



September 27, 2012

David B. Conroy, Chief  
Air Programs Branch  
United States Environmental Protection Agency – Region 1  
5 Post Office Square - Suite 100  
Boston, MA 02109-3912

**Re: *Revision to the Connecticut State Implementation Plan --  
Notification to Nearby States in Connecticut's  
Prevention of Significant Deterioration Permit Program***

Dear Mr. Conroy:

Pursuant to 40 CFR 51, Appendix V, Section 2.1(a) and an agreement between the Connecticut Department of Energy and Environmental Protection (DEEP) and your office dated April 21, 2012, I am submitting one paper copy of this letter and supporting materials to request that your agency approve the enclosed materials as a revision to the Connecticut State Implementation Plan (SIP) for air quality. A copy has also been made available to your office by electronic mail, and I certify that such electronic copy is an exact copy of this paper submission.

This SIP revision was requested by you. The U.S. Environmental Protection Agency (EPA) noted in the proposed approval of Connecticut's infrastructure SIP for the 1997 ozone national ambient air quality standard that Connecticut's prevention of significant deterioration (PSD) program regulation does not specifically provide for notice to nearby states per Section 126 of the Clean Air Act (CAA). DEEP committed by letter dated May 2, 2011 to pursue the enclosed revisions to section 22a-174-2a(b)(5) and (6) of the Regulations of Connecticut State Agencies, which sets out the procedural requirements for Connecticut's PSD program. The revisions became effective in Connecticut on 10 September 2012.

All required state and federal procedures for public participation and in satisfaction of the requirements of 40 CFR 51, Appendix V, Section 2 were followed. To demonstrate satisfaction of the federal public participation requirements, we have enclosed: a certified copy of the regulatory revisions; the public notice; a list of attendees at the public hearing; certification of public hearing; and a hearing report, which summarizes comments received, identifies the commenters and describes changes made as a result of the comments. DEEP has the necessary legal authority to adopt these requirements concerning notice to nearby states and to implement such requirements. Because the regulatory revision is administrative and has no relationship to air emissions, no technical support is submitted with this SIP revision.

Please get in touch with me at 860-424-3026 if you have any questions concerning this submission.

Sincerely

Anne R. Gobin, Chief  
Bureau of Air Management

ARG/MAG/mag  
Enclosures

cc: Anne Arnold, EPA Region 1

MATERIALS SUBMITTED IN SUPPORT OF THIS SIP REVISION

- Attachment A Revisions to RCSA section 22a-174-2a(b)(5) and (6), effective on 10 September 2012 in the form filed with the Secretary of the State, marked with brackets and underlined text to show the changes to the current SIP requirements.
- Attachment B Public notice as published in the *Connecticut Law Journal* and the DEEP website on 31 January 2012.
- Attachment C Attendees at the public hearing on 6 March 2012, DEEP Headquarters, 79 Elm Street, Hartford, CT
- Attachment D Certification of public hearing
- Attachment E Hearing report
- Attachment F Copy of the report of the Legislative Commissioners' Office

**Attachment A**  
**Revisions to RCSA section 22a-174-2a(b)(5) and (6)**

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut  
REGULATION  
of

SECRETARY OF THE STATE  
LEGISLATION & ELECTIONS  
ADMINISTRATOR DIVISION  
2012 SEP 10 P 1:55

NAME OF AGENCY

Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION

Amendment of Section 22a-174-2a(b) of the  
Regulations of Connecticut State Agencies

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 the states of New York, Massachusetts, and Rhode Island, on or before the time such notice is provided to the public, except for applications for minor permit modifications for which the commissioner shall provide notice in accordance with 40 CFR 70.7(e)(2) and (3). 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.

CERTIFICATION

1) I hereby certify that the above (check one)  Regulations  Emergency Regulations

2) are (check all that apply)  adopted  amended  repealed by this agency pursuant to the following authority(ies): (complete all that apply)

a. Connecticut General Statutes section(s) 22a-174

b. Public Act Number(s) \_\_\_\_\_

(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

3) And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the Connecticut Law Journal on January 31, 2012;

(Insert date of notice publication if publication was required by CGS Section 4-168.)

