

STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



September 30, 2010

U.S. Environmental Protection Agency
EPA West (Air Docket)
1200 Pennsylvania Avenue, N.W.
Mail code: 6102T
Washington, DC 20460
Docket ID No. EPA-HQ-OAR-2010-0107
a-and-r-docket@epa.gov

Re: *Comments on the SIP Call for Issuing Prevention of Significant Deterioration Permits to Sources of Greenhouse Gas Emissions*

Dear Docket Administrator:

The Connecticut Department of Environmental Protection (CTDEP) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) proposed rulemaking, *Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call* (75 FR 53892; September 2, 2010; hereinafter, the SIP Call). We offer comments in two areas.

Expedited Processing

We are glad that EPA is willing to take steps to expedite state regulatory adoptions and federal SIP approvals, including allowing for parallel processing of State Implementation Plan (SIP) approvals and allowing for a state public participation process to satisfy the public participation requirements of 40 CFR 51 Appendix V. CTDEP has used both of these approaches in previous EPA actions and has found that they both serve well to expedite submissions and approvals. For example, CTDEP requested that EPA parallel process Connecticut's SIP revision concerning the Clean Air Interstate Rule (CAIR), and EPA prepared its proposed approval of Connecticut's CAIR SIP revision before CTDEP had completed the final adoption process for its CAIR program regulation, saving considerable time in the process and allowing for program implementation prior to the start of the ozone season. See 73 FR 4105; January 24, 2008. CTDEP has also had successful experiences with parallel processing of attainment demonstration-related SIP submittals, where time was of the essence.

We also strongly support EPA's willingness to consider state public participation procedures required under the Administrative Procedures Act as satisfying the federal SIP public participation requirements.¹ Because of the similarity in the required minimum public participation procedures, Connecticut has used this approach in the past and understands that it will significantly shorten the length of our regulatory and SIP processing. Both sets of procedures require a minimum 30-day notification of public hearing and a 30-day comment period.² CTDEP has been careful to provide adequate published notice concerning both the SIP revision and state regulatory adoption aspects of its public hearings and has thus avoided

¹ See SIP Call at 53904, column 3.

² See section 4-170(a) of the Connecticut General Statutes, available at: <http://www.cga.ct.gov/2009/pub/chap054.htm#Sec4-170.htm>

unnecessary time and expenses incurred in published notices, waiting for comments and holding public hearings.

SIP Approvals

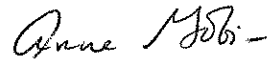
CTDEP is perplexed by EPA's distinction between a state that applies greenhouse gases (GHGs) to its PSD program by using the term "regulated NSR pollutant" versus a state that accomplishes the same result by individually listing the pollutants subject to PSD. While EPA intends to issue a full approval for a PSD program that uses the first approach, EPA states that it will approve a PSD program that includes GHGs among individually listed pollutants only as SIP strengthening.³

CTDEP understands that a SIP strengthening approval is a form of limited approval that EPA uses for SIP submissions that meet only some of EPA's requirements, but for which there is no portion that may be separated out and fully approved or fully disapproved. CTDEP does not understand which SIP Call requirements it will fail to meet after it revises its regulations to include GHGs in the list of pollutants subject to its PSD program, to add applicability thresholds for GHGs and to add GHGs to the pollutants for which a BACT review is required. Prior to EPA's issuance of the Tailoring Rule, Connecticut's PSD program was fully approved.⁴ Since EPA promulgated the Tailoring Rule, the only insufficiency in our PSD program is that it does not apply to GHGs. Once we add GHG provisions that are least as stringent as those in the Tailoring Rule, we believe that EPA should fully approve our PSD program.

A SIP strengthening approval also contradicts EPA's discussion in the SIP Call preamble at page 53903 in which EPA describes the EPA-identified advantages for a state that uses the "regulated NSR pollutant" approach. There, EPA specifically notes that it is limiting the SIP Call to the failure to apply PSD to GHG-emitting sources, as distinguished from finding that a SIP is substantially inadequate. If EPA takes such care to note that the only failure in a state SIP is the failure of the SIP to cover GHG sources, then the correction of that failure should logically restore a SIP to full approvability. We strongly encourage EPA to reconsider this distinction in approving state PSD programs and to fully approve any state program that addresses GHGs as set out in the Tailoring Rule, regardless of the format the state uses to revise its SIP.

Should you have any questions concerning these comments, please get in touch with Merrily Gere (860-424-3416 or merrily.gere@ct.gov). Thank you for your attention.

Sincerely,



Anne R. Gobin, Chief
Bureau of Air Management

³ See SIP Call at 53902.

⁴ See *Approval and Promulgation of Air Quality Implementation Plans; Connecticut; New Source Review/Prevention of Significant Deterioration Revision* (68 FR 9009; February 27, 2003).