means a mixture of primarily methane and carbon dioxide produced by a bacterial degradation of organic matter under anaerobic conditions and used as a fuel.

~~[(9)]~~(10) “Duct burner” means a device that combusts fuel and that is placed in the exhaust duct from another source, such as a combined cycle combustion turbine, to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.

~~[(10)]~~(11) “Electric generating unit” or “EGU” means a combustion or steam generating source used for generating electricity that delivers all or part of its power to the electric power distribution grid for commercial sale.

~~[(11)]~~(12) “Electricity supplier” means “electric supplier” as defined in section 16-1(a)(24) of the Connecticut General Statutes, and “municipal electric utility” as defined in section 7-233b(8) of the Connecticut General Statutes.

~~[(12)]~~(13) “Emergency” means an unforeseeable condition that is beyond the control of the owner or operator of an emergency engine that:

- (A) Results in an interruption of electrical power from the electricity supplier to the premises;
- (B) Results in a deviation of voltage from the electricity supplier to the premises of three percent (3%) above or five percent (5%) below standard voltage in accordance with section 16-11-115 of the RCSA;
- (C) Requires an interruption of electrical power from the electricity supplier to the premises enabling the owner or operator to perform emergency repairs; or
- (D) Requires operation of the emergency engine to minimize damage from fire, flood, or any other catastrophic event, natural or man-made.

~~[(13)]~~(14) “Emergency engine” means a stationary reciprocating engine or a combustion turbine that is used as a means of providing mechanical or electrical power only during the following periods:

- (A) Emergencies;
- (B) Testing;
- (C) Scheduled maintenance;
- (D) When the facility owner or operator interrupts power to the facility to perform construction, maintenance or repair of the power distribution system for the facility or portion of the facility; or

- (E) When the electricity supplier makes a scheduled interruption of power to the facility so that the electricity supplier may perform construction, maintenance or repair of the primary power distribution system for the facility. “Emergency engine” does not include a reciprocating engine or combustion turbine for which the owner or operator is a party to any other agreement to sell electrical power from such reciprocating engine or combustion turbine to an electricity supplier, or otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.

[(14)](15) “Existing emission unit” means a source for which construction commenced prior to [the effective date of this section] December 22, 2016.

[(15)](16) “Force majeure” means an event caused by circumstances beyond the control of the owner or operator of the emission unit subject to the event, its contractors, or any entity controlled by the emission unit subject to the event that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the owner or operator of the emission unit subject to the event.

[(16)](17) “Gas” or “gaseous fuel” means natural gas, propane, or any other fuel that is in the gaseous state under standard conditions, except for landfill gas or digester gas.

[(17)](18) “Industrial/commercial/institutional boiler” or “ICI boiler” means an indirect heat exchanger that heats water to supply heat to an industrial, commercial, or institutional operation.

[(18)](19) “Landfill gas” means a mixture of primarily methane and carbon dioxide produced by bacterial degradation of organic matter in a landfill and used as a fuel.

[(19)](20) “Non-ozone season” means the period beginning October 1 of a calendar year and ending on April 30 of the following calendar year, inclusive.

[(20)](21) “Other oil” means a fuel that is liquid at standard conditions and is not residual oil.

[(21)](22) “Ozone forecast” means the eight-hour ozone forecast issued as an air quality index one or more days in advance by the commissioner and posted on the Department’s website or otherwise provided by the Department for the regulated community.

[(22)](23) “Ozone season” means the period beginning May 1 of a calendar year and ending on September 30 of the same year, inclusive.

[(23)](24) “Phase 1” means the first implementation phase of this section, beginning June 1, 2018 and ending May 31, 2023.

[(24)](25) “Phase 2” means the second implementation phase of this section, beginning June 1, 2023 and continuing thereafter.

[(25)](26) “Reciprocating engine” means an internal combustion engine in which a rotating crankshaft is driven by reciprocating motion of piston or pistons.

[(26)](27) “Relative accuracy test audit” or “RATA” means the CEMS performance test procedure conducted pursuant to 40 CFR 60 or 40 CFR 75.

[(27)](28) “RCSA” means Regulations of Connecticut State Agencies.

[(28)] (29) “Simple cycle combustion turbine” means a combustion turbine that does not recover heat from its exhaust gases.

