STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Timothy R. E. Keeney
Commissioner

January 28, 1994

Legislative Regulation Review Committee
Room 1800
Legislative Office Building
Hartford, Connecticut 06106

Committee Members:

In accordance with the provisions of Section 4-170 of the Connecticut General Statutes, enclosed are the original and eighteen copies of a proposed amendment to the Regulations of Connecticut State Agencies. This amendment concerns changes to section 22a-174-1 regarding the definitions used in our regulations pertaining to the Abatement of Air Pollution.

If there are any questions on this proposal, please feel free to contact Phil Florkoski at 566-2506. Thank you for your assistance.

Sincerely,

Timothy R.E. Keeney
Commissioner

TREK/pf/ko
Enclosures

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

REGULATION

OF

NAME OF AGENCY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

ABATEMENT OF AIR POLLUTION - DEFINITIONS

SECTION 1

Section 22a-174-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-174-1. Definitions.

[(a)] For the purposes of sections 22a-174-1 through 22a-174-200 the following definitions shall be used:

[(1)] "Actual emissions" means the rate of emissions from a source, including fugitive emissions quantified by permit, order or by registration information, after application of air pollution control equipment, of a particular air pollutant where the rate of emissions is calculated using:

(A) Real or expected production rates, hours of operation, and types of materials processed, stored or combusted for the period specified; and

(B) Information from the "COMPILATION OF AIR POLLUTANT EMISSION FACTORS" [compilation of air pollutant emission factors] (AP-42) published by the U. S. Environmental Protection Agency, relevant source test data or other information deemed more representative by the Commissioner.

For the purposes of determining actual emissions in subsections (k) and (l) of section 22a-174-3 and in the definitions of excessive concentration, commence or commencement and potential emissions, the Commissioner shall determine the actual emissions of a stationary source over the two (2) year period prior to the date of an application under subsection 22a-174-3(a). The Commissioner may allow OR REQUIRE the use of another period which is deemed more representative, but in no event can it be before the design year of an applicable attainment plan.

[(2)] "Administrator" means the administrator of the United States Environmental Protection Agency.

[(3)] "Air pollutant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, aerosol, odorous substances, or any combination thereof, but does not include carbon dioxide, uncombined water vapor or water droplets, or molecular oxygen or nitrogen.

[(4)] "Air pollution" means the presence in the outdoor atmosphere of one or more air pollutants or any combination thereof in such quantities and of such characteristics and duration as to be, or be likely to be, injurious to public welfare, to the health of human,

plant or animal life, or to property, or as unreasonably to interfere with the enjoyment of life and property.

[(5)] "Allowable emissions" means the rate of emissions from a stationary source of a particular air pollutant where the emission rate is calculated using the maximum rated capacity of the source, unless the source is subject to permit conditions or other order of the Commissioner which limit the maximum rated capacity by restricting the operating rate or hours of operation of the source, and the most stringent of the following:

(A) Applicable standards as set forth in Title 40 of the Code of Federal Regulations Part 60 and Part 61, as from time to time may be amended;

(B) The applicable emission limitation under these regulations including those with a future compliance date; [or]

(C) The emission rate specified as a CONDITION OF A permit [condition.] OR ORDER ISSUED BY THE COMMISSIONER, INCLUDING ANY SUCH CONDITION WITH A FUTURE COMPLIANCE DATE; OR

(D) THE APPLICABLE EMISSION LIMITATION UNDER THE STATE IMPLEMENTATION PLAN, INCLUDING ANY SUCH LIMITATION WITH A FUTURE COMPLIANCE DATE.

For the purpose of calculating allowable emissions in subparagraph 22a-174-3(c)(1)(B), subdivisions (k)(5), (k)(6), (l)(1) or (l)(5) in section 22a-174-3 or in the definitions of dispersion technique and excessive concentration, the emission limitation in (B) above, emission rate in (C) above and the permit conditions or other order of the Commissioner which limit the maximum rated capacity by restricting the operating rate or hours of operation of the source must be federally enforceable.

[(6)] "Ambient air" means that portion of the atmosphere external to buildings, to which the general public has access.

[(7)] "Ambient air quality standard" [(AAQS)] OR "AAQS" means any standard which establishes the largest allowable concentration of a specific pollutant in the ambient air of a region or subregion as established by the United States Environmental Protection Agency or by the Commissioner and which is listed in section 22a-174-24.

[(8)] "Architectural coating" means a coating used for residential or commercial buildings and their appurtenances, or industrial buildings, or other outdoor structures.

[(9)] "Attainment" means that the quality of the ambient air, as determined by the Commissioner, meets National Ambient Air Quality Standards for a given air pollutant for which such standards have been established by the United States Environmental Protection Agency.

[(10)] "Attainment area" means a geographic area which has been designated as attainment under Title 40 Code of Federal Regulations Part 81 in accordance with the provisions of 42 U.S.C. Section 7407 (section 107 of the Clean Air Act).

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[(11)] "Best Available Control Technology" or "BACT" means an emission limitation, including a visible emission standard, based upon the maximum degree of reduction for each applicable air pollutant emitted from any proposed stationary source or modification which the Commissioner, on a case-by-case basis, determines is achievable for a similar or representative type of source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, CLEAN FUELS, or innovative fuel combustion techniques for control of such air pollutant. In determining BACT the Commissioner may take into account any emission limitation, including any visible emission standard, which has been achieved in practice under any permit limitation or demonstrated by any stack test acceptable to the Commissioner. For the purposes of this definition, the Commissioner may exclude any stack test on a pilot plant or prototype equipment which does not have reasonable operating experience or which may not be generally available for industry use. In determining BACT the Commissioner shall take into account energy, environmental and economic impacts and other costs. In no event shall the application of BACT result in emissions of any pollutant which would exceed the emission allowed by an applicable standard under Title 40 of the Code of Federal Regulations Part 60 and Part 61, as from time to time may be amended. In determining BACT for a reconstructed source, the Commissioner shall take into account the provisions of Title 40 of the Code of Federal Regulations Part 60.15(f)(4), as from time to time may be amended, in assessing whether a standard of performance under Part 60 is applicable to such source. If the Commissioner determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, the Commissioner may prescribe a design, equipment, work practice or operational standard, or combination thereof, to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

[(12)] "Begin actual construction" means initiation of physical on-site construction activities of an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities which mark the initiation of the change.

[(13)] "BTU" means British thermal unit, which is the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

[(14)] "CAS Number" means the number given to a compound by the American Chemical Society's Chemical Abstract Service.

"CFR" MEANS THE CODE OF FEDERAL REGULATIONS.

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[(15)] "Combustion efficiency" means the percentage number calculated in accordance with the following formula:

$$CE = \frac{[\ CO_2\ ]}{[\ CO\ ] + [\ CO_2\ ]} \times (100)$$

where: CE = Combustion efficiency in percent
CO_2 = Amount of carbon dioxide
CO^2 = Amount of carbon monoxide; and

CO and CO_2 are both measured in volume units.

[(16)] "Commence" or "Commencement" as applied to construction of a stationary source or modification means that the owner or operator has all necessary permits or approvals required under federal air quality control laws and these regulations, and has either:

(A) Begun, or caused to begin, a program of physical on-site construction of the source:

(i) subject to a schedule which will lead to completion in a reasonable time; and

(ii) without any breaks in such construction of more than 18 months; or

(B) Entered into site specific binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

For the purposes of this definition construction means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification) which would result in a change in either potential or actual emissions.

[(17)] "Commissioner" means the Commissioner of Environmental Protection, or any member of the [department of environmental protection] DEPARTMENT or any local air pollution control official or agency authorized by the Commissioner, acting singly or jointly, to whom the Commissioner assigns any function arising under the provisions of these regulations.

