

Secretary of the State File Number

6332

Regulation of the
Department of Energy and Environmental Protection
Concerning

NSR Permitting Exemptions for Incinerators

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 **March 5, 2021**

EFFECTIVE DATE

March 5, 2021

Approved by the Attorney General on

January 29, 2021

Approved by the Legislation Regulation Review Committee on

February 23, 2021

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

February 26, 2021

Form ICM-ECOPY (NEW 6/2015)
State of Connecticut
Secretary of the State



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)

Amendment of the
Department of Energy and Environmental Protection
Concerning
New Source Review Permitting Exemptions for Incinerators

Approved with Technical Corrections by the Legislative Regulation Review Committee: **February 23, 2021**
eRegulations System Tracking Number: **PR2018-057**

I hereby certify that the electronic copy of the above-referenced amendment submitted herewith to the Secretary of the State is a true and accurate copy of the amendment 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 amendment.

In testimony whereof, I have hereunto
set my hand on 02/26/2021.
Date

A handwritten signature in blue ink, appearing to read "Kath S Dykes", written over a horizontal line.

Katherine S. Dykes
Commissioner
Department of Energy and Environmental
Protection

State of Connecticut
Regulation of
Department of Energy and Environmental Protection
Concerning
NSR Permitting Exemptions for Incinerators

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

Sec. 22a-174-1. Definitions

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, 22a-174j, or 22a-200b of the Connecticut General Statutes; the noble gases (helium, neon, argon, krypton, xenon or radon); uncombined water vapor or water droplets; molecular hydrogen expressed as H₂; or molecular oxygen expressed as O₂ 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 that establishes the largest allowable concentration of a specific pollutant in the ambient air as established by the Administrator in 40 CFR 50 or by the commissioner 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) "ASTM" means the American Society for Testing and Materials.
- (13) "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.
- (14) "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.
- (15) "Baseline concentration" means "baseline concentration" as defined in 40 CFR 51.166(b)(13)(i) to (ii)(b), inclusive.

(16) "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.

(17) "Begin actual construction" means "begin actual construction" as defined in 40 CFR 51.165(a)(1)(xv).

(18) "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.

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

(20) "BTU" means British thermal unit, which is the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

(21) "Burn-off oven" means a device that is used to remove coating, varnish, resin, or other material from metal parts or surfaces by the application of heat, provided that such device is:

(A) An indirect-fired unit;

(B) Equipped with a secondary chamber or afterburner that operates at a minimum temperature of 1400 degrees Fahrenheit; and

(C) Operated and maintained in accordance with the manufacturer's specifications and written recommendations.

[(21)] (22) "Carbon dioxide equivalent emissions" or "CO₂e" means an amount of GHGs emitted, computed as follows:

(A) Individually, for each of the six component gases, multiply the mass amount of emissions of the component gas (tons per year) by the gas's associated global warming potential identified in 40 CFR 98, Table A-1 (October 30, 2009); and

(B) Sum each of the six values resulting from the calculation in subparagraph (A) of this subdivision.

[(22)] (23) "CAS Number" means the number given to a compound by the American Chemical Society's Chemical Abstract Service.

[(23)] (24) "CFR" means the Code of Federal Regulations.

[(24)] (25) "Combustion efficiency" means the percentage calculated in accordance with the following formula:

$$CE = [CO_2] / ([CO] + [CO_2]) (100)$$

where: CE = Combustion efficiency in percent;

CO₂ = Amount of carbon dioxide;

CO = Amount of carbon monoxide; and

CO and CO₂ are both measured in volume units.

[(25)] (26) "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.

[(26)] (27) "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.

[(27)] (28) "Commissioner" means the Commissioner of Energy and 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.

[(28)] (29) "Construction" means "construction" as defined in 40 CFR 51.165 (a)(1)(xviii).

[(29)] (30) "CEM" or "Continuous emission monitoring" means a system for continuously measuring the emissions of any pollutant from a stationary source.

[(30)] (31) "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.

[(31)] (32) "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.

[(32)] (33) "Department" means the Department of Energy and Environmental Protection.

[(33)] (34) "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.

Table 1-1	
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

Table 1-1	
FORM OF DIOXIN EMISSIONS	TEF
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

[(34)] (35) "Discharge point" means any stack or area from which a hazardous air pollutant is released into the ambient air.

[(35)] (36) "Dispersion technique" means "dispersion technique" as defined in 40 CFR 51.100(hh).

[(36)] (37) "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.

[(37)] (38) "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.

