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
Amendment of Air Quality Regulations Concerning
Reductions in Regulatory Burdens for Low-Emitting Sources

Hearing Officer:
Paula Gomez

Date of Hearing: April 8, 2015

On February 24, 2015, the Commissioner of the Department of Energy and Environmental Protection (DEEP or the Department) published a notice of intent to amend sections 22a-174-3c, 22a-174-29 and 22a-174-33 of the Regulations of Connecticut State Agencies (RCSA). Pursuant to such notice, a public hearing was held on April 8, 2015, with the public comment period closing on April 10, 2015.

I. Hearing Report Content

As required by 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 this proposal, and summarizes and responds to all comments received.

A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1, the original proposed amendment is included as attachment 2 and a final revised version of the proposal based on the recommendations in this report is included as Attachment 3.

II. Summary of Proposal

The Commissioner is proposing to revise RCSA sections 22a-174-29, 22a-174-3c and 22a-174-33 of the air pollution regulations. The proposal changes the existing regulations, as follows:

- Clarifies RCSA section 22a-174-29(b) concerning the application of the section's requirements to sources operating under a new source review permit.
- Adds caps on hazardous air pollutants (HAP) and carbon dioxide equivalent emissions to RCSA section 22a-174-3c(a). By stating the emissions caps inherent to operation in compliance with the regulation, the regulation will provide source owners with a practicably enforceable mechanism under which such sources may stay below the

applicability for federal standards for toxic air emissions and state standards for greenhouse gases.

- Revises RCSA section 22a-174-33(d)(1) to recognize that owners of some facilities may limit air emissions by operating under the requirements of a regulation, such as RCSA section 22a-174-3b, instead of obtaining a Title V permit.

III. Opposition to the Proposal

No comments that expressed opposition to the proposal were received. The proposal is intended to streamline certain regulatory requirements for low emitting sources and, in doing so, to ease compliance burdens on certain small sources. The overall impact of this proposal will be beneficial to small businesses.

IV. Summary of Comments

Written comments were received from the following persons:

1. Ida E. McDonnell, Manager
   Air Permits, Toxics and Indoor Programs Unit
   US EPA Region 1
   5 Post Office Square, Suite 100
   Boston, MA 02109

2. Eric Brown, Associate Counsel for Energy and Environmental Policy
   Connecticut Business and Industry Association (CBIA)
   350 Church Street
   Hartford, CT 06103

3. Lynne Bonnett, New Haven Resident
   675 Townsend Ave
   New Haven, CT 06512

All comments submitted are summarized below with DEEP's responses. Commenters are associated with the individual comments below by the number assigned above. When changes to the proposed text are indicated in response to comment, new text is in bold font and deleted text is in strikethrough font.

Comment 1-1

EPA policy requires a source to provide a notification that it is opting to meet potential to emit limits in a rule where coverage under the rule is optional (See Jan 25, 1995 "Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and Section 112 Rules and General Permits", from Katie A. Stein to EPA Air Directors http://www.epa.gov/region7/air/nsr/nsrmemos/potoem.pdf). We request you require a source opting to limit potential to emit under Section 22a-174-3c to submit a notification that it is electing to meet the operating requirements in this rule.

DEEP's Response

DEEP recognizes it would be ideal to receive notification from the owners of sources opting to limit their potential to emit under section 22a-174-3c of the RCSA. However, such a provision was not included in the proposal, and DEEP will not add the provision without additional public notice. DEEP will consider EPA's recommendation for a possible future revision of the regulation. No change to the proposal is recommended as a result of this comment.

Comment 1-2

EPA potential to emit guidance provides that a limitation may be enforceable as a practical matter if the limitation is as short-term as possible, but no longer than an annual limit rolled on a monthly basis. Under no circumstances would a production or operation limit expressed on a calendar year annual basis be considered capable of legally restricting potential to emit. (See Jun 13, 1989 "Guidance on Limiting Potential to Emit in New Source Permitting", from Terrell Hunt and John Seitz http://www.epa.gov/ttn/atw/pte/jun13_89.pdf). Therefore, in order for operational limitations in Section 22a-174-3c to be practicably enforceable, the operational limitations must be required on a 12-month rolling average basis.