[(18) "Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for the purposes of permit processing does not preclude the department from requiring or accepting additional information.]

[(19)] "Criteria Air Pollutant" means any ["]air pollutant["] for which an ["]ambient air quality standard["] has been established by the ["]administrator["] in accordance with Section 107 of the Clean Air Act.

[(20)] "Department" means the DEPARTMENT OF ENVIRONMENTAL PROTECTION [department of environmental protection.]

[(21)] "Deterioration in air quality" means that a pollutant concentration in a region or subregion for any pollutant specified in these regulations will exceed the maximum pollutant

concentration for the specified time period for that region or subregion.

[(22)] "Dioxin emissions" means tetrachlorodibenzodioxin (TCDD) and tetrachlorodibenzofuran (TCDF) emissions or emissions of any other isomers of comparable toxicity. For the purposes of this definition, the Commissioner shall determine the equivalent amount of 2,3,7,8-TCDD using the following toxic equivalency factors (TEF):

FORM OF DIOXIN EMISSIONS	TEF
monochlorodibenzodioxin	0
dichlorodibenzodioxin	0
trichlorodibenzodioxin	0
2,3,7,8 tetrachlorodibenzodioxin	1.0
other tetrachlorodibenzodioxins	0.01
2,3,7,8 pentachlorodibenzodioxin	0.5
other pentachlorodibenzodioxins	0.005
2,3,7,8 hexachlorodibenzodioxin	0.04
other hexachlorodibenzodioxins	0.0004
2,3,7,8 heptachlorodibenzodioxin	0.001
other heptachlorodibenzodioxins	0.00001
octachlorodibenzodioxin	0
monochlorodibenzofuran	0
dichlorodibenzofuran	0
trichlorodibenzofuran	0
2,3,7,8 tetrachlorodibenzofuran	0.1
other tetrachlorodibenzofurans	0.001
2,3,7,8 pentachlorodibenzofuran	0.1
other pentachlorodibenzofurans	0.001
2,3,7,8 hexachlorodibenzofuran	0.01
other hexachlorodibenzofurans	0.0001
2,3,7,8 heptachlorodibenzofuran	0.001
other heptachlorodibenzofurans	0.00001
octachlorodibenzofuran	0

To determine total dioxin emissions, multiply the isomer concentration in the sample by the appropriate toxic equivalency factor and then add the products to obtain the total 2,3,7,8-TCDD equivalents in the sample.

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[(23)] "Discharge point" means any ["]stack["] and shall also include any area from which a ["]hazardous air pollutant["] emanates by evaporation, diffusion, or wind entrainment into the ["]ambient air["].

[(24)] "Dispersion technique" means any method which attempts to affect the concentration of a pollutant in the ambient air by:

(A) Using that portion of a stack which exceeds the good engineering practice stack height;

(B) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(C) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack or other selective handling of exhaust gas so as to increase the exhaust gas plume rise.

The preceding sentence does not include:

(i) the reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) the merging of exhaust gas streams where:

(aa) the owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams; or

(bb) after July 8, 1985 such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion technique applies only to the emission limitation for the pollutant affected by such change in operation; or

(cc) before July 8, 1985 such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Commissioner shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that the merging was not significantly motivated by such intent, the Commissioner shall deny credit for the effect of such merging in calculating the allowable emissions of the source.

(iii) smoke management in agricultural or silvacultural prescribed burning programs;

(iv) episodic restrictions on residential woodburning and open burning; or

(v) techniques under part C of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide do not exceed five thousand (5,000) tons per year.

[(25)] "Emission" means the act of releasing or discharging air pollutants into the ambient air from any source.

[(26)] "Emission limitation" and "Emission standard" mean a requirement established by the Commissioner or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement which limits the level of opacity, prescribes equipment or fuel specifications, or relates to the operation or maintenance of a source to assure continuous emission reduction.

[(27)] "Excessive concentration" has the same meaning as ascribed to that term in Title 40 Code of Federal Regulations Part 51.100(kk).

[(28)] "Federally enforceable" means all limitations and conditions which are: approved by the Administrator, including those requirements developed pursuant to 40 CFR Parts [52.21,] 60 and 61[,]; requirements within any applicable State Implementation Plan (SIP)[,]; ANY PERMIT REQUIREMENTS ESTABLISHED PURSUANT TO 40 CFR PARTS 52.10, 52.21, 70 OR 71, UNDER REGULATIONS APPROVED PURSUANT TO 40 CFR PART 51, SUBPART I; and any permit to construct requirements established pursuant to section 22a-174-3.

[(29)] "Flare" means an apparatus or contrivance for the burning of flammable gases or vapors at or near the exit of a stack, flue or vent.

[(30)] "Fuel-burning equipment" means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

[(31)] "Fugitive dust" means solid airborne particulate matter emitted from any source other than through a stack.

[(32)] "Fugitive emissions" means fugitive dust or those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

[(33)] "Good engineering practice stack height" or "GEP" [(GEP)] has the same meaning as ascribed to that term in Title 40 Code of Federal Regulations Part 51.100(ii).

[(34)] "Hazardous air pollutant" means a substance listed in either Table 29-1, 29-2, or 29-3 of section 22a-174-29.

[(35)] "Hazardous air pollutant advisory panel" or "Panel" means the panel created by Public Act 85-590.

[(36)] "Hazard limiting value" or "HLV", means the highest acceptable concentration in the ["]ambient air["] of a ["]hazardous air pollutant["], as shown in Table 29-1, 29-2, or 29-3 of section 22a-174-29 as determined by the ["]Commissioner["]. The primary use of this term is in the derivation of the maximum allowable stack concentration for a source.

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"HEAT INPUT" MEANS THE TOTAL GROSS CALORIFIC VALUE OF ALL FUELS BURNED, MEASURED IN BTU BY ASTM METHOD D2015-66, D240-64, OR D1826-64, USING THE HIGHER HEATING VALUE OF EACH FUEL.

[(37)] "Incinerator" means any device, apparatus, equipment, or structure used for destroying, reducing, or salvaging by fire any material or substance including, but not limited to, refuse, rubbish, garbage, trade waste, debris or scrap; or facilities for cremating human or animal remains. For further definitions related to incineration, see subdivision 22a-174-18(c)(1).

[(38)] "Indian Governing Body" means the governing body of any tribe, band or group of Indians which tribe, band or group of Indians is subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

[(39)] "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order or Act of Congress.

[(40)] "Indirect source" means any building, structure, facility installation or combination thereof, that has or leads to associated activity as a result of which an air pollutant is or may be emitted. Indirect sources include, but are not limited to: shopping centers, sports complexes; drive-in theaters or restaurants; parking lots or garages; residential, commercial, industrial or institutional buildings or developments; amusement parks and other recreational areas; highways; airports and combinations thereof.

[(41)] "Indirect source construction permit" means a permit for the construction of an indirect source which is required to ensure that the proposed indirect source will neither prevent nor interfere, either directly or indirectly, with the attainment or maintenance of any applicable ambient air quality standard.

"INTERNAL OFFSET" MEANS ANY FEDERALLY ENFORCEABLE REDUCTION OF ACTUAL EMISSIONS FROM ONE OR MORE STATIONARY SOURCES ON A PREMISE WHICH CAN BE USED TO OFFSET ALLOWABLE EMISSIONS INCREASES FROM A PROPOSED NEW STATIONARY SOURCE OR MODIFICATION ON SUCH PREMISE.

[(42)] "LAER" or "Lowest Achievable Emission Rate" means the rate of emissions which reflects THE MORE STRINGENT OF:

(A) The most stringent emission limitation which is contained in any state implementation plan for such class or category of stationary source, unless the owner or operator demonstrates to the Commissioner's satisfaction that such limitations are not achievable; or

(B) The most stringent emission limitation which is achieved in practice by such stationary source or category of stationary source [, whichever is more stringent].

