



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2014-0881; A-1-FRL-9925-88-Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision updates state regulations containing ambient air quality standards (AAQS) to be consistent with EPA's national ambient air quality standards (NAAQS). The intended effect of this action is to approve these regulations into the Connecticut SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective [Insert date 60 days after date of publication in the Federal Register], unless EPA receives adverse comments by [Insert date 30 days after date of publication in the Federal Register]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments identified by Docket ID Number EPA-R01-OAR-2014-0881, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047
4. Mail: "Docket Identification Number EPA-R01-OAR-2014-0881," Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912.
5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

Instructions: Direct your comments to Docket ID Number EPA-R01-OAR-2014-0881. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through

www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

In addition, copies of the state's submittal are available for public inspection during normal business hours, by appointment at the state environmental agency: The Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT: David Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square - Suite 100, (Mail Code OEP05-02), Boston, MA 02109-3912, telephone 617-918-1584, facsimile 617-918-0584, email mackintosh.david@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. What Action is EPA Taking?
- II. What is the Background for this Action?
- III. What is Included in the Submittal?
- IV. EPA’s Evaluation of the Submittal.
- V. Final Action.
- VI. Incorporation by Reference.
- VII. Statutory and Executive Order Reviews.

I. What Action is EPA Taking?

EPA is approving a SIP revision submitted by the State of Connecticut on April 22, 2014 concerning updates to Connecticut’s AAQS. The Connecticut AAQS, set out in Regulations of Connecticut State Agencies (RCSA) section 22a-174-24, were amended to be consistent with the NAAQS set out in the Code of Federal Regulations (CFR) at 40 CFR part 50. Connecticut also revised the definitions of "ambient air quality standard" and "PM 10" in RCSA subsections 22a-174-1(10) and 22a-174-1(88), respectively, and revised references to RCSA section 22a-174-24 in RCSA subsections 22a-174-3a(k)(5) and 22a-174-28(a)(5).

II. What is the Background for this Action?

Section 109 of the CAA directs EPA to establish NAAQS requisite to protect public health with an adequate margin of safety (primary standard) and for the protection of public welfare (secondary standard). Section 109(d)(1) of the CAA requires EPA to complete a thorough review of the NAAQS at 5-year intervals and promulgate new standards when appropriate. Additionally, Section 107 of the CAA requires the establishment of air quality control regions for the purpose of implementing the NAAQS.

On October 17, 2006 (71 FR 61144), EPA revised the primary and secondary 24-hour NAAQS for fine particulate matter (PM_{2.5}) to 35 micrograms per cubic meter and retained the primary and secondary 24-hour NAAQS for coarse particulate matter (PM₁₀) of 150 micrograms per cubic meter. This final rule became effective on December 18, 2006.

On March 27, 2008 (73 FR 16436), EPA revised the NAAQS for ozone, setting the level of the primary and secondary 8-hour standard to 0.075 parts per million. This final ozone standard rule became effective on May 27, 2008.

On November 12, 2008 (73 FR 66964), EPA revised the NAAQS for lead, setting the level of the primary and secondary standard to 0.15 micrograms per cubic meter and revised the averaging time to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. The final lead standard rule became effective on January 12, 2009.

On February 9, 2010 (75 FR 6474), EPA revised the NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO₂). EPA established a 1-hour primary standard for NO₂ at a level of 100 parts per billion, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing primary and secondary annual standard of 53 parts per billion (61 FR 52852, Oct 8, 1996). The final NO₂ rule became effective on April 12, 2010.

On June 22, 2010 (75 FR 35520), EPA revised the NAAQS for oxides of sulfur as measured by sulfur dioxide (SO₂). EPA established a new 1-hour SO₂ primary standard at a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA also revoked both the previous 24-hour and annual primary SO₂ standards. This final rule became effective on August 23, 2010.

On January 15, 2013 (78 FR 3086), EPA revised the primary PM_{2.5} annual NAAQS, lowering the standard to 12.0 micrograms per cubic meter. The final rule became effective on March 18, 2013.

On April 22, 2014, Connecticut submitted a SIP revision to update its ambient air quality standards set out in RCSA section 22a-174-24, definitions in RCSA subsections 22a-174-1(10) and 22a-174-1(88), and references in RCSA subsections 22a-174-3a(k)(5) and 22a-174-28(a)(5).

On December 14, 2014, Connecticut withdrew RCSA subsection 22a-174-24(m), ambient air quality standard for dioxin, from its April 22, 2014 SIP submittal.

III. What is Included in the Submittal?

Connecticut's April 22, 2014 SIP submittal includes revised RCSA section 22a-174-24, "Connecticut primary and secondary ambient air quality standards." This regulation has been revised to explicitly incorporate the new NAAQS discussed above. Specifically, Connecticut adopted the following substantive changes:

1. The sulfur dioxide primary 1-hour standard of 75 parts per billion; and
2. The PM₁₀ primary and secondary annual standard of 150 micrograms per cubic meter;
3. The PM_{2.5} primary annual standard of 12.0 micrograms per cubic meter;
4. The PM_{2.5} secondary annual standard of 15.0 micrograms per cubic meter;
5. The PM_{2.5} primary and secondary 24-hour standards of 35.0 micrograms per cubic meter;
6. The ozone primary and secondary 8-hour standards of 0.075 parts per million;
7. The nitrogen dioxide primary 1-hour standard of 100 parts per billion; and
8. The lead primary and secondary rolling 3-month average standards of 0.15 micrograms per cubic meter.

