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
Amendment of the Regulations of Connecticut State Agencies Section 22a-174-22, Nitrogen Oxides (NOx) Program

Hearing Officer:
Elizabeth McAuliffe

Date of Hearing: October 18, 2012

On August 15, 2012, the Commissioner of the Department of Energy and Environmental Protection (Department) published a notice of intent to amend section 22a-174-22 of the Regulations of Connecticut State Agencies (RCSA). Pursuant to such notice, a public hearing was held on October 18, 2012. Written comments were accepted until 4:30 PM on October 18, 2012.

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 the proposal, and summarizes and responds to all comments on the proposal.

The proposed amendment of RCSA section 22a-174-22 is included in Attachment 2. A final version of the proposed amendment, revised in response to comment, is included as Attachment 3. A statement in satisfaction of CGS section 22a-6(h) is included as Attachment 1.

II. Summary of Proposal

The Department proposes to amend section 22a-174-22 of the RCSA. These amendments to the oxides of nitrogen emission control regulations provide: Exemption provisions to accommodate certain electrical needs at health care and nuclear facilities, as well as construction projects, and broadcasting under certain conditions; elimination of the compliance plan requirement for some sources otherwise subject to extensive reporting requirements; up-to-date references for forecasted ozone levels; and clearer reporting requirements. Once adopted, the amended regulation will be submitted to the U.S. Environmental Protection Agency (EPA) for review and approval as a revision to the State Implementation Plan for air quality.

III. Opposition to the Proposal

Most commenters support the proposed amendments in general. Several commenters oppose the adoption of the proposal as is, as it is deemed not flexible enough with respect to the proposed exemption language. Some commenters oppose the exemptions as either too narrow or too broad in scope.

All comments are summarized below with the Department's response and recommended changes to the proposed amendment.

IV. Summary of Comments

Written comments were received from the following persons:

i) Robert Silvestri
PSEG Power Connecticut LLC

ii) Jeffrey R. Hugabonne*
Broadcast Radio Chief Engineer
On behalf of the Connecticut Broadcasters Association
*Oral testimony was also provided by Jeffery R. Hugabonne at the hearing.

iii) Anne Arnold, Manager
Air Quality Planning Unit
U.S. EPA Region 1

iv) Marielle Daniels, Manager
Patient Care Regulation
Connecticut Hospital Association

v) Russell T. Ward, P.E. & Adam Barbash, P.E., CHMM
Senior Environmental Engineer & Associate, respectively
Fuss & O'Neill

vi) Pamela F. Faggert, Vice President and Chief Environmental Officer
Dominion Resources Services, Inc.

vii) John T. Dunne. Associate Director
Environmental
Pfizer Inc

viii) Eric Brown, Associate Counsel
Connecticut Business & Industry Association

ix) Eugene A. Brackbill, P.E., Principal Consulting Engineer
Sci-Tech, Inc.

All comments submitted are summarized below with the Department'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 bolded and deleted text is in strikethrough font.

Comments Concerning Subsection (b) Applicability

Commenter ix Sci-Tech indicates that the intention was only to regulate minor sources with respect to potential emissions in excess of 137 pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or 274 pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone. Therefore, if this interpretation is correct, the commenter recommends the following revision to subparagraph (B) of subsection (b)(1):

This section applies to the owner or operator of:

(B) Fuel-burning equipment, a waste combustor, or a process source located at a minor stationary source of NOx that has potential emissions of NOx in excess of the following:

(i) One hundred thirty-seven (137) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or

(ii) Two hundred seventy-four (274) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone.

Response to Comment
The current regulation does not specify whether the subject fuel-burning equipment, waste combustor or process source is at a major or minor premises. The potential emissions during the ozone season that could be generated by that stationary source are what matter and this concern remains. Therefore, no change is recommended based upon this comment.

Commenter viii CBIA indicates that while in general the revisions to subsections (b)(2) and (b)(3) resolve longstanding glitches in the regulations, there are still some remaining suggestions. For instance, the applicability language in subsection (b)(2) is unnecessarily asymmetrical and self-contradicting and promotes noncompliance. Therefore, it should be converted to a plain-English, compliance promoting statement as follows:

(2) Subsections (d) through (k) and (m) of this section shall not apply to the owner or operator of a source if:

(A) The actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone; and

(B) After May 31, 1995, the actual emissions of NOx from such premises on any day from May 1 to September 30, inclusive, of any year have not exceeded one hundred thirty-seven (137) pounds if such premises are located in a severe nonattainment area for ozone, or two hundred seventy-four (274) pounds if such premises are located in a serious nonattainment area for ozone.

Response to Comment

Changes were proposed to subsection (b)(2) at the time of notice to clarify which provisions apply to the universe of sources with a certain level of potential emissions but with lower actual emissions. But these proposed amendments could be further clarified by making the language more similar to the language in subsection (b)(1) and subparagraphs (A) and (B) of subsection (b)(1). Therefore, additional clarification with respect to the language in subsection (b)(2) and subparagraphs (A) and (B) of subsection (b)(2) is appropriate and recommended at this time, as follows:

(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to ~~the owner or operator of~~ a source if: ~~the actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone. Notwithstanding this provision, [subsection (d) to subsection (k), inclusive,] subsections (d) to (k), inclusive, and (m) of this section shall apply to such owner or operator if after May 31, 1995, actual emissions of NOx from such premises exceed the following:~~

(A) ~~In any calendar year:~~ ***The actual emissions of NOx in any calendar year since January 1, 1990 from the premises at which such source is located have not exceeded*** twenty-five (25) tons for ***a*** premises located in a severe nonattainment area for ozone, or fifty (50) tons for ***a*** premises located in a serious nonattainment area for ozone; or

(B) ***The actual emissions of NOx after May 31, 1995 from the premises at which such source is located have not exceeded on*** ~~*On*~~ any day from May 1 to September 30, inclusive, of any year: one hundred thirty-seven (137) pounds for ***a*** premises located in a severe nonattainment area for ozone or two hundred seventy-four (274) pounds for ***a*** premises located in a serious nonattainment area for ozone.

