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

#5511

NAME OF AGENCY

Environmental Protection

Concerning

Abatement of Air Pollution
Amendment of Section 22a-174-30 – Dispensing of Gasoline/Stage I and Stage II Vapor Recovery
Adoption of Section 22a-174-43 – Portable Fuel Container Spillage Control

Section: 1

Section 22a-174-30 of the Regulations of Connecticut State Agencies is amended to read as follows:

Section 22a-174-30. Dispensing of [Gasoline/Stage II] GASOLINE/STAGE I AND STAGE II Vapor Recovery.

(a) Definitions.

For the purposes of this section:

(1) "CARB" means the State of California Air Resources Board.

[(2) "Commissioner" means the Commissioner of the Department of Environmental Protection.]

[(3) "Department" means the Department of Environmental Protection.]

(2) "CARB-CERTIFIED FILL ADAPTER" MEANS A SPECIALIZED FITTING ON A STATIONARY GASOLINE STORAGE TANK THAT PREVENTS THE LOOSENING OR OVERTIGHTENING OF THE CONNECTING LINE BETWEEN AN ENTRY PORT OF A GASOLINE FILL PIPE AND THE FILL LINE FROM A GASOLINE DELIVERY VEHICLE.

[(4)] (3) "Dispensing facility" means any site where gasoline is transferred to motor vehicles from any stationary storage tank with a capacity of 250 gallons or more.

[(5) "EPA" means the United States Environmental Protection Agency.]

[(6)] (4) "Gasoline" means any petroleum distillate or blend of petroleum distillate and alcohol having a reid vapor pressure of four pounds per square inch or greater and used as a fuel for internal combustion engines.

(5) "MAJOR SYSTEM MODIFICATION" MEANS, NOTWITHSTANDING ANY DEFINITION IN SECTION 22a-174-1 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES:

(A) THE REPAIR OR REPLACEMENT OF ANY STATIONARY STORAGE TANK EQUIPPED WITH A STAGE II VAPOR RECOVERY SYSTEM;

(B) THE REPAIR OR REPLACEMENT OF ANY PART OF AN UNDERGROUND PIPING SYSTEM ATTACHED TO A STATIONARY STORAGE TANK EQUIPPED WITH A STAGE II VAPOR RECOVERY SYSTEM, EXCLUDING THE REPAIR OR REPLACEMENT OF ANY PART OF AN UNDERGROUND PIPING SYSTEM THAT IS ACCESSIBLE FOR SUCH REPAIR OR REPLACEMENT WITHOUT EXCAVATION;

(C) THE REPLACEMENT OF A VAPOR BALANCE STAGE II VAPOR RECOVERY SYSTEM WITH A VACUUM ASSIST STAGE II VAPOR RECOVERY SYSTEM; OR

(D) THE REPLACEMENT OF A VACUUM ASSIST STAGE II VAPOR RECOVERY SYSTEM WITH A VAPOR BALANCE STAGE II VAPOR RECOVERY SYSTEM.

SB43 2004.

[(8)] (5) [Beginning January 1, 1993, the] THE Department of Consumer Protection [or a municipality which has been delegated authority to inspect facilities under this section] shall submit an annual report to the [Commissioner] 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)] (6) The [Commissioner] 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.

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

Sec. 2 The Regulations of Connecticut State Agencies are amended by adding a new Section 22a-174-43 as follows:

(NEW)

Section 22a-174-43 Portable Fuel Container Spillage Control.

(a) Definitions. For the purposes of this section:

(1) "CARB" means the California Air Resources Board.

(2) "CCR" means the California Code of Regulations.

(3) "Consumer" means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. A person who acquires a portable fuel container or spout or both a portable fuel container and spout for resale is not a "consumer" for that product.

(4) "Distributor" means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers and consumers.

(5) "Fuel" means a volatile liquid mixture containing hydrocarbons or a blend of a volatile liquid mixture with one or more oxygen containing ashless organic compounds, such as alcohols or ethers, which is suitable for use in spark-ignition internal combustion engines or compression-ignition internal combustion engines.

(6) "Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages or re-labels a portable fuel container or spout or both portable fuel container and spout.

(7) "NYCRR" means the Official Compilation of Codes, Rules and

Regulations of the State of New York.

(8) "NYSDEC" means the New York State Department of Environmental Conservation.

(9) "Nominal capacity" means the volume indicated by the manufacturer that represents the maximum recommended filling level.

(10) "Outboard engine" means the spark-ignition marine engine mounted on a marine watercraft and used to propel such watercraft.