4) And that a public hearing regarding the proposed regulations was held on 6 March, 2012;

(insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

5) And that said regulations are EFFECTIVE (check one, and complete as applicable)

When filed with the Secretary of the State  
OR  on (insert date) \_\_\_\_\_

SECRETARY OF THE STATE  
REGISTRATION & ELECTORAL  
ADMINISTRATION DIVISION  
2012 SEP 10 P 1 52

DATE 5/17/12 SIGNED (Head of Board, Agency or Commission) [Signature] OFFICIAL TITLE, DULY AUTHORIZED Commissioner, DEEP

APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE 5/30/12 SIGNED (Attorney General or AG's designated representative) [Signature] OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL

Proposed regulations are DEEMED APPROVED by the Attorney General in accordance with CGS Section 4-169, as amended, if the Attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation

(For Regulation Review Committee Use ONLY)

- Approved  Rejected without prejudice
- Approved with technical corrections  Disapproved in part (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS 4-170(c) as amended

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended DATE 8/28/2012 SIGNED (Administrator, Legislative Regulation Review Committee) [Signature]

Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE \_\_\_\_\_ SIGNED (Secretary of the State) \_\_\_\_\_ BY \_\_\_\_\_

(For Secretary of State Use ONLY)



Office of the Secretary of the State  
State of Connecticut  
P.O. Box 150470, Hartford, CT 06115-0470

DENISE W. MERRILL  
Secretary of the State  
JAMES FIELD SPALLONE  
Deputy Secretary of the State

September 12, 2012

Daniel Esty, Commissioner  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06105

Re: Agency Regulation Concerning:  
**Air Quality Regulation - Amendment of Section 22a-174-2a(b) of the  
Regulations of Connecticut State Agencies**  
Regulation Review Committee Docket Number: 2012-031  
Secretary of the State File Number: 6079

Dear Commissioner Esty:

This is to acknowledge receipt of two copies of the above referenced regulation issued by the Department of Energy and Environmental Protection. One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Said regulation was received and filed in this office on September 10, 2012. The effective date of this regulation is September 10, 2012.

We request that you please forward the original or a copy of this acknowledgement letter to your agency's legal services department, and/or to the agency department responsible for adopting the regulation, for its files.

Sincerely,

Barbara Sladek  
RLS Assistant Coordinator  
860-509-6147

RECEIVED

SEP 19 2012

DEPT. OF ENVIRONMENTAL PROTECT

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

File



**Attachment B**  
**Public notice**

## ADMINISTRATIVE REGULATIONS

*Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.*

*A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated January 3, 2012.*

### DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

#### Notice of Intent to Amend the State Air Quality Regulations and to Revise the State Implementation Plan

The Commissioner of the Department of Energy and Environmental Protection (DEEP) hereby gives notice of a public hearing as part of a proceeding to make small changes to its procedural requirements for reviewing air quality permit applications. Upon adoption, the regulatory changes will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan for air quality to satisfy specific obligations under the Clean Air Act (CAA).

DEEP proposes to revise subdivisions (5) and (6) of section 22a-174-2a(b) of the Regulations of Connecticut State Agencies (RCSA). The revisions specify those individuals DEEP will notify concerning the Commissioner's tentative determination on a permit application submitted under the prevention of significant deterioration (PSD) permit program or Title V permit program. The proposed revisions make Connecticut's procedures consistent with federal procedures. These revisions do not change the requirements on permit applicants.

All interested persons are invited to comment on the proposal. Comments should be submitted no later than 5:00 PM on 6 March 2012 to Erich J. Heinonen, DEEP, Bureau of Air Management, Engineering & Enforcement, 79 Elm Street, Hartford, Connecticut 06106-5127. Comments may be submitted by post, facsimile to (860) 424-4064 or by electronic mail to [erich.heinonen@ct.gov](mailto:erich.heinonen@ct.gov).

In addition to accepting written comments, DEEP will also hold the public hearing described below. Any person giving oral comment at the hearing will be asked to submit a written copy of such comments.

