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

NAME OF AGENCY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

concerning

SUBJECT MATTER OF REGULATION

ABATEMENT OF AIR POLLUTION
OXYGENATED GASOLINE

Section 1

Section 22a-174-28 of the Regulations of Connecticut State Agencies is amended to read as follows:

Section 22a-174-28, Oxygenated gasoline.

(a) Definitions.

(1) "ASTM" means the American Society for Testing and Materials.

(2) "Carrier" means any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.

(3) "Central Control Area" means the cities and towns within the Hartford Consolidated Metropolitan Statistical Area. These towns are: Andover, Avon, Barkhamsted, Berlin, Bloomfield, Bolton, Bristol, Burlington, Canton, Colchester, Columbia, Coventry, Cromwell, Durham, East Granby, East Haddam, East Hampton, East Hartford, East Windsor, Ellington, Enfield, Farmington, Glastonbury, Granby, Haddam, Hartford, Hebron, Manchester, Marlborough, Middlefield, Middletown, New Britain, New Hartford, Newington, Plainville, Plymouth, Portland, Rocky Hill, Simsbury, Somers, South Windsor, Southington, Stafford, Suffield, Tolland, Vernon, West Hartford, Wethersfield, Willington, Windsor and Windsor Locks.

(4) "Control [area] AREA" means either the Central Control Area or the Southwestern Control Area.

(5) "Control [period] PERIOD" means [the period from November 1 to the last day of February for the Southwestern Control Area. Control period also means] the period from November 1 to the last day of February for the Central Control Area AND THE SOUTHWESTERN CONTROL AREA if a violation [on] OF the ambient air quality standard for carbon monoxide, as listed in subsection 22a-174-24(h) of the Regulations of

Connecticut State Agencies as determined in accordance with the procedures specified in Title 40 Code of Federal Regulations Part 50, occurs within such CONTROL AREA [control area] after November 1, [1993] 1998. If such violation occurs between December 1 and September 1, the [control period] CONTROL PERIOD for the [Central] Control Area IN WHICH SUCH VIOLATION OCCURRED begins the following November. If such violation occurs between September 1 and December 1, the [control period] CONTROL PERIOD for the [Central] Control Area IN WHICH SUCH VIOLATION OCCURRED begins sixty (60) days after such violation for the initial CONTROL PERIOD [control period] and begins November 1 for each succeeding year.

(6) "Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

(7) "Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

(8) "Importer" means a person who imports gasoline or gasoline blending stocks from a foreign country into the United States.

(9) "Oxygenate" means any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combinations of these substances requires that they be "Substantially Similar" under section 211(f)(1) of the Clean Air Act, or be permitted under a waiver granted by the Administrator under the authority of section 211(f)(4) of the Clean Air Act.

(10) "Oxygenated gasoline" means a gasoline with an oxygen content of at least two and seven tenths percent (2.7%) but no more than three and five tenths percent (3.5%) of oxygen by weight.

(11) "Oxygen content" means the percentage of oxygen by weight contained in gasoline, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen containing components.

(12) "Refinery" means a plant at which gasoline is produced.

(13) "Retail outlet" means any establishment at which gasoline is sold, offered for sale or dispensed to the ultimate consumer for use in motor vehicles.

(14) "Retailer" means any person who owns, leases, operates, controls or supervises a retail outlet.

(15) "Southwestern Control Area" means the cities and towns

within the Connecticut portion of the New Jersey - New York - Connecticut Consolidated Metropolitan Statistical Area. These towns are: Ansonia; Beacon Falls; Bethel; Bridgeport; Bridgewater; Brookfield; Danbury; Darien; Derby; Easton; Fairfield; Greenwich; Milford; Monroe; New Canaan; New Fairfield; New Milford; Newtown; Norwalk; Oxford; Redding; Ridgefield; Seymour; Shelton; Sherman; Stamford; Stratford; Trumbull; Weston; Westport; and Wilton.

(16) "Terminal" means a facility at which gasoline is sold or dispensed into trucks for transportation to a retailer or wholesale purchaser-consumer.

(17) "Wholesale purchaser-consumer" means any person who:

(A) is an ultimate consumer of gasoline;

(B) purchased or obtains such gasoline from a distributor or carrier; and

(C) receives such gasoline into a storage tank with a capacity of 550 gallons or more which is substantially under the control of such person.