(11) "Permeation" means the process by which individual fuel molecules may penetrate the walls and components of a portable fuel container.

(12) "Portable fuel container" means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing and dispensing fuel.

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

(14) "Retail outlet" means any establishment at which any portable fuel container or spout or both portable fuel container and spout is sold, supplied or offered for sale.

(15) "Spill-proof spout" means any spout that complies with the performance standards set forth in subsection (d) of this section.

(16) "Spill-proof system" means any configuration of portable fuel container and firmly attached spout that complies with the performance standards set forth in subsection (d) of this section.

(17) "Spout" means any device that can be firmly attached to a portable fuel container for dispensing the contents of a portable fuel container.

(18) "Target fuel tank" means any receptacle that receives fuel from a portable fuel container.

(b) Applicability.

Except as provided in subsection (c) of this section, this section applies to any person who sells, supplies, offers for sale or manufactures for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout for use in the State of Connecticut.

(c) Full and Partial Exemptions.

(1) This section shall not apply to any portable fuel container or spout or both portable fuel container and spout manufactured in the State of Connecticut for shipment, sale and use outside of the State of Connecticut.

(2) This section shall not apply to a manufacturer or distributor who sells, supplies or offers for sale in the State of Connecticut a portable fuel container or spout or both portable fuel container and spout that does not comply with the performance standards set forth in subsection (d) of this section, provided that such manufacturer makes and keeps records demonstrating:

(A) The portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of the State of Connecticut; and

(B) The manufacturer or distributor has taken reasonable and prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to or within the State of Connecticut.

(3) This section shall not apply to any safety can subject to and in compliance with the provisions of 29 CFR 1926, Subpart F.

(4) This section shall not apply to any portable fuel container with a nominal capacity of less than or equal to one (1) quart.

(5) This section shall not apply to any rapid refueling device with a nominal capacity of greater than or equal to four gallons, provided that such device:

(A) Is designed for use in an off-highway motorized vehicle competition;

(B) Creates a leak-proof seal against the target fuel tank; or

(C) Operates in conjunction with a receiver permanently installed on the target tank.

(6) This section shall not apply to marine portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and an outboard engine for the purpose of operating such engine.

(7) This section shall not apply to any manufacturer for any product for which the NYSDEC issued a variance pursuant to 6 NYCRR 239-7 for the period of time such variance is in effect, provided that the manufacturer submits all information and data required by 6 NYCRR 239-7 to the commissioner within thirty days of variance approval. If NYSDEC issues a variance pursuant to 6 NYCRR 239-7 more than thirty days before the effective date of this section, the manufacturer shall submit the information and data required by 6 NYCRR 237-7 to the commissioner within thirty days of the effective date of this section, provided the underlying variance is still in effect and necessary to maintain this exemption in the State of Connecticut.

(8) This section shall not apply to any product for which the manufacturer is granted:

(A) An exemption by CARB pursuant to the Innovative Products provisions of 13 CCR 2467.4 for the period of time the CARB Innovative Products exemption remains in effect; or

(B) An exemption by the NYSDEC pursuant to the Innovative Products provisions of 6 NYCRR 239-5 for the period of time the NYSDEC Innovative Products exemption remains in effect.

(9) Any manufacturer who claims an exemption pursuant to subdivision (8) of this subsection shall submit to the commissioner, upon request therefore, a copy of the applicable CARB or NYSDEC exemption decision.

(d) Performance Standards.

(1) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale

in the State of Connecticut on or after May 1, 2004, any portable fuel container or any portable fuel container and spout that, at the time of sale or manufacture, does not comply with the performance standards specified in subdivision (2) of this subsection.

(2) Each portable fuel container and each portable fuel container and spout shall:

(A) Have an automatic shut-off that stops fuel flow before the target tank overflows;

(B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel;

(C) Have only one opening for both filling and pouring;

(D) Provide a fuel flow rate and fill level equal to or greater than:

(i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:

(aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or

(bb) greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "LOW FLOW RATE" in type of thirty-four (34) point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any,

(ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than or equal to two and one-half (2.5) gallons, and fills to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons;

(E) Have a permeation rate of less than or equal to four-tenths (0.4) grams per gallon per day; and

(F) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(3) Except as provided in subsection (c) of this section, no person shall sell, supply, offer for sale or manufacture for sale in the State of Connecticut on or after May 1, 2004, any spout that, at the time of sale or manufacture, does not comply with the

performance standards specified in subdivision (4) of this subsection.