Commenters vii and viii Pfizer and CBIA do not think the agency intends to bring in sources that are too small to be regulated under the emission thresholds and therefore recommends a clarifying sentence be added to the beginning of (b)(3) of this section.

An emergency engine that exceeds any one of the applicability thresholds in subsections (b)(1) or (b)(2), and is not otherwise exempt by subsection (c), will be an affected emission unit under section 22. For any such emergency engine subsection (d) to (k), inclusive, of this section shall not apply to the owner or operator of an emergency engine. In addition, the actual emissions from emergency engines operating during an emergency

shall not be included in the determination of the applicability of subsection (b)(2)(B) of this section.

Response to Comment

DEEP does not intend to expand the applicability of this section beyond what is set forth in subsections (b)(1) and (b)(2) through this amendment. An emergency engine, which is a type of fuel burning equipment, is only subject to this section if the emergency engine itself or the premises where it is located, satisfies the applicability criteria set forth in subsection (b). When the applicability criteria are met, subsection (b)(3) serves to limit the extent to which the entire section applies to such an emergency engine. But it was not intended to shield other emission units owned by the same owner or operator. Based on the current language in subsection (b)(3), an emergency engine that is subject to this section needs to comply with subsections (a) to (b) inclusive, and (l) and (m) of this section. Therefore, there are changes recommended to subsection (b)(3) to remove the reference to *owner or operator*, and to move some language to subparagraph (B) of subsection (b)(2) from subsection (b)(3) for the purposes of clarifying that the emissions from sources used as described in subsection (c)(2) should not be included in this calculation, as follows:

> ***(B)*** ***The actual emissions of NOx after May 31, 1995 from the premises at which such source is located have not exceeded on*** ~~*On*~~ *any day from May 1 to September 30, inclusive, of any year: one hundred thirty-seven (137) pounds for* ***a*** *premises located in a severe nonattainment area for ozone or two hundred seventy-four (274) pounds for* ***a*** *premises located in a serious nonattainment area for ozone.* ***The actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of this subparagraph. The actual emissions from a reciprocating engine or gas turbine engine used as provided in subsection (c)(2) of this section shall not be included in the determination of the applicability of this subparagraph.***
>
> *(3) Subsections (d) [through] to (k), inclusive, of this section shall not apply to* ~~*the owner or operator of*~~ *an emergency engine.* ~~*In addition, the actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of subsection (b)(2)(B) of this section.*~~ *However, on and after May 1, 1997, the operation of an emergency engine for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy" is expressly prohibited unless:*

Commenters vii and viii Pfizer and CBIA are requesting that the agency confirm that these changes proposed would mean that a previously subject emergency engine, that has become subject by way of non-emergency operation on a day with a restricted forecast during the ozone season would revert to being subject to subsection (b)(3) and that compliance with subsection (e) and performing future stack testing per subsection (k) would no longer be applicable.

Response to Comment

The changes proposed would mean that an emergency engine that operates for testing or routine, scheduled maintenance on a day with a restricted forecast during the ozone season would have

operated in violation of this section, yet would still be covered by the exemption in subsection (b)(3). Therefore, in the majority of instances it appears that compliance with subsection (e) and performing future stack testing per subsection (k) would not be applicable. However, this response does not impact enforcement discretion with respect to ongoing enforcement investigations or actions concerning violations of the regulations as they existed previous to this proposed amendment, should it go into effect. No change is recommended based upon this comment.

Additionally, for clarification and consistency with subsection (b)(2) I am recommending the following change with respect to subdivision (1):

(1) This section applies to ~~the owner or operator of~~:

Comments Concerning Subsection (c) Exemptions

Commenter iii EPA states that although it seems unlikely that these exemptions would yield a significant increase in NOx emissions, Connecticut needs to prove this by providing an approximation of the emissions increase that will occur due to the addition of these exemptions. Proving that the emissions increase is minimal will help satisfy the noninterference requirement of section 110(l) of the Clean Air Act.

Response to Comment
Discussions with EPA concerning quantification of these exemptions are outside the scope of the amendment package and will be handled separately going forward. However, the point about quantification does bring to light the confusion caused by prefacing the subject exemptions with 'the owner and operator' and how that makes it appear that any emission unit owned or operated by the owner or operator is not subject to this section. That is not the intention of these exemptions. These exemptions are only intended to apply to the emission units described in this subsection. Lastly, it was the intention to only exempt the emission units described in subsection (c)(2) from *most* of the provisions of this section during the period *when they are* used as described in subparagraphs within subsection (c)(2) but not when they are used in a manner outside the scope of the exemption language. Therefore, for clarification the following changes are recommended.

(c) Exemptions.

(1) This section shall not apply to ~~the owner or operator of~~ a mobile source.

(2) ***Subsections (d) to (k), inclusive, and (m) of this*** *~~This~~ section shall not apply to ~~the owner or operator of~~ a reciprocating engine or gas turbine engine* ***when it is*** *used as follows:*

Additionally, I recommend changes with respect to subsection (c)(3) to clarify the language and limit the scope of the exemptions, and thereby discouraging their associated emissions as well, as follows:

(3) Notwithstanding the provisions of ~~subparagraphs (A) and (B)~~ of subdivision (2) of this subsection, these exemptions are not available for ~~an~~ ***a reciprocating*** *engine or*

gas *turbine* ***engine*** *for which the owner or operator is party to an agreement to sell electrical power from such* ***reciprocating*** *engine* ***or gas turbine engine*** *to an electricity supplier or otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.*

Commenter vi Dominion points out that the emergency engines associated with nuclear facilities are already subject to stringent requirements for maintenance and operation under Chapter 10 of the Code of Federal Regulations. This commenter suggests a revision in order to ensure that the proposed exemption in subparagraph (A) of subsection (c)(2) is clear regarding those facilities licensed under 10 CFR 50:

To provide emergency alternating current power to, or an alternative alternating current source for safety-related structures, systems and components (as defined at 10 CFR 50.2) and other NRC-mandated systems in facilities licensed under 10 CFR 50.