[(29)] (30) “Temporary unit” means any gaseous or liquid fuel fired unit that is designed to, and is capable of, being carried or moved from one location to another by means of, for example, wheels, skids, carrying handles, dollies, trailers or platforms. A unit is not a “temporary unit” if any one of the following conditions exists:

- (A) The unit is attached to a foundation;
- (B) The unit or a replacement remains at the location within the facility and performs the same or similar function for more than 12 consecutive months, provided a temporary unit that replaces a temporary unit at a location and performs the same or similar function will be included in calculating such consecutive time period;
- (C) The unit is located at a seasonal facility and operates during the full annual operating period of the seasonal facility, remains at the facility for at least two years and operates at that facility for at least three months of the year; or
- (D) The unit is moved from one location to another within the facility, but continues to perform the same or similar function and serve the same electricity, steam or hot water system in an attempt to circumvent the residence time specification of this definition.

[(30)] (31) “Test stand” or “test cell” means the collection of all equipment and activities associated with the apparatus used for testing uninstalled engines.

[(31)] (32) “Tune-up” means adjustments made to an emission unit to improve efficiency with respect to combustion operations.

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

(2) This section applies to the owner or operator of an emission unit that is subject to RCSA section 22a-174-22f and [either] that meets one of the following criteria:

- (A) Except for a “reclassified unit”, described in subparagraph (C) of this subdivision, [On] on any day on and after [the effective date of RCSA section 22a-174-22f] May 1, 2018, exceeds the applicable daily emission threshold of subsection (e)(2) of RCSA section 22a-174-22f; [or]

- (B) Is an affected unit[.]; or
- (C) Is a reclassified unit, as defined in RCSA 22a-174-22f(e)(5), and exceeds the applicable daily emission threshold of RCSA 22a-174-22f(e)(2) on or after May 1, 2026.

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

- (3) The requirements of subsections (d)(6), (d)(14), (i), (l), [and] (m) and (n) of this section shall not apply to any reciprocating engine that is:
- (A) Used to test or provide emergency power or alternative power for safety-related structures, systems and components or other Nuclear Regulatory Commission-mandated systems at an electric generating facility licensed under 10 CFR 50; or
 - (B) Located at a hospital or other health care facility and used to meet standards of The Joint Commission or the National Fire Protection Association for emergency electrical power systems.

Sec. 4. Subdivisions (5) to (7), inclusive, of subsection (c) of section 22a-174-22e of the Regulations of Connecticut State Agencies are amended to read as follows:

- (5) Emergency engines are exempt from the following requirements of this section:
- (A) The emissions limitations of subsection (d)(6);
 - (B) The tune-up requirements of subsection (i);
 - (C) The testing requirements of subsection (l);
 - (D) The monitoring requirements of subsection (m); [and]
 - (E) The bumped-up RACT unit requirements of subsection (n); and
 - (F) If an owner or operator operates a model year 2013 or later emergency engine in compliance with the NOx emissions standards of 40 CFR 1039, Subpart B, such engine is exempt from the restriction of subsection (d)(14) of this section.
- (6) The requirements of subsections (d), (i), (l), [and] (m) and (n) of this section shall not apply to the owner or operator of a test stand or test cell, for emissions from the use of such test stand or test cell.
- (7) The requirements of subsections (d)(3), (d)(4), (d)(6), (i), (l), [and] (m) and (n) of this section shall not apply to the emission units listed in subparagraphs (A) and (B) of this subdivision. The owner or operator of an emission unit operating pursuant to this subdivision shall not operate such emission unit on any day for which the commissioner has forecast that

ozone levels will be “moderate to unhealthy for sensitive groups,” “unhealthy for sensitive groups,” “unhealthy” or “very unhealthy.” If subsequent to the initial forecast of “moderate to unhealthy for sensitive groups” or greater, the forecast is revised to “moderate” or lower, the owner or operator is no longer prohibited from operating the emission unit for the remainder of that day. An owner or operator of an emission unit may rely on an ozone forecast of “moderate” or lower obtained after 3 p.m. on the preceding day. Subsequent changes to the ozone forecast after 3 p.m. that forecast ozone levels of “moderate to unhealthy for sensitive groups” or greater shall not obligate the owner or operator to refrain from operation of the emission unit at the facility on the following day. Emission units that may operate pursuant to this exemption include the following:

- (A) Fuel-burning equipment that is the subject of or used for research and development; or
- (B) Compression-ignition reciprocating engines used exclusively for training personnel in the operation and maintenance of such engines aboard submarines.