(4) Each spill-proof spout shall:

(A) Have an automatic shut-off that stops fuel flow before the target tank overflows;

(B) Automatically close and seal when removed from the target fuel tank and remain completely closed when not dispensing fuel;

(C) Provide a fuel flow rate and fill level equal to or greater than:

(i) One-half (0.5) gallon per minute for portable fuel containers with a nominal capacity:

(aa) less than or equal to one and one-half (1.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening, or

(bb) greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one (1) inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "LOW FLOW RATE" in bold type of thirty-four (34) point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto,

(ii) One (1) gallon per minute for portable fuel containers with a nominal capacity greater than one and one-half (1.5) gallons, but less than two and one-half (2.5) gallons, filling to a level less than or equal to one and one-quarter (1.25) inches below the top of the target fuel tank opening, or

(iii) Two (2) gallons per minute for portable fuel containers with a nominal capacity greater than two and one-half (2.5) gallons; and

(D) Be warranted by the manufacturer for a period of not less than one year against all defects in material and workmanship.

(e) Labeling Requirements.

(1) Each manufacturer of a portable fuel container or portable fuel container and spout subject to this section shall clearly display on each spill-proof system:

(A) The phrase "Spill-Proof System;"

(B) A date of manufacture or a representative date; and

(C) A representative code identifying the portable fuel container or portable fuel container and spout as subject to this section and in compliance with subsection (d) of this section.

(2) Each manufacturer of a spout subject to this section shall clearly display on the accompanying package, or for a spill-proof spout sold without packaging, on either the spill-proof spout or a label affixed thereto:

(A) The phrase "Spill-Proof Spout;"

(B) A date of manufacture or a representative date; and

(C) A representative code identifying the spout as subject to this section and in compliance with subsection (d) of this section.

(3) Each manufacturer subject to this section shall file an explanation of both the date code and representative date code with the commissioner no later than three months after the effective date of this section or within ninety (90) days of production or any change in coding.

(4) Each manufacturer subject to this section shall clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.

(5) Each manufacturer subject to subdivision (2) of this subsection shall clearly display, on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label fixed thereto, the make, model number and size of each portable fuel container the spout is designed to accommodate, provided the identified combinations of container and spout shall comply with all applicable provisions of this section.

(6) No manufacturer shall display or affix the phrase "Spill-Proof System" or "Spill-Proof Spout" to a portable fuel container or a portable fuel container and spout unless such container and spout comply with all applicable provisions of subsection (d) of this section.

(7) If, due to its design or other features, a portable fuel container or a portable fuel container and spout cannot be used to refuel one or more on-road motor vehicles, the manufacturer shall clearly display the phrase "Not Intended For Refueling On-Road Motor Vehicles" in thirty-four (34) point type or greater on:

(A) An affixed label and the accompanying package, if any, for any portable fuel container or portable fuel container and spout sold together as a spill-proof system; and

(B) Either the spill-proof spout or a label affixed thereto, and the accompanying package, if any, for any spill-proof spout.

(f) Compliance Test Procedures.

(1) Each manufacturer of a portable fuel container or spout or both a portable fuel container and spout must perform the compliance tests specified in subdivisions (2) and (3) of this subsection prior to allowing the product to be offered for sale in the State of Connecticut or at any other time directed to do so by the commissioner.

(2) To determine compliance with the standards set forth in subsection (d) of this section, each manufacturer shall use the following test procedures:

(A) "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000;

(B) "Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000; and

(C) "Test Method 512, Determination Of Fuel Flow Rate For Spill-Proof Systems And Spill-Proof Spouts," adopted by CARB on July 6, 2000.

(3) To determine compliance with the permeation standard set forth in subsection (d)(2)(D) of this section, each manufacturer shall use the test procedures set forth in subdivision (2) of this subsection and "Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems," adopted by CARB on July 6, 2000.

(4) Each manufacturer must make and keep records of the compliance tests specified in subdivisions (2) and (3) of this subsection for as long as the product is available for sale in the State of Connecticut and make any test results available to the commissioner within thirty (30) days after receiving a request by the commissioner for such records.