Response to Comment
As stated above, exemptions to protect safety and welfare of the public are an overriding concern for the Department in proposing subparagraph (A) of subsection (c)(2). The language referring to 10 CFR 50 indicates that the facility is a particular type of licensed facility. Such language is intended to limit the exemption to testing and operation deemed necessary by the facility to meet the standards of the Nuclear Regulatory Commission. Therefore, the following change to subparagraph (A) of subsection (c)(2) is recommended based upon this comment and to simplify the reference to supplying power:

(A) *To* ***test and to*** *provide emergency ~~alternating current~~ power or ~~as an~~ alternative ~~alternating current source~~ power for safety-related structures, systems, and components or other Nuclear Regulatory Commission mandated systems at an electricity generating facility licensed ~~in a license issued~~ under 10 CFR 50;*

Commenter iv CHA represents 29 acute care hospitals and supports the regulatory changes and urges their adoption because with these proposed amendments the significant planning that is undertaken with prescheduled testing dates will be allowed to proceed as scheduled, ensuring patient safety.

Response to Comment
The commenter supports the change to subparagraph (B) of subsection (c)(2) as proposed. As stated above, exemptions to protect safety and welfare of the public are an overriding concern for the Department in proposing subparagraph (B) of subsection (c)(2). Therefore, no change is recommended based upon this comment.

Commenter v Fuss & O'Neill is seeking a modification or written clarification on the following text, *"This section shall not apply to the owner or operator of a reciprocating engine or gas turbine engine used as follows: . . . (B) At a hospital or other health care facility to meet standards for emergency electrical power systems of The Joint Commission or the National Fire Protection Association (NFPA)...."* Because it implies that it only applies to the testing required by the Joint Commission or the NFPA.

Response to Comment
Exemptions to protect public safety and welfare are an overriding concern for the Department in proposing subparagraph (B) of subsection (c)(2). The language referring to the Joint Commission and the NFPA was intended to describe the purpose for which an engine is installed. Such language is intended to limit operation to testing and operation deemed necessary by the hospital or health care facility to meet the standards of those organizations. Therefore, the following change is recommended to subparagraph (B) of subsection (c)(2) based upon this comment:

(B) ~~*At a hospital or other health care facility*~~ ***To test and to provide power*** *to meet standards for emergency electrical power systems of The Joint Commission or the National Fire Protection Association* ***at a hospital or other health care facility;*** ~~*or*~~

Commenters i, vii, viii and ix PSEG, Pfizer, CBIA and Sci-tech are indicating that the term construction as defined in Section 22a-174-1(28) of the RCSA *means construction as defined in 40 CFR 51.165 (a)(1)(xviii) – any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.* These commenters contend that the subsection should be broadened to include an exemption for other conditions during which a facility would require a temporary power supply to maintain its operations, including those instances where planned electric utility outages occur. They recommend the following language in place of the proposed subparagraph (C) of subsection (c)(2):

To provide power during building activities, facilities maintenance, repairs or similar work or to provide power to critical load centers or emergency equipment, when such activities require an interruption of electrical power from the electricity supplier.

Response to Comment
The intention of this amendment is to encourage energy efficiency projects and to provide power when construction, maintenance activities or repairs require an interruption of electrical power from the electricity supplier. The commenters are correct in their assumption that construction is as defined in 40 CFR 51.165 (a)(1)(xviii), which is narrow in its definition. Therefore, I do recommend that facility maintenance and repairs be added because these types of activities do not always result in a change in emissions, which is a limitation in the definition of construction. Additionally, I do recommend the Department remove "to the premises," as the commenter did, because some of the sources are suppliers and could have their power being generated at the premises. Therefore, I recommend the following changes to subparagraph (C) of subsection (c)(2):

(C) *To provide power* ***when there is an interruption of power from the electricity supplier*** *during construction,* ***facility maintenance, or repairs*** ~~*when such construction results in interruption of electrical power from the electricity supplier to the premises.*~~***; or***

Commenter ii CBA indicated in oral and written comments that licensed broadcasters are required to operate in the public interest and as part of the obligation must install and keep operational the various public alert and warning systems, the Emergency Alert System (EAS), and participate in national alerts and alerts activated by State officials. The commenter indicates that that in order to fulfill these obligations, crucial to the public health and safety, broadcasters must remain on the air. They also noted that the emergency generator emissions of all broadcast stations are significantly less than those of individual industrial buildings, power plants and institutional facilities. They recommend the following language be added as subparagraph (c)(2)(D):

> *To test and anticipatorily start up emergency power for production operations and transmission of Federal Communications Commission-licensed radio and television operators (whether broadcast, cable or satellite) so as to ensure such operators suffer no interruption in production or transmission if a power outage occurs.*

Response to Comment

In order to facilitate the broadcasting of critical messages associated with weather events and other emergencies a narrow exemption should be considered by the Department for radio and television operators regardless of whether it is by broadcast, cable or satellite. In order to prevent this exemption from being too expansive I recommend the Department use the types of scenarios identified in Chapter 517 of the CGS concerning civil preparedness so that there is a minimum objective threshold met when circumstances exist that necessitate getting messages to the public at large in the most efficient manner possible. I also recommend that the Department include missing person alerts generated under Chapter 528 of the CGS. These messages are intended to be broadcast to all radio and television stations across the state through the Emergency Alert System (EAS). This alert system is used during severe weather emergencies and to broadcast Amber Alert messages. Therefore, I recommend additional language be included as subparagraph (D) of subsection (c)(2), as follows:

> ***(D) To test and to provide power for production operations and transmission of radio and television messages associated with an event identified by the State of Connecticut under Chapter 517 of the Connecticut General Statutes or a missing person alert under Chapter 528 of the Connecticut General Statutes.***

Additionally, with respect to the exemptions provided in subsection (c) I would like to be clear that there are many requirements, including but not limited to, those in sections 22a-174-3a, 22a-174-3b, 22a-174-3c and 22a-174-33 of the RCSA that potentially apply to these sources. Subdivision (c)(2) is proposed only as a mechanism to exempt certain sources used in certain circumstances from some of the requirements in Section 22a-174-22 of the RCSA, not as a general exemption from the Air Pollution Control Regulations.