(b) Oxygen content standards. [:]

(1) No distributor or carrier shall provide, deliver, offer for sale, sell, or exchange in trade to any retailer or wholesale purchaser-consumer for use in a Control Area any gasoline which is not oxygenated gasoline during the Control Period for such Control Area except where an emergency exemption has been issued by the Commissioner pursuant to subsection (g) of this section.

(2) No retailer or wholesale purchaser-consumer located in a Control Area shall [except] ACCEPT delivery, store, offer for sale or exchange in trade any gasoline which is not oxygenated gasoline during the Control Period for such Control Area.

(c) Procedures for sampling, testing, and calculating oxygen content.

(1) Any person who determines the oxygen content by weight of gasoline shall use the values listed in Table 28-1 of this subsection and the procedures listed in subdivisions (c)(2) through (c)(4) of this subsection. All volume measures shall be adjusted to sixty (60) degrees Fahrenheit.

(2) Any person who determines the oxygen content by weight of gasoline shall obtain a representative sample in accordance with EPA's sampling procedures as detailed in Title 40 Code of Federal Regulations Part 80, Appendix D.

(3) Any person who determines the oxygen content by weight of gasoline shall determine the mass concentration of each oxygenate in the sample by one of the following test methods:

(A) ASTM Method 4815-89 [(ASTM STANDARD TEST METHOD FOR DETERMINATION OF C_1 TO C_4 ALCOHOLS AND MTBE IN GASOLINE BY GAS CHROMATOGRAPHY)] (ASTM STANDARD TEST METHOD FOR DETERMINATION OF C_1 TO C_4 ALCOHOLS AND MTBE IN GASOLINE BY GAS CHROMATOGRAPHY); or

(B) Appendix C to EPA's Supplemental Notice of Proposed Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as amended, printed in the February 5, 1992 Federal Register (57 FR 4444); and

(4) Any person who determines the oxygen content by weight of gasoline shall calculate the oxygen content by weight by using the oxygen content conversion procedures from EPA's Supplemental Notice of Proposed Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as amended, printed in the February 5, 1992 Federal Register (57 FR 4425).

[Table 28-1]**TABLE 28-1**

Oxygenate	Percent (%) Weight of Oxygen	Specific Gravity
methyl alcohol	0.4993	0.7963
ethyl alcohol	0.3473	0.7939
normal propyl alcohol	0.2662	0.8080
isopropyl alcohol	0.2662	0.7899
normal butyl alcohol	0.2158	0.8137
isobutyl alcohol	0.2158	0.8058
secondary butyl alcohol	0.2158	0.8114
tertiary butyl alcohol	0.2158	0.7922
methyl tertiary butyl ether(MTBE)	0.1815	0.7460
tertiary amyl methyl ether (TAME)	0.1566	0.7752
ethyl tertiary butyl ether (ETBE)	0.1566	0.7452
di-isopropyl ether (DIPE)	0.1556	0.7300

(d) Record keeping.

(1) Any person who owns, leases, operates or controls a gasoline terminal shall maintain records at such terminal containing the following information regarding oxygenated gasoline:

(A) the owner(s) of the gasoline;

(B) volume of each delivery going into or out of the terminal;

(C) type and percentage by volume of oxygenate in the gasoline being delivered if available

(D) oxygen content by weight of each delivery received at the terminal;

(E) the date of such sale or transfer; AND

(F) results of tests for oxygenate, including the test method and sampling procedure and the name of the person or company who performed such tests.

(2) All retailers and wholesale purchasers-consumers located in a Control Area shall maintain copies of transfer documents specified in subsection (e) below for each delivery of gasoline during the Control Period for such Control Area.

(3) All distributors who deliver oxygenated gasoline to any retailer or wholesale purchasers-consumers located in a Control Area shall maintain copies of transfer documents specified in subsection (e) below for each delivery of gasoline during the Control Period for such Control Area.

(4) All records and documentation shall be [maitained] MAINTAINED at the terminal for not less than two (2) years, and shall be made available for review upon request of the Department.

(e) [Tranfer] TRANSFER documents.

At the time of delivery each distributor or carrier shall provide a [tranfer] TRANSFER document to any retailer or wholesale purchaser-consumer located in a Control Area accepting such delivery during the Control Period for such Control Area. The transfer document may consist of an invoice, bill of lading, shipping paper or other documentation signed by such distributor or carrier. The transfer document shall contain:

(1) the date of delivery;

(2) the name and address of the distributor or carrier;

(3) the volume of oxygenated gasoline being delivered;

(4) a statement that the product is oxygenated gasoline; and

(5) the type of oxygenate used.

