Exhibit F

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 Environmental Protection Rules of Practice**

**Regarding Amendment of Sections 22a-174-5 and 22a-174-26 of the
Regulations of Connecticut State Agencies**

Hearing Officer: Elizabeth McAuliffe

Date of Hearing: February 27, 2004

On January 14, 2004, the Commissioner of the Department of Environmental Protection ("Department") signed a notice of intent to amend the Regulations of Connecticut State Agencies ("R.C.S.A.") Sections 22a-174-5 and 22a-174-26. Pursuant to such notice, a public hearing was held on February 27, 2004, with the public comment period for the proposed amendment closing that same day.

I. Hearing Report Content

As required by section 4-168(d) of the Connecticut General Statutes ("C.G.S."), this report describes the amendment as proposed for hearing; the principal reasons in support of the Department's proposed amendment; the principal considerations presented in oral and written comments in opposition to the Department's proposed amendment; responses on the proposed amendment; and the final wording of the proposed amendment. Commenters are identified in Attachment 1 to this report.

This report also includes a statement in accordance with C.G.S. section 22a-6(h).

II. Compliance with Section 22a-6(h) of the General Statutes

The text of the statement under C.G.S. section 22a-6(h) is located in Attachment 2 to this report.

III. Summary and Text of the Amendments as Proposed

The amendments to sections 22a-174-5 and 22a-174-26 of the R.C.S.A. serve the following purposes:

- To conform various fees in sections 22a-174-5 and 22a-174-26 of the R.C.S.A. to the fees authorized under Section 22a-6(f) of the General Statutes, as amended by Public Act 03-6;
- To clarify required fees pursuant to Sections 22a-174-26(c) and (d) of the R.C.S.A.;
- To revise Section 22a-174-26(d) of the R.C.S.A. to implement a maximum and minimum fee for the largest and smallest Title V sources;
- To eliminate obsolete language under subsection 22a-174-26(i) of the R.C.S.A.; and
- To revise the format of certain internal references to match current Department usage.

The text of the amendment as proposed is located in Attachment 2 to this report.

IV. Principal Reasons in Support of the Proposed Amendment

The Title V Operating Permit program ("Title V program") fee structure was adopted 10 years ago and is now being revisited. From the early years of the program, a balance was generated that has not been expended. This balance due to early fee collection and slower than anticipated program ramp up provides the opportunity to reduce fees for one and possibly more years. These amendments maintain adequate contributions from Title V sources to cover the full cost of running the Title V program, provide flexibility to enable the downward adjustment of the inventory stabilization ("ISF") factor in response to a reduction in overall emissions, correct an imbalance between fee collection and expenditure, and more equitably distribute the costs of the Title V program. Lastly, the amendment clarifies changes needed to correct fees authorized under C.G.S. Section 22a-6(f) as amended by Public Act 03-6.

V. Principal Considerations in Opposition to the Proposed Amendment

No comments opposed the adoption of the proposed amendment. Rather, some comments opposed certain aspects of some proposed revisions and suggested revision or suggested the addition of provisions beyond those proposed. All comments submitted are addressed in detail in Section VI of this report.

VI. Summary of Comments

Substantive comments on the amendment of Sections 22a-174-5(f) and 22a-174-26 of the R.C.S.A. focused on: (1) the need for requirements that are equitable and the desire to reduce emission based fees for all participants; (2) adjustment of the ISF under certain circumstances; (3) the Department's authority to include additional program expenses to be funded by emission fees; and (4) the perceived increase in fees associated with C.G.S. Section 22a-6(f) as amended by Public Act 03-6.

Responses to comments submitted during the comment period are organized by topic.

Commenters are identified fully in Attachment 1 to this report. When changes to the proposed text are indicated in response to a comment, new text is in bold font and deleted text is in strikethrough font.

The Department received comments during the comment period from the following: Mark Davis, Plant Manager for American Ref-Fuel Company of Southeastern Connecticut and Jerry Tyminski, Executive Director of Southeastern Connecticut Regional Resources Recovery Authority; David B. Damer, Environmental Policy Manager, PSEG Power Connecticut LLC; Eric J. Brown, Associate Counsel, Connecticut Business & Industry Association; David B. Conroy, Acting Chief, Air Programs Branch, United States Environmental Protection Agency, Region I (EPA); Thomas L. Byers, Senior Government Affairs Representative for Magellan Midstream Partners, L.P.; and Jason Farren, Environmental Specialist and Leon Plumer, Facility Manager for Covanta Bristol, Inc. and Covanta Projects of Wallingford, L.P.. Their comments are addressed below.

The Department also received comments on March 1, 2004, from Maria Zannes, President of Integrated Waste Services Association, and on March 3, 2004 from Mark H. Bobman, Assistant Director of Bristol Resource Recovery Facility Operating Committee. These comments were received by the Department after the close of the comment period and are not specifically addressed in this report. However, the comments were substantively addressed in this hearing report in response to other comments received during the comment period.

Responses To Comments

Addressing imbalance.
Commenters supported the Department's efforts to address the imbalance between fee collection and expenditure.

Response
Over the past 10 years, the Department developed and has been implementing a Title V program as required by section 501 through 507 of the federal Clean Air Act and 40 CFR Part 70. The fees, which are the subject of this regulatory action, were initiated in 1994 and establish the means to assess Title V sources for the full cost of the program based on emissions. In the early years of the Connecticut Title V program, collection of emission fees exceeded Title V program expenditures. In 2003, the Department collected less Title V monies than were necessary for the full cost of the Title V program.

The work associated with commencement of the Title V program is complete and the Department is entering the permit re-issuance and monitoring phase. Permit modifications, renewals, compliance verification and follow-up including monitoring, report review and inspections are ongoing activities. The scope of the Title V program will continue to shift with regulatory development. As we look forward, further federal developments in the Title V program cannot at this time be determined, and there is added uncertainty in future Title V

program cost projections.

Recognizing the increasing cost of personnel, the Department is committed to pursuing opportunities to reduce expenses and costs by increasing efficiency opportunities, but the timing and results of such efforts has yet to be determined. Therefore, the balance between collection and revenue will need to be carefully monitored to assure adequate funds are available to support the full costs of the program into the future. This regulatory amendment provides the Commissioner with the flexibility to analyze cost projections annually and then determine if and by how much the inventory stabilization factor (ISF) is to be adjusted before each billing cycle. The setting of the ISF and emission fee rate is explained annually at SIPRAC meetings and in a factsheet sent with the annual emission fee bills. The Department remains committed to open public process.

I do not recommend any changes to the proposed amendment based on the comments.

Title V program expenses
Commenters inquired as to what the relationship was between Title V fees and Title V program expenses and requested reporting on Title V program expenses.

Response
As required by 40 CFR Part 70, the monies collected must cover the full program costs and Title V sources must contribute to cover these costs. EPA oversees the Department's Title V program implementation. The Department has worked closely with EPA in determining what costs can be considered a Title V expense, and the Department will continue to do so into the future.

The mechanisms employed to charge direct costs to the emissions fees are the Department's time accounting and requisition approval systems. The majority of costs incurred are personnel costs. Both personnel and operating costs are and must continue to be monitored to assure Title V fees are aligned with Title V expenses.

Personnel costs are assessed based on time and activity accounting. Staff are assigned paycodes to charge time to on biweekly timesheets. Only staff authorized to use Title V account codes can do so in the payroll system. Staff have been trained on the time accounting procedures. Timesheets must be reviewed and approved by the employee's supervisor making supervisors responsible for an accurate accounting of their staff's hours. Some staff work predominantly on Title V program elements and hence code a significant percentage of their work hours to this payroll code while others code very little time. On a quarterly basis, reports are generated showing the portion of each staff person's time charged to Title V and non-Title V activities. These reports are reviewed by Air Bureau management. Requisitions charging goods and services require similar review and approval.

State auditors review DEP financial and accounting procedures every two years. The auditors select transactions from DEP accounts to review and assure the integrity of the system and each

of the transactions.

Not only are the accounting procedures reviewed internally and externally at the state level, but also a review process exists at the federal level. EPA's Title V oversight role provides another review to assure integrity of the system.