(5) Compliance with the performance standards set forth in subsection (d) of this section does not exempt any manufacturer of a spill-proof system or spill-proof spout from the duty to comply with all other applicable federal and state requirements.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(3) of this section, a portable fuel container or spout or both a portable fuel container and spout manufactured before May 1, 2004, may be sold, supplied or offered for sale until May 1, 2005 if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

Statement of Purpose for Section 22a-174-30: To require the use of pressure-vacuum vent valves and fill adapters to limit emissions of volatile organic compounds (VOCs); to prevent the loosening or over tightening of the fill adapter; to improve Stage II system maintenance and reduce VOC emissions by increasing the frequency of Stage II system performance tests from every five to every three years; to revise the format of Section 30 to conform to current conventions; to streamline and clarify the delegation provisions of subsection (h); and to use associated emission reductions to alleviate a shortfall in demonstrable emission reductions of VOCs in accordance with the federally approved one-hour Ozone Attainment Demonstration for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) severe ozone nonattainment area. See 66 Fed. Reg. 63921 (December 11, 2001).

Statement of Purpose for section 22a-174-43: To limit emissions of volatile organic compounds (VOCs) through the use of portable fuel containers designed to minimize spillage and fugitive evaporative emissions. To use associated emission reductions to alleviate a shortfall in demonstrable emission reductions of VOCs in accordance with the federally approved one-hour Ozone Attainment Demonstration for the Connecticut portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) severe ozone nonattainment area. See 66 Fed. Reg. 63921 (December 11, 2001).

CERTIFICATION
R-39 REV. 1/77

Be it known that the foregoing:

☒ Regulations ☐ Emergency Regulations

Are:

☒ Adopted ☒ Amended as herinabove stated ☐ Repealed

By the aforesaid agency pursuant to:

☒ Section 22a-6, 22a-174, and 22a-174e 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 Nov. 18th 20 03, of the notice of the proposal to:

☒ Adopt ☒ Amend ☐ Repeal such regulations

(If applicable): ☒ And the holding of an advertised public hearing on the 19th day of Dec. 20 03

WHEREFORE, the foregoing regulations are hereby:

☒ Adopted ☒ Amended as herinabove stated ☐ Repealed

Effective:

☒ When filed with the Secretary of the State

(OR)

☐ The _____ day of _____ 19 ____

In Witness Whereof:	DATE 2/3/04	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	OFFICIAL TITLE, DULY AUTHORIZED 3/1/04 Assoc. 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 Statues	DATE 4/27/04	SIGNED *(Clerk of the Legislative Regulation Review Committee)*

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 Statues
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 4-179 of the General Statutes.

2004 MAY 19 PM 10: 34
REGULATIONS
ADMINISTRATION

Office of Secretary of the State
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

May 14, 2004

RECEIVED
MAY 2 0 2004
Dept. of Environmental Protection
Office of the Commissioner

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

Re: Agency Regulation Concerning:
Abatement of Air Pollution
Regulation Review Committee Docket Number: 2004-026
Secretary of the State File Number: 5511

Dear Commissioner Rocque:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by your department.

Said regulation was received and filed in this office on May 10, 2004. The effective date of this regulation is May 10, 2004.

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

Sincerely,

RECEIVED
MAY 2 0 2004
DEPT. OF ENVIRONMENTAL PROTECTION
OFFICE OF DEPUTY COMMISSIONER

Michael T. Kozik, Esq.
Managing Attorney
Legislation and Elections Administration Division

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

File

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

January 19, 2005

Anne Gobin, Acting Chief
Bureau of Air Management
Department of Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Dear Ms. Gobin:

On December 1, 2004, the Connecticut Department of Environmental Protection (DEP) submitted a formal State Implementation Plan (SIP) revision request containing the following regulations:

- Amended Section 22a-174-4, "Source Monitoring, Record Keeping and Reporting;"
- Amended Section 22a-174-7, "Air Pollution Control Equipment and Monitoring Equipment Operation;"
- Amended Section 22a-174-18, "Control of Particulate Matter and Visible Emissions;"
- Amended Section 22a-174-30, "Dispensing of Gasoline/Stage I and Stage II Vapor Recovery;"
- New Section 22a-174-3b, "Exemptions from Permitting for Construction and Operation of Automotive Refinishing Operations;" and
- New Section 22a-174-43, "Portable Fuel Container Spillage Control."

EPA has determined that this SIP revision request is administratively and technically complete. EPA is currently reviewing the regulations to determine their approvability.

If you or your staff have any questions regarding EPA's action on these regulations, please contact Alison Simcox at 617-918-1684 regarding the first three regulations listed above and Anne Arnold at 617-918-1047 regarding the remaining rules.

Sincerely,

Linda M. Murphy

Linda M. Murphy, Director
Office of Ecosystem Protection

cc: Paul Farrell, CT DEP