DEEP's Response

DEEP understands the basis for EPA's comment on RCSA section 22a-174-3c. DEEP considers RCSA section 22a-174-3c to be practicably enforceable as it is, in part because the operational limits specified in this section are designed to limit emissions of each pollutant to a level well below the 15 tons per year (tpy) threshold in RCSA subsection 22a-174-3c(a). The thresholds in RCSA section 22a-174-3c limit the emissions from a single category of emission units to about 7 tpy, or no greater than 50% of the 15 tpy threshold for the pollutants that it is limiting for that source category. As the comment is outside of the noticed scope of this proposal, DEEP will not make any changes to the proposal based on this comment at this time. Nor will DEEP be submitting RCSA section 22a-174-3c as a SIP revision at this time.

Comment 1-3

As noted above, EPA guidance requires potential to emit limitations to be as short term as possible, but no longer than an annual limit on a monthly rolling average basis. Therefore, we recommend you specify in the language in RCSA section 22a-174-33(d)(1) that the Commissioner may, by permit, order or regulation, limit all aggregate potential emissions on no longer than 12-month rolling average basis from such premises to less than the amounts specified in RCSA section 22a-174-33(d)(1).

DEEP's Response

DEEP understands EPA's suggestion, however the addition of such language in RCSA section 22a-174-33(d)(1) is not necessary since such a provision can be specified in the associated permit, order or regulation. DEEP will not make any changes to the proposal based on this comment.

Comment 2-1

CBIA supports the proposed clarification that RCSA section 22a-174-29 does not apply to a source operating under a mechanism (such as the "permit by rule" in RCSA section 22a-174-3b) by which the source chooses an alternative compliance program other than obtaining and maintaining an individual permit under RCSA section 22a-174-3a. As noted in the Statement of Purpose, this is an appropriate result since such a source is smaller and generally has lower levels of actual emissions than a source subject to permitting.

As for a source subject to permitting, the proposed revisions to RCSA section 22a-174-29(b)(2) are apparently intended to clarify the applicability of RCSA section 22a-174-29 to a source whose air emission permit was issued under the former RCSA section 22a-174-3, but is later modified or revised. However, the "modification or revision" reference in the proposed revisions is in need of limited but significant modification in order to carve out minor or non-substantive changes to a permit. Without such a carve-out, it would seem that, for example, a simple "permit revision" to correct a clerical error (under RCSA section 22a-174-2a(f)(2)(A)) would trigger full applicability of RCSA section 22a-174-29. Such a scenario would make no sense as a matter of policy. It would also create a "trap for the unwary" for the permittee.

DEEP's Response

DEEP appreciates CBIA's interest in this proposal and the comments provided. It was DEEP's intention to streamline certain regulatory requirements for low emitting sources and, in doing so, to ease compliance burdens on certain small sources. It was never DEEP's intention to create or add regulatory requirements for the sources covered by this proposal. However, any permit modification (minor and non-minor) shall be submitted to DEEP for review and approval. DEEP agrees with CBIA in that a permit revision should not trigger full applicability of RCSA section 22a-174-29. For these reasons, DEEP should accept CBIA's suggestion in terms of eliminating the words "or revision" from the proposed amendment of RCSA section 22a-174-29. However, DEEP should not revise this proposal in terms of non-minor permit modification. The last sentence of proposed RCSA section 22a-174-29(b)(2) is revised as follows:

The owner or operator of a stationary source who was issued a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to July 1, 1986 shall be required to comply with Tables 29-2 and 29-3 of this section upon modification ~~or revision~~ of such permit.

Comment 2-2

Subject to the discussion below, CBIA generally supports Section 4 of the proposed revisions as furthering the original purpose of the "potential-emissions-cap-by-rule." RCSA section 22a-174-3c has been a practical and efficient way to screen out environmentally insignificant sources that otherwise would be pulled into complex regulations, and subject such sources instead to simple limits to ensure these sources stay insignificant. This approach benefits regulated parties, the Department, and the environment alike: regulated parties and the Department can focus on the sources that matter for purposes of the environment, and not be distracted and depleted dealing with sources that don't.