Sec. 5. Subdivision (10) of subsection (c) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(10) [With the exception of a reciprocating engine or combustion turbine operated pursuant to subparagraph (E) of subdivision (12) of subsection (a) of this section, the] The exemptions provided in subdivision (3) or (4) of this subsection are not available for a reciprocating engine or combustion turbine for which the owner or operator is party to an agreement to sell electrical power from such reciprocating engine or combustion turbine to an electricity supplier or an owner or operator who otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.

Sec. 6. Subdivision (1) of subsection (d) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) [The] With the exception of the owner or operator of a bumped-up RACT unit, the owner or operator of an emission unit shall not cause or allow an emission unit to exceed the applicable emissions limitations specified in this subsection unless such owner or operator undertakes one of the following actions:

- (A) Implements an alternative compliance mechanism as provided in subsection (g) of this section;
- (B) Operates under a case-by-case RACT determination as provided in subsection (h) of this section; or
- (C) Ceases operation as provided in subsection (f) of this section.

The owner or operator of a bumped-up RACT unit shall comply with the applicable Phase 2 emission limitations of this subsection in accordance with the applicable timing set forth in subsection (n) of this section.

Sec. 7. Subdivision (13) of subsection (d) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(13) The owner or operator of an emission unit for which construction commences on or after [the effective date of this section] December 22, 2016 shall achieve compliance with the applicable Phase 2 emissions limitations of this section upon the date of initial operation.

Sec. 8. Subsection (e) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(e) On and after [the effective date of this section,] December 22, 2016, an individual permit or order issued to the owner or operator of an emission unit subject to this section that uses any of the following terms shall be read as follows:

(1) For "emergency" or "emergency engine" as defined in former RCSA section 22a-174-22, the owner or operator shall substitute "emergency" or "emergency engine" as defined in subsection (a) of this section;

(2) If the phrase "emergency engine as defined in RCSA section 22a-174-22" is used, the owner or operator shall substitute "emergency engine as defined in RCSA section 22a-174-22e(a);" and

(3) If the definition of "emergency engine" or "emergency" as defined in RCSA section 22a-174-22 is referenced, the owner or operator shall substitute the language of the applicable term as defined in subsection (a) of this section.

Sec. 9. Subdivision (1) of subsection (f) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) Except as provided in subdivision (2) of this subsection or subsection (n) of this section, the owner or operator of an existing emission unit subject to this section who is unable to comply with an emissions limitation of subsection (d) of this section at the beginning of the Phase 1 or the Phase 2 period and who has not submitted a plan pursuant to subsection (g) or a demonstration pursuant to subsection (h) of this section shall cease operation as of the first day of the Phase 1 or Phase 2 period, as applicable. The owner or operator of the emission unit shall also perform one of the following actions:

(A) If the emission unit is operating pursuant to a permit or registration, submit a request to the commissioner to revoke such permit or registration. Such a request shall be submitted no later than the first day of the Phase 1 or Phase 2 period, as applicable; or

- (B) If the emission unit is not operating pursuant to a permit or registration, render the unit physically inoperable no later than the first day of the Phase 1 or Phase 2 period, as applicable, and submit a statement to the commissioner signed by a responsible official and certified in accordance with RCSA section 22a-174-2a stating that the emission unit has been rendered physically inoperable. Such a statement shall be submitted no later than the first day of the Phase 1 or Phase 2 period, as applicable.

Sec. 10. Subdivision (1) of subsection (g) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) [The] Except as provided in subsection (n) of this section, the owner or operator of an existing emission unit subject to this section who is unable to operate the emission unit in accordance with an applicable emissions limitation of subsection (d) of this section and for which the owner or operator does not intend to submit a demonstration pursuant to subsection (h) of this section or cease operation as provided in subsection (f) of this section shall submit a plan to the commissioner to operate such emission unit in accordance with a compliance option identified in this subsection. Such a plan shall be submitted to the commissioner no later than September 1, 2017, for a Phase 1 emissions limitation, or September 1, 2021, for a Phase 2 emissions limitation. A compliance option provided in this subsection shall be established by the commissioner through the issuance of an order or permit modification to the owner or operator of such emission unit or units.