The financial management system is not the subject of this hearing per se, but the existing regulation, pursuant to 22a-174-26(d)(4)(C) of RCSA, does require an annual report be submitted to the Office of Policy and Management. The Department should consider providing an annual financial report to the Title V sources at the end of each year. This report could be sent to the sources with the annual emission fee bill.

I do not recommend any changes to the proposed amendment based on the comments.

Expanding scope of use of emission fees beyond scope of Title V program.
Commenters noted that fees collected as Title V fees should be spent only on Title V program expenses and in accordance with federal requirements.

Response
Although referenced in comments, C.G.S. 22a-174m is a state statute that is not the subject matter of this action and such statute may only be changed by our state legislature. That being said the Department agrees that we are confined by federal and state requirements. EPA has determined that any revenue collected as a Title V program fee can only be used for Title V program costs.

The emission fees collected under section 22a-174-26 of the R.C.S.A. can only be used to fund the Title V program. Before the Department could use the funds for an expense outside the Title V program, all applicable regulatory and procedural elements would have to be in place, including but not limited to regulatory revision to section 22a-174-26 of the R.C.S.A. and a new fee demonstration submitted by the Department to EPA. Furthermore, a public process would be required to define what portion of fees collected pursuant to section 22a-174-26(d) of the R.C.S.A. are Title V fees and what portion are not Title V use restricted. This action was not proposed in the amendment.

Additionally, the Department recognizes that the true test for adequacy of Title V program funding is whether actual expenses are covered and that the presumptive minimum calculation provided for in section 502(b)(3)(B) of the Clean Air Act and 40 CFR Part 70.9(b)(2) filled a gap prior to having any empirical data when states were first developing Title V programs.

The last sentence of the proposed change in subdivision 22a-174-26(d)(5) of the R.C.S.A. appears to expand the Commissioner's authority to determine what constitutes a Title V program expense under the fee regulations. However, the intention of that sentence is to protect the Commissioner's ability to meet the federal requirements with respect to the Title V program.

The sentence proposed does not allow the Commissioner to violate any existing federal or state requirement.

The Department has been conservative in its use of emission fee revenue collected under section 22a-174-26 of the R.C.S.A. and has and will continue to work closely with EPA to determine eligible Title V costs and assure that Title V fees are used in accordance with the federal constraints.

Where EPA believes a state is attributing non-Title V expenses to the Title V program, the EPA will not be bound by a determination of a state Commissioner to the contrary.

Therefore, I recommend the Department make the following change to the proposed amendment to subdivision 22a-174-26(d)(5) of the R.C.S.A.:

[(d)](5) [Notwithstanding subdivision (d)(4) of this section, when any calculation results in an emission fee in excess of two hundred thirty-seven thousand five hundred dollars ($237,500.00) for any premise for the bill due on January 1, 1995, the Commissioner shall adjust the per ton fee contained in subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of two hundred thirty-seven thousand five hundred dollars ($237,500.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again. In addition, when any calculation performed in subdivision (d)(4) above results in an emission fee in excess of four hundred seventy-five thousand dollars ($475,000.00) for any premise for the bills due on July 1, 1995, and July 1, 1996, the Commissioner shall adjust the per ton fee contained subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of four hundred seventy-five thousand dollars ($475,000.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again.] The commissioner may reduce the Inventory Stabilization Factor set forth in subdivision (4)(C) of this subsection applicable to the prior calendar year emissions, if the commissioner finds that the Air Emissions Permit Operating Fee account balance, by itself, will be sufficient on or about July 1st to cover two years of Title V program expenses. The Inventory Stabilization Factor shall not be reduced to less than one (1.00). The commissioner shall not adjust the Inventory Stabilization Factor in such a manner as to collect fees that will result in the balance in the Air Emissions Permit Operating Fee account being insufficient to cover two years of Title V program expenses. The determination of what ~~[CONSISTUTES]~~ **constitutes** a Title V program expense under this subdivision shall be in the sole discretion of the commissioner **and in accordance with section 502(b)(3) of the Clean Air Act.**

Decreasing the stabilization factor or doing away with the stabilization factor.
All commenters support reducing fees equitably and to the greatest extent possible.

Response
In developing this amendment, the Department considered a range of alternatives based in part on approaches used in other states, and chose the option proposed. No better alternative is raised

in the submitted comments.

Subsidizing the ISF through the proposed amendment to section 22a-174-26(d)(5) of the R.C.S.A. will provide relief for most Title V sources. This subsidy may continue as revenues and expenses allow recognizing the Commissioner's responsibility to assure an adequate and stable revenue source for ongoing support of the Title V program. The inventory stabilization factor will only be lowered to the extent that the Commissioner determines that the Title V program can be adequately funded.

A commenter suggested establishing the criteria and clarifying the procedures the Commissioner will use in reducing the ISF. The Department annually compiles accounting projections and these budget projections become the basis for financial decision-making. These projections will be used to determine what relief can be provided in the emission fee collection program.

The ISF in section 22a-174-26(d)(4) of the R.C.S.A. has been a part of the regulatory language since the enactment of the Title V program in Connecticut approximately ten years ago. The increase in emission fees resulting from the ISF is something the Department is able to address using the proposed language in section 22a-174-26(d)(5) of the R.C.S.A.. To go beyond the language offered, and require the reduction of the ISF under certain circumstances, would endanger the Commissioner's ability to keep federal commitments and maintain the Title V program.

Therefore, I do not recommend any changes to the proposed amendment based on the comments.

Distribution of program costs via maximum and minimum fee assessments.
One commenter indicated that no sources should shoulder a disproportionate share of the burden and that the minimum fee should be adjusted by inflation as well. Several commenters have indicated setting maximum fee or cap is not equitable and gives larger emitters an advantage over other sources, while the minimum fee is unduly burdensome to the smaller sources.

Response
No source wants to contribute more than their fair share to the cost of the Title V program, so the question before us is one of fairness and how to best provide for all sources contributing to cover the full costs of the Title V program. The regulations currently only have provision for a cap or maximum fee. Due to the increase in the ISF over time, the "cap" language in the regulation no longer effectively provides for a cap. The concept of minimum and maximum fees was proposed to help balance out the fee contributions.

According to our records, the two largest emitting facilities average emissions were 35% of the annual Title V source emissions from 1999 through 2002. Yet with respect to Title V fees the average Title V fees from those facilities was 26% of the overall Title V fees paid by Title V sources for the same period. Therefore, on average the two largest emitting facilities' Title V fees have benefited from a cap. To establish a principle as requested by a commenter that no

source should pay more than 10% of the Title V program cost would result in a much more significant cost increase to all other sources.

The largest fee payers will benefit proportionally from any adjustment to the ISF and because their fees are the greatest, the dollar value benefit is the largest. Additionally, the $500,000 cap adjusted for inflation may allow for relief for the top fee payers above and beyond the benefit applied by adjusting the ISF. Finally, using the 1989 base year allows the same index to be used throughout subdivisions 22a-174-26(d)(5) and (d)(6) of the RCSA. Therefore, I do not recommend the Department make any changes to the proposed amendment concerning the maximum fee based on these comments.

As mentioned earlier, subsidizing the ISF through the proposed amendment to section 22a-174-26(d)(5) of the R.C.S.A. will provide relief for most Title V sources, as long there is stable revenue for the Title V program. Note that not all small sources of emissions have to remain in the Title V program. The General Permit to Limit Potential To Emit ("GPLPE") allows Title V sources to opt out of the Title V program and thus out of the Title V fees.

The notice of intent to revise state air quality regulations and revise the Title V program signed by the Commissioner on January 14, 2004 indicated, among other things, that fees would be adjusted to more equitably distribute the costs of the Title V program. The $5,000 minimum fee, without adjustment for inflation, was carefully considered and chosen as an integral part of the solution in acknowledgment of the many costs of the Title V program beyond the permit issuance itself. However, the $5,000 minimum fee may unnecessarily burden smaller sources if it is not implemented over time.

Therefore, I do recommend the following change to the proposed amendment based on the comments.