However, two key issues in the proposed language need attention in order for the proposed revision to achieve these benefits: (1) Basis of RCSA section 22a-174-3c – "premises" versus "emission unit/emission unit type" and (2) Applicability of the Potential to Emit (PTE) cap to "any individual air pollutant":

Basis of RCSA section 22a-174-3c – "premises" versus "emission unit/emission unit type": Current RCSA section 22a-174-3c sets premises-wide limits for purchases of various fuels and VOC-containing coatings or solvents as a simple and effective way to cap the potential emissions/potential to emit ("PTE") resulting from use of such fuels or such coatings or solvents by one or more of the five types of emission units addressed by RCSA section 22a-174-3c across the premises. This provides a legal mechanism for a small-emissions premises to stay below regulatory thresholds. But because the limits are premises-wide, they necessarily apply to all emissions units at the source that use that fuel or coating/solvent, whether those units represent one type of the emission units addressed by RCSA section 22a-174- 3c, or multiple types. For example, a premises with multiple boilers and multiple emergency engines, all fueled by gaseous fuel, would be limited to the lower of the purchase limit for boilers ("external combustion units") or for emergency engines. (In the example, the governing lower limit would be that for emergency engines: 3.36 million cubic feet.) The PTE cap on emissions from all boilers and emergency engines, both individually and collectively across the premises, would be <15 tons per year (tpy) cap. This is appropriate, since under the 3.36 million c.f. cap, it would impossible for one or more units in either category of emission units to exceed this PTE.

However, the language as proposed would make the PTE cap applicable to "an emission unit or group of emission units of a single type." That apparently would mean that the 10 tpy cap for federal hazardous air pollutants (HAPs) provided by proposed RCSA section 22-174-3c(a)(1)(B) and proposed RCSA section 22a-174-3c(a)(1)(C) would apply to each emission unit or emission unit of a single type. Where more than one type of emission unit were present at a premises, the total PTE for the premises would be less than 10 tpy from each emission unit or emission units of a single type – and therefore automatically above the 10 tpy trigger for "major source of HAP" when all emission unit types at the premises are totaled up. In the example above, the PTE of each of the boilers type and of the emergency engines type would be <10 tpy x 2 = <20 tpy. As a result, the premises apparently would be deemed a "major source of HAP," and subject to complex regulatory requirements. This would defeat the intent of the proposed revisions.

If the Department declines to retain the current premises-wide basis of RCSA section 22a-174-3c, it will be important to specify that the revised regulation is not retroactive. This will avoid potentially exposing facilities that have relied on current RCSA section 22a-174-3c to a new and less favorable PTE profile under a revised RCSA section 22a-174-3c with a narrower "emission unit" basis.

Applicability of the PTE cap to "any individual air pollutant": The 15 tpy potential emissions cap provided by RCSA section 22a-174-3c has always applied to "any individual air pollutant." RCSA section 22a-174-3c(a)(1). The proposed revision would specify limits other than 15 tpy for certain pollutants such as HAPs and greenhouse gases, but apparently also would have the 15 tpy cap apply only to listed criteria pollutants. The value of this limitation is not clear. There is also potential for unintended problems, since the 15 tpy PTE trigger for permitting under RCSA section 22a-174-3a applies to any individual air pollutant, not just criteria pollutants. It therefore seems appropriate to keep the 15 tpy PTE cap applicable to all individual air pollutants, except as otherwise specified otherwise in the proposed revisions.

DEEP's Response

The proposal does not change the operational limits of RCSA section 22a-174-3c but merely states the emissions restrictions inherent in the operational limits of the regulation.

RCSA section 22a-174-3c has always limited the potential emissions of all units of a source category to less than 15 tpy for any individual air pollutant. If the owner or operator of a facility with multiple emissions units of different source categories operating under RCSA section 22a-174-3c plans to continue using RCSA section 22a-174-3c as the mechanism to limit emissions, the owner or operator is responsible to ensure that the potential emissions from the facility do not exceed a major source threshold, when adding new units or modifying existing units. If a facility has potential emissions of any regulated air pollutant equal to or greater than the Title V thresholds, but has actual emissions below such thresholds, the facility may be eligible to register under the General Permit to Limit Potential to Emit (GPLPE) as the means to address the Title V permit program.

As RCSA section 22a-174-3c is available as a compliance option for certain small sources rather than as a mandatory requirement, DEEP declines to revise the proposal as requested in the first issue mentioned by CBIA.

