



Connecticut
Department of
ENERGY &

EXHIBIT E

HEARING REPORT

**Prepared Pursuant to Section 4-168(d) of the
Connecticut General Statutes and
Section 22a-3a-3(d)(5) of the Department of Energy and Environmental Protection
Rules of Practice**

**Regarding
An Amendment Concerning Permit Program Notifications**

**Hearing Officer:
Erich J. Heinonen**

Date of Hearing: March 6, 2012

On January 31, 2012, the Commissioner of the Department of Energy and Environmental Protection (the Department) published a notice of intent to amend section 22a-174-2a of the Regulations of Connecticut State Agencies (RCSA). Pursuant to such notice, a public hearing was held on March 6, 2012, with the public comment period closing on the same day.

I. Hearing Report Content

As required by RCSA section 4-168(d) of the Connecticut General Statutes (CGS), this report describes the proposal, identifies principal reasons in support of and in opposition to the proposal, and summarizes and responds to all comments on the proposal.

A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1 to this report. The original proposal is included as Attachment 2 and constitutes the final version of the proposal as this report recommends no revisions to the proposal.

II. Summary of Proposal

The proposed amendment concerns certain procedures for Connecticut's New Source Review Prevention of Significant Deterioration (NSR PSD) and Title V air quality permitting programs. The revisions specify additional individuals the Department must notify upon the Commissioner's tentative determination on a permit application submitted under the NSR PSD permit program or the Title V permit program.

The proposal amends RCSA section 22a-174-2a(b)(6) to comply with the federal requirements for notification under the NSR PSD permit program set out in Section 126 of the Clean Air Act and 40 Code of Federal Regulations (CFR) 51.166(q). In addition, the proposal amends RCSA section 22a-174-2a(b)(5) to comply with the federal requirements for notification under the Title V permit program, as set out in 40 CFR 70.7(h) and 70.8(b).

These minor changes are necessary to allow EPA to approve in full the Department's infrastructure requirements under the 1997 ozone standard and prepare the Department for later infrastructure State Implementation Plan (SIP) submissions.

III. Opposition to the Proposal

No comments were submitted that opposed the final adoption of the proposal.

IV. Summary of Comments

Written comments were received from the following person:

Anne Arnold, Manager
Air Quality Planning Unit
USEPA Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

The comment submitted by EPA is summarized below with the Department's response.

Comment: EPA finds that the revisions to specify those individuals the Department will notify concerning the commissioner's tentative determination on a permit application submitted under the NSR PSD or Title V permit program are consistent with federal procedures. EPA encourages the Department to adopt the proposed revisions and submit them to EPA as a SIP revision as soon as possible. Submission of the revised rules is required by July 9, 2012 pursuant to EPA's conditional approval of the state's infrastructure SIP for the 1997 ozone standard.

Response: The Department thanks EPA for its review of the proposed revisions. In keeping with EPA's determination that the proposed amendment aligns the Department's notification procedures with the federal notification procedures, the Department will seek to complete the rule adoption and submit the final amended regulation as a revision to the SIP.

V. Conclusion

I recommend the proposal be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee as originally drafted, and upon adoption, be submitted to EPA as a SIP revision.

/s/Merrily A. Gere for
Erich J. Heinonen
Hearing Officer

14 May 2012
Date

ATTACHMENT 1

Statement Pursuant to CGS Section 22a-6(h)



**Federal Standards Analysis Pursuant to Section 22a-6(h) of the General Statutes
Amendment Concerning
Permit Program Notifications**

Pursuant to section 22a-6(h) of the Connecticut General Statutes (CGS), the Commissioner of the Department of Energy and Environmental Protection (the Department) is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a regulatory proposal that differ from federal standards or procedures either within the regulatory language or through supplemental documentation accompanying the proposal. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under CGS Title 4, Chapter 54 and make such explanation publicly available at the time of the notice of public hearing required under CGS section 4-168.