The Department should make the following corrections to the proposed amendment to subparagraphs 22a-174-26(d)(6)(A) of the R.C.S.A.:

[(d)](6) [Method of payment. All fees required by this subsection shall be paid by check or money order payable to the Department of Environmental Protection and shall state on the face of the check or money order, "Air Management emission fee."] Notwithstanding subdivision (4) of this subsection, the emission fee shall be:

(A) **Effective July 1, 2004, one thousand dollars ($1,000.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than one thousand dollars ($1,000.00). Effective July 1, 2005, two thousand five hundred dollars ($2,500.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than two thousand five hundred dollars ($2,500.00). Effective July 1, 2006,** five thousand dollars($5,000.00)for each Title V source for which the emission fee

calculated under subdivision (4) of this subsection was less than five thousand dollars($5,000.00); and

(B) Five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989, for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was more than five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989. "Adjusted for inflation" for the purposes of this subdivision means, an increase to the emission fee by multiplying such fee by the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989.

Increase in EQ fees and Linkage of 22a-174-26(c) (5) to Title V fees.
One commenter was concerned with the perceived increase in permitting and testing fees as well as the relationship to Title V fees.

Response
The notice of intent to revise state air quality regulations and revise the State Title V Operating Permit Program signed by the Commissioner on January 14, 2004, indicated fees would be corrected to reflect the Connecticut General Statutes as amended by Public Act 03-6. These non-Title V permitting and test related fees were already in place and the change to the regulation is not an additional 50% beyond what the statutes already require to be paid by subject sources.

Additionally, the Title V program, including the Title V permitting process, continues to be covered by the Title V fees. However, sources will continue to pay fees for activities beyond the Title V program itself, pursuant to state regulations and statutes.

Therefore, I do not recommend any changes to the proposed amendment based on the comment.

VII. Additional Comments by Hearing Officer

The Department should make the following technical corrections to the proposed amendment to subsection 22a-174-5(f) of the R.C.S.A.:

[(f)](1) The owner or operator of a stationary source who is required to conduct an emission test under either [subdivision] subsection (e)(1) or (e)(2) of this section may be required to conduct a visual test through the use of a dust compound in lieu of the emission testing otherwise required. Such testing shall be conducted annually or at an interval determined by the [Commissioner] commissioner and in a manner satisfactory to ~~[him]~~ **the commissioner**.

[(f)](2) The owner or operator of a stationary source who, under the provisions of **subdivision** ~~SUBSECTION [(f)]~~ (1) of this ~~[section]~~ **subsection**, is required to conduct a visual test shall pay a fee of [three hundred and seventy-five dollars ($375.00)] Five hundred and sixty-two dollars and fifty cents ($562.50).

[(f)](3) The [Commissioner] commissioner may increase the fee specified in **subdivision** ~~SUBSECTION [(f)]~~ (2) of this ~~[section]~~ **subsection** to a maximum fee of [four hundred and thirty dollar ($430.00)] six hundred and forty-five dollars ($645.00) if the test conditions under **subdivision** ~~SUBSECTION [(f)]~~ (1) of this ~~[section]~~ **subsection** are deemed hazardous as determined by valid Connecticut State Employee Collective Bargaining Agreements.

[(f)](4) The [Commissioner] commissioner may reduce the fee specified in **subdivision** ~~SUBSECTION [(f)]~~ (2) of this subsection to no less than [two hundred and sixty-five dollars ($265.00)] three hundred and ninety-seven dollars and fifty cents ($397.50) or the fee specified in subdivision (3) of this subsection to no less than [two hundred and ninety dollars ($290.00)] four hundred and thirty-five dollars ($435.00) if the test condition under **subdivision** ~~SUBSECTION [(f)]~~ (1) of this subsection require that the Department use one staff person to monitor the visual test under this subsection.

The Department should make the following technical corrections to the proposed amendment to subsections 22a-174-26(b), (c), (d), (e), (h) and (i) of the R.C.S.A.:

(c)(2) Table 26-1 (in part)

Permit revision	22a-174-2a(f)**(2)(B) to (G), inclusive**	[$1,000] $1,500	[$1,000] $1,500

Hearing Officer's Note: It is not the intention of the Commissioner to charge the regulated community for revisions to the permit pursuant to subparagraph 22a-174-2a(f)(2)(A) of the R.C.S.A. necessitated by typos the Department created in permit issuance.

[(d)](5) [Notwithstanding subdivision (d)(4) of this section, when any calculation results in an emission fee in excess of two hundred thirty-seven thousand five hundred dollars ($237,500.00) for any premise for the bill due on January 1, 1995, the Commissioner shall adjust the per ton fee contained in subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of two hundred thirty-seven thousand five hundred dollars ($237,500.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again. In addition, when any calculation performed in subdivision (d)(4) above results in an emission fee in excess of four hundred seventy-five thousand dollars ($475,000.00) for any premise for the bills due on July 1, 1995, and July 1, 1996, the Commissioner shall adjust the per ton fee contained subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of

four hundred seventy-five thousand dollars ($475,000.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again.] The commissioner may reduce the Inventory Stabilization Factor set forth in subdivision (4)(C) of this subsection applicable to the prior calendar year emissions, if the commissioner finds that the Air Emissions Permit Operating Fee account balance, by itself, will be sufficient on or about July 1st to cover two years of Title V program expenses. The Inventory Stabilization Factor shall not be reduced to less than one (1.00). The commissioner shall not adjust the Inventory Stabilization Factor in such a manner as to collect fees that will result in the balance in the Air Emissions Permit Operating Fee account being insufficient to cover two years of Title V program expenses. The determination of what ~~[CONSISTUTES]~~ **constitutes** a Title V program expense under this subdivision shall be in the sole discretion of the commissioner **and in accordance with section 502(b)(3) of the Clean Air Act.**

Hearing Officer's Note: Constitutes was spelled wrong in the proposal. The rest of the phrase in bold was changed in response to comments referred to above.

(e) Transfer fee. Each person registering a proposed transfer of a license with the commissioner under section 22a-6o of the Connecticut General Statutes shall submit with such registration a [permit] transfer fee of ~~[SEVEN]~~ [five] **seven** hundred and fifty dollars [($500.00)] ($750.00) [dollars].

VIII. Final Text of Proposed Amendment

The final text of the amendment to Sections 22a-174-5(f) and 22a-174-26 of the R.C.S.A., inclusive of the changes recommended in this report, is located at Attachment 3 to this report.

IX. Conclusion

Based upon the comments submitted by interested parties and addressed in this Hearing Report, I recommend the final amendment, as contained in Attachment 3 to this report, be submitted by the Commissioner of Environmental Protection for approval by the Attorney General and the Legislative Regulations Review Committee

Elizabeth McAuliffe

Elizabeth McAuliffe
Hearing Officer

3/26/04
Date

Attachment 1

List of Commenters

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Attachment 2

Text of Proposed Amendment R.C.S.A. Section 22a-174-5 and Section 22a-174-26, and statement under C.G.S. section 22a-6(h)

Section 1. Subsection (f) of section 22a-174-5 of the Regulations of Connecticut State Agencies is hereby amended to read as follows:

(f) Fees for visual tests.

[(f)](1) The owner or operator of a stationary source who is required to conduct an emission test under either [subdivision] SUBSECTION (e)(1) or (e)(2) of this section may be required to conduct a visual test through the use of a dust compound in lieu of the emission testing otherwise required. Such testing shall be conducted annually or at an interval determined by the [Commissioner] COMMISSIONER and in a manner satisfactory to him.

[(f)](2) The owner or operator of a stationary source who, under the provisions of [subdivision] SUBSECTION (f)(1) of this section, is required to conduct a visual test shall pay a fee of [three hundred and seventy-five dollars ($375.00)] FIVE HUNDRED AND SIXTY-TWO DOLLARS AND FIFTY CENTS ($562.50).

[(f)](3) The [Commissioner] COMMISSIONER may increase the fee specified in [subdivision] SUBSECTION (f)(2) of this section to a maximum fee of [four hundred and thirty dollar ($430.00)] SIX HUNDRED AND FORTY-FIVE DOLLARS ($645.00) if the test conditions under [subdivision] SUBSECTION (f)(1) of this section are deemed hazardous as determined by valid Connecticut State Employee Collective Bargaining Agreements.