Sec. 11. Subdivision (3) of subsection (g) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(3) The owner or operator of an ICI boiler may operate the ICI boiler in compliance with one of the options listed in this subdivision in lieu of complying with the applicable emissions limitations of subsection (d) of this section. The options are available as an alternative to any Phase 1 or Phase 2 emissions limitation set out in subsection (d) of this section unless otherwise specified. The actions specified in a compliance plan for a Phase 1 emissions limitation shall be implemented no later than June 1, 2018 or, for a Phase 2 emissions limitation, no later than June 1, 2023:

- (A) For a Phase 1 emissions limitation, reduce the lb/MMBtu average emission rate from the subject emission unit by at least 40% from a 2014 baseline average emission rate, as determined by a CEM system in accordance with former section 22a-174-22 of the RCSA and excluding periods of startup, shutdown or malfunction, or, if the subject emission unit does not have a CEM system, by the most recent emission test performed pursuant to former section 22a-174-22 of the RCSA. An owner or operator may request an alternative baseline year if the emissions in the alternative year are more representative of typical unit operations;
- (B) For a Phase 2 emissions limitation, reduce the lb/MMBtu average emission rate from the subject emission unit by at least 40% from a 2019 baseline average emission rate, as determined by a CEM system in accordance with subsection (m) of this section, or, if the subject emission unit does not have a CEM system, by

the most recent emission test performed either pursuant to subsection (l) of this section or former section 22a-174-22 of the RCSA. An owner or operator may request an alternative baseline year if the emissions in the alternative year are more representative of typical unit operations;

- (C) For a Phase 1 emissions limitation, use existing, banked, NO_x DERCs to comply with the applicable emissions limitation of subsection (d) of this section in accordance with an order or permit modification issued by the commissioner;
- (D) For the Phase 1 emissions limitations in subparagraphs (A) and (B) of subsection (d)(3) of this section, accept an enforceable cap on mass emissions or hours of operation. The enforceable cap shall achieve the lower of a 40% reduction in subject emission unit 2014 allowable emissions or the average of the actual emissions for the two non-overlapping consecutive 12-month periods between January 1, 2014 and March 1, 2017 with the highest actual emissions, determined as follows:
 - (i) Measured by a CEM system in accordance with former section 22a-174-22 of the RCSA, or,
 - (ii) If the subject emission unit does not have a CEM system, calculated from the most recent emissions test performed pursuant to former section 22a-174-22 of the RCSA;
- (E) For the Phase 2 emissions limitations in subparagraphs (C) and (D) of subsection (d)(3) of this section, accept an enforceable cap on mass emissions or hours of operation. The enforceable cap shall achieve the lower of a 40% reduction in subject emission unit 2019 allowable emissions or the actual emissions over the consecutive 12-month period between June 1, 2018 and March 1, 2020 with the highest actual emissions, determined as follows:
 - (i) Measured by a CEM system in accordance with subsection (m) of this section, or,
 - (ii) If the subject emission unit does not have a CEM system, calculated from the most recent emissions test performed pursuant to former section 22a-174-22 of the RCSA or subsection (l) of this section, whichever applies;
- (F) To satisfy the Phase 1 and Phase 2 emissions limitations of subsection (d)(3) of this section:
 - (i) Operate an ICI boiler subject to 40 CFR 63, Subpart DDDDD, as a “unit designed to burn gas 1 subcategory,” as defined in 40 CFR 63.7575, and comply with the emissions limitation of subsection (d)(3)(A) of this section for operation on gas, or
 - (ii) Operate an ICI boiler subject to 40 CFR 63 Subpart [JJJJ] JJJJJ, as a “gas-fired boiler,” as defined in 40 CFR 63.11237, and comply with the

emissions limitation of subsection (d)(3)(A) of this section for operation on gas; or

- (G) Commit to retire another unit or units located at the same facility as the ICI boiler. The unit or units to be retired shall cease operations no earlier than May 3, 2016 and no later than June 1, 2018 for a Phase 1 emissions limitation or no earlier than May 3, 2016 and no later than June 1, 2023 for a Phase 2 emissions limitation. This option shall result in a reduction in maximum allowable mass emissions equal to or greater than the NOx emissions reduction that would be achieved if:
- (i) For a Phase 1 emissions limitation, the ICI boiler and the retired unit or units complied with the applicable Phase 1 emissions limitations of subsection (d) of this section during the consecutive 12-month period between January 1, 2014 and March 1, 2017 with the highest aggregate actual emissions for the ICI boiler and the unit or units to be retired, or,
 - (ii) For a Phase 2 emissions limitation, the ICI boiler and the retired unit or units complied with the applicable Phase 2 emissions limitations in subsection (d) of this section during the consecutive 12-month period between June 1, 2018 and March 1, 2020 with the highest aggregate actual emissions for the ICI boiler and the unit or units to be retired, and,
 - (iii) An emission reduction from a retirement used as a Phase 1 compliance option shall not be used as a Phase 2 compliance option.