In determining LAER the Commissioner may take into account any emission limitation, including a visible emission standard, which has been established as a permit limitation or demonstrated by a stack test acceptable to the Commissioner. For the purposes of this definition, the Commissioner may exclude any stack test on a pilot plant or prototype equipment which does not have reasonable operating experience or which may not be generally available for industry use. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable

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standards in Title 40 of the Code of Federal Regulations Part 60 and Part 61, as from time to time may be amended.

[(43)] "Major modification" means a physical change or change in the method of operation of a major stationary source which would result in an increase in potential emissions of any individual air pollutant[,] equal to or greater than the amount listed in Table 3(k)-1 in section 22a-174-3. For the purposes of this definition:

(A) [A] A major stationary source of volatile organic compounds OR NITROGEN OXIDES shall be considered a major stationary source for ozone; [and]

(B) [In] IN calculating potential emissions any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, or restrictions on production rates, hours of operation, and types of materials processed, stored or combusted which limit the maximum rated capacity shall be treated as part of its design if the limitation or the effect the limitation would have on emissions is federally enforceable[.]; AND

(C) IN CALCULATING A POTENTIAL EMISSIONS INCREASE OF VOLATILE ORGANIC COMPOUNDS OR NITROGEN OXIDES, ALL PREVIOUS INCREASES IN POTENTIAL EMISSIONS FROM THE SUBJECT PREMISE SHALL BE AGGREGATED OVER THE MOST RECENT FIVE (5) CONSECUTIVE CALENDAR YEARS. SUCH FIVE (5) YEAR PERIOD SHALL NOT PRECEDE JANUARY 1, 1991 AND SHALL INCLUDE THE CALENDAR YEAR IN WHICH THE PROPOSED INCREASE WILL OCCUR. SUCH AGGREGATION SHALL EXCLUDE EMISSION INCREASES PREVIOUSLY PERMITTED UNDER SUBSECTION 22A-174-3(L). IF SUCH AGGREGATED EMISSIONS ARE GREATER THAN TWENTY-FIVE (25) TONS OVER THE FIVE (5) YEAR PERIOD, THEN THE ANNUAL AVERAGE OF SUCH AGGREGATED EMISSIONS SHALL BE ADDED TO THE INCREASE IN POTENTIAL EMISSIONS IN DETERMINING IF SUCH EMISSIONS INCREASE IS EQUAL TO OR GREATER THAN THE AMOUNT LISTED IN TABLE 3(K)-1 IN SECTION 22A-174-3.

[(44)] "Major stationary source" means:

(A) A premise with potential emissions equal to or greater than one hundred (100) tons per year of any individual air pollutant prior to the application for a modification to that stationary source or addition to the premise [(]; or[)] ~~IN ADDITION TO THE ABOVE THRESHOLD~~) THE MORE STRINGENT OF THE FOLLOWING APPLICABLE THRESHOLDS SHALL APPLY:

(i) FIFTY (50) TONS PER YEAR OF VOLATILE ORGANIC COMPOUNDS OR NITROGEN OXIDES IN ANY SERIOUS NON-ATTAINMENT AREA FOR OZONE; OR

(ii) TWENTY-FIVE (25) TONS PER YEAR OF VOLATILE ORGANIC COMPOUNDS OR NITROGEN OXIDES IN ANY SEVERE NON-ATTAINMENT AREA FOR OZONE;

(B) A premise with potential emissions equal to or greater than [one hundred (100) tons per year of any individual air pollutant] THE THRESHOLDS IN SUBPARAGRAPH (A) ABOVE after taking into consideration:

(i) any increase in potential emissions of fifteen (15) tons per year or more from a proposed modification

or the addition of a proposed stationary source; and

(ii) any other increases and decreases in potential emissions which the Commissioner determines will occur before the date that the increase from the proposed modification occurs; [or]

(C) a physical change or change in the method of operation of a premise which in and of itself has potential emissions greater than or equal to [one hundred (100) tons per year of any individual air pollutant] THE THRESHOLDS IN SUBPARAGRAPH (A) ABOVE;

(D) for the purposes of this definition, [:]

(i) a ["]major stationary source["] of volatile organic compounds OR NITROGEN OXIDES shall be considered a ["]major stationary source["] for ozone; and

(ii) in calculating potential emissions any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, or restrictions on production rates, hours of operation, and types of materials processed, stored or combusted which limit the maximum rated capacity shall be treated as part of its design if the limitation or the effect the limitation would have on emissions is federally enforceable.

[(45)] "Maximum allowable stack concentration" or "MASC" is the maximum allowable concentration of a ["]hazardous air pollutant["] in the exhaust gas stream of a ["]source["] under actual operating conditions at the ["]discharge point["].

[(46)] "Maximum pollutant concentration" means the largest concentration of a specific pollutant in a region or subregion either as a measured or calculated value, as determined by the Commissioner, for the twelve months ending on June 30, 1972. The time periods to be averaged for the purpose of establishing maximum pollutant concentrations shall be as follows: for sulfur oxides, particulate matter, and nitrogen dioxide, one year; for carbon monoxide, eight hours; for photochemical oxidants, one hour; for hydrocarbons, three hours.

[(47)] "Maximum rated capacity" means the design maximum hourly capacity or highest demonstrated hourly capacity, whichever is greater, multiplied by 365 days per year and 24 hours per day.

[(48)] "Maximum uncontrolled emissions" means the rate of emissions for a source, determined before the application of air pollution control equipment unless the source is incapable of being operated without the air pollution control equipment, of a particular air pollutant where the rate of emissions is calculated using:

(A) The maximum rated capacity of the source unless the Commissioner determines that the source is physically unable to operate at that capacity or unless the maximum rated capacity is limited by restrictions on production rates, hours of operation, and types of materials processed, stored or combusted either through permit conditions or other order of the Commissioner; and

(B) Information from the "COMPILATION OF AIR POLLUTANT EMISSION FACTORS" [compilation of air pollutant emission factors] (AP-42) published by the U. S. Environmental Protection Agency, relevant source test data or other information deemed more representative by the Commissioner.

[(49)] "Mobile source" means a source designed or constructed to move from one location to another during normal operation except portable equipment and includes, but is not limited to, automobiles, buses, trucks, tractors, earth moving equipment, hoists, cranes, aircraft, locomotives operating on rails, vessels for transportation on water, lawnmowers, and other small home appliances.

[(50)] "Modify" or "modification" means:

(A) making any physical change in, change in the method of operation of, or addition to a stationary source which:

(i) increases the potential emissions of any individual air pollutant from a stationary source by five (5) tons per year or more; or

(ii) increases the maximum rated capacity of the stationary source unless the owner or operator of the stationary source demonstrates to the Commissioner's satisfaction that such increase is less than fifteen percent (15%) and the change or addition does not cause an increase in the actual emissions or the potential emissions; or

(iii) increases the potential emissions above the levels listed in Table 3(k)-1 of subsection 22a-174-3(k) [for the applicable air pollutants fluorides to beryllium inclusive]; or

(iv) [increases the potential emissions of any air pollutant which is federally regulated under the Clean Air Act, and which is not listed in Table 3(k)-1 of subsection 22a-174-3(k); or

(v)] increases maximum uncontrolled emissions from a stationary source by one hundred (100) tons per year or more.

In addition a change in the type fuel used in accordance with a permit or order, or the type of fuel for which the source has provided registration under section 22a-174-2 to the Commissioner shall be considered a modification unless such change is allowed under a permit or other order of the Commissioner either of which is federally enforceable.