Comments Concerning Subsection (l) Reporting

Commenter viii CBIA indicated this is an opportunity to fix an administrative error in subsection (l)(3) *(given the context and the language provided in the comment I believe this is a reference to subparagraph (C) of subsection (l)(1))* that imposes recordkeeping on any source subject to this section, namely to keep monthly and annual records to determine whether the

NOx emissions from such premises exceed the 50 and 25 ton per year thresholds. This commenter recommends the following language for subparagraph (C) of subsection (l)(1):

> *For any premises for which subsection (b)(2) of this section applies*, monthly and annual records (e.g. fuel use, continuous emissions monitoring, operating hours) to determine whether NOx emissions from such premises in any calendar year are in excess of twenty-five (25) tons for premises located in a severe nonattainment area for ozone or fifty (50) tons for premises located in a serious nonattainment area for ozone;

Response to Comment
Records are necessary for those premises that are exceeding the thresholds in subsection (b)(2) of this section as well as those premises with emissions below the thresholds. Therefore, no change is recommended based upon this comment.

Commenters vii and viii Pfizer and CBIA indicated that the current subsection (l)(6) requires that all facilities affected by any part of section 22a-174-22 of the RCSA, including facilities with just an emergency engine, must submit an annual NOx emission report. The elimination of the reporting obligation from many insignificant NOx sources is appropriate.

Response to Comment
Making and keeping records and reporting is not intended to be limited to those premises that are Title V and General Permit to Limit Potential to Emit (GPLPE) sources. The proposed amendment to the reporting requirements is to allow reporting now occurring pursuant to section 22a-174-33 of the RCSA to be formally acknowledged as satisfying the reporting requirements of section 22a-174-22 of the RCSA. However, there are some limited contexts in which reports are not due with respect to smaller sources and therefore, the following change to subsection (l)(6) is recommended in response to this comment:

> *(6) On or before April 15 of each year, the owner or operator of a stationary source subject to any requirement of subsections (d) to (i), inclusive, and (k) of this section, not otherwise submitting an annual compliance certification pursuant to subsection (d) or (q) of section 22a-174-33 of the Regulations of Connecticut State Agencies shall submit a report on NOx emissions from such source, on a form provided by the Commissioner. The owner or operator of a stationary source subject ~~to~~ only* ***to subsections (a) to (c) inclusive, and*** *~~subsection~~ (l) of this section, is not required to submit a report on NOx emissions from such source* ***when it is being used as described in subsection (c)(2) of this section.***

Additionally, for clarification I am recommending the following changes with respect to subdivision (7):

> *(7) On or before April 15 of each year, ~~unless otherwise~~* ***or other date as may be specified in an applicable permit or order, the owner or operator of a stationary source subject to any requirements of subsection (j) of this section shall submit ~~a~~ an annual report on NOx emissions from such source, on a form provided by the Commissioner.***

Comments Concerning Subsection (m) Compliance Plans

Commenter iii EPA states that the language proposed for subsection (m)(5) may be interpreted to be undermining the requirement to submit a compliance plan under section 22a-174-33 of the RCSA. The commenter proposes the following language:

> *(5) Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a Title V source that is subject to a Title V permit shall not be required to submit a compliance plan under this subsection unless the commissioner requests such plan in writing.*

Response to Comment
The intention of the proposed amendment is not to be modifying the Title V program as it is presented in section 22a-174-33 of the RSCA. Therefore, for clarification it is recommended that the language be modified as suggested by the Commenter in subsection (m)(5), as follows:

> *(5) Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a Title V source that is subject to a Title V permit shall not be required to submit a compliance plan* ***under this subsection*** *unless the commissioner requests such plan in writing.*

Commenter viii CBIA states that there seems to be a text error in the proposed revised text within subparagraph (A) of subsection (m)(1). The Commenter notes that within this language "*For sources subject to this section prior as of May 1, 1994,*" the word *prior* seems to be superfluous and either should be deleted or should be explained.

Response to Comment
There were drafts of the amendments that preceded the public notice on August 15, 2012, that were distributed upon request to the public. The word *prior* was in some of the earlier drafts in error and was removed from the version of the draft that went to notice. No change to the proposal is required based upon this comment.

Commenter viii CBIA indicates that the proposed language in several parts of this section and in subparagraph (C) of subsection (m)(1) refers both to a "source" and a "stationary source". However, the language sometimes implies that the term "source" may refer to an "emission unit" or a "premises" and is requesting clarification.

Response to Comment
The term "source" can refer to either an emission unit or premises depending upon context and the term stationary source can refer to an individual unit (source) or a group of sources. Although there is overlap in the use of the terms, this overlap persists throughout section 22a-174-22 of the RCSA, including those subsections that are not the subject of this proposed amendment. Therefore, addressing this issue at this time would cause more regulatory uncertainty because some of the related language is outside the scope of the proposed amendment. As the commenter infers about subparagraph (C) of subsection (m)(1), there may be a source that is subject to this section that is an individual emission unit, or a premises, and

that the sources referred to in subsection (m)(2) could be emission units at a premises. No change is recommended to the language in the amendment based upon this comment at this time.

Commenters vii and viii Pfizer and CBIA imply that it may be unclear to a source subject to section 22a-174-3b of the RCSA that section 22a-174-22 compliance plan requirements apply to the subject source's owner or operator. Therefore, section 22a-174-3b of the RCSA should reference section 22-174-22 of the RCSA as a potential further requirement for a source covered by section 22a-174-3b of the RCSA.

