R-39 REV. 1/77

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT

REGULATION

OF

#5686

NAME OF AGENCY

Environmental Protection

Concerning

ABATEMENT OF AIR POLLUTION

Amendment of:
Sections 22a-174-1(29) and (94); 22a-174-2a(e)(1); 22a-174-2a(e)(3); 22a-174-2a(f)(1); 22a-174-2a(f)(2); 22a-174-2a(f)(4); 22a-174-2a(j); 22a-174-3b(a), (b), (c), (d) and (f); 22a-174-3c(a) and (b); 22a-174-5(b), (e)(2) and (g); 22a-174-19a(a)(1), (a)(7), (g)(1) and (h)(5); 22a-174-20(m), (n), (o), (p), (q), (r), (s) and (v); 22a-174-22(a)(17), (j) and (k); 22a-174-22a(f)(5); 22a-174-22b(c); 22a-174-22b(i)(6); 22a-174-23(h); 22a-174-24(b); 22a-174-29(b), (d) and (e); and 22a-174-33(d)(3)

Sec. 21. Subdivision (17) of subsection (a) of section 22a-174-22 of the Regulations of Connecticut State Agencies is amended to read as follows:

(17) "Premises" [has the same meaning as "Premise"] means "premises" as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

Sec. 22. Subsection (j) of section 22a-174-22 of the Regulations of Connecticut State Agencies is amended by adding new subdivision (4) as follows:

(NEW)

(4) Vintage restrictions. For the purposes of this section, the following vintage restrictions shall apply:

(A) Any DERC shall be used for the purpose of compliance with this section within five (5) calendar years from the year of generation; and

(B) Any NO_x allowance allocated to, or otherwise acquired by, the owner or operator of a stationary source subject to this section, if used for the purpose of compliance with this section, shall be used within five (5) calendar years from the year of initial allocation.

Sec. 23. Subsection (k) of section 22a-174-22 of the Regulations of Connecticut State Agencies is amended to read as follows:

(k) Emissions testing and monitoring.

(1) The owner or operator of a stationary source subject to an emission limitation under this section shall conduct an emission test to demonstrate compliance with this section no later than [May 31, 1995] one year after becoming subject to this section. [Any such owner or operator that does not install or operate a continuous emissions monitor at such source shall also conduct emission tests at least once every five years.] Each such emission test shall be conducted in accordance with section 22a-174-5 of the Regulations of Connecticut State Agencies. Compliance with the emission limitations of this section shall be determined based on the average of three (3) one-hour tests, each performed over a consecutive 60-minute period [and performed in accordance with section 22a-174-5 of the Regulations of Connecticut State Agencies]. Any analysis of nitrogen content conducted as part of such emission testing shall be in accordance with Method D-3228 of the American Society for the Testing of Materials. If the commissioner determines that three (3) one-hour tests are not reasonable given the location, configuration or operating conditions of a stationary source, the commissioner may approve testing where compliance with the emission limitations of this section shall be determined based on the average of four (4) fifteen-minute tests, each performed over a consecutive fifteen-minute period. Any owner or operator of a stationary source who has not installed and operated a continuous emissions monitor at such source shall

conduct emission testing once every five years from the date of the previous test or five years from the date the previous test was due, whichever is earlier.

(1) The owner or operator shall demonstrate compliance with emission limitations of this section using sampling and analytical procedures approved under 40 CFR [Part] 60, Appendix A, or under procedures in [subsection] section 22a-174-5(d) of the Regulations of Connecticut State Agencies. Sampling shall be conducted when the source is at normal operating temperature and, unless allowed otherwise by the Commissioner in a permit or order, is operating at or above ninety percent (90%) of maximum [rated] capacity for a fuel-burning source or a process source, or at or above ninety percent (90%) of design capacity for a waste combustor. Notwithstanding [such requirement, any source which has operated in excess of one hundred percent (100%) of its maximum rated capacity at any time since January 1, 1990 shall be tested when the source is operating at or above ninety percent (90%) of its highest operating rate since January 1, 1990.] the foregoing requirements of this subdivision:

(A) If the commissioner determines that operating at or above ninety percent (90%) of maximum capacity for a fuel burning source or a process source during sampling is not reasonable given the location, configuration or operating conditions of a source, the commissioner may approve testing of a fuel burning source or process source at an alternative maximum capacity where compliance with the emission limitations of this section shall be determined based on operating at or above ninety percent (90%) of the alternative maximum capacity approved by the commissioner; and

(B) Any source that has operated in excess of one hundred percent (100%) of its maximum capacity at any time since May 31, 1995 shall be tested when the source is operating at or above ninety percent (90%) of its highest operating rate since May 31, 1995.