**PUBLIC HEARING**  
6 March 2012 at 10 AM  
DEEP, 5th Floor, Holcombe Room  
79 Elm Street, Hartford, CT

Copies of the proposal described above, the regulatory flexibility analysis, and a statement required by CGS section 22a-6(h) are available for public inspection during normal business hours from Erich J. Heinonen at the Bureau of Air Management, Engineering & Enforcement, 5th Floor, 79 Elm Street, Hartford, CT. The same documents are posted on DEEP's website at the following location:  
[http://www.ct.gov/dep/cwp/view.asp?a=2684&q=331220&depNav\\_GID=1619](http://www.ct.gov/dep/cwp/view.asp?a=2684&q=331220&depNav_GID=1619)

For further information, contact Erich J. Heinonen of the Bureau of Air Management at (860) 424-4152 or by electronic mail to [erich.heinonen@ct.gov](mailto:erich.heinonen@ct.gov).

DEEP is an affirmative action/equal opportunity employer and service provider. In conformance with the Americans with Disabilities Act, DEEP makes every effort to provide equally effective services for persons with disabilities. Individuals with disabilities who need this information in an alternative format, to allow them to benefit and/or participate in the agency's programs and services, should call 860-424-3035 or e-mail the ADA Coordinator, at [DEP.aaoffice@ct.gov](mailto:DEP.aaoffice@ct.gov). Persons who are hearing impaired should call the State of Connecticut relay number 711. Requests for accommodations must be made at least two weeks prior to the program date.

The authority to adopt the proposal is granted by CGS sections 22a-6 and 22a-174. This notice is required pursuant to CGS sections 22a-6 and 4-168 and 40 Code of Federal Regulations 51.102.

5 January 2012

Daniel C. Esty  
*Commissioner*

---

## DEPARTMENT OF MOTOR VEHICLES

---

### Notice of Intent to Amend Regulation

In accordance with the provisions of subsection (a) of Section 4-168 of the Connecticut General Statutes, notice is hereby given that the Commissioner of Motor Vehicles, pursuant to Section 14-111 of the Connecticut General Statutes, proposes to amend the regulations regarding "Suspension of Operator's License for History of Unsafe Operation", Section 14-137-82."

**Statement of purpose:** The purpose of this amendment to these regulations is to add offenses to those that constitute unsafe operation to better target unsafe drivers for the welfare and safety of the general public.

The proposed regulation sets forth a comprehensive list of the unsafe moving violations that shall be recorded on an operator's driver history. Multiple convictions for such violations may result in the suspension or revocation of a violator's operator license.

Comments regarding this proposed amendment of the regulation may be submitted in writing within thirty (30) days following publication of this notice to Anne F. Howroyd, Legal Services Bureau, 60 State Street, Room 164, Wethersfield, CT 06161; telephone number (860) 263-5460; or via e-mail at [anne.howroyd@ct.gov](mailto:anne.howroyd@ct.gov).

A copy of the complete text of the proposed regulation is available at no cost upon request by contacting Anne F. Howroyd, Division Manager, at the address, number and e-mail noted above.

Anne F. Howroyd  
*Division Manager*  
Legal Services Bureau

---

**Attachment C**  
**Attendees at the public hearing**

ATTENDANCE  
Public Hearing  
6 March 2012  
Amendment of RCSA Section 22a-174-2a(b)

Erich Heinonen, DEEP

Merrily A. Gere, DEEP

**Attachment D**  
**Certification of public hearing**




## HEARING CERTIFICATION

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken regarding the proposed amendment of section 22a-174-2a(b)(5) and (6) of the Regulations of Connecticut State Agencies:

- 1) The public hearing was held on 6 March 2012 as announced in the notice of hearing;
- 2) In accordance with the notice, materials were available for review on the Department's website and at the Department's headquarters in Hartford, CT;
- 3) Copies of the notice were mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts along with a copy to Region I of the U.S. Environmental Protection Agency; and
- 4) The notice of hearing was published in the *Connecticut Law Journal* and the Department's website on 31 January 2012.

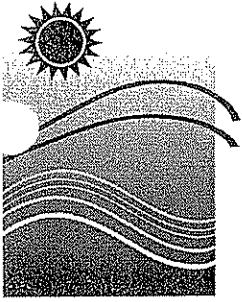
25 September 2012

Date

  
Merrily A. Gere  
Bureau of Air Management

**Attachment E**  
**Hearing report**





Connecticut Department of  
**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

**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

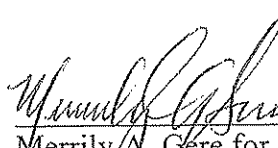
The comment submitted by EPA is summarized below with the Department's response.

