IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

2013 JUN -3 P 2:42
SECRETARY OF THE STATE

NAME OF AGENCY

Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION

Amendment of Section 22a-174-22 of the Regulations of Connecticut State Agencies

2013 JUN -3 P 2:44
SECRETARY OF THE STATE
LEGISLATION & ELECTIONS
ADMINISTRATION DIVISION

Section 1. Subdivisions (1) through (5) of section 22a-174-22(b) of the Regulations of Connecticut State Agencies are revised as follows:

(1) This section applies to [the owner or operator of]:

(A) Any of the following sources, provided such sources are located at a major stationary source of NOx:

(i) A reciprocating engine with a maximum rated capacity of three (3) MMBTU/hr or more;

(ii) Fuel-burning equipment, other than a reciprocating engine, with a maximum rated capacity of five (5) MMBTU/hr or more;

(iii) Equipment that combusts fuel for heating materials and that has a maximum rated capacity of five (5) MMBTU/hr or more;

(iv) A waste combustor with a design capacity of two thousand (2000) pounds or more of waste per hour; or

(B) Fuel-burning equipment, a waste combustor, or a process source that has potential emissions of NOx in excess of the following:

(i) One hundred thirty-seven (137) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or

(ii) Two hundred seventy-four (274) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone.

(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to [the owner or operator of] a source if: [the actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone. Notwithstanding this provision, subsection (d) to subsection (k), inclusive, of this section shall apply to such owner or operator if after May 31, 1995, actual emissions of NOx from such premises exceed the following]:

(A) [In any calendar year:] The actual emissions of NOx in any calendar year since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons for a premises located in a severe nonattainment area for ozone, or fifty (50) tons for a premises located in a serious nonattainment area for ozone; or

(B) [On] The actual emissions of NOx after May 31, 1995 from the premises at which such source is located have not exceeded on any day from May 1 to September 30, inclusive, of any year: one hundred thirty-seven (137) pounds for a premises located in a severe nonattainment area for ozone or two hundred seventy-four (274) pounds for a premises located in a serious nonattainment area for ozone. The actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of this subparagraph. The actual emissions from a reciprocating engine or gas turbine engine used as provided in subdivision (2) of subsection (c) of this section shall not be included in the determination of the applicability of this subparagraph.

(3) Subsections (d) [through] to (k), inclusive, of this section shall not apply to [the owner or operator of] an emergency engine [. In addition, the actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of subsection (b)(2)(B) of this section.] provided, on and after May 1, 1997, the operation of an emergency engine for routine, scheduled testing or maintenance 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" is expressly prohibited unless:

(A) such engine is exempt from this section pursuant to subsection (c) of this section, or

(B) such operation of the engine is allowed by permit or order of the Commissioner, because the engine is unattended and the testing is automated and cannot be modified from a remote location.

(4) The owner or operator of an emergency engine shall not include the actual emissions from any such engine for purposes of determining applicability in accordance with subsection (b)(2)(B) of this section, provided such emissions result from operation in accordance with a contract with a utility operating pursuant to a permit or order which:

(A) Requires the permittee to maintain a list which identifies all sources with whom the permittee has a contract;

(B) Requires either the permittee or the owner or operator of the emergency engine to record and submit to the Commissioner data on fuel consumption and hours of operation of any emergency engine operating under such contract; and

(C) Requires the permittee to obtain NOx emission reductions to offset the NOx emissions that result from the generation of customer-contracted electricity.

[(5) Notwithstanding subdivision (3) of this subsection, subsections (d) through (k) of this section shall apply to the owner or operator of an emergency engine if, after May 1, 1997, such engine operates for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthful," "unhealthful," or "very unhealthful." The Commissioner may exempt, by permit or order, the owner or operator of an emergency engine from this subdivision, if such emergency engine is unattended, the testing is automated and cannot be modified from a remote location.]

Sec. 2. Section 22a-174-22(c) of the Regulations of Connecticut State Agencies is revised as follows:

(c) [Exemption.] <u>Exemptions.</u>

<u>(1)</u> This section shall not apply to [the owner or operator of] a mobile source.