In response to CBIA's second comment, DEEP should revise RCSA section 22a-174-3c(a)(1) by adding the words "or any individual air pollutant" to subparagraph (A), as follows:

> (A) For each **individual air pollutant including** ~~of~~ nitrogen oxides, carbon monoxide, particulate matter, PM10, PM2.5, volatile organic compounds, sulfur dioxide**,** or lead, fifteen (15) tons per year;

Comment 2-3

CBIA supports the proposed addition of "or regulation" to section 33(d)(1). CBIA understands this addition as a clarification, consistent with the longstanding recognition in Connecticut's and federal Title V regulations of practicably enforceable limits on a source's potential emissions, such as through a permit, order or regulation of the Department.

DEEP's Response

Thank you for your comment and support. No revision to the proposal is recommended in response to this comment.

Comment 3

It is my understanding that the proposed changes apply to small businesses that have infrequent and / or low emissions. The purpose of the revisions is to lighten the regulatory load on these small businesses by not requiring them to report their emissions to the state.

My concerns are the following.

1) How will residents that live in close proximity to these facilities know what they are exposed to and when they are exposed if the businesses do not have to report the findings of their testing to DEEP?

2) Megan V Smith Ph.D. and M.P.H. Yale University and Suzi Ruhl, Senior Attorney Advisor for EPA in the US EPA Office of Environmental Justice, verbally presented some information at Yale's 2014 New Directions in Environmental Law that indicated there was a strong correlation between depression in mothers and their residential proximity to underground fuel storage tanks - one of the few statistically significant correlations.

3) As new information becomes available from studies on environmental pollution's effects on public health from multiple exposures to various chemicals how can we have an accurate picture of what residents are exposed to, especially in a city such as New Haven with multiple sources of pollutants, each of which could be small in isolation but when considered as a whole could contribute to a significant exposure.

4) Can test results of emissions be recorded without having to issue permits? Can the public see this information?

5) Will the small emitters still have to do the same testing? How will you know they test?

Many residents in New Haven live in close proximity to entities that emit environmental pollutants. While it is (hopefully) beneficial for small business growth in CT to alleviate regulatory burdens it may increase environmental pollution in already distressed areas adversely affecting public health.

With that in mind, would it be possible to make a requirement that those entities in close proximity to residents in distressed communities would need to report and make their test findings public?

DEEP's Response

Thank you for your interest in this proposal and for providing comments. Your questions are outside of the scope of this proposal, and DEEP will not make any changes to the proposal based on your comments. However, as you raise concerns about local environmental impacts of small sources and the public's ability to learn about these impacts, we offer the following information.

EPA has developed the Toxics Release Inventory (TRI) website and "Where You Live" tool that can be accessed at http://www2.epa.gov/toxics-release-inventory-tri-program/2013-tri-national-analysis-where-you-live. This tool can help you visualize sources of pollution in your area. Also, to gain specific information about an emission source in Connecticut, you can make a request under the Freedom of Information Act (FOIA) to obtain records that DEEP has

concerning that source. For information on how to start a FOIA request visit http://www.ct.gov/deep/cwp/view.asp?a=2688&Q=502686&deepNav_GID=1511.

V. Comments of Hearing Officer

There are no additional comments.

VI. Conclusion

Based upon the comments addressed in this Hearing Report, I recommend the proposal be revised as recommended herein and that the recommended final proposal, included as Attachment 3 to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, the revision to RCSA section 22a-174-33 be submitted to the EPA as a revision of the Title V operating permit program.

/s/ Paula Gomez
Hearing Officer

08/10/15
Date

Attachment 1
CGS section 22a-6(h) Statement

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127 www.ct.gov/deep Affirmative Action/Equal Opportunity Employer

STATEMENT PURSUANT TO SECTION 22a-6(h) OF THE GENERAL STATUTES

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. 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 publication of the notice of intent required under CGS section 4-168.

In accordance with the requirements of CGS section 22a-6(h), the following statement is entered into the administrative record in the matter of the proposed revisions to sections 22a-174-29, 22a-174-3c and 22a-174-33(d)(1) of the Regulations of Connecticut State Agencies (RCSA):

The proposed revisions to RCSA section 22a-174-29 clarify the obligation of a source owner to comply with the requirements of the section, particularly with regard to the date the permit was issued. RCSA section 22a-174-29 limits emissions of hazardous air pollutants and is based on the health risks associated with the regulated hazardous air pollutants. RCSA section 22a-174-29 is not adopted pursuant to a federal requirement and has not been submitted as part of a State Implementation Plan.