(3) On and after May 31, 1995, the owner or operator of any source that emitted more than one hundred (100) tons of NOx from a single stack during any calendar year beginning January 1, 1990, shall install, calibrate, maintain, operate[,] and certify a continuous emissions monitor for NOx for each such stack. The owner or operator shall notify the Commissioner in writing at least thirty (30) days prior to conducting any performance or quality assurance testing of any such monitor. Any such testing shall be conducted in accordance with a testing protocol approved by the Commissioner. Any continuous emission monitor for NOx shall be installed, calibrated and operated in accordance with the performance and quality assurance specifications contained in 40 CFR 60, Subpart A, Appendix B and Appendix F.

(4) Unless otherwise specified by the commissioner in a permit or order, the averaging times for the following emission limitations shall be applicable to a source that has or is required to have a continuous emissions monitor for NOx:

(A) For the emissions limitation is subsection (e)(3), the period from October 1 to April 30, inclusive, including all periods of operation, including startup shutdown, and malfunction; and

(B) For any other emission limitation contained in this section, twenty-four (24) hours, measured from midnight at the beginning of any day to midnight of the end of that day, including all periods of operation, including startup, shutdown[,] and malfunction.

Sec. 24. Subdivision (5) of subsection (f) of section 22a-174-22a of the Regulations of Connecticut State Agencies is amended to read as follows:

(5) Emission offsets required by the Regulations of Connecticut State Agencies for new or modified major stationary sources of NO_x must be obtained in accordance with [section 22a-174-3] section 22a-174-3a of the Regulations of Connecticut State Agencies, and are subject to the offset requirements of section 173 of the [Clean Air] Act. Allowances under this section may not be used as offsets. However, if the owner or operator of a budget source:

(A) Reduces its emissions such that not all allowances are used, and

(B) Where the unused allowances represent real reductions in actual annual emissions, these unused allowances may be approvable for use as offsets under the Regulations of Connecticut State Agencies. In no instance may emission reductions be used simultaneously to [simultaneously] satisfy both the requirements of this section and the offset requirements set forth in [section 22a-174-3] section 22a-174-3a of the Regulations of Connecticut State Agencies. Upon the approval of unused allowances for use as offsets, the commissioner shall adjust the emission budget commensurate with the number of unused allowances approved for use as offsets.

Sec. 25. Subsection (c) of section 22a-174-22b of the Regulations of Connecticut State Agencies is amended to read as follows:

(c) Permanent cessation of operations exemption.

(1) Notwithstanding subsection (b) of this section, this section shall no longer apply to the owner or operator of a Budget Unit upon the permanent cessation of NO_x-emitting operations at such Budget Unit, provided:

(A) Within thirty (30) days of the permanent cessation of NO_x-emitting operations at such Budget Unit, or within thirty (30) days of the effective date of this section, whichever is earlier, the AAR or Alternate AAR of such Budget Unit submits to the commissioner in writing, with a photocopy to the Administrator, a statement that:

(i) such Budget Unit has permanently ceased NO_x-emitting operations,

(ii) specifies the date on which NO_x-emitting operations permanently ceased, and

(iii) such Budget Unit shall not emit NO_x, starting on the date on which NO_x-emitting operations permanently ceased[.];

(B) The owner or operator of such Budget Unit, and to the extent applicable, the AAR or Alternate AAR of such Budget Unit, shall comply with all requirements contained in this section arising from the operations of such Budget Unit while such owner or operator was subject to this section, even if such requirements arise after the permanent cessation of NO_x-emitting operations of such Budget Unit;

(C) The owner and operator of such Budget Unit shall retain at the premises where such Budget Unit is located, unless the commissioner approves in writing the use of another location in Connecticut, records demonstrating that such Budget Unit has permanently ceased NO_x-emitting operations. Such owner or operator shall retain such records for a period of five (5)

years from the date such records are created, provided that the commissioner or the Administrator may extend such five-year period for cause by sending written notice of such extension to such owner or operator at any time prior to the end of the five-year period;

(D) The Administrator shall deduct from the compliance account and overdraft account of such Budget Unit the NO_x allowances necessary to cover excess emissions emitted prior to the date on which NO_x-emitting operations permanently ceased, if any, pursuant to [subdivision] subsection (t)(1) of this section; and

(E) The Administrator shall deduct from the compliance account and overdraft account of such Budget Unit the NO_x allowances allocated, if any, to such Budget Unit for any control period that begins after the date on which NO_x-emitting operations permanently ceased.

(2) A Budget Unit exempt under this subsection is not eligible to opt in under subsection (e) of this [subsection] section.