Sec. 12. Subdivision (2) of subsection (h) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) [A] Except as provided in subdivision (11) of subsection (n) of this section, a request for a case-by-case RACT determination shall be submitted to the commissioner for review no later than June 1, 2017 for a Phase 1 emissions limitation or January 1, 2021 for a Phase 2 emissions limitation. For a Phase 1 emissions limitation, an owner or operator who has submitted a request and case-by-case RACT demonstration may operate in accordance with the recommendations in the case-by-case RACT demonstration on and after June 1, 2018 to comply with the applicable Phase 1 emissions limitation if the commissioner has not approved the demonstration and if the actions recommended in a Phase 1 case-by-case RACT demonstration do not require the owner or operator to apply for and obtain a permit under RCSA section 22a-174-3a. Such an owner or operator may continue to operate in accordance with the recommendations in the demonstration until the earlier of the date the commissioner issues a final decision on the submitted demonstration or June 1, 2023.

Sec. 13. Subdivision (1) of subsection (i) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) Except as provided in subdivision (2) of this subsection or subdivision (12) of subsection (n) of this section, the owner or operator of an ICI boiler or reciprocating engine subject to this section shall conduct an inspection and tune-up of the emission unit a minimum of once per

calendar year beginning with year 2018. Each subsequent annual tune-up shall be performed no earlier than 180 days after the previous tune-up conducted under this section. The inspection and tune-up of the emission unit shall be conducted according to the manufacturer's recommended procedures, or, if the manufacturer's recommendations are no longer available, according to best available practices.

Sec. 14. Subdivision (2) of subsection (j) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(2) [The] Except as provided in subdivision (12) of subsection (n) of this section, the owner or operator of an emission unit subject to this section shall make and keep the following records on and after May 1, 2018:

- (A) For an emergency engine not subject to 40 CFR 63 Subpart ZZZZ, records of total monthly operating hours of such engine, identifying the dates and operating hours of non-emergency use and the reason for non-emergency operation. For an emergency engine subject to 40 CFR 63 Subpart ZZZZ, records shall be those required by 40 CFR 63.6655;
- (B) The date and work performed for repairs, replacement of parts and other maintenance;
- (C) Records of the dates and times of all emission testing required by this section, the persons performing the measurements, the testing methods used, the operating conditions at the time of testing, and the results of such testing;
- (D) For an emission unit that has or is required to have a CEM system for NOx:
 - (i) Records of all performance evaluations, calibration checks and adjustments on such monitor,
 - (ii) A record of maintenance performed,
 - (iii) All data necessary to complete the quarterly reports required under subsection (k)(3) of this section, and
 - (iv) Charts, electronically stored data, and printed records produced by such CEM system as needed to demonstrate compliance with the requirements of this section;
- (E) For each tune-up, for each emission unit, conducted pursuant to subsection (i) of this section:
 - (i) The date on which the emission unit is tuned-up; the name, title and affiliation of the person performing the tune-up, and a description of work performed, and
 - (ii) The procedures used to inspect and perform adjustments;

- (F) Copies of all documents submitted to the commissioner pursuant to this section; and
- (G) Any other records or reports required by an order or permit issued by the commissioner pursuant to this section.

Sec. 15. Subdivision (3) of subsection (l) of section 22a-174-22e of the Regulations of Connecticut State Agencies is amended to read as follows:

(3) The owner or operator of an emission unit constructed after [the effective date of this section] December 22, 2016 shall conduct an initial emission test to demonstrate compliance with the Phase 2 emission limitations of this section no later than one hundred eighty (180) days after the emission unit commences operation.

Sec. 16. Section 22a-174-22e of the Regulations of Connecticut State Agencies is amended by the addition of subsection (n), as follows:

(NEW)

(n) Compliance by bumped-up RACT units.

