



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



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PHONE: 860-424-3001

Amey W. Marrella
Commissioner

September 29, 2010

H. Curtis Spalding
Regional Administrator
U.S. Environmental Protection Agency
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Re: Notification by Connecticut Department of Environmental Protection Regarding the Greenhouse Gas SIP Call for the Prevention of Significant Deterioration Permitting Program

Dear Mr. Spalding:

Pursuant to *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), the Connecticut Department of Environmental Protection (CTDEP) is notifying you that its State Implementation Plan (SIP), read as a whole, does not apply its new source review (NSR) prevention of significant deterioration (PSD) permit program to sources of greenhouse gas (GHG) emissions. CTDEP intends to revise Connecticut's NSR PSD permit program to include GHG emissions at the applicability thresholds defined in *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule* (75 FR 31514; June 3, 2010; hereinafter the Tailoring Rule).

CTDEP agrees with the U.S. Environmental Protection Agency's (EPA's) identification of Connecticut as having a PSD program that does not apply to GHG emissions. In this letter, we provide the information requested in the SIP Call concerning our PSD program and our plan to revise the PSD program according to the Tailoring Rule. Recognizing the importance of having PSD permitting authority in place for any GHG sources that may be subject to PSD requirements, CTDEP does not object to a shorter SIP submittal deadline, as discussed below.

Connecticut's SIP specifically precludes PSD applicability for GHG sources. Our current NSR PSD program applies to each "criteria air pollutant," and criteria air pollutant is defined to mean a pollutant for which a national ambient air quality standard has been adopted.¹ In other words, Connecticut's regulations apply PSD to sources of individually identified pollutants, and GHGs, for which no ambient air quality standard has been adopted, are not among the listed pollutants. CTDEP intends to undertake a regulatory adoption process to add GHGs to the list of individual pollutants to which PSD is applied, to revise the PSD thresholds consistent with the Tailoring Rule and to require the

¹ Connecticut's NSR program is established in section 22a-174-3a of the Regulations of Connecticut State Agencies (RCSA). Subsection (k) sets out the PSD provisions. Subsection (k)(1) states: "The provisions of this subsection shall apply to the owner or operator of any new major stationary source **for each criteria air pollutant** that is significant from such new major stationary source located in an attainment area or unclassified area for such pollutant." [emphasis added] "Criteria air pollutant" is defined in RCSA § 22a-174-1, a regulation that sets out definitions of general applicability, as follows: "any air pollutant **for which an ambient air quality standard has been established** by the Administrator in accordance with Section 107 of the Act." [emphasis added]

The complete text of the referenced regulations is available on CTDEP's website at the following location:
http://www.ct.gov/dep/cwp/view.asp?a=2684&Q=322184&depNav_GID=1619


application of best available control technology reviews consistent with the Tailoring Rule. CTDEP does not intend to change the approach of applying the PSD program to listed pollutants and will not be adopting a form of the "regulated NSR pollutant" approach.²

Connecticut's regulatory adoption process is lengthy and involves reviews and approvals from other Connecticut state agencies. The typical process takes 14 - 20 months to complete. However, with the cooperation of other Connecticut state agencies and offices and the regulated community, we intend to seek expedited processing for these regulatory revisions. We have drafted our initial proposal and have scheduled the public hearing for October 18, 2010. As you may be preparing comments on our proposal, please note that the comment period also closes on October 18, 2010.

Given this hearing date and estimated time to complete our adoption process and submit the corresponding SIP revision, Connecticut does not object to EPA's establishment of a corrective SIP submittal deadline of March 1, 2011. We also request that you parallel process the approval of our SIP submission. We will keep EPA Region 1 informed of our progress in meeting our planned schedule as we move through the regulatory adoption process.

Should you or your staff have any questions regarding this submittal, please call me at 860-424-3001.

Sincerely yours,



Amey W. Marrella
Commissioner

cc: David Conroy, U.S. EPA, Region 1

² Even if CTDEP did overhaul its program to use the "regulated NSR pollutant" approach, CTDEP would still need to undertake a rule revision should EPA add or delete the pollutants that EPA considers regulated NSR pollutants because we have a general legislative prohibition against prospective incorporation by reference of federal regulations, except under certain circumstances. In Connecticut's regulatory adoption process, the Regulation Review Committee has limited statutory authority, which is exercised on a voluntary basis, to approve the prospective incorporation by reference of federal regulations. A necessary condition for such an approval, which is not present in this circumstance, is that a federal statute requires that a Connecticut regulation at all times remain identical to that federal statute or regulation.

The statute of concern is section 4-170(b)(4) of the Connecticut General Statutes (CGS), which states:

The committee may permit any proposed regulation, including, but not limited to, a proposed regulation which by reference incorporates in whole or in part, any other code, rule, regulation, standard or specification, to be submitted in summary form together with a statement of purpose for the proposed regulation. On and after October 1, 1994, **if the committee finds that a federal statute requires, as a condition of the state exercising regulatory authority, that a Connecticut regulation at all times must be identical to a federal statute or regulation, then the committee may approve a Connecticut regulation that by reference specifically incorporates future amendments to such federal statute or regulation** provided the agency that proposed the Connecticut regulation shall submit for approval amendments to such Connecticut regulations to the committee not later than thirty days after the effective date of such amendment, and provided further the committee may hold a public hearing on such Connecticut amendments." [*emphasis added*]

The full text of CGS section 4-170 is available at the following location:
<http://www.cga.ct.gov/2009/pub/chap054.htm#Sec4-170.htm>