In accordance with the requirements of CGS section 22a-6(h) the following statement is entered into the public administrative record regarding the proposed revision of section 22a-174-2a(b)(5) and (6) of the Regulations of Connecticut State Agencies (RCSA):

The proposed revisions concern certain procedures for Connecticut's New Source Review Prevention of Significant Deterioration (NSR PSD) and Title V air quality permitting programs. The revisions specify those individuals DEEP will notify concerning the Commissioner's tentative determination on a permit application submitted under the NSR PSD permit program or the Title V permit program.

The federal requirements for notification under the NSR PSD program are set out in Section 126 of the Clean Air Act and 40 Code of Federal Regulations (CFR) 51.166(q). The proposed revisions to RCSA section 22a-174-2a(b)(6) make the Connecticut notification requirements consistent with the cited federal requirements. The federal requirements for notification of a tentative determination on a Title V permit are set out in 40 CFR 70.7(h) and 70.8(b). The proposed revisions to RCSA section 22a-174-2a(b)(5) make the Connecticut notification requirements consistent with the cited federal requirements.

22 November 2011
Date

Merrily A. Gere
Merrily A. Gere
Bureau of Air Management

ATTACHMENT 2

Final Draft, Unchanged from the Proposed Draft

Subdivisions (5) and (6) of section 22a-174-2a(b) of the Regulations of Connecticut State Agencies are revised as follows:

(5) For any permit application pursuant to section 22a-174-33 of the Regulations of Connecticut State Agencies, the commissioner shall forward a copy of the notice of tentative determination[, published in accordance with subdivision (3) of this subsection,] to:

- (A) The individuals who request such notice;
- (B) The chief elected official of the municipality where the stationary source is or is proposed to be located;
- (C) The chief executive officer of the municipality where the source is or is proposed to be located;
- (D) The appropriate Connecticut regional planning agency;
- (E) Any federally recognized Indian governing body whose lands, or air quality, may be affected by emissions from the subject stationary source. In addition to the notice, a copy of the proposed Title V permit shall be submitted to such federally recognized Indian governing body;
- (F) The director of the air pollution control program in any affected state, and New York, Massachusetts, and Rhode Island, on or before the time such notice is provided to the public, except as 40 CFR 70.7(e)(2) and (3) require the timing of notice for minor permit modifications to be different. In addition to the notice, a copy of the proposed Title V permit shall be submitted to such director; and
- (G) The regional Administrator of the United States Environmental Protection Agency. In addition to the notice, a copy of the proposed Title V permit shall be submitted to the regional Administrator.

(6) For any permit application pursuant to section 22a-174-3a of the Regulations of Connecticut State Agencies for a new major stationary source or a major modification at a major stationary source, the commissioner shall forward, prior to the date of publication, a copy of the notice of tentative determination[, published in accordance with subdivision (3) of this subsection,] to those individuals or entities identified in subparagraphs (A), (B), (C), (D), (E) and (G), of subdivision (5) of this subsection and any Federal Land Manager or State whose lands, or air quality, may be affected by emissions from the source or modification.

Statement of purpose: The Department of Energy and Environmental Protection (DEEP) is proposing to make small changes to its procedural requirements for reviewing air quality permit applications. These small changes are necessary to correct a deficiency in Connecticut's procedural requirements, thereby making Connecticut's federally approved permit program requirements consistent with those of the U.S. Environmental Protection Agency (EPA). DEEP made a letter commitment to EPA to pursue adoption of these changes.

The proposal broadens the persons notified by the DEEP commissioner when the commissioner issues a tentative determination concerning an air quality permit. The proposal is easily implemented within current DEEP resources. The proposal has no impact on regulated entities.

Although the proposed changes are minor, the changes are necessary to DEEP's plans to meet and maintain the national ambient air quality standards for ozone. Adoption of the proposal will allow EPA to approve in full DEEP's infrastructure requirements under the 1997 ozone standard and prepare DEEP for later infrastructure State Implementation Plan submissions.