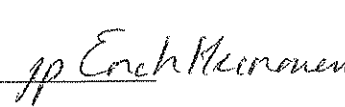
**Comment:** EPA finds that the revisions to specify those individuals the Department will notify concerning the commissioner's tentative determination on a permit application submitted under the NSR PSD or Title V permit program are consistent with federal procedures. EPA encourages the Department to 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.

  
Merrily A. Gere for  
Erich J. Heinonen  
Hearing Officer

  
Date 14 May 2012

**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.

**Attachment F**  
**Report of the Legislative Commissioners' Office**

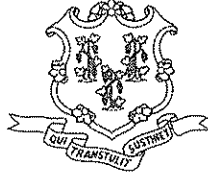


# The Connecticut General Assembly

## Legislative Commissioners' Office

Edwin J. Maley, Jr.  
*Commissioner*  
William A. Hamzy  
*Commissioner*

Larry G. J. Shapiro  
*Director*



Legislative Office Building  
Suite 5500  
Hartford, Connecticut  
06106-1591  
(860) 240-8410  
fax (860) 240-8414  
e-mail: lco@cga.ct.gov

## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** August 28, 2012

<b>Regulation No:</b>	2012-31
<b>Agency:</b>	Department of Energy and Environmental Protection
<b>Subject Matter:</b>	Notice Requirements for Air Permit Applications
<b>Statutory Authority:</b>	22a-174 (copy attached)

	Yes or No
Mandatory	Y
Federal Requirement	Y
Permissive	N

### For the Committee's Information:

### Substantive Concerns:

### Technical Corrections:

1. On page 1, in subdivision (5)(F), "the states of" should be inserted before "New York", for clarity and ", except as 40 CFR 70.7(e)(2) and (3) require the timing of notice for minor

permit modifications to be different." should be " , except for applications for minor permit modifications for which the commissioner shall provide notice in accordance with 40 CFR 70.7(e)(2) and (3).", for clarity.

2. On page 2, in subdivision (6), "State" should be "state", for proper form.

Recommendation:

<input checked="" type="checkbox"/>	Approval in whole
<input checked="" type="checkbox"/>	with technical corrections
	with deletions
	with substitute pages
	Disapproval in whole or in part
	Rejection without prejudice

Reviewed by: Bradford M. Towson / Angela Rehm

Date: August 2, 2012

**Sec. 22a-174. (Formerly Sec. 19-508). Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner's action re permit applications.** (a) The commissioner, in the manner provided in subdivision (1) of section 22a-6, shall have the power to formulate, adopt, amend and repeal regulations to control and prohibit air pollution throughout the state or in such areas of the state as are affected thereby, which regulations shall be consistent with the federal Air Pollution Control Act and which qualify the state and its municipalities for available federal grants. Any person heard at the public hearing on any such regulation shall be given written notice of the determination of the commissioner.

(b) The commissioner shall have the power to (1) enter into contracts with technical consultants, including, but not limited to, nonprofit corporations created for the purpose of facilitating the state's implementation of multistate air pollution control programs, for special studies, advice and assistance; to consult with and advise and exchange information with other departments or agencies of the state; and (2) serve on the board of directors of a nonprofit corporation, including, but not limited to, a nonprofit corporation created for the purpose of facilitating the state's implementation of multistate air pollution control programs.

(c) The commissioner shall have the power, in accordance with regulations adopted by him, (1) to require that a person, before undertaking the construction, installation, enlargement or establishment of a new air contaminant source specified in the regulations adopted under subsection (a) of this section, submit to him plans, specifications and such information as he deems reasonably necessary relating to the construction, installation, enlargement, or establishment of such new air contaminant source; (2) to issue a permit approving such plans and specifications and permitting the construction, installation, enlargement or establishment of the new air contaminant source in accordance with such plans, or to issue an order requiring that such plans and specifications be modified as a condition to his approving them and issuing a permit allowing such construction, installation, enlargement or establishment in accordance therewith, or to issue an order rejecting such plans and specifications and prohibiting construction, installation, enlargement or establishment of a new air contaminant source in accordance with the plans and specifications submitted; (3) to require periodic inspection and maintenance of combustion equipment and other sources of air pollution; (4) to require any person to maintain such records relating to air pollution or to the operation of facilities designed to abate air pollution as he deems necessary to carry out the provisions of this chapter and section 14-164c; (5) to require that a person in control of an air contaminant source specified in the regulations adopted under subsection (a), obtain a permit to operate such source if the source (A) is subject to any regulations adopted by the commissioner concerning high risk hazardous air pollutants, (B) burns waste oil, (C) is allowed by the