[(f)](4) The [Commissioner] COMMISSIONER may reduce the fee specified in [subdivision] SUBSECTION (f)(2) OF THIS SECTION to no less than [two hundred and sixty-five dollars ($265.00)] THREE HUNDRED AND NINETY-SEVEN DOLLARS AND FIFTY CENTS ($397.50) or the fee specified in [subdivision] SUBSECTION (f)(3) OF THIS SECTION to no less than [two hundred and ninety dollars ($290.00)] FOUR HUNDRED AND THIRTY-FIVE DOLLARS ($435.00) if the test condition under [subdivision] SUBSECTION (f)(1) OF THIS SECTION require that the Department use one staff person to monitor the visual test under this subsection.

[(f)](5) The owner or operator of a stationary source who is required to pay a fee under this subsection shall submit such fee to the [Department] COMMISSIONER accompanied by forms furnished by the [Commissioner] COMMISSIONER.

Sec. 2. Subsections (b) to (e), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are hereby amended to read as follows:

(b) Application fees.

(1) [Except as otherwise provided in this section, after March 15, 2002 any] ANY person who is required to file an application under section 22a-174-3a or section 22a-174-19 of the Regulations of Connecticut State Agencies shall submit with such application an application fee of [five hundred] SEVEN HUNDRED AND FIFTY dollars [($500.00)] ($750.00).

(2) In addition to the application fee submitted under subdivision (1) of this subsection, each person for whom the commissioner reviews an application for a permit pursuant to section 22a-174-3a of the Regulations of Connecticut State Agencies, shall pay an additional application fee of one thousand FIVE HUNDRED dollars [($1,000)] ($1,500.00) for:

(A) Each best available control technology (BACT) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies for a stationary source or modification thereof, unless the stationary source or modification will have potential emissions of less than fifty (50) tons per year of each pollutant for which the permit is required or the impact on ambient air quality of each of these pollutant emissions is not significant as listed in Table 3a(i)-1 set forth in section 22a-174-3a(i)(1) of the Regulations of Connecticut State Agencies; and

(B) Each lowest achievable emission rate (LAER) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies.

(3) Notwithstanding subdivision (1) of this subsection, the fees for an application to change the fuel used to natural gas or liquefied propane gas, or to implement a process that will allow the use of A cleaner fuel shall be [two hundred and fifty ($250.00)] THREE HUNDRED AND SEVENTY FIVE dollars ($375.00).

(4) There is no fee to correct a clerical error in a permit made by the commissioner.

(5) The commissioner shall apply the application fee under subdivision (1) or (3) of this subsection to any permit fee required by subsection (c) of this section.

(6) Notwithstanding the prior payment of an application fee, an applicant shall pay another application fee in accordance with subdivisions (1), (2) and (3) of this subsection under either of the following circumstances:

(A) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect an anticipated increase in emissions; or

(B) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect a change in process.

(c) Permit fees.

(1) Each person to whom the commissioner issues a permit, or a modification or renewal thereto, under section 22a-174-3a, section 22a-174-2a and section 22a-174-19 of the Regulations of Connecticut State Agencies shall pay a permit fee as prescribed in the fee schedule in subdivision (2) of this subsection.

(2) The fee schedule is set forth in Table 26-1.

TABLE 26-1
PERMIT FEE SCHEDULE

	REGULATION UNDER WHICH PERMIT IS ISSUED	MAJOR SOURCE (PTE)	LESS THAN MAJOR SOURCE (PTE)
New major stationary source	22a-174-3a(a)(1)(A)	[$4,000] $6,000	NA
Major modification	22a-174-3a(a)(1)(B)	[$4,000] $6,000	NA
New or reconstructed major source of hazardous air pollutants	22a-174-3a(a)(1)(C) and (m)	[$4,000] $6,000	NA
New emission unit with potential emissions of fifteen (15) tons	22a-174-3a(a)(1)(D)	NA	[$2,000]

TABLE 26-1 PERMIT FEE SCHEDULE			
or more per year of any individual air pollutant			$3,000
Modification to an existing emission unit which increases potential emissions of any individual air pollutant from such unit by fifteen (15) tons or more per year	22a-174-3a(a)(1)(E)	NA	[$2,000] $3,000
Stationary source modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant	22a-174-3a(a)(1)(F)	[$4,000] $6,000	NA
New source review non-minor permit modification	22a-174-2a(d)	[$2,000] $3,000	[$1,000] $1,500
New source review minor permit modification	22a-174-2a(e)	[$2,000] $3,000	[$1,000] $1,500
Permit revision	22a-174-2a(f)	[$1,000] $1,500	[$1,000] $1,500
Permit renewal	22a-174-2a[(j)] (i)	[$2,000] $3,000	[$2,000] $3,000
Permit for use of solid fuel	22a-174-(19)(a)(2)[(I)] (i)	[$4,000] $6,000	[$2,000] $3,000
Permit for air pollution control energy trade	22a-174-(19)(a)(3)	[$10,000] $15,000	[$5,000] $7,500

(3) There is no fee for any permit issued to a municipality or to an agency of the state or political or administrative subdivision thereof under section 22a-174-100 of the Regulations of Connecticut State Agencies.

(4) There is no fee for any [permit] CERTIFICATE required under section 22a-174-17 of the Regulations of Connecticut State Agencies.

(5) THERE IS NO FEE, OTHER THAN THE FEES UNDER SUBSECTIONS (d) AND (e) OF THIS SECTION, PAYABLE TO THE COMMISSIONER BY THE OWNER OR OPERATOR OF A TITLE V SOURCE TO APPLY FOR, REVISE, MODIFY OR RENEW A TITLE V PERMIT ISSUED UNDER SECTION 22a-174-33 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES.

(6) EACH PERSON WHO PAYS TO THE COMMISSIONER A LICENSE TRANSFER FEE PURSUANT TO SUBSECTION (e) OF THIS SECTION SHALL NOT BE SUBJECT TO A PERMIT REVISION FEE PURSUANT TO THIS SUBSECTION PROVIDED THAT THE TRANSFER OF OWNERSHIP AND RELATED ADMINISTRATIVE INFORMATION ARE THE ONLY CHANGES BEING PROPOSED TO THE SUBJECT PERMIT.

(d) Emission fees.

[(d)](1) For the purposes of this subsection, the following definitions shall apply:

"Title V source" means:

(A) ANY STATIONARY SOURCE, OR ANY GROUP OF STATIONARY SOURCES, WHERE SUCH SOURCE IS LOCATED ON ONE OR MORE CONTIGUOUS OR ADJACENT PROPERTIES, THAT IS UNDER COMMON CONTROL OF THE SAME PERSON, OR PERSONS UNDER COMMON CONTROL, AND SUCH SOURCE OR SOURCES HAVE POTENTIAL EMISSIONS, INCLUDING FUGITIVE EMISSIONS TO THE EXTENT QUANTIFIABLE, OF, IN THE AGGREGATE, TEN (10) TONS OR MORE PER YEAR OF ANY HAZARDOUS AIR POLLUTANT WHICH HAS BEEN LISTED PURSUANT TO SECTION 112 (B) OF THE CLEAN AIR ACT, OR TWENTY-FIVE (25) TONS OR MORE PER YEAR OF ANY COMBINATION OF SUCH HAZARDOUS AIR POLLUTANTS; OR

(B) [any] ANY stationary source, or any group of stationary sources, where such source is located on one or more contiguous or adjacent properties, that is under common control of the same person,

or persons under common control, and such source or sources belong to the same two digit Standard Industrial Classification code, as published by the UNITED STATES Office of Management and Budget (OMB) in the Standard Industrial Classification Manual of 1987, and such source or sources have potential emissions, including fugitive emissions to the extent quantifiable, of:

[(A) In the aggregate, ten (10) tons or more per year of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the Clean Air Act, or twenty-five (25) tons or more per year of any combination of such hazardous air pollutants;]

[(B)]

(i) One hundred (100) tons or more per year of any air pollutant;

[(C)]

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

[(D)]

(iii) Twenty-five (25) tons or more per year of volatile organic compounds or nitrogen oxides in a severe ozone nonattainment area.

"1990 inventory" means the inventory submitted by the Department to the U.S. Environmental Protection Agency on January 13, 1994 which for stationary source is emissions of 133,665 tons per year for 1990.