<u>(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to a reciprocating engine or gas turbine engine when it is used as follows:</u>

<u>(A) To test and to provide emergency power or alternative power for safety-related structures, systems, and components or other Nuclear Regulatory Commission mandated systems at an electricity generating facility licensed under 10 CFR 50;</u>

<u>(B) To test and to provide power to meet standards for emergency electrical power systems of The Joint Commission or the National Fire Protection Association at a hospital or other health care facility;</u>

<u>(C) To provide power when there is an interruption of power from the electricity supplier during construction, facility maintenance, or repairs; or</u>

<u>(D) To test and to provide power for production operations and transmission of radio and television messages associated with an event identified by the state of Connecticut under Chapter 517 of the Connecticut General Statutes or a missing person alert under Chapter 528 of the Connecticut General Statutes.</u>

<u>(3) Notwithstanding the provisions of subdivision (2) of this subsection, these exemptions are not available for a reciprocating engine or gas turbine engine for which the owner or operator is party to an agreement to sell electrical power from such reciprocating engine or gas turbine engine 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.</u>

Sec. 3. Subdivision (1) of section 22a-174-22(i) of the Regulations of Connecticut State Agencies is revised as follows:

(1) If the owner or operator of a stationary source subject to this section proves to the satisfaction of the Commissioner that it is not technologically or economically feasible for such source to comply with the emission limitations in subsections (e) through (g) of this section, except the emission limitation in subsection (e)(3) of this section, the Commissioner may by permit require NOx emission reductions through modifications of the schedule of NOx-emitting activities and implementation of other measures to reduce NOx emissions at such source. Such permit may include restrictions on operations on any day for which the Commissioner has forecast that ozone levels will be ["moderate to unhealthful," "unhealthful," or "very unhealthful."] "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy."

Sec. 4. Subdivisions (6) and (7) of section 22a-174-22(*l*) of the Regulations of Connecticut State Agencies are revised as follows:

(6) On or before April 15 of each year, the owner or operator of a stationary source subject to any requirement of subsections (d) to (i), inclusive, and subsection (k) of this section, not otherwise submitting an annual compliance certification pursuant to subsection (d) or (q) of section 22a-174-33 of the Regulations of Connecticut State Agencies shall submit a report on NOx emissions from such source, on a form provided by the Commissioner. The owner or operator of a stationary source subject only to subsections (a) to (c), inclusive, of this section and the provisions of this subsection, is not required to submit a report on NOx emissions from such source when such source is being used as described in subdivision (2) of subsection (c) of this section.

(7) On or before April 15 of each year, or any other date as may be specified in an applicable permit or order, the owner or operator of a stationary source subject to any requirements of subsection (j) of this section shall submit an annual report on NOx emissions from such source, on a form provided by the Commissioner.

[(7)] (8) The Commissioner may use data recorded by continuous emissions monitors for NOx and any other records and reports to determine compliance with applicable requirements of this section.

Sec. 5. Subdivisions (1) to (4), inclusive, of section 22a-174-22(m) of the Regulations of Connecticut State Agencies are revised as follows:

(1) The owner or operator of a stationary source subject to this subsection shall:

(A) For a source subject to this section on or before May 1, 1994, submit a compliance plan to the Commissioner by September 1, 1994, on forms provided by the Commissioner. Such compliance plan shall document how such source will comply with all applicable requirements of this section [. The owner or operator of a stationary source that becomes subject to this subsection after May 1, 1994, shall submit a compliance plan within four (4) months of the date on which such source becomes subject to this section.];

(B) For any source that becomes subject to this section after May 1, 1994, submit a compliance plan within four months of the date such source becomes subject to this section; and

(C) For any source that is subject to this section to which the owner adds a stationary source subject to this section, submit an amended compliance plan within four months of the date such new stationary source becomes subject to this section.