Section 22a-174-3c of the RCSA is designed to limit the potential emissions of small sources of air pollution that have low actual emissions but unlimited potential emissions that are above Connecticut's new source review permit threshold. By operating in compliance with the regulation, the potential emissions of such a source are limited, and the owner is not required to apply for and obtain a new source review permit. The proposed revisions simply state the emissions caps inherent in the regulation for a source operating in compliance with the requirements. This is part of Connecticut's minor source permitting program for which there is no federal program, so no further analysis is required.

Section 22a-174-33 of the RCSA sets out Connecticut's Title V operating permit program. RCSA section 22a-174-33 is approved under 40 CFR 70, which establishes requirements for state Title V operating permit programs. The federal government also implements Title V permit programs under 40 CFR 71 in states without federally approved state programs. The Title V permit program applies to "major" sources, those with potential emissions that exceed certain thresholds established in the federal Clean Air Act. To avoid major source permitting requirements, the source must have enforceable emission limitations. The most common methods of doing this are to obtain a new source review permit or to operate in compliance with a General Permit to Limit Potential to Emit. The revision to RCSA section 22a-174-33 acknowledges that sources may also limit emissions by operating under a regulation. This approach is acceptable to EPA as long as a source with limited emissions has

federally enforceable operational limits as well as enforceable emissions limits; the proposed revision is consistent with federal procedures.

In summary, the requirements of the proposal are an activity that is not regulated by the Federal government, since the proposal revises Connecticut's air permit programs to clarify or revise requirements for consistency with current practices. The proposal largely impacts how certain sources are addressed in permitting but not in a manner that impacts federally mandated requirements.

02/09/15
Date

/s/ Paula Gomez
Bureau of Air Management

Attachment 2
Original Proposed Amendment

Section 1. Subdivision (2) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is revised, as follows:

(2) No person, who is required to [obtain] maintain compliance with a permit under section 22a-174-3a of the Regulations of Connecticut State Agencies [or, who, between July 1, 1986 and March 15, 2002, should have applied for and obtained a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies,] shall cause or permit the emission of any hazardous air pollutant listed in Tables 29-1, 29-2 and 29-3 of this section from any stationary source or modification at a concentration at the discharge point in excess of the maximum allowable stack concentration unless such source is in compliance with the provisions of subsection (d)(3) of this section. [The commissioner shall not apply the provisions of this subdivision to the owner or operator of any stationary source who applied for a permit to construct under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to March 1, 1986 and who received a notice of a complete application prior to July 1, 1986 or to any other owner or operator who received a permit to construct prior to July 1, 1986. Notwithstanding the foregoing, all resources recovery facilities and all incinerators shall meet the standards of this subdivision for all hazardous air pollutants.] The owner or operator of a stationary source who was issued a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to July 1, 1986 shall be required to comply with Tables 29-2 and 29-3 of this section upon modification or revision of such permit.

Sec. 2. Subdivision (4) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is revised, as follows:

(4) The owner or operator of any stationary source or modification not subject to the provisions of subdivision (2) or subdivision (6) of this subsection that emits or may emit a hazardous air pollutant shall comply with the requirements of subdivision (2) of this subsection if the commissioner determines, through ambient monitoring, that the HLV is exceeded as a result of the emissions from that stationary source.

Sec. 3. Subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is amended by adding subdivision (6), as follows:

(NEW)
(6) The owner or operator of any incinerator shall not cause or permit the emission of any hazardous air pollutant listed in Tables 29-1, 29-2 and 29-3 of this section from such incinerator at a concentration at the discharge point in excess of the maximum allowable stack concentration.

Sec. 4. Subsection (a) of section 22a-174-3c of the Regulations of Connecticut State Agencies is revised, as follows:

(a) Limitations on potential to emit.

(1) [Notwithstanding the definition of "] The potential emissions["] or ["]potential to emit["] [in section 22a-174-1 of the Regulations of Connecticut State Agencies, the potential emissions or potential to emit of any individual air pollutant for a stationary source] of an emission unit or group of emission units of a single type identified in subdivision (2) of this subsection is [less than fifteen tons per year,] further limited by this section, unless otherwise determined by a

permit or order of the commissioner, [if] provided the owner or operator operates the [source] emissions unit or group of emissions units to comply with all applicable requirements of subsections (b) and (c) of this section. The potential emissions of such emission unit or group of emission units of a single type are less than the following levels:

(A) For each of nitrogen oxides, carbon monoxide, particulate matter, PM10, PM2.5, volatile organic compounds, sulfur dioxide or lead, fifteen (15) tons per year;

(B) For any individual federal hazardous air pollutant, ten (10) tons per year;

(C) For the aggregate of federal hazardous air pollutants, ten (10) tons per year; and

(D) For carbon dioxide equivalent emissions, ten thousand (10,000) tons per year.