[(38)] (39) "Emission" means the release or discharge of an air pollutant into the ambient air from any source.

[(39)] (40) "Emission limitation" and "Emission standard" means "emission limitation" and "emission standard" as defined in 40 CFR 51.100(z).

[(40)] (41) "Emission unit" means "emission unit" as defined in 40 CFR 51.165(a)(1)(vii).

[(41)] (42) "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.

[(42)] (43) "Excessive concentration" means "excessive concentration" as defined in 40 CFR 51.000(kk).

[(43)] (44) "Federally enforceable" means "federally enforceable" as defined in 40 CFR 51.165(a)(1)(xiv).

[(44)] (45) "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.

[(45)] (46) "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.

[(46)] (47) "Fugitive dust" means solid airborne particulate matter emitted from any source other than through a stack.

[(47)] (48) "Fugitive emissions" means fugitive dust or those emissions that cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

[(48)] (49) "Good engineering practice (GEP) stack height" means "good engineering practice (GEP) stack height" as defined in 40 CFR 51.100(ii).

[(49)] (50) "Greenhouse gases" or "GHGs" means the aggregate of the following six component gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), any hydrofluorocarbon (HFC) or any perfluorocarbon (PFC).

[(50)] (51) "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.

[(51)] (52) "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.

[(52)] (53) "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.

[(53)] (54) "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.

[(54)] (55) "Indian governing body" has the same meaning as in 40 CFR 51.166(b)(28).

[(55)] (56) "Indian reservation" means "Indian reservation" as defined in 40 CFR 51.166(b)(27).

[(56)] (57) "Indirect-fired unit" means a unit in which the flame does not come into direct contact with the metal parts or surfaces to be cleaned.

[(57)] (58) "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.

[(58)] (59) "Indirect source construction permit" means a permit issued by the commissioner authorizing the construction of an indirect source.

[(59)] (60) "Innovative control technology" means "innovative control technology" as defined in 40 CFR 51.166 (b)(19).

[(60)] (61) "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(f) of the Regulations of Connecticut State Agencies.

[(61)] (62) "LAER" or "Lowest Achievable Emission Rate" means "lowest achievable emission rate" as defined in 40 CFR 51.165(a)(1)(xiii).

[(62)] (63) "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 as an ozone precursor are each twenty-five (25) tons per year, and

(B) Asbestos, beryllium and vinyl chloride are excluded.

[(63)] (64) "Major source baseline date" means January 6, 1975 for particulate matter and sulfur dioxide; February 8, 1988 for nitrogen dioxide; and October 20, 2010 for PM_{2.5}.

[(64)] (65) "Major stationary source" means "major stationary source" as defined in 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."

[(65)] (66) "Malfunction" means "malfunction" as defined in 40 CFR 60.2.

[(66)] (67) "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.

[(66)] (68) "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.

[(67)] (69) "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.

[(68)] (70) "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.

[(69)] (71) "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.

[(70)] (72) "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 (63) of this section.

[(71)] (73) "Minor source baseline date" means June 7, 1988 for particulate matter, August 24, 2014 for fine particulate matter (PM_{2.5}), December 17, 1984 for sulfur dioxide and June 7, 1988 for nitrogen dioxide.

[(72)] (74) "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.

[(73)] (75) "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 judgment 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 judgment for such source.

[(74)] (76) "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.

[(75)] (77) "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.

[(76)] (78) "Nitrogen oxides" or "NO_x" means the sum of all oxides of nitrogen, expressed as nitrogen dioxide.

[(77)] (79) "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.

[(78)] (80) "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.

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

[(80)] (82) "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.

[(81)] (83) "Offset fill pipe" means a fill pipe that has bends or angles such that a straight sleeve cannot be installed.

[(82)] (84) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

[(83)] (85) "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.

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

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

[(86)] (88) "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.

[(87)] (89) "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.

[(88)] (90) "PM₁₀" 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 J, 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.

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

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

[(91)] (93) "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.

[(92)] (94) "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 subclause (ii) of this subparagraph 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 subclause (ii) of this subparagraph 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.

[(93)] (95) "Premises" means the grouping of all stationary sources at any one location and owned or under the control of the same person or persons.

[(94)] (96) "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.

[(95)] (97) "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.

[(96)] (98) "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.

[(97)] (99) "Reconstruct" or "reconstruction" means the renovation or re-building of a stationary source in accordance with the provisions of 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.

[(98)] (100) "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.

[(99)] (101) "Residual oil" means any fuel oil of No. 4, No. 5, or No. 6 grades, as defined by ASTM D396-09, Standard Specification for Fuel Oils, or the current active version thereof.