(f) Dispenser [Labelling] LABELING.

Each retailer or wholesale purchaser-consumer in a Control Area shall label each gasoline dispenser during the Control Period for such Control Area. The label shall meet the requirements of Section 211 of the Clean Air Act.

(g) Emergency shortage exemption.

(1) Any person who has insufficient supply of oxygenated gasoline may apply in writing to the Commissioner for an emergency exemption.

(2) THE COMMISSIONER MAY APPROVE AN APPLICATION FOR AN EMERGENCY EXEMPTION IN [In] extreme and unusual circumstances, such as a natural disaster or Act of God, which are outside the control of the applicant such that the applicant has insufficient supply of oxygenated gasoline and which could not have been avoided by the exercise of prudence, diligence and due care. [the Commissioner may approve an application for emergency exemption] if the applicant demonstrates to the Commissioner's satisfaction that:

(A) the emergency exemption is in the public interest;

(B) the applicant has exercised prudent planning and was not able to avoid the insufficient supply of oxygenated gasoline and has taken all reasonable steps to minimize the extent of the insufficient supply of oxygenated gasoline;

(C) the applicant [can show] SHOWS how the requirements for oxygenated gasoline will be expeditiously achieved; and

(D) the applicant [can provide] PROVIDES an offsetting air quality benefit equal to the detriment associated with the non-conforming gasoline, where practicable.

(3) The [Commisioner] COMMISSIONER may, in accordance with the provisions of [section] SECTIONS 22a-3a-2, 22a-3a-5, AND 22a-3a-6 of the Regulations of Connecticut State Agencies, hold a hearing on any request for an emergency exemption.

(4) No person who applies for an emergency exemption shall provide, offer for sale, sell, or exchange in trade any gasoline, other than oxygenated gasoline during the Control Period for such Control Area, [wihout] WITHOUT the written approval of the Commissioner.

(5) An emergency exemption issued by the Commissioner shall not exceed thirty (30) days.

(6) Any person to whom the Commissioner has issued an emergency exemption shall:

(A) only provide, offer for sale, sell, or exchange in trade gasoline with oxygen content of at least two percent (2.0%) by weight to a Control Area during the Control Period for such Control Area.

(B) maintain records required by subdivision (d)(1) above documenting the quantity of gasoline transferred each day and;

(C) within thirty (30) days of the end of the emergency exemption, submit a report to the Commissioner in writing which summarizes the information contained in such records for the gasoline transferred into a Control Area.

(h) Delegation.

(1) The Commissioner may, in accordance with the provisions of section 22a-2a of the General Statutes, delegate the authority to inspect any retailer or wholesale purchaser-consumer covered by the provisions of this regulation to the Department of Consumer Protection, to any municipality, or to any employee of either the Department of Consumer Protection or such municipality. Such delegations shall not include the authority to otherwise enforce any provision of this section.

(2) The Commissioner of the Department of Consumer Protection or the chief executive officer of a municipality may apply to the Commissioner for delegation to [such] THE Department OF CONSUMER PROTECTION or municipality of all or part of the authority to inspect any retailer or wholesale purchaser-consumer covered by the provisions of the regulation. In making a decision on such application, the Commissioner shall consider:

(A) the knowledge and training of the applicant;

(B) the jurisdictional authority of the applicant;

(C) the financial and administrative capacity of the applicant;

(D) the level of experience and training of the employee of the applicant;

(E) the nature of the duties to be delegated; and

(F) the facilities which will be subject to this regulation.

(3) The Commissioner shall notify the applicant in writing of the decision on the application. If such application is approved, the Commissioner shall prepare a memorandum of understanding which defines the scope of the delegation. The Commissioner and the applicant shall both sign the memorandum of understanding. The memorandum of understanding shall include an effective date and an expiration date, provided that the initial memorandum of [understaning] UNDERSTANDING shall be valid for a period of up to three (3) years.

(4) Prior to the expiration of the memorandum of understanding, the Commissioner shall review the performance of duties required by the memorandum of understanding, including record keeping, reporting, inspections, and enforcement activities. If the Commissioner is satisfied with such performance, the [Comissioner] COMMISSIONER [my] MAY renew the [the] memorandum of understanding for up to five (5) years.