(2) The owner or operator of any new or existing external combustion unit, automotive refinishing operation, nonmetallic mineral processing equipment, emergency engine or surface coating operation may limit potential emissions for all such emission units included at a stationary source pursuant to subdivision (1) of this subsection.

(3) For the purposes of this section, "federal hazardous air pollutant" means, notwithstanding the definition of "hazardous air pollutant" in section 22a-174-1 of the Regulations of Connecticut State Agencies, any air pollutant listed in section 112(b) of the Act, excluding those substances approved by the Administrator for exclusion.

Sec. 5. Subdivision (1) of subsection (d) of section 22a-174-33 of the Regulations of Connecticut State Agencies is revised, as follows:

(1) In lieu of requiring an owner or operator of a Title V source described in subsection (a)(10)(E) or (F) of this section to obtain a Title V permit, the commissioner may, by permit, [or by] order or regulation, limit all aggregate potential emissions of regulated air pollutants from such premises to less than the following amounts:

(A) One hundred (100) tons per year of any regulated air pollutant;

(B) Fifty (50) tons per year of volatile organic compounds or nitrogen oxides, in a serious ozone nonattainment area;

(C) Twenty-five (25) tons per year of volatile organic compounds or nitrogen oxides, in a severe ozone nonattainment area;

(D) Ten (10) tons per year of any hazardous air pollutant, twenty-five (25) tons per year of any combination of hazardous air pollutants, or the quantity established by the Administrator pursuant to 40 CFR 63; or

(E) one hundred thousand (100,000) tons per year of CO2e.

Statement of Purpose

Sections 1 - 3. The revisions to RCSA section 22a-174-29 remove requirements added during a transition in the Department's new source review permitting program regulations. Continued

implementation of the transitional requirement results in inequity in how certain similar sources are treated depending on historic permitting requirements.

RCSA section 22a-174-29 provides limitations on toxic air emissions for all stationary sources. Sources that emit low levels of air pollutants and are below air permitting thresholds have fewer restrictions for toxic air emissions than the restrictions imposed on larger, more complex sources with levels of emissions that require air permits. In 2002, the Department increased the air emissions thresholds for permitting and adopted a permit-by-rule for smaller, less complex sources of air emissions. The sources operating under the permit-by-rule should not be held to all of the requirements of RCSA section 22a-174-29, but the transitional requirements in RCSA section 22a-174-29 are unclear in this respect.

Once implemented, this revision will require only those sources obligated to hold, and operate in compliance with, a new source review permit to meet more comprehensive requirements for toxic pollutant emissions. Sources that are operated under a permit-by-rule will be held to fewer requirements for toxic emissions, which is an appropriate result since the sources operated under a permit-by-rule are smaller and generally have lower levels of actual emissions than sources subject to permitting. The revision also addresses the application of RCSA section 22a-174-29 to sources issued new source review permits under a historic regulation. Revision or modification of any new source review permit will require the source to comply with all of the requirements of RCSA section 22a-174-29, regardless of how RCSA section 22a-174-29 was applied in the previously issued permit.

Section 4. This portion of the proposal adds a cap on hazardous air pollutants and carbon dioxide equivalent emissions to RCSA section 22a-174-3c. RCSA section 22a-174-3c allows owners of sources with high potential emissions but very low actual emissions to limit the actual emissions by complying with simple facility-wide purchase requirements. RCSA section 22a-174-3c was designed primarily for use by small businesses lacking dedicated environmental compliance staff.

Operation of a source under the current requirements of RCSA section 22a-174-3c effectively limits hazardous air pollutants to a level below major source thresholds. Operation of a fuel-burning source under the current requirements of RCSA section 22a-174-3c also effectively limits carbon dioxide equivalent emissions (aka greenhouse gases) to a level well below permitting thresholds. By recognizing these restrictions in the regulation, source owners will have an enforceable mechanism under which such sources may stay below the applicability for federal standards for toxic air emissions and state and federal standards for greenhouse gases.