(2) Any compliance plan submitted pursuant to this subsection shall be submitted on forms provided by the Commissioner. Such compliance plan shall include all sources subject to this section at the time of submission and document how each such source will operate in compliance with the applicable requirements of this section. Such compliance plan shall also include a certification signed [by a responsible corporate officer or a duly authorized representative of such officer, as those terms are defined in subdivision 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual delegated by such officer with the responsibility of actually preparing the compliance plan. Such certification shall read as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute."] in accordance with section 22a-174-2a(a)(4) of the Regulations of Connecticut State Agencies.

(3) If a compliance plan does not contain all measures necessary to comply with all requirements of this section, the Commissioner may notify the owner or operator of such source of the deficiency. Such owner or operator shall resubmit a revised compliance plan within thirty (30) days of receipt of such notice.

(4) Notwithstanding the provisions of subdivision (1) of this [section] subsection, the owner or operator of a NOx Budget Program source who is subject to a revised emission standard shall not be required to submit a revised compliance plan unless the commissioner requests so in writing.

(5) Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a Title V source that is subject to a Title V permit shall not be required to submit a compliance plan under this subsection unless the commissioner, in writing, requests such plan.

Statement of purpose:
The regulation proposed for amendment concerns the control of oxides of nitrogen (NOx) emitted primarily from industrial and commercial fuel-burning equipment. NOx contributes to the formation of ozone, a harmful air pollutant. Through this amendment the Department of Energy and Environmental Protection (Department) seeks to address two issues. First, the Department seeks to broaden the exemption provision to accommodate certain electrical needs at health care and nuclear facilities, as well as construction projects, and broadcasting under certain conditions. Second, the requirement for a Title V source to submit a compliance plan is eliminated since a Title V source is subject to extensive reporting requirements.

These amendments make the following changes: (1) add exemptions for certain stationary sources from the requirements of the regulation, (2) provide current references for forecasted ozone levels, (3) provide clearer NOx emissions reporting, (4) specify clearer deadlines for compliance plan submissions, (5) improve descriptions for compliance plan content and streamline the certification provisions, and (6) limit the compliance plan applicability.

There is no impact on other existing regulations or other law.

CERTIFICATION

1) **I hereby certify that the above** (*check one*) ☒ Regulations ☐ Emergency Regulations

2) **are** *(check all that apply)* ☐ adopted ☒ amended ☐ repealed **by this agency pursuant to the following authority(ies):** *(complete all that apply)*

   a. *Connecticut General Statutes* section(s) 22a-174

   b. Public Act Number(s) _____

(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

3) **And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the Connecticut Law Journal on** August 28, 2012;
(Insert date of notice publication if publication was required by CGS Section 4-168.)

4) **And that a public hearing regarding the proposed regulations was held on** October 18, 2012;
(insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

5) **And that said regulations are EFFECTIVE** *(check one, and complete as applicable)*
☒ When filed with the Secretary of the State
OR ☐ on *(insert date)* _____

DATE	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED
4/16/13		Commissioner, DEEP

***APPROVED** by the **Attorney General** as to legal sufficiency in accordance with CGS Section 4-169, as amended*

DATE	SIGNED *(Attorney General or AG's designated representative)*	OFFICIAL TITLE, DULY AUTHORIZED
4/25/13	Joseph Rubin	ASSOC. ATTY. GENERAL

*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the Attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation*

(For Regulation Review Committee Use ONLY)

☒ Approved in Whole ☐ Rejected without prejudice

☐ Approved with technical corrections ☐ Disapproved in part *(Indicate Section Numbers disapproved only)*

☐ Deemed approved pursuant to CGS 4-170(c) as amended

SECRETARY OF THE STATE
LEGISLATIVE ELECTIONS
ADMINISTRATION DIVISION
2013 JUN -3 P 2:43

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED *(Administrator, Legislative Regulation Review Committee)*
	5/28/2013	Pamela B. Booth Administrator

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

DATE	SIGNED *(Secretary of the State)*	BY

(For Secretary of State Use ONLY)