Response to Comment
There are many requirements, including but not limited to, those in sections 22a-174-20, 22a-174-22, 22a-174-29, 22a-174-32, and 22a-174-33 of the RCSA and 40 CFR Part 63, that potentially apply to sources covered by section 22a-174-3b of the RCSA. Section 22a-174-3b of the RCSA was designed only as an alternative to obtaining a permit under RCSA section 22a-174-3a, not as a general exemption from the air pollution control regulations. Further, the language provided in section 22a-174-3b of the RCSA is outside the scope of the language that was proposed for amendment. Therefore, no change to the proposal is recommended based upon this comment.

Commenters vii and viii Pfizer and CBIA indicate that for added or changed sources that require an individual permit under section 22a-174-3a of the RCSA, the need to develop a subsection 22a-174-22(m) compliance plan appears to be redundant and unnecessary because compliance with this section would be assured along with emission limits, recordkeeping and reporting. Stack testing could also be incorporated by reference into the permit.

Response to Comment
Compliance plans, unless specifically requested, are not required of Title V sources according to the proposed language in subsection (m)(5) so the universe of sources having to submit updated plans has been reduced to focus on those premises for which the Department has less incoming information such as a source requiring an individual permit under section 22a-174-3a of the RCSA that is not located at a Title V source. Therefore, no change is recommended to the proposed amendment based upon this comment at this time.

Commenters vii and viii Pfizer and CBIA indicate that the amendments require the compliance plans to be submitted on forms provided by the Commissioner but that forms need to be readily available on the web in order to facilitate compliance. Additionally, the forms need to be made consistent with the language in the regulation in the proposal because the 2003 version of the forms asks for information on all emission units, even those not subject to Section 22a-174-22 of the RCSA.

Response to Comment
The Department should make the compliance plan forms available on the website and should make the forms consistent with the regulations as amended. Additionally, the instructions should clarify what needs to be included in such plan. No change is recommended to the language in the proposed amendment based upon this comment

Commenter ix Sci-Tech states that the compliance plan requirements for any source that becomes subject to this section after May 31, 1994, seemingly contradicts LEAN initiatives as this requirement creates more work for the Department and the regulated community. Further, there is no explanation as to what purpose the compliance plan serves for sources constructed after May 31, 1995.

Response to Comment

As indicated above, compliance plans, unless specifically requested, are not required of Title V sources according to the proposed language in subsection (m)(5), so the universe of sources having to submit updated plans has been reduced to focus on those facilities for which the Department has less incoming information. The compliance plans serve as a compliance verification tool for these remaining sources. Therefore, no change is recommended based upon this comment at this time.

VI. Conclusion

Based upon the comments addressed in this Hearing Report, I recommend the proposal be revised as recommended herein and 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, be submitted to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan.

Elizabeth I. McAuliffe
Hearing Officer

12/19/2012
Date

Attachment 1

Federal Standards Analysis Pursuant to Section 22a-6(h) of the General Statutes Amendment of Section 22a-174-22 of the Regulations of Connecticut State Agencies

Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

Federal Standards Analysis Pursuant to Section 22a-6(h) of the General Statutes
Amendment of Section 22a-174-22 of the Regulations of Connecticut State Agencies

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 amendment of section 22a-174-22 of the Regulations of Connecticut State Agencies (RCSA):

These amendments to the nitrogen oxides (NOx) emission control regulations make the following changes: (1) add exemptions for certain stationary sources from the requirements of this section, (2) provide current references for forecasted ozone levels, (3) provide clearer NOx emissions reporting, (4) specify clearer deadlines for compliance plan submissions, (5) improve descriptions for compliance plan content and streamline the certification provisions, and (6) limit the compliance plan applicability.

The Clean Air Act amendments of 1990 (CAA) section 182(f) required Connecticut to adopt Reasonably Available Control Technology (RACT) for major stationary sources of oxides of nitrogen. By 1994 Connecticut had incorporated the federal RACT concept into section 22a-174-22 of the Regulations of Connecticut State Agencies. The amendments proposed have the following relationship to the federal RACT requirements and other federal air quality requirements:

- Exemptions for certain stationary sources from the requirements of section can be distinguished from the federal RACT requirements because the exemptions are not specifically spelled out in the federal requirements and are left to the discretion of the state.
- Up-to-date references for forecasted ozone levels are intended to align with federal air quality index (AQI) references to provide national consistency when a forecasted ozone level is described as "moderate to unhealthy for sensitive groups," "unhealthy for

sensitive groups," "unhealthy," or "very unhealthy." These changes make the references consistent with the federal AQI.

- The federal RACT requirements do not specify the required reporting except that reporting must be sufficient to allow enforcement. The proposed revisions align multiple reporting requirements within the state's discretion.
- Clearer deadlines for compliance plan submissions are a state-specific proposal to address new and modified sources. The information submission deadline in this amendment is less stringent than the one in the New Source Performance Standard (NSPS) for boilers under Title 40 of the Code of Federal Regulations Part 60 Subpart Dc and is not intended to take its place.
- Improved descriptions for compliance plan content and streamlined certification provisions are not an element of the federal RACT requirements and are a state-specific proposal to address new and modified sources.
- Streamlined certification provisions provide consistency with the certification required by Title V of the CAA as embodied in section 22a-174-2a of the Regulations of Connecticut State Agencies.
- Limited compliance plan applicability provisions are a state-specific proposal to provide relief to owners of sources that are otherwise sufficiently monitored through Title V of the CAA as implemented through the Connecticut Title V program under section 22a-174-33 of the Regulations of Connecticut State Agencies.

The Department is intending to submit these requirements for approval as part of the State Implementation Plan for air quality. EPA's approval will result in the requirements becoming federally enforceable standards that apply to sources regulated in Connecticut.