(B) Notwithstanding the above, the following are not modifications unless the stationary source was previously limited by permit conditions or other order of the Commissioner[.]:

(i) any routine maintenance, repair or replacement unless such replacement results in reconstruction as defined in this section; or

(ii) a change in the method of operation; or

(iii) any increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility; or

(iv) any increase in hours of operation; or

(v) any change, the sole purpose of which is to bring an existing source into compliance with regulations applicable to such source, UNLESS SUCH CHANGE IS A MAJOR MODIFICATION OR A MAJOR STATIONARY SOURCE; or

(vi) relocation of a portable rock crusher with potential emissions of less than fifteen (15) tons per year which has a permit or exemption letter issued by the Commissioner under section 22a-174-3 provided the owner or operator provides written notice to the Commissioner prior to the relocation; OR

(vii) RELOCATION OF A PORTABLE STRIPPING FACILITY WHICH HAS A GENERAL PERMIT ISSUED BY THE COMMISSIONER PURSUANT TO SECTION 22A-174(L) OF THE CONNECTICUT GENERAL STATUTES, PROVIDED THE OWNER OR OPERATOR OF SUCH FACILITY PROVIDES WRITTEN NOTICE TO THE COMMISSIONER PRIOR TO THE RELOCATION.

[(51)] "Multiple-chamber incinerator" means any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, which consists of two or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

[(52)] "Nearby" has the same meaning as ascribed to that term in Title 40 Code of Federal Regulations Part 51.100(jj).

[(53)] "Netting" means the determination of the increase or decrease, of potential emissions only, from stationary sources on any individual premise which the Commissioner determines will occur before the date that the increase from the proposed modification occurs.

"NITROGEN OXIDES" OR "NOX" MEANS THE SUM OF ALL OXIDES OF NITROGEN, EXPRESSED AS NITROGEN DIOXIDE.

[(54)] "Non-attainment" shall mean that the quality of the ambient air, as determined by the Commissioner, fails to meet any National Ambient Air Quality Standard for a given pollutant for which such standards have been established by the United States Environmental Protection Agency.

"NON-ATTAINMENT AIR POLLUTANT" MEANS THE PARTICULAR AIR POLLUTANT FOR WHICH AN AREA IS DESIGNATED NON-ATTAINMENT, EXCEPT THAT VOLATILE ORGANIC COMPOUNDS AND NITROGEN OXIDES ARE NON-ATTAINMENT AIR POLLUTANTS, FOR OZONE NON-ATTAINMENT AREAS.

[(55)] "Non-attainment area" means a geographic area which has been designated as non-attainment under Title 40 Code of Federal Regulations Part 81 in accordance with the provisions of 42 U.S.C section 7407 (section 107 of the Clean Air Act).

[(56)] "Non-degradation" means that air quality in any region or designated sub-region shall not deteriorate, as defined in this section.

[(57)] "Offset fill pipe" means a fill pipe that has bends or angles such that a straight sleeve cannot be installed.

[(58)] "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

[(59)] "Open-burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flue.

[(60)] "Operator" means the person or persons who are legally responsible for the operation of a source of air pollution.

[(61)] "Organic compounds" means any chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

[(62)] "Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

[(63)] "PM 10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on appendix J of Title 40 Code of Federal Regulations Part 50 and designated in accordance with Title 40 Code of Federal Regulations Part 53 as published in the July 1, 1987 Federal Register or by an equivalent method approved by the Administrator in accordance with Title 40 Code of Federal Regulations Part 53.

[(64)] "Permit to construct" means a permit for the construction of a stationary source which is required to ensure:

(A) That the proposed stationary source will not be in violation of any applicable emissions rate standards imposed by these regulations; and

(B) That the proposed stationary source will neither prevent nor interfere with the attainment or maintenance of any applicable ambient air quality standards as described in subparagraph 22a-174-3(c)(1)(B).

[(65)] "Permit to operate" means a permit which is required to ensure:

(A) That the operations of a stationary source will be in compliance with any applicable emissions rate standards or other applicable requirements imposed by these regulations; and

(B) That the operations of a stationary source will neither prevent nor interfere with the attainment or maintenance of any applicable ambient air quality standards as described in subparagraph 22a-174-3(c)(1)(B); and

(C) That all the terms of the permit to construct were fulfilled.

[(66)] "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, the United States, or political subdivision or agency

thereof or any legal successor, representative, agent, or any agency of the foregoing.

[(67)] "Potential emissions" OR "POTENTIAL TO EMIT" means the rate of emissions from a stationary source, including fugitive emissions to the extent quantified by permit, order or by registration information, after application of air pollution control equipment, of a particular air pollutant such that the rate is equal to or greater than the actual emissions and where the rate of emissions is calculated using:

(A) The maximum rated capacity of the stationary source, unless the maximum rated capacity is limited by restrictions on production rates, hours of operation, and types of materials processed, stored or combusted either through permit conditions or other order of the Commissioner; and

(B) Information from the "COMPILATION OF AIR POLLUTANT EMISSION FACTORS" [compilation of air pollutant emission factors] (AP-42) published by the U. S. Environmental Protection Agency, relevant source test data or other information deemed more representative by the Commissioner.

For the purposes of this definition, in calculating\potential emissions in subsections (k) and (l) of section 22a-174-3, subsections 22a-174-8(c) and 22a-174-20(ee) or in the definitions of major modification, major stationary source, netting and commence or commencement, any physical or operational limitation [on] OR CONDITION RESTRICTING the capacity of the source to emit a pollutant, including air pollution control equipment, or restrictions on production rates, hours of operation, and types of materials processed, stored or combusted which limit the maximum rated capacity shall be treated as part of its design if the limitation OR CONDITION, or the effect the limitation OR CONDITION would have on emissions is federally enforceable.

[(68)] "Premise" means the grouping of all stationary sources at any one location and owned or under the control of the same person or persons.

[(69)] "Process source" means any operation, process, or activity except:

(A) The burning of fuel for indirect heating in which the products of combustion do not come in contact with process material;

(B) The burning of refuse; and

(C) The processing of salvageable material by burning.

[(70)] "[Reasonable] REASONABLY Available Control Technology" OR "RACT" means the lowest emission limitation that a particular facility is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. It may require technology that has been applied to similar but not necessarily identical source categories.

[(71)] "Reconstruct" or "reconstruction" means the renovation or re-building of a source in accordance with the provisions of Title 40 of the Code of Federal Regulations Part 60.15. A reconstructed source shall be considered a new source for the

purposes of these regulations. Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974, or superseding legislation, or by reason of a Natural Gas Curtailment Plan pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the [Federal] Clean Air Act, shall not be considered reconstruction.

[(72)] "Region" means a Connecticut intrastate Air Quality Control Region, or the Connecticut portion of an interstate Air Quality Control Region as defined by the United States Environmental Protection Agency in Title 40 Code of Federal Regulations Part 81.

[(73)] "Remote fill pipe" means an offset fill pipe.

[(74)] "Residual oil" means any fuel oil of No. 4, No. 5, or No. 6 grades, as defined by Commercial Standard C.S. 12-48.

[(75)] "Resources recovery facility" means a facility utilizing processes aimed at reclaiming the material or energy values from municipal solid waste.

[(76)] "Ringelmann chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

"SERIOUS NON-ATTAINMENT AREA FOR OZONE" MEANS ALL TOWNS WITHIN THE STATE OF CONNECTICUT, EXCEPT THOSE TOWNS LOCATED IN THE SEVERE NON-ATTAINMENT AREA FOR OZONE.

"SEVERE NON-ATTAINMENT AREA FOR OZONE" MEANS THE TOWNS OF BETHEL, BRIDGEPORT, BRIDGEWATER, BROOKFIELD, DANBURY, DARIEN, EASTON, FAIRFIELD, GREENWICH, MONROE, NEW CANAAN, NEW FAIRFIELD, NEW MILFORD, NEWTOWN, NORWALK, REDDING, RIDGEFIELD, SHERMAN, STAMFORD, STRATFORD, TRUMBULL, WESTON, WESTPORT AND WILTON.