commissioner, pursuant to regulations adopted under subsection (a), to exceed emission limits for sulfur compounds, (D) is issued an order pursuant to section 22a-178, or (E) violates any provision of this chapter, or any regulation, order or permit adopted or issued thereunder; (6) to require that a person in control of an air contaminant source who is not required to obtain a permit pursuant to this subsection register with him and provide such information as he deems necessary to maintain his inventory of air pollution sources and the commissioner may require renewal of such registration at intervals he deems necessary to maintain such inventory; (7) to require a permit for any source regulated under the federal Clean Air Act Amendments of 1990, P.L. 101-549; (8) to refuse to issue a permit if the Environmental Protection Agency objects to its issuance in a timely manner under Title V of the federal Clean Air Act Amendments of 1990; and (9) notwithstanding any regulation adopted under this chapter, to require that any source permitted under Title V of the federal Clean Air Act Amendments of 1990 shall comply with all applicable standards set forth in the Code of Federal Regulations, Title 40, Parts 51, 52, 59, 60, 61, 63, 68, 70, 72 to 78, inclusive, and 82, as amended from time to time.

(d) The commissioner shall have all incidental powers necessary to carry out the purposes of this chapter and section 14-164c.

(e) As used in this subsection, "contiguous" means abutting or adjoining without consideration of the actual or projected existence of roadways, walkways, plazas, parks or other minor intervening features; "indirect source" means any building, structure, facility, installation or combination thereof, that has or leads to associated activity as a result of which any air pollutant is or may be emitted. The commissioner shall not require the submission of plans and specifications under indirect source regulations adopted pursuant to subdivisions (1) and (2) of subsection (c) of this section for proposed construction to be undertaken within a redevelopment area or urban renewal project, as defined in chapter 130, provided (1) the proposed construction is pursuant to a plan for such redevelopment area or urban renewal project adopted pursuant to section 8-127 prior to October 1, 1974, or to a modification of such plan, (2) the proposed construction is part of a contiguous, single purpose or multipurpose development or developments and (3) site clearance or construction had commenced on a portion of the site of such development or developments prior to October 1, 1974, nor shall the commissioner issue any order pursuant to subdivision (1) of subsection (c) of this section pertaining to the enforcement of indirect source regulations with respect to such proposed construction within such redevelopment areas and urban renewal projects. In the event that the modification of any such plan after October 1, 1974, would result in the proposed construction generating substantially more motor vehicle traffic than would have been generated prior to such modification, the submission of plans and specifications shall be required for such proposed modification. The commissioner shall not require the renewal of an indirect source operating permit

issued in accordance with subsection (c) of this section unless such indirect source no longer conforms with plans, specifications or other information submitted to said commissioner in accordance with said subsection (c).