8/1/2012
Date

/s/ Elizabeth I. McAuliffe
Elizabeth I. McAuliffe
Bureau of Air Management

Attachment 2
Proposed Draft of RCSA Section 22a-174-22

Section 1. Subdivisions (2) through (5) of section 22a-174-22(b) of the Regulations of Connecticut State Agencies are revised as follows:

(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to the owner or operator of a source if the actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone. Notwithstanding this provision, [subsection (d) to subsection (k), inclusive,] subsections (d) to (k), inclusive, and (m) of this section shall apply to such owner or operator if after May 31, 1995, actual emissions of NOx from such premises exceed the following:

(A) In any calendar year: twenty-five (25) tons for premises located in a severe nonattainment area for ozone, or fifty (50) tons for premises located in a serious nonattainment area for ozone; or

(B) On any day from May 1 to September 30, inclusive, of any year: one hundred thirty-seven (137) pounds for premises located in a severe nonattainment area for ozone or two hundred seventy-four (274) pounds for premises located in a serious nonattainment area for ozone.

(3) Subsections (d) [through] to (k), inclusive, of this section shall not apply to the owner or operator of an emergency engine. In addition, the actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of subsection (b)(2)(B) of this section. However, on and after May 1, 1997, the operation of an emergency engine for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy" is expressly prohibited unless:

(A) such engine is exempt from this section pursuant to subsection (c) of this section, or

(B) such operation of the engine is allowed by permit or order of the Commissioner, because the engine is unattended and the testing is automated and cannot be modified from a remote location.

(4) The owner or operator of an emergency engine shall not include the actual emissions from any such engine for purposes of determining applicability in accordance with subsection (b)(2)(B) of this section, provided such emissions result from operation in accordance with a contract with a utility operating pursuant to a permit or order which:

(A) Requires the permittee to maintain a list which identifies all sources with whom the permittee has a contract;

(B) Requires either the permittee or the owner or operator of the emergency engine to record and submit to the Commissioner data on fuel consumption and hours of operation of any emergency engine operating under such contract; and

(C) Requires the permittee to obtain NOx emission reductions to offset the NOx emissions that result from the generation of customer-contracted electricity.

[(5) Notwithstanding subdivision (3) of this subsection, subsections (d) through (k) of this section shall apply to the owner or operator of an emergency engine if, after May 1, 1997, such engine operates for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthful," "unhealthful," or "very unhealthful." The Commissioner may exempt, by permit or order, the owner or operator of an emergency engine from this subdivision, if such emergency engine is unattended, the testing is automated and cannot be modified from a remote location.]

Sec. 2. Section 22a-174-22(c) of the Regulations of Connecticut State Agencies is revised as follows:

(c) [Exemption.] Exemptions.

(1) This section shall not apply to the owner or operator of a mobile source.

(2) This section shall not apply to the owner or operator of a reciprocating engine or gas turbine engine used as follows:

(A) To provide emergency alternating current power or as an alternative alternating current source in a license issued under 10 CFR 50;

(B) At a hospital or other health care facility to meet standards for emergency electrical power systems of The Joint Commission or the National Fire Protection Association; or

(C) To provide power during construction when such construction results in interruption of electrical power from the electricity supplier to the premises.

(3) Notwithstanding the provisions of subparagraphs (A) and (B) of subdivision (2) of this subsection, these exemptions are not available for an engine or turbine for which the owner or operator is party to an agreement to sell electrical power from such engine to an electricity supplier or otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.

Sec. 3. Subdivision (1) of section 22a-174-22(i) of the Regulations of Connecticut State Agencies is revised as follows:

(1) If the owner or operator of a stationary source subject to this section proves to the satisfaction of the Commissioner that it is not technologically or economically feasible for such source to comply with the emission limitations in subsections (e) through (g) of this section, except the emission limitation in subsection (e)(3) of this section, the Commissioner may by permit require NOx emission reductions through modifications of the schedule of NOx-emitting activities and implementation of other measures to reduce NOx emissions at such source. Such permit may include restrictions on operations on any day for which the Commissioner has forecast that ozone levels will be ["moderate to unhealthful," "unhealthful," or "very unhealthful."] "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy."

Sec. 4. Subdivisions (6) through (7) of section 22a-174-22(*l*) of the Regulations of Connecticut State Agencies are revised as follows:

(6) On or before April 15 of each year, the owner or operator of a stationary source subject to any requirements of subsections (d) to (i), inclusive, and (k) of this section, not otherwise submitting an annual compliance certification pursuant to subsection (d) or (q) of section 22a-174-33 of the Regulations of Connecticut State Agencies shall submit a report on NOx emissions from such source, on a form provided by the Commissioner. The owner or operator of a stationary source subject to only subsection (l) of this section is not required to submit a report on NOx emissions from such source.

(7) On or before April 15 of each year, unless otherwise specified in an applicable permit or order, the owner or operator of a stationary source subject to any requirements of subsection (j) of this section shall submit a report on NOx emissions from such source, on a form provided by the Commissioner.

[(7)] (8) The Commissioner may use data recorded by continuous emissions monitors for NOx and any other records and reports to determine compliance with applicable requirements of this section.

Sec. 5. Subdivisions (1) through (4) of section 22a-174-22(m) of the Regulations of Connecticut State Agencies are revised as follows:

(1) The owner or operator of a stationary source subject to this subsection shall:

(A) For a source subject to this section on or before May 1, 1994, submit a compliance plan to the Commissioner by September 1, 1994, on forms provided by the Commissioner. Such compliance plan shall document how such source will comply with all applicable requirements of this section [. The owner or operator of a stationary source that becomes subject to this subsection after May 1, 1994, shall submit a compliance plan within four (4) months of the date on which such source becomes subject to this section.];

(B) For any source that becomes subject to this section after May 1, 1994, submit a compliance plan within four months of the date such source becomes subject to this section; and

(C) For any source that is currently subject to this section to which the owner adds a stationary source subject to this section, submit an amended compliance plan within four months of the date such new stationary source becomes subject to this section.

(2) Any compliance plan submitted pursuant to this subsection shall be submitted on forms provided by the Commissioner. Such compliance plan shall include all sources subject to this section at the time of submission and document how each such source will operate in compliance with the applicable requirements of this section. Such compliance plan shall also include a certification signed [by a responsible corporate officer or a duly authorized representative of such officer, as those terms are defined in subdivision 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual delegated by such officer with the responsibility of actually preparing the compliance plan. Such certification shall read as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute."] in accordance with section 22a-174-2a(a)(4) of the Regulations of Connecticut State Agencies.