[(77)] "Soiling index" means a measure of the soiling properties of suspended particles in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COHs/1,000 linear feet, or equivalent.

[(78)] "Solid waste" means unwanted or discarded materials, including solid, liquid, semisolid, or contained gaseous material.

[(79)] "Source" means any property, real or personal, which emits or may emit any air pollutant.

[(80)] "Stack" means any point of release from a source, which emits solids, liquids, or gases into the ambient air, including a pipe, duct, or flare.

[(81)] "Standard conditions" means a dry gas temperature of 68 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (20 degrees C, 760 mm. Hg.).

[(82)] "State" as used in the phrase "any other state" means state, region, territory, commonwealth, military reservation, or Indian reservation.

[(83)] "State implementation plan" OR "SIP" means a plan required by section 110 of the [Federal] Clean Air Act which has been approved by the Administrator.

[(84)] "Stationary source" means any building, structure, facility, equipment, operation, or installation which is located

on one or more contiguous or adjacent properties and which is owned by or operated by the same person, or by persons under common control, which emits or may emit any air pollutant, and which does not move from location to location during normal operation except that portable rock crushers AND PORTABLE STRIPPING FACILITIES which are moved from site to site but remain stationary during operation and asphalt plants which combine aggregate and asphalt while in motion are stationary sources.

[(85)] "Stripping facility" means any stationary source, except air pollution control equipment, the primary purpose of which is to remove organic compounds from water, soil or any other material.

[(86)] "Submerged fill pipe" means any fill pipe the discharge opening of which is still entirely submerged when the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

[(87)] "Subregion" means a subdivision of a Region, as determined by the Commissioner.

[(88)] "Tank" means any vessel for containing liquids or gases.

[(89)] "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of Title 40 Code of Federal Regulations Part 50.

[(90)] "Unclassifiable area" means a geographic area which has not been designated either as attainment or non-attainment under Title 40 Code of Federal Regulations Part 81 in accordance with the provisions of section 107 of the Clean Air Act.

[(91)] "Volatile organic compound" OR "VOC" means any compound of carbon which participates in atmospheric photochemical reactions excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate and the organic compounds listed on Table 1(a)-1 below which the Administrator has designated as having negligible photochemical reactivity.

Table 1(a)-1

Exempt Volatile Organic Compounds

methane	ethane
1,1,1 trichloroethane (METHYL CHLOROFORM)	methylene-chloride (DICHLOROMETHANE)
[trichlorofluormethane] TRICHLOROFLUOROMETHANE (CFC-11)	dichlorodifluoromethane (CFC-12)
chlorodifluoromethane (CFC-22)	trifluoromethane (CFC-23)
[trichlorotrifluoroethane]	1,1,1-TRICHLORO 2,2,2-TRIFLUOROETHANE (CFC-113)
[dichlorotetrafluoroethane]	1,2-DICHLORO 1,1,2,2-TETRAFLUOROETHANE (CFC-114)
chloropentafluoroethane (CFC-115)	[dichlorotrifluoroethane]

ECTION 1

[tetrafluoroethane]
1,1,1,2-TETRAFLUOROETHANE
(HFC-134A)

[dichlorofluoroethane]
1,1,-DICHLORO 1-FLUOROETHANE
(HCFC-141B)

[chlorodifluoroethane]
1-CHLORO 1,1-DIFLUOROETHANE
(HCFC-142B)

1,1,2,2-TETRAFLUOROETHANE
(HFC-134)

1,1,1-TRIFLUORO 2,2-DICHLOROETHANE
(HCFC-123)

1,1,1-TRIFLUOROETHANE
(HFC-143A)

2-CHLORO 1,1,1,2-TETRAFLUOROETHANE
(HCFC-124)

1,1-DIFLUOROETHANE
(HFC-152A)

PENTAFLUOROETHANE
(HFC-125)

PERFLUOROCARBON COMPOUNDS WHICH FALL INTO THESE CLASSES:

(i) CYCLIC, BRANCHED, OR LINEAR, COMPLETELY FLUORINATED ALKANES;

(ii) CYCLIC, BRANCHED, OR LINEAR, COMPLETELY FLUORINATED ETHERS WITH NO UNSATURATIONS;

(iii) CYCLIC, BRANCHED, OR LINEAR, COMPLETELY FLUORINATED TERTIARY AMINES WITH NO UNSATURATIONS; AND

(iv) SULFUR CONTAINING PERFLUOROCARBONS WITH NO UNSATURATIONS AND WITH SULFUR BONDS ONLY TO CARBON AND FLUORINE.

[(92)] "Waste water separator" means any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or another container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

[(93)] "Watercourse" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, which are contained within, flow through or border upon this state or any portion thereof.

[(b) For the purposes of the definitions of "actual emissions" and "potential emissions" in this section, if the "Commissioner" deems certain data or other information more representative, the "Commissioner" shall briefly state the reasons for such determination in writing. If an applicant seeks to have the "Commissioner" determine that certain data or other information is more representative, the burden of establishing that such data is more representative shall be on the applicant.]

STATEMENT OF PURPOSE: To amend definitions to be consistent with the requirements of the Clean Air Act Amendments of 1990.

CERTIFICATION
R-29 REV. 1-77

Be it known that the foregoing:

[X] Regulations [ ] Emergency Regulations

Are:

[ ] Adopted [X] Amended as hereinabove stated [ ] Repealed

By the aforesaid agency pursuant to:

[X] Section 22a-174 of the General Statutes.

[ ] Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

[ ] Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on December 8, 1992, of the notice of the proposal to:

[ ] Adopt [X] Amend [ ] Repeal such regulations

(if applicable): [X] And the holding of an advertised public hearing on 5th, 6th&7th day of January 1993

WHEREFORE, the foregoing regulations are hereby:

[ ] Adopted [X] Amended as hereinabove stated [ ] Repealed

Effective:

[X] When filed with the Secretary of the State.

(OR)

[ ] The _____ day of _____ 19____.

In Witness Whereof:	DATE 1/11/94	SIGNED (Head of Board, Agency or Commission) Timothy R.E. Keeney	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:		SIGNED [signature] 1/24/94	OFFICIAL TITLE, DULY AUTHORIZED Assoc. Atty. General

[ ] Approved

[ ] Disapproved

[ ] Disapproved in part, (*Indicate Section Numbers disapproved only*)

[ ] Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (*Clerk of the Legislative Regulation Review Committee*)

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

DATE	SIGNED (*Secretary of the State.*)	BY

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.

2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.

3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.

4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.

Exhibit E

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

AGENCY SUBMITTING REGULATION Environmental Protection DATE 12/8/92

SUBJECT MATTER OF REGULATION Abatement of Air Pollution - Definitions Permits to Construct and Permits to Operate Stationary Sources or Modifications

REGULATION SECTION NO. 22a-174-1 & 3 STATUTORY AUTHORITY 22a-174

OTHER AGENCIES AFFECTED NONE

EFFECTIVE DATE USED IN COST ESTIMATE 4/1/94

ESTIMATE PREPARED BY Phil Florkoski TELEPHONE 566-2506

SUMMARY OF STATE COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency Environmental Protection Fund Affected General

	First Year 19 94	Second Year 19 95	Full Operation 19 96
Number of Positions	0	0	0
Personal Services	0	0	0
Other Expenses	0	0	0
Equipment	0	0	0
Grants	0	0	0
Total State Cost (Savings)	0	0	0
Estimated Revenue Gain (Loss)	0	0	0
Total Net State Cost (Savings)	0	0	0

EXPLANATION OF STATE IMPACT OF REGULATION:

None

EXPLANATION OF MUNICIPAL IMPACT OF REGULATION :

No impact on municipal activities.