[(d)](2) The owner or operator of a Title V source shall pay an emission fee each year to the Department. [in accordance with the fee schedule in subdivision [(d)](4) of this subsection.] THE EMISSION FEE PAID SHALL BE THE AMOUNT CALCULATED UNDER SUBDIVISION (4) OF THIS SUBSECTION, UNLESS THE PROVISIONS OF SUBDIVISION (6) OF THIS SUBSECTION APPLY, IN WHICH CASE THE EMISSION FEE PAID SHALL BE THE AMOUNT SPECIFIED IN SUBDIVISION

(6) OF THIS SUBSECTION. Commencing July 1, 1995, payment to the Department shall be due by July 1 each year, based on the emissions during the previous calendar year. [Notwithstanding such requirement, the owner or operator of a Title V source shall pay an emission fee by January 1, 1995 for emissions during the period between July 1, 1993 and December 31, 1993. For the purposes of this subdivision, the determination of the emissions fee due by January 1, 1995, shall be based upon fifty percent (50%) of the Total Actual Premise Emissions during the period from January 1, 1993, to December 31, 1993.]

[(d)](3) The emission fee shall be based on emissions of the following:

(A) Nitrogen oxides;

(B) Any volatile organic compound;

(C) Any pollutant for which an ambient air quality standard has been listed in [subsection] SUBSECTIONS (d) [through] TO (*l*), inclusive, of [Section] SECTION 22a-174-24 of the Regulations of Connecticut State Agencies;

(D) Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

(E) Any Class I or II substance, listed in 42 U.S.C. [section] 7671a, subject to a standard promulgated under or established by Title VI of the Clean Air Act; and

(F) Any hazardous air pollutant subject to a standard promulgated or other requirement established under section 112 of the Clean Air Act (42 U.S.C. [section] 7412).

[(d)](4) Emission fee determination. The emission fee shall be based upon the actual emissions of all regulated air pollutants AS IDENTIFIED IN SUBDIVISION (3) OF THIS SUBSECTION, from any emission units at the source according to the following EQUATION:

EMISSION FEE [EQUALS] = (A) [MULTIPLIED BY] * (B) [MULTIPLIED BY] * (C)

Where:

(A) Is the Total Actual Premise Emissions, which is the premise's actual emissions of the pollutants specified in subdivision [(d)](3) of this [section] SUBSECTION from all emitting units located at the premise as reported in the emissions inventory for the previous calendar year which is on file with the Department. The sum of the Total Actual Premise Emissions shall be raised to the next whole ton;

(B) Is the per ton fee, which is equal to twenty-five dollars ($25.00) per ton in 1989 dollars multiplied by the ratio of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989; and

(C) Is the [inventory] INVENTORY Stabilization Factor, which is a value equal to the total actual emissions of 133,665 tons per year from stationary sources in the 1990 Inventory divided by the total statewide stationary source actual emissions from the previous calendar year. The quotient shall be rounded to the second decimal place. If the Inventory Stabilization Factor is less than one (1.00), [use] one (1.00) SHALL BE USED as the Inventory Stabilization Factor. The [Commissioner] COMMISSIONER shall, thirty days prior to application of the Inventory Stabilization Factor, file with the Secretary of the Office of Policy and Management a report describing the calculation of the [inventory stabilization factor] INVENTORY STABILIZATION FACTOR with relevant supporting documentation. Such report shall also describe expenditures of the previous year's emission based fees collected pursuant to this subsection.

[(d)](5) [Notwithstanding subdivision (d)(4) of this section, when any calculation results in an emission fee in excess of two hundred thirty-seven thousand five hundred dollars ($237,500.00) for any premise for the bill due on January 1, 1995, the Commissioner shall adjust the per ton fee contained in subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of two hundred thirty-seven thousand five hundred dollars ($237,500.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again. In addition, when any calculation performed in subdivision (d)(4) above results in an emission fee in excess of four hundred seventy-five thousand dollars ($475,000.00) for any premise for the bills due on July 1, 1995, and July 1, 1996, the Commissioner shall adjust the per ton fee contained subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of four hundred seventy-five thousand dollars ($475,000.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again.] THE COMMISSIONER MAY REDUCE THE INVENTORY STABILIZATION FACTOR SET FORTH IN SUBDIVISION (4)(C) OF THIS SUBSECTION APPLICABLE TO THE PRIOR CALENDAR YEAR EMISSIONS, IF THE COMMISSIONER FINDS THAT THE AIR EMISSIONS PERMIT OPERATING FEE ACCOUNT BALANCE, BY ITSELF, WILL BE SUFFICIENT ON OR ABOUT JULY 1ST TO COVER TWO YEARS OF TITLE V PROGRAM EXPENSES. THE INVENTORY STABILIZATION FACTOR SHALL NOT BE REDUCED TO LESS THAN ONE (1.00). THE COMMISSIONER SHALL NOT ADJUST THE INVENTORY STABILIZATION FACTOR IN SUCH A MANNER AS TO COLLECT FEES THAT WILL RESULT IN THE BALANCE IN THE AIR EMISSIONS PERMIT OPERATING FEE ACCOUNT BEING INSUFFICIENT TO COVER TWO YEARS OF TITLE V PROGRAM EXPENSES. THE DETERMINATION OF WHAT CONSISTUTES A TITLE V PROGRAM EXPENSE UNDER THIS SUBDIVISION SHALL BE IN THE SOLE DISCRETION OF THE COMMISSIONER.

[(d)](6) [Method of payment. All fees required by this subsection shall be paid by check or money order payable to the Department of Environmental Protection and shall state on the face of the check or money order, "Air Management emission fee."] NOTWITHSTANDING SUBDIVISION (4) OF THIS SUBSECTION, THE EMISSION FEE SHALL BE:

(A) FIVE THOUSAND DOLLARS ($5,000.00) FOR EACH TITLE V SOURCE FOR WHICH THE EMISSION FEE CALCULATED UNDER SUBDIVISION (4) OF THIS SUBSECTION WAS LESS THAN FIVE THOUSAND DOLLARS ($5,000.00); AND

(B) FIVE HUNDRED THOUSAND DOLLARS ($500,000.00), ADJUSTED FOR INFLATION FROM AUGUST 31, 1989, FOR EACH TITLE V SOURCE FOR WHICH THE EMISSION FEE CALCULATED UNDER SUBDIVISION (4) OF THIS SUBSECTION WAS MORE THAN FIVE HUNDRED THOUSAND DOLLARS ($500,000.00), ADJUSTED FOR INFLATION FROM

AUGUST 31, 1989. "ADJUSTED FOR INFLATION" FOR THE PURPOSES OF THIS SUBDIVISION MEANS, AN INCREASE TO THE EMISSION FEE BY MULTIPLYING SUCH FEE BY THE RATIO OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR AS OF AUGUST 31 OF THE PREVIOUS CALENDAR YEAR, TO THE CONSUMER PRICE INDEX FOR AUGUST 1989.

[(d)](7) Late fee. A late fee of ten percent (10%) of the emission fee or fifty dollars ($50), whichever is greater, shall be charged, in addition to any other fee required by this subsection, if [a] AN OWNER OR OPERATOR OF A Title V source fails to submit the required emission fee when due. The OWNER OR OPERATOR OF SUCH Title V source shall pay an additional one and one quarter percent (1.25%) per month of the amount of all emission fees required by this subsection which remain unpaid after the first day of each month. This subdivision shall not prevent the [Commissioner] COMMISSIONER from pursuing other remedies available by statute or regulation.

[(d)](8) Municipal emission fees. Any emission fee charged to a municipality pursuant to this subsection shall be fifty percent (50%) of the emission fee OWED PURSUANT TO SUBDIVISIONS (4) OR (6) OF THIS SUBSECTION, WHICHEVER SUBDIVISION IS APPLICABLE. [that would be charged to other Title V sources. Provided however that any municipality which fails to submit the required emission fee when due shall be charged a late fee pursuant to subdivision (d)(6) of this section.]

(9) AN EMISSION FEE REQUIRED UNDER THIS SUBSECTION SHALL BE PAID IN AN AMOUNT ROUNDED TO THE NEAREST WHOLE DOLLAR.

(e) Transfer fee. Each person registering a proposed transfer of a license with the commissioner under section 22a-6o of the Connecticut General Statutes shall submit with such registration a [permit] transfer fee of SEVEN [five] hundred AND FIFTY DOLLARS [($500.00)] ($750.00) [dollars].