(f) The commissioner shall allow the open burning of brush on residential property, provided the burning is conducted by the resident of the property or the agent of the resident and a permit for such burning is obtained from the local open burning official of the municipality in which the property is located, and the open burning of brush in municipal landfills, transfer stations and municipal recycling centers, provided a permit for such burning is obtained from the fire marshal of the municipality where the facility is located, except that no open burning of brush shall occur (1) when national or state ambient air quality standards may be exceeded; (2) where a hazardous health condition might be created; (3) when the forest fire danger in the area is identified by the commissioner as extreme and where woodland or grass land is within one hundred feet of the proposed burn; (4) where there is an advisory from the commissioner of any air pollution episode; (5) where prohibited by an ordinance of the municipality; and (6) in the case of a municipal landfill, when such landfill is within an area designated as a hot spot on the open burning map prepared by the commissioner. A permit for the burning of brush at any municipal landfill, municipal transfer station or municipal recycling center shall be issued no more than six times in any calendar year. The proposed permit to burn brush at any municipal landfill, municipal transfer station or municipal recycling center shall be submitted to the commissioner by the fire marshal, with the approval of the chief elected official of the municipality in which the municipal landfill, municipal transfer station or municipal recycling center is located. The commissioner shall approve or disapprove the fire marshal's proposed permitting of burning of brush at a municipal landfill, municipal transfer station or municipal recycling center within a reasonable time of the filing of such application. The burning of leaves, demolition waste or other solid waste deposited in such landfill shall be prohibited. The burning of nonprocessed wood for campfires and bonfires is not prohibited if the burning is conducted so as not to create a nuisance and in accordance with any restrictions imposed on such burning. Nothing in this subsection or in any regulation adopted pursuant to this subsection shall affect the power of any municipality to regulate or ban the open burning of brush within its boundaries for any purpose. Notwithstanding any other provision of this section, fire breaks for the purpose of controlling forest fires and controlled fires in salt water marshes to forestall uncontrolled fires are not prohibited. Open burning may be engaged in for any of the following purposes if the open burning official with jurisdiction over the area where the burning will occur issues an open burning permit: Fire-training exercises; eradication or control of insect infestations or disease; agricultural purposes; clearing vegetative debris following a natural disaster; and vegetative management or enhancement of wildlife habitat or ecological sustainability on municipal property or on any privately owned property permanently

dedicated as open space. Open burning for such purposes on state property may be engaged in with the written approval of the commissioner. Local burning officials nominated for the purposes of this subsection shall be nominated only by the chief executive officer of the municipality in which the official will serve and shall be certified by the commissioner. The chief executive officer may revoke the nomination. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, governing open burning and may authorize or prohibit open burning consistent with this section. The regulations may require the payment of an application fee and inspection fee and may establish a certification procedure for local burning officials.

(g) The commissioner shall require, by regulations adopted in accordance with the provisions of chapter 54, the payment of a permit application fee sufficient to cover the reasonable costs of reviewing and acting upon an application for, and monitoring compliance with the terms and conditions of, any state or federal permit, license, order, certificate or approval required pursuant to this section. Any person obtaining a permit, pursuant to said regulations, for the construction or operation of a source of air pollution or for modification to an existing source of air pollution shall submit a permit fee of twice the amount of the fee established by regulations in effect on July 1, 1990. The commissioner shall require the payment of a permit application fee of two hundred dollars.

(h) The commissioner may require, by regulations adopted in accordance with the provisions of chapter 54, payment of a fee by the owner or operator of a source of air pollution, sufficient to cover the reasonable cost of a visual test of an air pollution control device through the use of a dust compound in the detection of leaks in such device, or the monitoring of such test, provided such fee may not exceed the average cost to the department for the conduct or monitoring of such tests plus ten per cent of such average cost. Except as specified in section 22a-27u, all payments received by the commissioner pursuant to this subsection shall be deposited in the General Fund and credited to the appropriations of the Department of Energy and Environmental Protection in accordance with the provisions of section 4-86.

(i) Notwithstanding the provisions of subsections (g) and (h) of this section, no municipality shall be required to pay more than fifty per cent of any fee established by the commissioner pursuant to said subsections.

(j) Fees or increased fees prescribed by this section shall not be applicable to residential property.

(k) (1) The commissioner may issue a general permit with respect to a category of new or existing stationary air pollution sources, except with respect to a source which is already covered by an individual permit, provided the general permit is not inconsistent with the