Exhibit A

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Intent to Adopt Regulations and to Revise the State Implementation Plan for Air Quality

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking proceeding. The purpose of this proceeding is to amend the Regulations of Connecticut State Agencies concerning abatement of air pollution. The regulations will be submitted to the U.S. Environmental Protection Agency (EPA) for their review and approval as a revision to the State Implementation Plan (SIP) for air quality. The public hearing will cover the proposed revisions to the Regulations of Connecticut State Agencies and the SIP as outlined below.

– Proposed changes to the regulations for the review of new or modified sources of air pollution (section 22a-174-1 – Definitions and section 22a-174-3 – Permits to Construct and Permits to Operate Stationary Sources or Modifications).

– Proposed changes to the regulations for the control of volatile organic compounds (subsection 22a-174-20 (ee) – Reasonably Available Control Technology for large sources, subsection 22a-174-20 (v) – Graphic arts rotogravures and flexography and subsection 22a-174-20 (s) – Miscellaneous metal parts and products).

– Requirements for detailed annual reporting (emission statements) by companies whose actual emissions from all sources at a plant site total 25 tons per year or more of Volatile Organic Compounds (VOC) or Nitrogen Oxides (NOx). For the second reporting year, the state will lower the reporting threshold to 5 tons per year or more of VOC or NOx. For the third reporting year, the state will expand the reporting requirement to 5 tons or more of carbon monoxide, sulfur dioxide, lead, and small particulate matter the other criteria pollutants. The 5 ton per year threshold is consistent with the Department's current permitting program and the emissions inventory reporting threshold for point sources. Sources meeting the threshold emissions described above are required to submit emission statements whether or not the sources are sent reporting forms by the state.

– Requirements for a Small Business Assistance Program which establishes an ombudsman's office, technical assistance programs, and mechanisms for small firms to obtain advice on self-audits and pollution prevention to comply with Clean Air Act Amendments.

– A narrative which explains the implementation of the requirements of State II Vapor Recovery for gasoline dispensing facilities which pump 10,000 gallons or more of gasoline per month.

All interested persons are invited to express their views on the proposed revision and regulations. Comments should be submitted to the Bureau of Air Management, Room 144, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06106. All comments must be received by January 11, 1993.

In addition to accepting written comments, the DEP will also hold the public hearings described below. Persons appearing at the hearing are requested

ROTECTION

to Revise the
Quality

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will also hold the pub-
hearing are requested

to submit a written copy of their statement. However, oral comments will also be made part of the record and are welcome.

Tuesday, January 5, 1993 – 7:00 p.m.
Room 301 Norwich City Hall
100 Broadway, Norwich, CT

Wednesday, January 6, 1993 – 7:00 p.m.
Common Council Chambers, City Hall
45 Lyon Terrace, Bridgeport, CT

Thursday, January 7, 1993 – 9:30 a.m.
Auditorium, Hartford Public Library
500 Main Street, Hartford, CT

Copies of materials describing the above programs will be available for public inspection during normal business hours at the Bureau of Air Management. Additional copies will be available for review at the New London Public Library, Torrington Public Library and at the main branch of the Bridgeport Public Library.

The authority to adopt this plan and regulations is granted by sections 22a-6 and 22a-174 of the Connecticut General Statutes (CGS). This notice is required by 4-168 and 22a-6 CGS and Title 40 Code of Federal Regulations Part 51.102.

An informational meeting will be held on Thursday, December 10, 1992 at 9:30 a.m., in the first floor conference room of the Connecticut Business and Industry Association, 370 Asylum Street, Hartford, CT. The information received at this informational meeting will not be made part of the public hearing record, however interested parties are welcome to attend.

For further information contact Phil Florkoski of the Bureau of Air Management at 566-4030.

TIMOTHY R. E. KEENEY
Commissioner

NOTICE

HAZARDOUS WASTE MANAGEMENT SERVICE

Notice of Availability of Draft Plan

Pursuant to Section 1 of Public Act 92-45, the Connecticut Hazardous Waste Management Service has prepared the draft 1993 Low-Level Radioactive Waste Management Plan Volume 1: LLRW Management, Projections, Disposal Technologies, Transportation and Cost Distribution.

To receive a copy of the draft plan, call the Service in Hartford at 244-2007 (outside the Hartford calling area, call 1-800-246-LLRW); write to: Draft

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

22a-174-1 Definitions

SUMMARY OF AMENDMENTS

These terms are used in sections 22a-174-1 through 22a-174-200 of the Regulations of Connecticut State Agencies concerning Abatement of Air Pollution. This regulation:

Amends the definition of "allowable emissions" to include standards contained in the State Implementation Plan for air quality.

Amends the definition of "federally enforceable" to include limitations specified in certain permits and regulations.

Adds definitions of "heat input" and "internal offsets".

Amends the definition of "major modification" to make it consistent with the requirements of the Clean Air Act Amendments of 1990.

Amends the definition of "major stationary source" to make it consistent with the requirements of the Clean Air Act Amendments of 1990.

Adds definitions of "nitrogen oxides", "non-attainment air pollutant", "serious non-attainment area for ozone" and "severe non-attainment area for ozone".

Amends the definition of "volatile organic compound" to be consistent with the definition used by the U.S. Environmental Protection Agency.

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

HEARING REPORT

Amendments to the Regulations of Connecticut State Agencies
Concerning the Abatement of Air Pollution
Sections 22a-174-1 and 22a-174-3

December, 1993

PAGE CONTENTS

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HEARING REPORT

Amendments to the Regulations of Connecticut State Agencies Concerning the Abatement of Air Pollution Sections 22a-174-1 and 22a-174-3

December, 1993

I. INTRODUCTION

In the December 8, 1992 Connecticut Law Journal the Commissioner of Environmental Protection gave notice of his intent to amend the Department's Regulations Concerning Abatement of Air Pollution sections 22a-174-1 and 22a-174-3. Public hearings were held in Norwich, Bridgeport and Hartford on January 5,6, and 7, 1993. Written comments on the proposed rule were submitted to DEP through January 29, 1993.

This Hearing Report is being made available pursuant to 4-168 of the Connecticut General Statutes (CGS). Section II of this report discusses the principle reasons in support of the proposed revised regulations. Section III summarizes the principle considerations raised in favor and in opposition to the proposed regulations along with the Department's reasons for rejecting any considerations. A listing of the individuals who provided written comments is included in this section. The proposed final wording of the revised regulations is available for public review and a Notice of Availability will be sent to interested parties.

II. SUMMARY OF REASONS FOR THE AMENDED REGULATIONS

The Clean Air Act Amendments of 1990 require that the Connecticut Department of Environmental Protection (DEP) make numerous revisions to its New Source Review (NSR) program, with an emphasis on ozone nonattainment areas. This summary describes the changes being made to the Regulations in sections 22a-174-1 (Definitions) and 22a-174-3 (Permits to Construct and Permits to Operate). Additional changes relating to NSR in attainment areas are being made at this time to incorporate requirements for the Federal prevention of significant deterioration (PSD) increments for nitrogen oxides into section 22a-174-3.

The most important elements of the revised NSR program for nonattainment areas include the following:

- **NOx.** Requiring nonattainment review for sources of nitrogen oxides as precursors to ozone.
- **Major source levels.** Establishing lower applicability levels for the definition of major stationary source and major modification.

- **Offset ratios.** A requirement for new major sources to offset increased emissions of ozone precursors (i.e. NOx or VOC) with emission reductions at a ratio of 1.2 to 1 or 1.3 to 1, depending on the location of the new source.

A number of other changes are also being made to the NSR rules in order to be consistent with the Clean Air Act (CAA), and to more clearly and succinctly carry out the intent of the State's New Source Review Program. Issues relating to these changes are described in more detail below.