Sec. 3. Subsections (h) to (i), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are hereby amended to read as follows:

(h) Emission test fees. In addition to any other fee required by this section, the owner or operator of a stationary source who is required by any statute, regulation, permit or order administered or issued by the commissioner to conduct an emission test or to

install or operate a continuous emission monitor shall pay [two-hundred and fifty ($250.00)] THREE-HUNDRED AND SEVENTY-FIVE DOLLARS ($375.00) [dollars] to the commissioner per day or part thereof for each Department employee who conducts or observes such test or the installation of such continuous emission monitor; provided that if such owner or operator is subject to section 22a-232 of the Connecticut General Statutes, he shall not be required to pay the fee established by this subsection.

(i) Payment of fees.

(1) Any fee required under this section shall be PAID BY CHECK OR MONEY ORDER [made] payable to the Department of Environmental Protection, which shall state on its face, for an application fee, "Air Management Application Fee", FOR AN EMISSION FEE, "AIR MANAGEMENT EMISSION FEE", and for any other fee, [except as provided in subsection (d)(6) of this section,] "Air Management Fee."

(2) [(A) Notwithstanding subsection (d)(4) of this section, for any premises, when any calculation performed under subsection (d)(4) of this section results in an emission fee in excess of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989, the commissioner shall adjust the per ton fee contained in subsection (d)(4)(B) of this section by multiplying such per ton fee by a ratio of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989 divided by such emission fee, and, using such adjusted per ton fee, perform such calculation again.

(B) Notwithstanding subparagraph (A) of this subdivision, on or before May 15 in any odd-numbered calendar year beginning in the year 2001, the commissioner may discontinue adjusting the per ton fee in the manner prescribed in subparagraph (A) of this subdivision for payment due on July 1 of such odd-

numbered calendar year and the next succeeding even-numbered calendar year, provided that on or before January 1 of such year he gives notice to the owners and operators of all sources then covered under subparagraph (A) of this subdivision and affords them an opportunity to comment.] RESERVED

(3) [An emission fee required under subsection (d) of this section shall be paid in an amount rounded to the nearest whole dollar.] RESERVED

(4) Except as otherwise provided by this section, any fee required by this section shall be submitted within the time specified by the commissioner. If neither this section nor the commissioner specifies a time for submitting payment, payment shall be due within 30 days of written notice by the commissioner that such fee is required.

STATEMENT OF PURPOSE:

To correct fees authorized under Section 22a-6(f) of the General Statutes as amended by Public Act 03-6 Sections 126 and 152. To provide the commissioner with flexibility to correct an imbalance between fee collection and expenditure and more equitably distribute the costs of the Title V program. To reconcile section 22a-174-26(c) with section 22a-174-26(b) and clarify that permit fees are due on and after the same day that a permit application fees under section 22a-174-3a are due. To clarify that there is no fee to apply for, revise, modify or renew a Title V permit because of the annual fee paid by all Title V sources. To clarify the transfer fee applies to all licenses issued by the commissioner under chapter 446c of the General Statutes. To eliminate an unnecessary language relating to fee adjustment addressed in subsection (d) of section 22a-174-26 of the Regulations of Connecticut State Agencies.

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATEMENT PURSUANT TO SECTION 22a-6(h) OF THE GENERAL STATUTES CONCERNING THE ADOPTION OF REGULATIONS PERTAINING TO ACTIVITIES FOR WHICH THE FEDERAL GOVERNMENT HAS ADOPTED STANDARDS OR PROCEDURES

Pursuant to the provisions of section 22a-6(h) of the Connecticut General Statutes (C.G.S.), as amended by sec. 5 of Public Act 03-276[1], the Commissioner 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 proposed regulation or amendment that differ from *applicable* federal standards or procedures (i.e., *federal* standards and procedures that apply to *the same persons* under the proposed state regulation or amendment). The Commissioner must distinguish any such provisions either on the face of such proposed regulation or through supplemental documentation accompanying the proposed regulation. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under Title 4, Chapter 54 of the C.G.S. and shall be publicly available at the time of notice concerning the regulation required under C.G.S. section 4-168.

In accordance with the requirements of C.G.S. section 22a-6(h), the following statement is entered into the public administrative record in the matter of the proposed amendment of sections 22a-174-5 and 22a-174-26 of the Regulations of Connecticut State Agencies (R.C.S.A.):

With respect to proposed revisions to R.C.S.A. section 22a-174-5(f) – Fees for visual tests, these proposed revisions modify certain fees in accordance with C.G.S. section 22a-6(f) as amended by Public Act 03-6. There are no federal fees that apply to the same activities. Hence, the provisions of C.G.S. section 22a-6(h) do not apply.

With respect to proposed revisions to R.C.S.A. section 22a-174-26(b), (c), (e) and (h) – Application Fees, Permit Fees, Transfer Fees and Emissions Test Fees, these proposed revisions modify certain fees in accordance with C.G.S. section 22a-6(f) as amended by Public Act 03-6. There are no federal fees that apply to the same activities. Hence, the provisions of C.G.S. section 22a-6(h) do not apply.

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[1] Section 22a-6(h), as amended by sec. 5 of Public Act 03-276, states:

> The commissioner may adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. All provisions of such regulations which differ from the applicable federal standards or procedures shall be clearly distinguishable from such standards or procedures either on the face of the proposed regulation or through supplemental documentation accompanying the proposed regulation at the time of the notice concerning such regulation required under section 4-168. An explanation for all such provisions shall be included in the regulation-making record required under chapter 54 and shall be publicly available at the time of the notice concerning the regulation required under section 4-168. This subsection shall apply to any regulation for which a notice of intent to adopt is published on and after July 1, 1999.

With respect to proposed revisions to R.C.S.A. section 22a-174-26(d) and (i) – Emission Fees and Payment of Fees. Connecticut implements a Title V operating permit program through federally approved state regulations in accordance with sections 501 -- 507 of the federal Clean Air Act (CAA). In section 502(b)(3) of the CAA, the United States Congress has clearly adopted standards for emission fees by setting a presumptive minimum fee payable by all Title V sources per ton of air pollution emitted while also requiring each state to ensure the financial viability of its Title V program by requiring all state-implemented Title V programs to be completely self-funded. The federal Environmental Protection Agency adopted similar environmental standards for Title V related emission fees in 40 CFR Part 70. While CAA section 502(b)(3) and 40 CFR Part 70.9 identify the *minimum* fee a state must assess its Title V sources, CAA section 502(b)(3) and 40 CFR Part 70.9(b)(i) also require the state to assess the *actual* fee necessary to support its Title V program. The proposed revisions are consistent with these federal standards as they continue to require the collection of fees adequate to cover the costs of the program. Hence, the provisions of C.G.S. section 22a-6(h) do not apply.

January 21, 2004
Date

Elizabeth McAuliffe
Environmental Analyst
Bureau of Air Management

Attachment 3

Final Text of Amendment
R.C.S.A. Section 22a-174-5 and Section 22a-174-26

Section 1. Subsection (f) of section 22a-174-5 of the Regulations of Connecticut State Agencies is amended, as follows:

(f) Fees for visual tests.

[(f)](1) The owner or operator of a stationary source who is required to conduct an emission test under either [subdivision] subsection (e)(1) or (e)(2) of this section may be required to conduct a visual test through the use of a dust compound in lieu of the emission testing otherwise required. Such testing shall be conducted annually or at an interval determined by the [Commissioner] commissioner and in a manner satisfactory to [him] the commissioner.

[(f)](2) The owner or operator of a stationary source who, under the provisions of subdivision [(f)](1) of this [section] subsection, is required to conduct a visual test shall pay a fee of [three hundred and seventy-five dollars ($375.00)] Five hundred and sixty-two dollars and fifty cents ($562.50).

[(f)](3) The [Commissioner] commissioner may increase the fee specified in subdivision [(f)](2) of this [section] subsection to a maximum fee of [four hundred and thirty dollar ($430.00)] six hundred and forty-five dollars ($645.00) if the test conditions under subdivision [(f)](1) of this [section] subsection are deemed hazardous as determined by valid Connecticut State Employee Collective Bargaining Agreements.