(3) If a compliance plan does not contain all measures necessary to comply with all requirements of this section, the Commissioner may notify the owner or operator of such source of the deficiency. Such owner or operator shall resubmit a revised compliance plan within thirty (30) days of receipt of such notice.

(4) Notwithstanding the provisions of subdivision (1) of this [section] subsection, the owner or operator of a NOx Budget Program source who is subject to a revised emission standard shall not be required to submit a revised compliance plan unless the commissioner requests so in writing.

(5) Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a Title V source that is subject to a Title V permit shall not be required to submit a compliance plan unless the commissioner requests such plan in writing.

Statement of purpose:
The regulation proposed for amendment concerns the control of oxides of nitrogen (NOx) emitted primarily from industrial and commercial fuel-burning equipment. NOx contributes to the formation of ozone, a harmful air pollutant. Through this amendment the Department of Energy and Environmental Protection (Department) seeks to address two issues. First, the

Department seeks to broaden the exemption provision to accommodate certain electrical needs at health care and nuclear facilities, as well as construction projects. Second, the requirement for a Title V source to submit a compliance plan is eliminated since a Title V source is subject to extensive reporting requirements.

These amendments make the following changes: (1) add exemptions for certain stationary sources from the requirements of the regulation, (2) provide current references for forecasted ozone levels, (3) provide clearer NOx emissions reporting, (4) specify clearer deadlines for compliance plan submissions, (5) improve descriptions for compliance plan content and streamline the certification provisions, and (6) limit the compliance plan applicability.

There is no impact on other existing regulations or other law.

Attachment 3
Final Text of RCSA Section 22a-174-22,
Revised as Recommended in the Hearing Officer's Report

Section 1. Subdivisions (1) through (5) of section 22a-174-22(b) of the Regulations of Connecticut State Agencies are revised as follows:

(1) This section applies to [the owner or operator of]:

(A) Any of the following sources, provided such sources are located at a major stationary source of NOx:

(i) A reciprocating engine with a maximum rated capacity of three (3) MMBTU/hr or more;

(ii) Fuel-burning equipment, other than a reciprocating engine, with a maximum rated capacity of five (5) MMBTU/hr or more;

(iii) Equipment that combusts fuel for heating materials and that has a maximum rated capacity of five (5) MMBTU/hr or more;

(iv) A waste combustor with a design capacity of two thousand (2000) pounds or more of waste per hour; or

(B) Fuel-burning equipment, a waste combustor, or a process source that has potential emissions of NOx in excess of the following:

(i) One hundred thirty-seven (137) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or

(ii) Two hundred seventy-four (274) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone.

(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to [the owner or operator of] a source if: [the actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone. Notwithstanding this provision, subsection (d) to subsection (k), inclusive, of this section shall apply to such owner or operator if after May 31, 1995, actual emissions of NOx from such premises exceed the following]:

(A) [In any calendar year:] The actual emissions of NOx in any calendar year since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons for a premises located in a severe nonattainment area for ozone, or fifty (50) tons for a premises located in a serious nonattainment area for ozone; or

(B) The actual emissions of NOx after May 31, 1995 from the premises at which such source is located have not exceeded on [On] any day from May 1 to September 30, inclusive, of any year: one hundred thirty-seven (137) pounds for a premises located in a severe nonattainment area for ozone or two hundred seventy-four (274) pounds for a premises located in a serious nonattainment area for ozone. The actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of this subparagraph. The actual emissions from a reciprocating engine or gas turbine engine used as provided in subdivision (c)(2) of this section shall not be included in the determination of the applicability of this subparagraph.

(3) Subsections (d) [through] to (k), inclusive, of this section shall not apply to [the owner or operator of] an emergency engine. [In addition, the actual emissions from emergency engines operating during an emergency shall not be included in the determination of the applicability of subsection (b)(2)(B) of this section.] However, on and after May 1, 1997, the operation of an emergency engine for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy" is expressly prohibited unless:

(A) such engine is exempt from this section pursuant to subsection (c) of this section, or

(B) such operation of the engine is allowed by permit or order of the Commissioner, because the engine is unattended and the testing is automated and cannot be modified from a remote location.

(4) The owner or operator of an emergency engine shall not include the actual emissions from any such engine for purposes of determining applicability in accordance with subsection (b)(2)(B) of this section, provided such emissions result from operation in accordance with a contract with a utility operating pursuant to a permit or order which:

(A) Requires the permittee to maintain a list which identifies all sources with whom the permittee has a contract;

(B) Requires either the permittee or the owner or operator of the emergency engine to record and submit to the Commissioner data on fuel consumption and hours of operation of any emergency engine operating under such contract; and

(C) Requires the permittee to obtain NOx emission reductions to offset the NOx emissions that result from the generation of customer-contracted electricity.

[(5) Notwithstanding subdivision (3) of this subsection, subsections (d) through (k) of this section shall apply to the owner or operator of an emergency engine if, after May 1, 1997, such

engine operates for routine, scheduled testing or maintenance on any day for which the Commissioner has forecast that ozone levels will be "moderate to unhealthful," "unhealthful," or "very unhealthful." The Commissioner may exempt, by permit or order, the owner or operator of an emergency engine from this subdivision, if such emergency engine is unattended, the testing is automated and cannot be modified from a remote location.]

Sec. 2. Section 22a-174-22(c) of the Regulations of Connecticut State Agencies is revised as follows:

(c) [Exemption.] Exemptions.

(1) This section shall not apply to [the owner or operator of] a mobile source.