Discussion of Issues

1. **Nitrogen oxides as precursors to ozone** (see section 22a-174-1: definitions of "major modification", "major stationary source", and "non-attainment air pollutant"; and subdivision 22a-174-3(l)(1).

   Tropospheric ozone is formed through a complex set of chemical reactions between nitrogen oxides (NOx) and volatile organic compounds (VOC) in the presence of sunlight. In the past, ozone attainment strategies focused on reducing VOC emissions, but it has become increasingly apparent that significant reductions of nitrogen oxides will be needed in order to attain the ozone air quality standard in the Northeast. Section 182(f) of the Clean Air Act requires the nonattainment provisions for ozone to apply to major stationary sources of nitrogen oxides, as well as for VOC. In section 22a-174-1 the definitions of "major modification" and "major stationary source" have been modified accordingly and a new definition for "non-attainment air pollutant" has also been added to clarify that NOx and VOC are each non-attainment air pollutants for ozone. Subparagraph 22a-174-3(l)(1)(C) has been added to clarify that a major modification or major stationary source of NOx or VOC that is located in a serious or severe non-attainment area for ozone is subject to the non-attainment provisions of subdivision (l)(1).

2. **New major stationary source and major modification thresholds** (see section 22a-174-1 and Table 3(k)-1 of subsection 22a-174-3(k).

   The revised definition of "major stationary source" (section 22a-174-1) incorporates new, lower, emission thresholds for VOC and NOx of 50 tons per year in serious non-attainment areas for ozone and 25 tons per year in severe non-attainment areas for ozone. Table 3(k)-1 of subsection 22a-174-3(k) contains the revised major modification threshold of 25 tons per year for major VOC and NOx sources. However, the 40 ton per year NOx PSD applicability threshold has been retained with language added under subparagraph 22a-174-3(k)(3)(B).

3. **Offset ratios** (see subparagraph 22a-174-3(l)(5)(L))

   For new major stationary sources or major modifications of VOC or NOx in nonattainment areas for ozone the required ratio at which

actual emission reductions must offset proposed allowable emission increases is 1.3 to 1 in severe nonattainment areas and 1.2 to 1 in serious nonattainment areas.

4. **De minimis rule** (see section 22a-174-1: definition of "major modification").

The Clean Air Act's "de minimis rule" for major modifications of VOC or NOx in a nonattainment area (CAA section 182(c)(6)) requires new source review at a facility "unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive years which includes the calendar year in which such increase occurred."

This concept, consistent with past EPA interpretation, allows netting to avoid Federal new source review. However, as stated in EPA's Preamble to Title I (74FR13515, April 16, 1992), "In a break with previous EPA policy, this provision requires this 5-year evaluation even if the proposed increase standing alone would not exceed the de minimis threshold of 25 tons. Consequently, even a small proposed increase (itself less than 25 tons) may not be de minimis and could cause the proposed change to be treated as a major modification..."

The concept of netting emissions increases with decreases to avoid technology review requirements or to avoid obtaining a permit to construct or operate has never been allowed in Connecticut's permitting program. Since DEP does not allow netting, a more stringent approach to the "de minimis rule" has been taken by requiring the aggregation of all increases in actual emissions from the subject premise over the most recent five consecutive calendar year period (excluding emission increases previously permitted under subsection 22a-174-3(l)), as opposed to requiring the aggregation of the net increases. In section 22a-174-1 the definition of "major modification" has been modified accordingly.

5. **Special rules for modifications, and internal offsets** (see section 22a-174-1: new definition of "internal offset"; and subparagraph 22a-174-3(l)(4)(C)).

In compliance with the special rules for modifications of the Clean Air Act (sections 182(c)(7) and (c)(8)), a new increase of NOx or VOC can avoid being treated as a major modification or a major stationary source if (i) the existing premise has potential emissions of less than 100 tons per year of NOx or VOC, and (ii) the allowable emissions increase of NOx or VOC is reduced at an internal offset ratio of at least 1.3 to 1 (see new definition of "internal offset" and subparagraph 22a-174-3(l)(2)(C)). For a new increase of NOx or VOC occurring at an existing premise with potential emissions of greater than 100 tons per year of NOx or VOC, LAER can be avoided (BACT will apply instead) if the

allowable emissions increase of NOx or VOC is reduced at an internal offset ratio of at least 1.3 to 1 (see subparagraph 22a-174-3(l)(4)(C). While the Clean Air Act addresses internal offsets only for NOx and VOC in nonattainment areas, DEP has decided, in response to the hearing comments, to allow internal offsets for all pollutants, both in attainment (see subparagraph 22a-174-3(k)(1)(B)) and nonattainment (see subparagraph 22a-174-3(l)(4)(C)) areas. This does not violate any of EPA's or the Clean Air Act's requirements since EPA allows the less stringent netting of emissions for all pollutants, with the exception of NOx and VOC in nonattainment areas, in which case internal offsets would apply. However, it will provide more flexibility for the regulated community without compromising environmental quality.

6. **NO_2 PSD revisions** (see subsection 22a-174-3(k))

The prevention of significant deterioration (PSD) program, established in 1975, originally included maximum allowable increases (PSD increments) for only two pollutants: sulfur dioxide (SO_2) and particulate matter (as total suspended particulate, TSP). In February 1988, EPA proposed regulations to add nitrogen oxides (NOx) to the PSD program. The Federal regulations were promulgated into law on October 17, 1988 (53 FR 40656) and include PSD increments for nitrogen dioxide (NO_2) as a surrogate for NOx. States are required to adopt programs to ensure that these increments will not be exceeded at any time in the future. DEP has been implementing the Federal program through a delegation agreement with EPA since November 19, 1990.

The purpose of the regulatory changes relevant to this issue is to implement a Federally approved State program for the prevention of significant deterioration of air quality for nitrogen oxides as required in the Code of Federal Regulations (40 CFR 51.166; for background information see Federal Register, 53 FR 40656, October 17, 1988). Revisions to subsection 22a-174-3(k) of the Regulations are being made to accomplish the following:

a) revise Table 3(k)-2 to include the NO_2 Class II increment;

b) replace subdivision 22a-174-3(k)(5) with definitions of several PSD terms used in subdivision 22a-174-3(k)(6); and

c) revise subdivision 22a-174-3(k)(6) describing impact analysis procedures.

a) Revisions to Table 3(k)-2: PSD Increments. The Code of Federal Regulations (40 CFR Part 51.166(c)) lists the PSD increments for NO_2 as shown in the following table:

MAXIMUM ALLOWABLE INCREASE ABOVE BASELINE CONCENTRATION

Area Designation	Nitrogen Dioxide PSD Increment Annual Arithmetic Mean (micrograms per cubic meter)
CLASS I AREAS	2.5
CLASS II AREAS	25
CLASS III AREAS	50

Currently the entire State of Connecticut is considered a Class II attainment area for nitrogen dioxide. Connecticut does not anticipate any portion of the State being reclassified in the foreseeable future.

The NO_2 PSD increment for Connecticut of 25 ug/m^3 (annual arithmetic mean) is being added to Table 3(k)-2 of the Regulations. Table 3(k)-2 lists the maximum allowable increase above baseline concentrations for all pollutants with Federally promulgated PSD increments. This list now includes increments for total suspended particulate (TSP), sulfur dioxide (SO_2) and nitrogen dioxide (NO_2).

b) Replacement of subdivision 22a-174-3(k)(5): Baseline Concentration and Dates. Subdivision 22a-174-3(k)(5) previously addressed procedures for assessing increment consumption for SO_2, while subdivision 22a-174-3(k)(6) addressed increment consumption for other air pollutants. These procedures are now combined in subdivision 22a-174-3(k)(6) for all pollutants with promulgated PSD increments, while subdivision 22a-174-3(k)(5) now provides definitions for terms used in subdivision 22a-174-3(k)(6). The terms defined in the new subdivision 22a-174-3(k)(5) include "baseline concentration," "major source baseline date" and "minor source baseline date." These terms are used to define what emissions consume PSD increment and what emissions should be included in tracking PSD increment consumption.

c) Revisions to subdivision 22a-174-3(k)(6): Source Impact Analysis. As discussed above, the requirements for assessing increment consumption are now combined in subdivision 22a-174-3(k)(6). The current revisions do not include any substantive differences from the previous language other than: (i) combining the section pertaining to SO_2 with all other pollutants; and (ii) incorporating new terms and dates defined in subdivision 22a-174-3(k)(5).