- (1) The owner or operator of a bumped-up RACT unit shall comply with the applicable Phase 2 emissions limitations of subsection (d) of this section no later than November 7, 2025.
- (2) The owner or operator of a bumped-up RACT unit who is unable to comply with the applicable Phase 2 emissions limitation of subsection (d) of this section as of November 7, 2025 and who has not submitted a plan pursuant to subdivision (3) of this subsection or a demonstration pursuant to subdivision (11) of this subsection shall:
 - (A) Cease operation no later than November 7, 2025; and
 - (B) Perform one of the following actions:
 - (i) If the bumped-up RACT unit is operating pursuant to a permit or registration, submit a request to the commissioner to revoke such permit or registration. Such a request shall be submitted no later than November 7, 2025, or
 - (ii) If the bumped-up RACT unit is not operating pursuant to a permit or registration, render the unit physically inoperable no later than November 7, 2025 and submit a statement to the commissioner signed by a responsible official and certified in accordance with RCSA section 22a-174-2a stating that the emission unit has been rendered physically inoperable. Such a statement shall be submitted no later than November 7, 2025.

(3) The owner or operator of a bumped-up RACT unit who is unable to operate the emission unit in accordance with an applicable Phase 2 emissions limitation of subsection (d) of this section and for which the owner or operator does not intend to submit a demonstration pursuant to subdivision (11) of this subsection or cease operation as provided in subdivision (2) of this subsection shall submit a plan to the commissioner to operate such bumped-up RACT unit in accordance with a compliance option identified in subdivision (4), (5), (6), (7) or (8) of this subsection. Such a plan shall be submitted to the commissioner no later than September 1, 2024 and shall include all information specified in subdivision (7) of subsection (g) of this section. A compliance option provided in this subsection shall be established by the commissioner through the issuance of an order, permit or permit modification to the owner or operator of such bumped-up RACT unit.

(4) The owner or operator of a bumped-up RACT unit that is a boiler serving an EGU may operate the boiler serving the EGU in compliance with one of the options in subparagraph (B), (E) or (G) of subdivision (2) of subsection (g) of this section in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section. The actions specified in a compliance plan shall be implemented no later than November 7, 2025. Any owner or operator that complies with this subsection by implementing the option in subsection (g)(2)(G) of this section, shall cease operation of the unit or units to be retired no earlier than October 7, 2022 and no later than November 7, 2025.

(5) The owner or operator of a bumped-up RACT unit that is an ICI boiler may operate the ICI boiler in compliance with one of the options listed in subparagraph (B), (E), (F) or (G) of subdivision (3) of subsection (g) of this section in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section. The actions specified in a compliance plan shall be implemented no later than November 7, 2025. Any owner or operator that complies with this subsection by implementing the option in subsection (g)(3)(G) of this section, shall cease operation of the unit or units to be retired no earlier than October 7, 2022 and no later than November 7, 2025.

(6) The owner or operator of a bumped-up RACT unit that is a simple cycle combustion turbine may operate the simple cycle combustion turbine in compliance with any of the options listed in subparagraph (A), (C) or (F) of subdivision (4) of subsection (g) of this section in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section. The actions specified in a compliance plan shall be implemented no later than November 7, 2025. Any owner or operator that complies with this subsection by implementing the option in subsection (g)(4)(F) of this section, shall cease operation of the unit or units to be retired no earlier than October 7, 2022 and no later than November 7, 2025.

(7) The owner or operator of a bumped-up RACT unit that is a combined cycle combustion turbine may operate the combined cycle combustion turbine in compliance with subparagraph (B) or (C) of subdivision (5) of subsection (g) of this section in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section. The actions specified in a compliance plan shall be implemented no later than November 7, 2025. Any owner or operator that complies with this subsection by implementing the option in subsection (g)(5)(C) of this section, shall cease operation of the unit or units to be retired no earlier than October 7, 2022 and no later than November 7, 2025.

(8) The owner or operator of a bumped-up RACT unit that is a reciprocating engine may operate the reciprocating engine in compliance with subparagraph (B) or (E) of subdivision (6) of subsection (g) of this section in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section. The actions specified in a compliance plan shall be implemented no later than November 7, 2025. Any owner or operator that complies with this subsection by implementing the option in subsection (g)(6)(E) of this section, shall cease operation of the unit or units to be retired no earlier than October 7, 2022 and no later than November 7, 2025.

(9) Any owner or operator of a bumped-up RACT unit that implements a compliance option as provided in subdivision (4), (5), (6), (7) or (8) of this subsection in lieu of complying with the applicable Phase 2 emissions limitation of subsection (d) of this section shall comply with subdivision (8) of subsection (g) of this section, as necessary.

(10) Unless otherwise specified in a permit or order, every compliance option provided in subdivisions (4) to (8), inclusive, of this subsection shall expire no later than May 1, 2028, by which date the subject emission unit shall comply with the applicable Phase 2 emissions limitation of subsection (d) of this section or cease operation.