[(f)](4) The [Commissioner] commissioner may reduce the fee specified in subdivision (2) of this subsection to no less than [two hundred and sixty-five dollars ($265.00)] three hundred and ninety-seven dollars and fifty cents ($397.50) or the fee specified in subdivision (3) of this subsection to no less than [two hundred and ninety dollars ($290.00)] four hundred and thirty-five dollars ($435.00) if the test condition under subdivision (1) of this subsection require that the Department use one staff person to monitor the visual test under this subsection.

[(f)](5) The owner or operator of a stationary source who is required to pay a fee under this subsection shall submit such fee to the [Department] commissioner accompanied by forms furnished by the [Commissioner] commissioner.

Sec. 2. Subsections (b) to (e), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are amended, as follows:

(b) Application fees.

(1) [Except as otherwise provided in this section, after March 15, 2002 any] Any person who is required to file an application under section 22a-174-3a or section 22a-174-19 of the Regulations of Connecticut State Agencies shall submit with such application an application fee of [five hundred] seven hundred and fifty dollars [($500.00)] ($750.00).

(2) In addition to the application fee submitted under subdivision (1) of this subsection, each person for whom the commissioner reviews an application for a permit pursuant to section 22a-174-3a of the Regulations of Connecticut State Agencies, shall pay an additional application fee of one thousand five hundred dollars [($1,000)] ($1,500.00) for:

(A) Each best available control technology (BACT) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies for a stationary source or modification thereof, unless the stationary source or modification will have potential emissions of less than fifty (50) tons per year of each pollutant for which the permit is required or the impact on ambient air quality of each of these pollutant emissions is not significant as listed in Table 3a(i)-1 set forth in section 22a-174-3a(i)(1) of the Regulations of Connecticut State Agencies; and

(B) Each lowest achievable emission rate (LAER) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies.

(3) Notwithstanding subdivision (1) of this subsection, the fees for an application to change the fuel used to natural gas or liquefied propane gas, or to implement a process that will allow the use of A cleaner fuel shall be [two hundred and fifty ($250.00)] three hundred and seventy-five dollars ($375.00).

(4) There is no fee to correct a clerical error in a permit made by the commissioner.

(5) The commissioner shall apply the application fee under subdivision (1) or (3) of this subsection to any permit fee required by subsection (c) of this section.

(6) Notwithstanding the prior payment of an application fee, an applicant shall pay another application fee in accordance with subdivisions (1), (2) and (3) of this subsection under either of the following circumstances:

(A) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect an anticipated increase in emissions; or

(B) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect a change in process.

(c) Permit fees.

(1) Each person to whom the commissioner issues a permit, or a modification or renewal thereto, under section 22a-174-3a, section 22a-174-2a and section 22a-174-19 of the Regulations of Connecticut State Agencies shall pay a permit fee as prescribed in the fee schedule in subdivision (2) of this subsection.

(2) The fee schedule is set forth in Table 26-1.

TABLE 26-1
PERMIT FEE SCHEDULE

	REGULATION UNDER WHICH PERMIT IS ISSUED	MAJOR SOURCE (PTE)	LESS THAN MAJOR SOURCE (PTE)
New major stationary source	22a-174-3a(a)(1)(A)	[$4,000] $6,000	NA
Major modification	22a-174-3a(a)(1)(B)	[$4,000] $6,000	NA
New or reconstructed major source of hazardous air pollutants	22a-174-3a(a)(1)(C) and (m)	[$4,000] $6,000	NA
New emission unit with potential emissions of fifteen (15) tons or more per year of any individual air pollutant	22a-174-3a(a)(1)(D)	NA	[$2,000] $3,000

TABLE 26-1 PERMIT FEE SCHEDULE			
Modification to an existing emission unit which increases potential emissions of any individual air pollutant from such unit by fifteen (15) tons or more per year	22a-174-3a(a)(1)(E)	NA	[$2,000] $3,000
Stationary source modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant	22a-174-3a(a)(1)(F)	[$4,000] $6,000	NA
New source review non-minor permit modification	22a-174-2a(d)	[$2,000] $3,000	[$1,000] $1,500
New source review minor permit modification	22a-174-2a(e)	[$2,000] $3,000	[$1,000] $1,500
Permit revision	22a-174-2a(f)(2)(B) to (G), inclusive	[$1,000] $1,500	[$1,000] $1,500
Permit renewal	22a-174-2a[(j)](i)	[$2,000] $3,000	[$2,000] $3,000
Permit for use of solid fuel	22a-174-(19)(a)(2)[(I)](i)	[$4,000] $6,000	[$2,000] $3,000
Permit for air pollution control energy trade	22a-174-(19)(a)(3)	[$10,000] $15,000	[$5,000] $7,500

(3) There is no fee for any permit issued to a municipality or to an agency of the state or political or administrative subdivision thereof under section 22a-174-100 of the Regulations of Connecticut State Agencies.

(4) There is no fee for any [permit] certificate required under section 22a-174-17 of the Regulations of Connecticut State Agencies.

(5) There is no fee, other than the fees under subsections (d) and (e) of this section, payable to the commissioner by the owner or operator of a Title V source to apply for, revise, modify or renew a Title V permit issued under section 22a-174-33 of the Regulations of Connecticut State Agencies.

(6) Each person who pays to the commissioner a license transfer fee pursuant to subsection (e) of this section shall not be subject to a permit revision fee pursuant to this subsection provided that the transfer of ownership and related administrative information are the only changes being proposed to the subject permit.

(d) Emission fees.

[(d)](1) For the purposes of this subsection, the following definitions shall apply:

"Title V source" means:

(A) Any stationary source, or any group of stationary sources, where such source is located on one or more contiguous or adjacent properties, that is under common control of the same person, or persons under common control, and such source or sources have potential emissions, including fugitive emissions to the extent quantifiable, of, In the aggregate, ten (10) tons or more per year of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the Clean Air Act, or twenty-five (25) tons or more per year of any combination of such hazardous air pollutants; or

(B) [any] Any stationary source, or any group of stationary sources, where such source is located on one or more contiguous or adjacent properties, that is under common control of the same person, or persons under common control, and such source or sources belong to the same two digit Standard Industrial Classification code, as published by the United States Office of Management and Budget (OMB) in the Standard Industrial Classification Manual of 1987, and such source or sources have potential emissions, including fugitive emissions to the extent quantifiable, of:

[(A) In the aggregate, ten (10) tons or more per year of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the Clean Air Act, or twenty-five (25) tons or more per year of any combination of such hazardous air pollutants;]

[(B)]

(i) One hundred (100) tons or more per year of any air pollutant;

[(C)]

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

[(D)]

(iii) Twenty-five (25) tons or more per year of volatile organic compounds or nitrogen oxides in a severe ozone nonattainment area.

"1990 inventory" means the inventory submitted by the Department to the U.S. Environmental Protection Agency on January 13, 1994 which for stationary source is emissions of 133,665 tons per year for 1990.

[(d)](2) The owner or operator of a Title V source shall pay an emission fee each year to the Department. [in accordance with the fee schedule in subdivision [(d)](4) of this subsection.] The emission fee paid shall be the amount calculated under subdivision (4) of this subsection, unless the provisions of subdivision (6) of this subsection apply, in which case the emission fee paid shall be the amount specified in subdivision (6) of this subsection. Commencing July 1, 1995, payment to the Department shall be due by July 1 each year, based on the emissions during the previous calendar year. [Notwithstanding such requirement, the owner or operator of a Title V source shall pay an emission fee by January 1, 1995 for emissions during the period between July 1, 1993 and December 31, 1993. For the purposes of this subdivision, the determination of the emissions fee due by January 1, 1995, shall be based upon fifty percent (50%) of the Total Actual Premise Emissions during the period from January 1, 1993, to December 31, 1993.]

[(d)](3) The emission fee shall be based on emissions of the following:

(A) Nitrogen oxides;

(B) Any volatile organic compound;

(C) Any pollutant for which an ambient air quality standard has been listed in [subsection] subsections (d) [through] to (*l*), inclusive, of [Section] section 22a-174-24 of the Regulations of Connecticut State Agencies;

(D) Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

(E) Any Class I or II substance, listed in 42 U.S.C. [section] 7671a, subject to a standard promulgated under or established by Title VI of the Clean Air Act; and

(F) Any hazardous air pollutant subject to a standard promulgated or other requirement established under section 112 of the Clean Air Act (42 U.S.C. [section] 7412).