[(100)] (102) "Resources recovery facility" means "resources recovery facility" as defined in section 22a-207(9) of the Connecticut General Statutes.

[(101)] (103) "Ringelmann chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

[(102)] (104) "Secondary emissions" mean "secondary emissions" as defined in 40 CFR 51.165(a)(1)(viii).

[(103)] (105) "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.

[(104)] (106) "Severe non-attainment area for ozone" means the towns of Bethel, Bridge-port, Bridgewater, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Mon-roë, New Canaan, New Fairfield, New Milford, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Stratford, Trumbull, Weston, Westport and Wilton.

[(105)] (107) "Solid waste" means unwanted or discarded materials, including solid, liquid, semisolid, or contained gaseous material.

[(106)] (108) "Source" means any property, real or personal, which emits or may emit any air pollutant.

[(107)] (109) "Stack" means "stack" as defined in 40 CFR 51.100 (ff), provided that stack shall also include a flare.

[(108)] (110) "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).

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

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

[(111)] (113) "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.

[(112)] (114) "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.

[(113)] (115) "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.

[(114)] (116) "Subregion" means a subdivision of a Region, as determined by the commissioner.

[(115)] (117) "Tank" means any vessel for containing liquids or gases.

[(116)] (118) "Title V source" means "Title V source" as defined in 22a-174-33 of the Regulations of Connecticut State Agencies.

[(117)] (119) "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.

[(118)] (120) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR 50, Appendix B.

[(119)] (121) "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.

[(120)] (122) "Volatile organic compound" or "VOC" means "volatile organic compound" as defined in 40 CFR 51.100(s), as amended from time to time.

[(121)] (123) "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.

[(122)] (124) "Watercourse" means "watercourses" as defined in 22a-38(16) of the Connecticut General Statutes.

Sec. 2. Subdivision (1) of subsection (a) of section 22a-174-3a of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) Applicability. Prior to beginning actual construction of any stationary source or modification not otherwise exempted in accordance with subdivision (2)(A) to (C) of this subsection, the owner or operator shall apply for and obtain a permit to construct and operate under this section for any:

(A) New major stationary source;

(B) Major modification;

(C) New or reconstructed major source of hazardous air pollutants subject to the provisions of subsection (m) of this section;

(D) New emission unit with potential emissions of fifteen (15) tons or more per year of any individual air pollutant;

(E) Modification to an existing emission unit which increases potential emissions of any individual air pollutant from such unit by fifteen (15) tons or more per year;

(F) Stationary source or modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant; or

(G) Incinerator for which construction commenced on or after June 1, 2009, except if such incinerator has potential emissions of less than fifteen (15) tons per year of any individual air pollutant and is used:

(i) for the primary purpose of reducing, controlling or eliminating air pollution, [or]

(ii) as a solid waste incineration unit subject to an emission guideline issued pursuant to Section 129 of the Act[.],

(iii) as a burn-off oven,

(iv) for bench scale research and development operations where, for purposes of this clause, “research and development operation” has the same meaning as provided in section 22a-174-33(a)(8) of the Regulations of Connecticut State Agencies,

(v) to burn samples of non-halogenated materials for the purpose of conducting quality control or performance testing, or

(vi) as a portable unit to destroy contraband or confiscated goods, and the unit is owned or operated by a government agency such as police, customs, or a similar agency.

Statement of Purpose**Purpose of the proposal**

In an effort to reduce the regulatory burden on small incinerators, sections 22a-174-1 and 22a-174-3a of the Regulations of Connecticut State Agencies (RCSA) are being amended. The main purpose of this amendment is to exempt the owners or operators of burn-off ovens and other types of incinerators from the requirement to apply for and obtain a permit under RCSA section 22a-174-3a.

Summary of the main provisions of the proposal

This amendment adds definitions of the terms “burn-off oven” and “indirect-fired unit” to RCSA section 22a-174-1. The abovementioned terms are introduced to RCSA section 22a-174-3a in the proposed modifications to subsection (a).

The amendment also includes the addition of four new categories of incinerators to be exempt from New Source Review (NSR) permit requirements under RCSA section 22a-174-3a. These new categories are:

- (1) Incinerators used as burn-off ovens;
- (2) Incinerators used for bench scale research and development operations;
- (3) Incinerators used to burn samples of non-halogenated materials for the purpose of conducting quality control or performance testing; and
- (4) Incinerators used as portable units to destroy contraband or confiscated goods, and the units are owned or operated by a government agency such as police, customs, or a similar agency.