(11) Any owner or operator of a bumped-up RACT unit may request the commissioner's approval for a case-by-case emissions limitation for a bumped-up RACT unit as provided in subsection (h) of this section. For a bumped-up RACT unit demonstration, economic feasibility as provided in subsection (h)(1)(A)(iii) of this section shall use a \$13,635/ton NO_x reduced threshold. A request for a case-by-case RACT demonstration shall be submitted no later than June 1, 2024. As provided in subsection (h)(4) of this section, operation of a bumped-up RACT unit in accordance with a case-by-case demonstration shall expire no later than May 1, 2028, unless otherwise specified in an order or permit.

(12) Any owner or operator of a bumped-up RACT unit shall:

- (A) Comply with the tune-up requirements of subsection (i) of this section beginning with year 2025;
- (B) Make and keep records as required in subsection (j) of this section beginning November 7, 2025;
- (C) Make reports as required in subsection (k) of this section;
- (D) Conduct an initial emission test on a date after November 7, 2025 but no later than November 7, 2026. Emission testing shall be conducted as provided in subsection (l) of this section; and
- (E) Comply with the monitoring requirements of subsection (m) of this section.

Sec. 17. Subsection (e) of section 22a-174-22f is amended by the addition of subdivision (5), as follows:

(NEW)

(5) Notwithstanding the May 1, 2018 compliance date in subdivision (2) of this subsection, the owner or operator of a reclassified unit shall comply with subdivision (2) of this subsection on and after May 1, 2025. For the purposes of this section, “reclassified unit” means:

- (A) An emission unit that becomes subject to this section on or after November 7, 2022 solely as a result of the amendment of the definition of “severe non-attainment area for ozone” in RCSA section 22a-174-1, effective on [*effective date of said section*]; or
- (B) An emission unit that is subject to subparagraph (A) of subdivision (2) of this subsection solely as a result of the amendment of the definition of “severe non-attainment area for ozone” in RCSA section 22a-174-1 effective on [*effective date of said section*].

Statement of purpose

Purpose. This proposal amends two sections of the air regulations, sections 22a-174-22e and 22a-174-22f of the Regulations of Connecticut State Agencies (RCSA), to add provisions for new sources that will be subject to the sections at the time the definition of “severe non-attainment area for ozone” is revised. The definition of “severe non-attainment area for ozone” is revised in a companion proposal.

The entire state of Connecticut is divided into two non-attainment areas for ozone. One area consists of the southwest portion of the state (the Connecticut portion of the New York-New Jersey-Connecticut area) and the remainder of the state (Greater Connecticut) makes up the other non-attainment area. The area in the southwest portion of the state generally monitors higher ozone levels and is the portion of the state EPA designates as severe non-attainment.

The number of towns included in the “severe non-attainment area for ozone” is increased in the companion proposal, bringing more sources into the applicability of RCSA sections 22a-174-22e and 22a-174-22f, which include requirements triggered by the location of the source in the state.

Main provisions.

Sections 22a-174-22e and 22a-174-22f of the Regulations of Connecticut State Agencies impose requirements on sources based on the non-attainment area in which the source is located, and the quantity of emissions released. Sources emitting over certain threshold amounts of nitrogen oxides (NOx) are subject to the control requirements of RCSA section 22a-174-22e. As this proposal will bring new sources into the applicability of RCSA section 22a-174-22e, these new sources required new provisions regarding the timing of compliance and submissions to the Department. (Sections 1-4, 6, 9-10, 12-14, 16) Timing provisions coordinated with those of RCSA section 22a-174-22e also are added to RCSA section 22a-174-22f. (Section 17) Minor corrections or updates are also made to five provisions in RCSA section 22a-174-22e. (Sections 5, 7, 8, 11, 15)

Legal effects of the proposal on existing regulations or laws.

As a stand-alone amendment, these revisions will have no impact on existing regulations or laws. In combination with the change to the definition of “severe non-attainment area for ozone” (in a

companion proposal), this amendment will ensure that Connecticut is applying reasonably available control technology (RACT) requirements and other NO_x control requirements to the correct group of sources in the state, thereby meeting our nonattainment requirements for ozone as set out in Section 182(d) of the federal Clean Air Act.