[(d)](4) Emission fee determination. The emission fee shall be based upon the actual emissions of all regulated air pollutants as identified in subdivision (3) of this subsection, from any emission units at the source according to the following equation:

emission fee [EQUALS] = (A) [MULTIPLIED BY] * (B) [MULTIPLIED BY] * (C)

Where:

(A) Is the Total Actual Premise Emissions, which is the premise's actual emissions of the pollutants

specified in subdivision [(d)](3) of this [section] subsection from all emitting units located at the premise as reported in the emissions inventory for the previous calendar year which is on file with the Department. The sum of the Total Actual Premise Emissions shall be raised to the next whole ton;

(B) Is the per ton fee, which is equal to twenty-five dollars ($25.00) per ton in 1989 dollars multiplied by the ratio of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989; and

(C) Is the [inventory] Inventory Stabilization Factor, which is a value equal to the total actual emissions of 133,665 tons per year from stationary sources in the 1990 Inventory divided by the total statewide stationary source actual emissions from the previous calendar year. The quotient shall be rounded to the second decimal place. If the Inventory Stabilization Factor is less than one (1.00), [use] one (1.00) shall be used as the Inventory Stabilization Factor. The [Commissioner] commissioner shall, thirty days prior to application of the Inventory Stabilization Factor, file with the Secretary of the Office of Policy and Management a report describing the calculation of the [inventory stabilization factor] Inventory Stabilization Factor with relevant supporting documentation. Such report shall also describe expenditures of the previous year's emission based fees collected pursuant to this subsection.

[(d)](5) [Notwithstanding subdivision (d)(4) of this section, when any calculation results in an emission fee in excess of two hundred thirty-seven thousand five hundred dollars ($237,500.00) for any premise for the bill due on January 1, 1995, the Commissioner shall adjust the per ton fee contained in subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of two hundred thirty-seven thousand five hundred dollars ($237,500.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again. In addition, when any calculation performed in subdivision (d)(4) above

results in an emission fee in excess of four hundred seventy-five thousand dollars ($475,000.00) for any premise for the bills due on July 1, 1995, and July 1, 1996, the Commissioner shall adjust the per ton fee contained subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of four hundred seventy-five thousand dollars ($475,000.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again.] The commissioner may reduce the Inventory Stabilization Factor set forth in subdivision (4)(C) of this subsection applicable to the prior calendar year emissions, if the commissioner finds that the Air Emissions Permit Operating Fee account balance, by itself, will be sufficient on or about July 1st to cover two years of Title V program expenses. The Inventory Stabilization Factor shall not be reduced to less than one (1.00). The commissioner shall not adjust the Inventory Stabilization Factor in such a manner as to collect fees that will result in the balance in the Air Emissions Permit Operating Fee account being insufficient to cover two years of Title V program expenses. The determination of what constitutes a Title V program expense under this subdivision shall be in the sole discretion of the commissioner and in accordance with section 502(b)(3) of the Clean Air Act.

[(d)](6) [Method of payment. All fees required by this subsection shall be paid by check or money order payable to the Department of Environmental Protection and shall state on the face of the check or money order, "Air Management emission fee."] Notwithstanding subdivision (4) of this subsection, the emission fee shall be:

(A) Effective July 1, 2004, one thousand dollars ($1,000.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than one thousand dollars ($1,000.00). Effective July 1, 2005, two thousand five hundred dollars ($2,500.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than two thousand five hundred dollars ($2,500.00). Effective July 1, 2006, five thousand dollars ($5,000.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than five thousand dollars($5,000.00); and

(B) Five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989, for each Title V source for which the emission fee

calculated under subdivision (4) of this subsection was more than five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989. "Adjusted for inflation" for the purposes of this subdivision means, an increase to the emission fee by multiplying such fee by the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989.

[(d)](7) Late fee. A late fee of ten percent (10%) of the emission fee or fifty dollars ($50), whichever is greater, shall be charged, in addition to any other fee required by this subsection, if [a] an owner or operator of a Title V source fails to submit the required emission fee when due. The owner or operator of such Title V source shall pay an additional one and one quarter percent (1.25%) per month of the amount of all emission fees required by this subsection which remain unpaid after the first day of each month. This subdivision shall not prevent the [Commissioner] commissioner from pursuing other remedies available by statute or regulation.

[(d)](8) Municipal emission fees. Any emission fee charged to a municipality pursuant to this subsection shall be fifty percent (50%) of the emission fee owed pursuant to subdivisions (4) or (6) of this subsection, whichever subdivision is applicable. [that would be charged to other Title V sources. Provided however that any municipality which fails to submit the required emission fee when due shall be charged a late fee pursuant to subdivision (d)(6) of this section.]

(9) An emission fee required under this subsection shall be paid in an amount rounded to the nearest whole dollar.

(e) Transfer fee. Each person registering a proposed transfer of a license with the commissioner under section 22a-6o of the Connecticut General Statutes shall submit with such registration a [permit] transfer fee of [five] seven hundred and fifty dollars [($500.00)] ($750.00) [dollars].

Sec. 3. Subsections (h) to (i), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are amended, as follows:

(h) Emission test fees. In addition to any other fee required by this section, the owner or operator of a stationary source who is required by any statute, regulation, permit or order administered or issued by the commissioner to conduct an emission test or to install or operate a continuous emission monitor shall pay [two-hundred and fifty ($250.00)] three-hundred and seventy-five dollars ($375.00) [dollars] to the commissioner per day or part thereof for each Department employee who conducts or observes such test or the installation of such continuous emission monitor; provided that if such owner or operator is subject to section 22a-232 of the Connecticut General Statutes, he shall not be required to pay the fee established by this subsection.

(i) Payment of fees.

(1) Any fee required under this section shall be paid by check or money order [made] payable to the Department of Environmental Protection, which shall state on its face, for an application fee, "Air Management Application Fee", for an emission fee, "Air Management Emission Fee", and for any other fee, [except as provided in subsection (d)(6) of this section,] "Air Management Fee."

(2) [(A) Notwithstanding subsection (d)(4) of this section, for any premises, when any calculation performed under subsection (d)(4) of this section results in an emission fee in excess of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989, the commissioner shall adjust the per ton fee contained in subsection (d)(4)(B) of this section by multiplying such per ton fee by a ratio of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989 divided by such emission fee, and, using such adjusted per ton fee, perform such calculation again.

(B) Notwithstanding subparagraph (A) of this subdivision, on or before May 15 in any odd-numbered

calendar year beginning in the year 2001, the commissioner may discontinue adjusting the per ton fee in the manner prescribed in subparagraph (A) of this subdivision for payment due on July 1 of such odd-numbered calendar year and the next succeeding even-numbered calendar year, provided that on or before January 1 of such year he gives notice to the owners and operators of all sources then covered under subparagraph (A) of this subdivision and affords them an opportunity to comment.] RESERVED

(3) [An emission fee required under subsection (d) of this section shall be paid in an amount rounded to the nearest whole dollar.] RESERVED

(4) Except as otherwise provided by this section, any fee required by this section shall be submitted within the time specified by the commissioner. If neither this section nor the commissioner specifies a time for submitting payment, payment shall be due within 30 days of written notice by the commissioner that such fee is required.

STATEMENT OF PURPOSE:

To correct fees authorized under Section 22a-6(f) of the General Statutes as amended by Public Act 03-6. To provide the commissioner with flexibility to correct an imbalance between fee collection and expenditure and more equitably distribute the costs of the Title V program. To reconcile section 22a-174-26(c) with section 22a-174-26(b) and clarify that permit fees are due on and after the same day that a permit application fees under section 22a-174-3a are due. To clarify that there is no fee to apply for, revise, modify or renew a Title V permit because of the annual fee paid by all Title V sources. To clarify the transfer fee applies to all licenses issued by the commissioner under chapter 446c of the General Statutes. To eliminate an unnecessary language relating to fee adjustment addressed in section 22a-174-26 of the Regulations of Connecticut State Agencies. To revise the format of certain internal references to match current Department usage.