Section 5. The revision to RCSA section 22a-174-33(d)(1) harmonizes the regulation with the Department's current practices for restricting emissions from sources to levels below the applicability for Title V permitting. RCSA section 22a-174-33 establishes requirements on source owners to apply for a Title V permit if the source's emissions are above certain levels. A source owner may limit emissions by operating under the requirements of certain regulations instead of obtaining a Title V general permit to limit potential emissions. The revision to RCSA section 22a-174-33 recognizes this practice.

As a Title V permit does not impose new emissions control requirements on an emissions source, the environmental impact of this revision is zero, but sources that would have been required to obtain a Title V permit absent this revision are relieved of a significant administrative burden.

Attachment 3
Final Proposed Amendment

Section 1. Subdivision (2) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is revised, as follows:

(2) No person, who is required to [obtain] maintain compliance with a permit under section 22a-174-3a of the Regulations of Connecticut State Agencies [or, who, between July 1, 1986 and March 15, 2002, should have applied for and obtained a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies,] shall cause or permit the emission of any hazardous air pollutant listed in Tables 29-1, 29-2 and 29-3 of this section from any stationary source or modification at a concentration at the discharge point in excess of the maximum allowable stack concentration unless such source is in compliance with the provisions of subsection (d)(3) of this section. [The commissioner shall not apply the provisions of this subdivision to the owner or operator of any stationary source who applied for a permit to construct under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to March 1, 1986 and who received a notice of a complete application prior to July 1, 1986 or to any other owner or operator who received a permit to construct prior to July 1, 1986. Notwithstanding the foregoing, all resources recovery facilities and all incinerators shall meet the standards of this subdivision for all hazardous air pollutants.] The owner or operator of a stationary source who was issued a permit under former section 22a-174-3 of the Regulations of Connecticut State Agencies prior to July 1, 1986 shall be required to comply with Tables 29-2 and 29-3 of this section upon modification of such permit.

Sec. 2. Subdivision (4) of subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is revised, as follows:

(4) The owner or operator of any stationary source or modification not subject to the provisions of subdivision (2) or subdivision (6) of this subsection that emits or may emit a hazardous air pollutant shall comply with the requirements of subdivision (2) of this subsection if the commissioner determines, through ambient monitoring, that the HLV is exceeded as a result of the emissions from that stationary source.

Sec. 3. Subsection (b) of section 22a-174-29 of the Regulations of Connecticut State Agencies is amended by adding subdivision (6), as follows:

(NEW)
(6) The owner or operator of any incinerator shall not cause or permit the emission of any hazardous air pollutant listed in Tables 29-1, 29-2 and 29-3 of this section from such incinerator at a concentration at the discharge point in excess of the maximum allowable stack concentration.

Sec. 4. Subsection (a) of section 22a-174-3c of the Regulations of Connecticut State Agencies is revised, as follows:

(a) Limitations on potential to emit.

(1) [Notwithstanding the definition of "] The potential emissions["] or ["]potential to emit["] [in section 22a-174-1 of the Regulations of Connecticut State Agencies, the potential emissions or potential to emit of any individual air pollutant for a stationary source] of an emission unit or group of emission units of a single type identified in subdivision (2) of this subsection is [less than fifteen tons per year,] further limited by this section, unless otherwise determined by a

permit or order of the commissioner, [if] provided the owner or operator operates the [source] emissions unit or group of emissions units to comply with all applicable requirements of subsections (b) and (c) of this section. The potential emissions of such emission unit or group of emission units of a single type are less than the following levels:

(A) For each individual air pollutant including nitrogen oxides, carbon monoxide, particulate matter, PM10, PM2.5, volatile organic compounds, sulfur dioxide or lead, fifteen (15) tons per year;

(B) For any individual federal hazardous air pollutant, ten (10) tons per year;

(C) For the aggregate of federal hazardous air pollutants, ten (10) tons per year; and

(D) For carbon dioxide equivalent emissions, ten thousand (10,000) tons per year.

(2) The owner or operator of any new or existing external combustion unit, automotive refinishing operation, nonmetallic mineral processing equipment, emergency engine or surface coating operation may limit potential emissions for all such emission units included at a stationary source pursuant to subdivision (1) of this subsection.