Connecticut's April 22, 2014 SIP revision also includes Connecticut's revised definitions of the terms "ambient air quality standard" and "PM 10" in RCSA section 22a-174-1, "Definitions."

These definitions have been revised to reference 40 CFR part 50 and 40 CFR part 50, appendix J, respectively. In addition, Connecticut's SIP submittal includes minor edits to subsection (k)(5) of RCSA section 22a-174-3a, "Permit to Construct and Operate Stationary Sources." Subsection (k)(5) has been updated to reference the defined term "AAQS." Finally, in Connecticut's SIP submittal, the definition of "control period" in subsection (a)(5) of RCSA section 22a-174-28, "Oxygenated gasoline," has been updated to reference 40 CFR part 50.

IV. EPA's Evaluation of the Submittal.

Connecticut's air quality standards rule, RCSA section 22a-174-24, as well as amendments to this rule, have been previously approved into the Connecticut SIP, with the most recent approval occurring on December 13, 1985 (50 FR 50906). The other rules for which amendments were included in Connecticut's April 24, 2014 SIP revision have also been previously approved into the Connecticut SIP, with the most recent approvals occurring on May 10, 2011 (76 FR 26933) for RCSA sections 22a-174-1 and 22a-174-3a, and on September 28, 1999 (64 FR 67188) for RCSA section 22a-174-28. EPA has reviewed Connecticut's revisions to its ambient air quality standards, definitions, and references and has determined they are consistent with the federal NAAQS in 40 CFR part 50. Connecticut's revised RCSA section 22a-174-24 includes additional and more stringent air quality standards than the previous SIP-approved version of the rule. Thus, the revised RCSA section 22a-174-24 satisfies the anti-back sliding requirements in Section 110(l) of the CAA and we are approving Connecticut's revised rule into the Connecticut SIP.

V. Final Action.

EPA is approving, and incorporating into the Connecticut SIP, the following regulations submitted by Connecticut on April 22, 2014: in RCSA section 22a-174-1, entitled "Definitions," the amendment of subdivisions (10) and (88); in RCSA section 22a-174-3a, entitled "Permit to Construct and Operate Stationary Sources," the amendment of subdivision (k)(5); RCSA section 22a-174-24, entitled "Connecticut primary and secondary ambient air quality standards," with the exception of subsection (m), "Connecticut primary ambient air quality standard for dioxin,"

which Connecticut withdrew from its SIP submittal; and in RCSA section 22a-174-28, entitled, “Oxygenated Gasoline,” the amendment of subdivision (a)(5).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve this SIP revision should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days after date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days after date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days after date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Incorporation by Reference.

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Regulations of Connecticut State Agencies described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

VII. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S.

House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **insert date 60 days after date of publication in the Federal Register**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, National ambient air quality standards, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 26, 2015.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart H - Connecticut

2. Section 52.370 is amended by adding paragraph (c)(106) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the State Implementation Plan submitted by the Connecticut Department of Energy and Environmental Protection on April 22, 2014.

(i) Incorporation by reference.

(A) Regulations of Connecticut State Agencies Section 22a-174-1(10) and (88), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(B) Regulations of Connecticut State Agencies Section 22a-174-3a(k)(5), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(C) Regulations of Connecticut State Agencies Section 22a-174-24, “Connecticut primary and secondary ambient air quality standards,” with the exceptions of subsections (a), (c), (g), (j), and (m), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

(D) Regulations of Connecticut State Agencies (RCSA) Section 22a-174-28 (a)(5), as published in the Connecticut Law Journal on July 1, 2014, effective April 15, 2014.

3. In § 52.385, Table 52.385 is amended by adding new entries for existing state citations “22a-174-1”, “22a-174-3a”, “22a-174-24”, and “22a-174-28” to read as follows:

§ 52.385 - EPA-approved Connecticut regulations.

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Table 52.385 - EPA-Approved Regulations

Connecticut State citation	Title/ subject	Dates		<u>Federal Register</u> citation	Section 52.370	Comments/ description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a-174-1	Definitions.	04/07/14	[Insert date of <u>FR</u> publication]	[Insert <u>Federal Register</u> citation]	(c)(106)	Amendment of subdivisions (10) ambient air quality standard and (88) PM 10.
*	*	*	*	*	*	*
22a-174-3a	Permit to Construct and Operate Stationary Sources.	04/07/14	[Insert date of <u>FR</u> publication]	[Insert <u>Federal Register</u> citation]	(c)(106)	Amendment of subsection (k)(5) Ambient Monitoring.
*	*	*	*	*	*	*
22a-174-24	Connecticut primary and secondary ambient air quality standards.	04/07/14	[Insert date of <u>FR</u> publication]	[Insert <u>Federal Register</u> citation]	(c)(106)	All of 22a-174-24 is approved, with the exception of subsection (m) Dioxin, which Connecticut withdrew from its SIP submittal.
*	*	*	*	*	*	*
22a-174-28	SIP revision concerning Oxygenated Gasoline.	04/07/14	[Insert date of <u>FR</u> publication]	[Insert <u>Federal Register</u> citation]	(c)(106)	Amendment of subdivision (a)(5) Control period.
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[FR Doc. 2015-15463 Filed: 6/23/2015 08:45 am; Publication Date: 6/24/2015]