federal Clean Air Act, as amended in 1990, 42 USC, Sections 7401 et seq., and as it may be further amended from time to time. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under this section, except as provided in subdivision (5) of this subsection. The general permit may regulate a category of sources which, whether or not requiring a permit under the federal Clean Air Act, (A) involve the same or substantially similar types of operations or substances, (B) require the same types of pollution control equipment or other operating conditions, standards or limitations, and (C) require the same or similar monitoring, and which, in the opinion of the commissioner, are more appropriately controlled under a general permit than under an individual permit. The general permit may require that any person proposing to conduct any activity under the general permit register such activity, including obtaining approval from the commissioner, before the general permit becomes effective as to such activity, and may include such other conditions as the commissioner deems appropriate, including, but not limited to, management practices and verification and reporting requirements. Any such reports shall be made available to the public by the commissioner. The commissioner shall grant an application for approval under a general permit without repeating the notice and comment procedures provided under subdivision (2) of this subsection, and such a grant shall not be subject to judicial review under subdivision (4) of this subsection. Registrations and applications for approval under the general permit shall be submitted on forms prescribed by the commissioner; application forms concerning activities regulated under the federal Clean Air Act shall require that the applicant provide such information as may be required by that act. The commissioner shall prepare, and annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(2) Notwithstanding any other procedures in this chapter, any regulations adopted thereunder, and chapter 54, the commissioner may issue a general permit in accordance with the following procedures: (A) The commissioner shall publish in a newspaper, having a substantial circulation in the affected area or areas, notice of (i) intent to issue a general permit, (ii) the right to inspect the proposed general permit, (iii) the opportunity to submit written comments thereon, and (iv) the right to a public hearing if, within the comment period, the commissioner receives a petition signed by at least twenty-five persons provided the notice shall state that the right to a public hearing may be exercised upon request of any person if the permit regulates an activity which is subject to provisions of the federal Clean Air Act; (B) the administrator of the United States Environmental Protection Agency and any states affected by the general permit shall be given notice as may be required by the federal Clean Air Act; (C) the commissioner shall allow a comment period of thirty days following publication of notice under subparagraph (A) of this subdivision during which interested persons may submit written comments concerning the permit to the commissioner; (D) the commissioner shall not issue the general permit until



after the comment period and the public hearing, if one is held; (E) the commissioner shall publish notice of any general permit issued in a newspaper having a substantial circulation in the affected area or areas; and (F) summary suspension may be ordered in accordance with subsection (c) of section 4-182. Any person may request that the commissioner issue, modify, revoke or suspend a general permit in accordance with this subsection.

(3) Any general permit under this subsection shall be issued for a fixed term. A general permit covering an activity regulated under the federal Clean Air Act shall be issued for a term of no more than five years. A general permit covering an activity regulated under the federal Clean Air Act shall contain such additional conditions as may be required by that act.

(4) Notwithstanding any other provision of this chapter and chapter 54, with respect to a general permit concerning activities regulated under the federal Clean Air Act, any person who submitted timely comments thereon may appeal the issuance of such permit to the superior court in accordance with the provisions of section 4-183. Such appeal shall have precedence in the order of trial as provided in section 52-192.

(5) Subsequent to the issuance of a general permit, the commissioner may require a person whose activity is or may be covered by the general permit to apply for and obtain an individual permit pursuant to this chapter if he determines that an individual permit would better protect the land, air and waters of the state from pollution. The commissioner may require an individual permit under this subdivision in cases including, but not limited to, the following: (A) The permittee is not in compliance with the conditions of the general permit; (B) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollution applicable to the permitted activity; (C) circumstances have changed since the time the general permit was issued so that the permitted activity is no longer appropriately controlled under the general permit, or a temporary or permanent reduction or elimination of the permitted activity is necessary; or (D) a relevant change has occurred in the applicability of the federal Clean Air Act. In making the determination to require an individual permit, the commissioner may consider the location, character and size of the source and any other relevant factors. The commissioner may require an individual permit under this subdivision only if the person whose activity is covered by the general permit has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for requiring an individual permit, an application form, a statement setting a time for the person to file the application and a statement that the general permit as it applies to such person shall automatically terminate on the effective date of the individual permit. Such person shall forthwith apply for, and use best efforts to obtain, the individual permit. Any person may petition the commissioner to take action under this subdivision.

(6) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this subsection.

(l) In any proceeding on an application for a permit which is required under 42 USC 7661a, the applicant, and any other person entitled under said section to obtain judicial review of the commissioner's final action on such application may appeal such action in accordance with the provisions of section 4-183.

(m) The commissioner shall not issue a permit for an asphalt batch plant or continuous mix facility under the provisions of this section until July 1, 2004, unless the commissioner determines that the issuance of the permit will result in an improvement of environmental performance of an existing asphalt batch plant or continuous mix plant. The provisions of this section shall apply to any application pending on May 5, 1998. Nothing in this section shall apply to applications for upgrading, replacing, consolidating or otherwise altering the physical plant of an existing facility provided such upgrade, replacement, consolidation or alteration results in an improvement of environmental performance or in reduced total emissions of air pollutants.