(3) The owner or operator of such Budget Unit shall again become subject to this section upon the earlier of:

(A) The date on which the owner or operator of such Budget Unit submits an application for a Title V permit under section 22a-174-33 of the Regulations of Connecticut State Agencies or a permit to operate under section [22a-174-3] 22a-174-3a of the Regulations of Connecticut State Agencies, as appropriate, for such Budget Unit, or

(B) The date on which the owner or operator is required, by statute, regulation, permit[,] or order, to submit an application for a Title V permit under section 22a-174-33 of the Regulations of Connecticut State Agencies or a permit to operate under section [22a-174-3] 22a-174-3a of the Regulations of Connecticut State Agencies, as appropriate, for such Budget Unit.

(4) For the purpose of applying the requirements of subsections (*l*), (m), (n), (o)[,] and (p) of this section, the commissioner shall consider the first date on which the Budget Unit resumes operation as the date such Budget Unit commences operation or commercial operation.

Sec. 26. Subdivision (6) of subsection (i) of section 22a-174-22b of the Regulations of Connecticut State Agencies is amended to read as follows:

(6) Emission offsets required for new or modified major stationary sources of NO_x must be obtained in accordance with section [22a-174-3] 22a-174-3a of the Regulations of Connecticut State Agencies, and are subject to the offset requirements of section 173 of the [Clean Air] Act. NO_x allowances under this section may not be used as offsets. However, if the owner or operator of a Budget Unit or Opt-in Unit:

(A) Reduces the emissions of such Budget Unit or Opt-in Unit such that not all NO_x allowances are used[,]; and

(B) Where the unused NO_x allowances represent real reductions in actual annual emissions, these unused NO_x allowances may be approvable for use as offsets under the Regulations of Connecticut State Agencies. In no instance may emission reductions be used simultaneously to [simultaneously] satisfy both the requirements of this section and the offset requirements set forth in section [22a-174-3] 22a-174-3a of the

Section 1

Regulations of Connecticut State Agencies. Upon the approval of unused NO_x allowances for use as offsets, the commissioner shall permanently adjust the emission budget commensurate with the number of unused NO_x allowances approved for use as offsets.

CERTIFICATION

Be it known that the foregoing:

[x] Regulations Emergency Regulations

Are:

Adopted [x] Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

[x] Section 22a-174 of the General Statutes.

Section_____of the General Statutes, as amended by Public Act No.____of the___Public Acts.

Public Act No._____of the Public Acts.

After publication in the Connecticut Law Journal on January 25, 2005 of the notice of the proposal to:

Adopt [x] Amend Repeal such regulations

(If applicable): [x] And the holding of a public hearing on the 1st day of March 2005

WHEREFORE, the foregoing regulations are hereby:

Adopted [x] Amended as herein above stated Repealed

Effective:

[x] When filed with the Secretary of State.

(OR)

The __ day of _____ 200_.

	DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED
In Witness Whereof:	12/23/05	Gina McCarthy	Commissioner

	SIGNED	DATE	OFFICIAL TITLE, DULY AUTHORIZED
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	William B. Gundling	01/09/06	Assoc. Attorney Gener

[x] Approved with technical corrections

Disapproved

Disapproved in part, *(Indicate Section Numbers disapproved only)*

Rejected without prejudice.

	DATE	SIGNED *(Clerk of the Legislative Regulation Review Committee)*
By the Legislative Regulation Review Committee in accordance with Sec. 4-170 amended, of the General Statutes.	03/28/06	Pamela B. Booth

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

DATE	SIGNED *(Secretary of the State.)*	BY

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.

Office of Secretary of the State
State of Connecticut
30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

RECEIVED
APR 07 2006
DEPT. OF ENVIRONMENTAL PROTECTION
OFFICE OF THE COMMISSIONER

Susan Bysiewicz
Secretary of the State

April 5, 2006

Hon. Gina McCarthy, Commissioner
Department of Environmental Protection
79 Elm Street
Hartford, CT 06105

RECEIVED
APR 12 2006
DEPT. OF ENVIRONMENTAL PROTECTION
OFFICE OF DEPUTY COMMISSIONER

Re: Agency Regulation Concerning:
Abatement of Air Pollution
Regulation Review Committee Docket Number: 2006-009
Secretary of the State File Number: 5686

Dear Commissioner McCarthy:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by the Department of Environmental Protection.

We request that you please forward the original or a copy of this acknowledgement letter to your agency's Legal Services Department for its files.

Said regulation was received and filed in this office on April 4, 2006. The effective date of this regulation is April 4, 2006.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

Barbara Sladek
RLS Assistant Coordinator
860-509-6147

CC: Commission on Official Legal Publications (Letter and Copy of Regulation)

File