I, Katherine S. Dykes, Commissioner of the Department of Energy & Environmental Protection (DEEP), hereby make the following certifications with respect to the proposal to revise sections 22a-174-22e and 22a-174-22f of the Regulations of Connecticut State Agencies (RCSA):

1. In compliance with Connecticut General Statutes (CGS) § 4-168(a)(1), on March 20, 2023, DEEP gave notice by posting a notice on the eRegulations System of its intention to amend regulations concerning additional compliance timelines for RCSA sections 22a-174-22e and 22a-174-22f and included the information required in said statute.
2. In compliance with CGS § 4-168(a)(2), on March 20, 2023, DEEP posted a copy of the proposed regulation on the eRegulations System.
3. In compliance with CGS § 4-168(a)(3), on March 20, 2023, DEEP gave notice electronically to each joint standing committee of the General Assembly having cognizance of the subject matter of the proposed regulation.
4. In compliance with CGS § 4-168(a)(4), on March 22, 2023, DEEP gave notice electronically or provided paper copies to all persons who made requests for advance notice of its regulation-making proceedings.
5. DEEP received no requests for a paper copy or electronic version of the proposed regulation, as described in CGS § 4-168(a)(5), presumably due to the availability of the proposal on DEEP's website and the eRegulations system.
6. In compliance with CGS § 4-168(a)(6), on August 12, 2022, DEEP prepared a fiscal note, including an estimate of the cost or of the revenue impact of the proposed regulations (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 Conn. Gen. Stat. § 4-168a.
7. All interested persons were given reasonable opportunities to submit data, views or arguments, orally at a hearing if granted under CGS § 4-168(b) or in writing, concerning the proposed regulations and to inspect and copy or view online and print the fiscal note referred to in paragraph (6) above.

8. No request for an opportunity to present oral argument was made by any person, by a governmental subdivision or agency or by an association having not less than fifteen members, within fourteen days of the posting of the notice on the eRegulations System.
9. DEEP considered fully all written submissions respecting the proposed regulation. No oral comments were made concerning the proposal.
10. The fiscal note and small business impact statement referred to in paragraph (6) above, were reviewed and re-issued as revised documents, although no substantive changes were necessary.
11. In compliance with CGS § 4-168(e), on August 4, 2023, DEEP will post on the eRegulations System notice that it decided to take action on the proposed regulation and has provided such notice electronically to all persons who submitted oral or written comments concerning the regulation and has provided a paper copy of such notice to all persons who submitted comments in a non-electronic format. DEEP has also posted 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.



8/4/2023

Katherine S. Dykes
Commissioner

Date

OFFICE OF THE ATTORNEY GENERAL REGULATION CERTIFICATION

Agency: Department of Energy and Environmental Protection

REGULATION NUMBER: PR2022-027

This Regulation is hereby APPROVED by the Attorney General as to legal sufficiency in accordance with Connecticut General Statutes § 4-169.

DATE: 8/25/2023

Signed: **Eileen Meskill** Digitally signed
by Eileen Meskill
Date: 2023.08.25
11:19:46 -04'00'

Eileen Meskill
Deputy Attorney General
Duly Authorized

The Connecticut General Assembly

Legislative Regulation Review Committee



Senator John Kissel
Senate Chair

Representative Lucy Dathan
House Chair

Official Record of Committee Action

October 24, 2023

Agency: Department of Energy and Environmental Protection
Description: Amendment of Section 22E and 22F
LRRC Regulation Number: 2023-017
eRegulation Tracking Number: PR2022-027

The above-referenced regulation has been

Approved with Technical Corrections

by the Legislative Regulation Review Committee in accordance
with CGS Section 4-170.

Catherine M. Thomas
Committee Administrator



State of Connecticut
Office of the Secretary of the State

Confirmation of Electronic Submission

Re: Regulation of the Department of Energy and Environmental Protection concerning Amendments Necessary Due to the Revision of the Definition of "Severe Non-Attainment Area for Ozone"
eRegulations System Tracking Number PR2022-027
Legislative Regulation Review Committee Docket Number 2023-017

The above-referenced regulation was electronically submitted to the Office of the Secretary of the State in accordance with Connecticut General Statutes Section 4-172 on November 6, 2023.

Said regulation is assigned Secretary of the State File Number 6394.

The effective date of this regulation is November 13, 2023.

A handwritten signature in blue ink, appearing to read "Stephanie Thomas".

Stephanie Thomas
Secretary of the State
November 13, 2023

By:

/s/ Christopher R. Drake
Christopher R. Drake
Director, Business Services
Division