(5) The Department of Consumer Protection or a municipality may allow employees to perform delegated duties, provided that the Department of Consumer Protection [of such] OR municipality is ultimately responsible for such activities. Any person who will perform delegated duties shall complete technical training in methods of inspection and reporting.

(6) Any person who performs delegated duties shall abide by the standards and requirements for state employees contained in Chapter 10 of the General Statutes, as amended.

(7) Within fifteen (15) days of the detection of a violation of any standard, criteria or other requirement at a retailer or wholesale purchaser-consumer which the Department of Consumer Protection or a municipality has been delegated the authority to inspect, the Department OF CONSUMER PROTECTION or municipality shall submit a WRITTEN report CONCERNING SUCH VIOLATION to the Commissioner. In the event that further investigation or action by the Department OF CONSUMER PROTECTION OR MUNICIPALITY is required, the Commissioner shall notify the Department of Consumer Protection or the municipality of such investigation or action.

(8) Beginning January 1, 1993, the Department of Consumer Protection or a municipality which has been delegated authority to inspect facilities under this section shall submit an annual WRITTEN report to the Commissioner each January 1 which summarizes the activities, including the number of inspections, conducted under such authority during the previous twelve (12) months.

(9) The Commissioner shall maintain a record of the cost to the Department of administering the delegation program under this section. The Commissioner shall assess the benefits, including any cost reductions, and liabilities to the Department of the delegation program, including the costs specified above, the number of inspections conducted, and the overall effectiveness of delegation in reducing air pollution in the state.

(10) The Commissioner may revoke all or part of a delegation of authority upon written notice to the Commissioner of the Department of Consumer Protection or the chief executive officer of the municipality. Such revocation shall be effective upon receipt of such notice.

STATE OF CONNECTICUT

REGULATION

OF

NAME OF AGENCY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Section 1

(11) The Commissioner of the Department of Consumer Protection or the chief executive officer of the municipality may terminate all or part of the delegated responsibilities upon thirty (30) days written notice [of] TO the Commissioner.

(i) Federal program waiver.

The Commissioner may waive the provisions of this section if the Administrator waives the requirements of this program pursuant to a finding under Section 211(m)(3)(c) of the Clean Air Act as amended.

Statement of Purpose: To repeal the oxygenated gasoline requirement for the southwestern control area by amending this regulation to treat the southwest control area in the same manner as the central control area. This proposed rule is based on the redesignation of this area into attainment of the national air quality standard for carbon monoxide.

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

☒ Regulations ☐ Emergency Regulations

Are:

☐ Adopted ☒ Amended as hereinabove stated ☐ Repealed

By the aforesaid agency pursuant to:

☒ 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 July 6 19 99, of the notice of the proposal to:

☐ Adopt ☒ Amend ☐ Repeal such regulations

(If applicable): ☒ And the holding of a public hearing on 5th day of August 19 99

WHEREFORE, the foregoing regulations are hereby:

☐ Adopted ☒ Amended as hereinabove stated ☐ Repealed

Effective:

☒ When filed with the Secretary of State.

(OR)

☐ The _____ day of _____ 19___.

In Witness Whereof:	DATE 8/19/99	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:		SIGNED 8/23/99	OFFICIAL TITLE, DULY AUTHORIZED Deputy ~~Asst.~~ Atty. General

☒ Approved

☐ Disapproved

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

☐ Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	DATE 9/28/99	SIGNED *(Clerk of the Legislative Regulation Review Committee)* Angela B. Booth

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.

RECEIVED

SEP 29 1999

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

Susan Bysiewicz
Secretary of the State
Maria M Greenslade
Deputy Secretary of the State

September 29, 1999

Hon. Arthur Rocque, Jr.
Commissioner of Environmental Protection
79 Elm Street
Hartford, CT 06105

Dear Commissioner Rocque:

This is to acknowledge receipt of two certified copies of the following regulation issued by your department concerning:

Abatement of Air Pollution-Oxygenated Gasoline.

Said regulation was received and filed in this office on September 29, 1999. The effective date of this regulation is September 29, 1999.

Very truly yours,

Peter J. Bartueca
Manager, Records & Legislative Services

PJB:ms
File

General Information (860) 509-6000
State Capitol Office (860) 509-6200 *fax* 509-6209
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