(3) For the purposes of this section, "federal hazardous air pollutant" means, notwithstanding the definition of "hazardous air pollutant" in section 22a-174-1 of the Regulations of Connecticut State Agencies, any air pollutant listed in section 112(b) of the Act, excluding those substances approved by the Administrator for exclusion.

Sec. 5. Subdivision (1) of subsection (d) of section 22a-174-33 of the Regulations of Connecticut State Agencies is revised, as follows:

(1) In lieu of requiring an owner or operator of a Title V source described in subsection (a)(10)(E) or (F) of this section to obtain a Title V permit, the commissioner may, by permit, [or by] order or regulation, limit all aggregate potential emissions of regulated air pollutants from such premises to less than the following amounts:

(A) One hundred (100) tons per year of any regulated air pollutant;

(B) Fifty (50) tons per year of volatile organic compounds or nitrogen oxides, in a serious ozone nonattainment area;

(C) Twenty-five (25) tons per year of volatile organic compounds or nitrogen oxides, in a severe ozone nonattainment area;

(D) Ten (10) tons per year of any hazardous air pollutant, twenty-five (25) tons per year of any combination of hazardous air pollutants, or the quantity established by the Administrator pursuant to 40 CFR 63; or

(E) one hundred thousand (100,000) tons per year of CO2e.

Statement of Purpose

Sections 1 - 3. The revisions to RCSA section 22a-174-29 remove requirements added during a transition in the Department's new source review permitting program regulations. Continued implementation of the transitional requirement results in inequity in how certain similar sources are treated depending on historic permitting requirements.

RCSA section 22a-174-29 provides limitations on toxic air emissions for all stationary sources. Sources that emit low levels of air pollutants and are below air permitting thresholds have fewer restrictions for toxic air emissions than the restrictions imposed on larger, more complex sources with levels of emissions that require air permits. In 2002, the Department increased the air emissions thresholds for permitting and adopted a permit-by-rule for smaller, less complex sources of air emissions. The sources operating under the permit-by-rule should not be held to all of the requirements of RCSA section 22a-174-29, but the transitional requirements in RCSA section 22a-174-29 are unclear in this respect.

Once implemented, this revision will require only those sources obligated to hold, and operate in compliance with, a new source review permit to meet more comprehensive requirements for toxic pollutant emissions. Sources that are operated under a permit-by-rule will be held to fewer requirements for toxic emissions, which is an appropriate result since the sources operated under a permit-by-rule are smaller and generally have lower levels of actual emissions than sources subject to permitting. The revision also addresses the application of RCSA section 22a-174-29 to sources issued new source review permits under a historic regulation. Modification of any new source review permit will require the source to comply with all of the requirements of RCSA section 22a-174-29, regardless of how RCSA section 22a-174-29 was applied in the previously issued permit.

Section 4. This portion of the proposal adds a cap on hazardous air pollutants and carbon dioxide equivalent emissions to RCSA section 22a-174-3c. RCSA section 22a-174-3c allows owners of sources with high potential emissions but very low actual emissions to limit the actual emissions by complying with simple facility-wide purchase requirements. RCSA section 22a-174-3c was designed primarily for use by small businesses lacking dedicated environmental compliance staff.

Operation of a source under the current requirements of RCSA section 22a-174-3c effectively limits hazardous air pollutants to a level below major source thresholds. Operation of a fuel-burning source under the current requirements of RCSA section 22a-174-3c also effectively limits carbon dioxide equivalent emissions (aka greenhouse gases) to a level well below permitting thresholds. By recognizing these restrictions in the regulation, source owners will have an enforceable mechanism under which such sources may stay below the applicability for federal standards for toxic air emissions and state standards for greenhouse gases.

Section 5. The revision to RCSA section 22a-174-33(d)(1) harmonizes the regulation with the Department's current practices for restricting emissions from sources to levels below the applicability for Title V permitting. RCSA section 22a-174-33 establishes requirements on source owners to apply for a Title V permit if the source's emissions are above certain levels. A source owner may limit emissions by operating under the requirements of certain regulations instead of obtaining a Title V general permit to limit potential emissions. The revision to RCSA section 22a-174-33 recognizes this practice.

As a Title V permit does not impose new emissions control requirements on an emissions source, the environmental impact of this revision is zero, but sources that would have been required to obtain a Title V permit absent this revision are relieved of a significant administrative burden.