Lastly, the modifications to subsection (a)(1)(G) of RCSA section 22a-174-3a clarify that the incinerators exempt from NSR permit requirements under RCSA section 22a-174-3a are those with potential emissions of less than fifteen tons per year of any individual air pollutant and that are used for one of the six purposes specified under subsection (a)(1)(G).

Legal effects of the proposal on existing regulations or other laws

The legal impact of this amendment is that it will reduce the regulatory burden on small incinerators, and thereby, eliminate the administrative and financial burden of obtaining a NSR permit.

Additionally, this amendment will allow the Department to maximize resource allocation and it is not anticipated to interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of the Clean Air Act pursuant to section 110(l).

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES

This form is to be used for proposed permanent and technical amendment regulations only and must be completed in full.

AGENCY CERTIFICATION

Department of Energy and Environmental Protection

Proposed Regulations Concerning

New Source Review Permitting Exemptions for Incinerators

eRegulations System Tracking Number **PR2018-057**

I hereby certify the following:

(1) The above-referenced **amendment** is proposed pursuant to the following statutory authority or authorities: **Connecticut General Statutes sections 22a-6 and 22a-174.**

For technical amendment regulations proposed without a comment period, complete #2 below, then skip to #8.

(2) As permitted by Section 4-168(h) of the *Connecticut General Statutes*, the agency elected to proceed without prior notice or hearing and posted the text of the proposed technical amendment regulation on eRegulations System website on **<<select and enter the date of posting>>**.

For all other non-emergency proposed regulations, complete #3 - #7 below, then complete #8)

(3) The agency posted notice of intent with a specified comment period of not less than 30 days to the eRegulations System website on **July 2, 2020**.

(4) *(Complete one)* ☒ No request for a public hearing pursuant to CGS Section 4-168(b) was made, within 40 days of the posting of the notice on the eRegulations System website. **OR** ☐ One or more public hearings were held on:

(5) On **October 30, 2020**, the agency will post to the eRegulations System website a notice of decision to move forward with the proposed amendment.

(6) *(Complete one)* ☐ No comments were received. **OR** ☒ Comments were received and the agency will post the statements specified in subdivisions (1) and (2) of CGS Section 4-168(e) to the eRegulations System website on **October 30, 2020**.

(7) The final wording of the proposed amendment will be posted to the eRegulations System website on **October 30, 2020**.

(8) Subsequent to approval for legal sufficiency by the Attorney General and approval by the Legislative Regulation Review Committee, **the final amendment shall be effective**

(Check one and complete as applicable)

☒ When posted to the eRegulations System website by the Secretary of the State.

OR ☐ On _____

(Date must be a specific calendar date not less than 11 days after submission to the Secretary of the State)

Katherine S. Dykes

Commissioner

10/26/2020

SIGNED

(Head of Board, Agency or Commission,

OFFICIAL TITLE

DATE

Form Agency-Cert-PR-TA-ICM (Rev 11/2017)
State of Connecticut
Secretary of the State



or duly authorized deputy)

OFFICE OF THE ATTORNEY GENERAL REGULATION CERTIFICATION

Agency: Connecticut Department of Energy and Environmental Protection

REGULATION NUMBER PR2018-057

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

DATE: January 29, 2021

Signed: Joseph Rubin,
Asst. Dep. A.G.



Digitally signed by Joseph
Rubin, Asst. Dep. A.G.
Date: 2021.01.29 16:22:07 -05'00'

***Joseph Rubin, Assistant Deputy Attorney General
Duly Authorized***

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator James Maroney
Senate Chair



Representative Nicole Klarides-Ditria
House Chair

Official Record of Committee Action

February 23, 2021

Agency: Department of Energy & Environmental Protection
Description: NSR Permitting Exemptions for Incinerators
LRRC Regulation Number: 2020-017A
eRegulation Tracking Number: PR2018-057

The above-referenced regulation has been

Approved with Technical Corrections

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

Kirstin L. Breiner
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 NSR Permitting Exemptions for Incinerators
eRegulations System Tracking Number PR2018-057
Legislative Regulation Review Committee Docket Number 2020-017A

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 February 26, 2021.

Said regulation is assigned Secretary of the State File Number 6332.

The effective date of this regulation is March 5, 2021.

A handwritten signature in black ink, reading "Denise W. Merrill".

Denise W. Merrill
Secretary of the State
March 5, 2021

By:

/s/ Kristin M. Karr

Kristin M. Karr
Administrative Law
Information Systems Manager