(2) Subsections (d) to (k), inclusive, and (m) of this section shall not apply to a reciprocating engine or gas turbine engine when it is used as follows:

(A) To test and to provide emergency power or alternative power for safety-related structures, systems, and components or other Nuclear Regulatory Commission mandated systems at an electricity generating facility licensed under 10 CFR 50;

(B) To test and to provide power to meet standards for emergency electrical power systems of The Joint Commission or the National Fire Protection Association at a hospital or other health care facility;

(C) To provide power when there is an interruption of power from the electricity supplier during construction, facility maintenance, or repairs; or

(D) To test and to provide power for production operations and transmission of radio and television messages associated with an event identified by the State of Connecticut under Chapter 517 of the Connecticut General Statutes or a missing person alert under Chapter 528 of the Connecticut General Statutes.

(3) Notwithstanding the provisions of subdivision (2) of this subsection, these exemptions are not available for a reciprocating engine or gas turbine engine for which the owner or operator is party to an agreement to sell electrical power from such reciprocating engine or gas turbine engine to an electricity supplier or otherwise receives any reduction in the cost of electrical power for agreeing to produce power during periods of reduced voltage or reduced power availability.

Sec. 3. Subdivision (1) of section 22a-174-22(i) of the Regulations of Connecticut State Agencies is revised as follows:

(1) If the owner or operator of a stationary source subject to this section proves to the satisfaction of the Commissioner that it is not technologically or economically feasible for such

source to comply with the emission limitations in subsections (e) through (g) of this section, except the emission limitation in subsection (e)(3) of this section, the Commissioner may by permit require NOx emission reductions through modifications of the schedule of NOx-emitting activities and implementation of other measures to reduce NOx emissions at such source. Such permit may include restrictions on operations on any day for which the Commissioner has forecast that ozone levels will be ["moderate to unhealthful," "unhealthful," or "very unhealthful."] "moderate to unhealthy for sensitive groups," "unhealthy for sensitive groups," "unhealthy," or "very unhealthy."

Sec. 4. Subdivisions (6) through (8) of section 22a-174-22(*l*) of the Regulations of Connecticut State Agencies are revised as follows:

(6) On or before April 15 of each year, the owner or operator of a stationary source subject to any requirement of subsections (d) to (i), inclusive, and (k) of this section, not otherwise submitting an annual compliance certification pursuant to subsection (d) or (q) of section 22a-174-33 of the Regulations of Connecticut State Agencies shall submit a report on NOx emissions from such source, on a form provided by the Commissioner. The owner or operator of a stationary source subject only to subsections (a) to (c) inclusive, and (l) of this section, is not required to submit a report on NOx emissions from such source when it is being used as described in subsection (c)(2) of this section.

(7) On or before April 15 of each year, or other date as may be specified in an applicable permit or order, the owner or operator of a stationary source subject to any requirements of subsection (j) of this section shall submit an annual report on NOx emissions from such source, on a form provided by the Commissioner.

[(7)] (8) The Commissioner may use data recorded by continuous emissions monitors for NOx and any other records and reports to determine compliance with applicable requirements of this section.

Sec. 5. Subdivisions (1) through (5) of section 22a-174-22(m) of the Regulations of Connecticut State Agencies are revised as follows:

(1) The owner or operator of a stationary source subject to this subsection shall:

(A) For a source subject to this section on or before May 1, 1994, submit a compliance plan to the Commissioner by September 1, 1994, on forms provided by the Commissioner. Such compliance plan shall document how such source will comply with all applicable requirements of this section [. The owner or operator of a stationary source that becomes subject to this subsection after May 1, 1994, shall submit a compliance plan within four (4) months of the date on which such source becomes subject to this section.];

(B) For any source that becomes subject to this section after May 1, 1994, submit a compliance plan within four months of the date such source becomes subject to this section; and

(C) For any source that is currently subject to this section to which the owner adds a stationary source subject to this section, submit an amended compliance plan within four months of the date such new stationary source becomes subject to this section.

(2) Any compliance plan submitted pursuant to this subsection shall be submitted on forms provided by the Commissioner. Such compliance plan shall include all sources subject to this section at the time of submission and document how each such source will operate in compliance with the applicable requirements of this section. Such compliance plan shall also include a certification signed [by a responsible corporate officer or a duly authorized representative of such officer, as those terms are defined in subdivision 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual delegated by such officer with the responsibility of actually preparing the compliance plan. Such certification shall read as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under section 22a-175 of the Connecticut General Statutes, under section 53a-157b of the Connecticut General Statutes, and in accordance with any applicable statute."] in accordance with section 22a-174-2a(a)(4) of the Regulations of Connecticut State Agencies.

(3) If a compliance plan does not contain all measures necessary to comply with all requirements of this section, the Commissioner may notify the owner or operator of such source of the deficiency. Such owner or operator shall resubmit a revised compliance plan within thirty (30) days of receipt of such notice.

(4) Notwithstanding the provisions of subdivision (1) of this [section] subsection, the owner or operator of a NOx Budget Program source who is subject to a revised emission standard shall not be required to submit a revised compliance plan unless the commissioner requests so in writing.

(5) Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a Title V source that is subject to a Title V permit shall not be required to submit a compliance plan under this subsection unless the commissioner requests such plan in writing.

Statement of purpose:
The regulation proposed for amendment concerns the control of oxides of nitrogen (NOx) emitted primarily from industrial and commercial fuel-burning equipment. NOx contributes to the formation of ozone, a harmful air pollutant. Through this amendment the Department of Energy and Environmental Protection (Department) seeks to address two issues. First, the Department seeks to broaden the exemption provision to accommodate certain electrical needs at health care and nuclear facilities, as well as construction projects, and broadcasting under certain

conditions. Second, the requirement for a Title V source to submit a compliance plan is eliminated since a Title V source is subject to extensive reporting requirements.

These amendments make the following changes: (1) add exemptions for certain stationary sources from the requirements of the regulation, (2) provide current references for forecasted ozone levels, (3) provide clearer NOx emissions reporting, (4) specify clearer deadlines for compliance plan submissions, (5) improve descriptions for compliance plan content and streamline the certification provisions, and (6) limit the compliance plan applicability.

There is no impact on other existing regulations or other law.