The portion of subsection 22a-174-3(k) on source impact analysis is but one of the Federal requirements for approval of State PSD programs (40 CFR 51.166(k)). It requires that an applicant, before obtaining a permit to construct a new major stationary

source or major modification, demonstrate that allowable emissions from the proposed facility, when combined with emissions from other PSD increment consuming sources, will not result in air pollutant concentrations greater than the PSD increments. In effect, subdivision 22a-174-3(k)(6) defines those sources which must be considered in any PSD increment consumption analysis.

7. **Deletion of quotation marks**

Under the existing regulations all terms that are defined in section 22a-174-1, and which are then used throughout the remainder of the regulations, are enclosed in quotation marks. Since it can be somewhat cumbersome to read sentences where every other word is in quotation marks, the quotation marks around all defined terms in sections 22a-174-1 and 22a-174-3 have been deleted, except for where the terms are initially defined in section 22a-174-1.

8. **Deletion of subdivision numbers in section 22a-174-1**

Since all of the defined terms in section 22a-174-1 are in alphabetical order it seems unnecessary to number these terms as well. As such, the subdivision numbers preceding each of the defined terms in section 22a-174-1 have been deleted.

9. **Definition of "CFR"**

The term "CFR" has been added to section 22a-174-1 to mean the Code of Federal Regulations.

10. **Definitions of "complete" and "sufficient"**

In order to be consistent with terms used throughout DEP's air, waste and water programs, the term "complete" has been deleted and replaced with the term "sufficient"; the new definition for "sufficient" is the same as that used for "complete" in the existing regulations. In addition, the words "incomplete" and "completeness determination" used throughout section 22a-174-3 have been replaced with the words "insufficient" and "determination of sufficiency", respectively.

11. **Definitions of "heat input" and "nitrogen oxides"**

New definitions of "heat input" and "nitrogen oxides" have been added to section 22a-174-1 to clarify these terms that are used throughout the existing and revised regulations.

12. **Definitions of "modification" and "stationary source"**

The definitions of "modification" and "stationary source" in Section 22a-174-1 have been revised to allow permitted portable stripping facilities to move from site to site, just as portable rock crushers are allowed to move from site to site, without being considered a modification, provided that the permit specifically

allows them to do so and they inform the Commissioner prior to the move.

13. **Definition of "volatile organic compound"**

The definition of "volatile organic compound" in section 22a-174-1 has been revised to be consistent with new language in the amended Clean Air Act. In addition, the list of exempt VOC's has been clarified by changing the exempt VOC's to their correct chemical names and by adding common synonyms for these compounds.

14. **Deletion of subsection 22a-174-1(b)**

Upon further review of the definitions of "actual emissions" and "potential emissions", it was determined that subsection 22a-174-1(b) is unnecessary, therefore this subsection has been deleted.

15. **Public participation requirements** (see subsection 22a-174-3(j) and subdivision 22a-174-3(l)(7))

On July 1, 1993 the Connecticut General Assembly enacted Public Act 93-428, parts of which deal with public notification requirements with regard to permits issued by DEP. In order to be consistent with the requirements of the Public Act, subsection 22a-174-3(j) has been revised to include the applicable public notice requirements of the Public Act. Subdivision (j)(1) now requires that any applicant who submits an application pursuant to section 22a-174-3 shall: (i) submit a statement to DEP certifying that the applicant will publish a notice of such application in a local newspaper; (ii) include in such notice a full description of the application and of the activity for which a permit is being sought; and (iii) send a copy of such notice to DEP within twenty days after the date such notice is published. Subdivision (j)(2) now requires that at least thirty days before approving or denying an application, for both permits to construct and operate, DEP must publish a notice in a local newspaper giving a full description of DEP's tentative determination to approve or deny such application. Also, in keeping with the language of the Public Act, the term "proposed final decision" in subsection (j) has been replaced with the term "tentative determination". Lastly, the public participation requirements of subdivision (l)(7) have been revised to more closely resemble the existing language of subdivision (k)(12).

16. **Table 3(k)-1 and related revisions** (see Table 3(k)-1 of subsection 22a-174-3(k); subdivision 22a-174-3(a)(3); and definition of "modification")

The major modification emission thresholds of Table 3(k)-1 have been revised to include three new emission thresholds for municipal waste combustor emissions presently listed under 40 CFR 51.166. The zero emission threshold for "any other air pollutant Federally regulated under the Clean Air Act" listed in Table

3(k)-1 has been deleted. DEP feels that, in light of the Clean Air Act Amendments of 1990, Table 3(k)-1 should only include those pollutants subject to the New Source Review provisions of the Clean Air Act and should not include every pollutant regulated under the Clean Air Act. For example, the requirements for ozone depleting substances listed under section 602 of the CAA are for existing, not new sources. In addition, the CAA explicitly excludes the hazardous air pollutants listed under section 112 from PSD review. In a related revision, language under the definition of "modification" and under subdivision 22a-174-3(a)(3), which makes reference to any other air pollutant regulated under the Clean Air Act, has been deleted.

17. **Nonattainment review applicability** (see subdivision 22a-174-3(l)(1).

Prior to these revisions, the first paragraph of subdivision 22a-174-3(l)(1) required that the first application deemed complete by DEP for a particular project would be used to determine if that project were subject to a nonattainment review, even if the application for the project were withdrawn and resubmitted with emission rates below the nonattainment review applicability thresholds. This paragraph is now being deleted in order to be more consistent with the Federal regulations pertaining to nonattainment review applicability.

18. **Exemption for economic development zones** (see subparagraph 22a-174-3(l)(2)(B)).

Subparagraph 22a-174-3(l)(2)(B) was replaced with language which states that DEP will not require offsets for a new major stationary source or major modification which is located in a zone within the nonattainment area identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, provided that the emission of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emission levels which exceed the allowance permitted as contained in Connecticut's State Implementation Plan, pursuant to section 173(a)(1)(B) of the Clean Air Act.

19. **Emission offset criteria** (see subdivision 22a-174-3(l)(5))

Certain paragraphs in subdivision 22a-174-3(l)(5) have been resequenced and modified to include all CAA and EPA requirements. The revised paragraphs require that for emission reductions to be creditable for offset purposes, they must meet the criteria in paragraphs (A) through (L):

(A) emission reductions must be accomplished in the two year period prior to the date that the new source or modification becomes operational and begins to emit any pollutant;

(B) emission reductions must be surplus (i.e. not otherwise required by certain State and Federal regulations and requirements);

(C) emission reductions may come from other sources or premises not owned by the applicant;

(D) emission reductions must be enforceable before or when the construction permit is issued and must occur prior to operation of the new source;

(E) emission reductions, in conjunction with the proposed emissions increase, must produce a net air quality benefit, and in determining this net air quality benefit DEP may consider emissions on an hourly, daily, seasonal or annual basis;

(F) emission reductions and emission increases must be calculated for the same averaging times, hourly, daily and annually;

(G) emission reductions must come from the emission inventory maintained by the Commissioner;

(H) emission reductions from shutdowns and the curtailment of operations may be creditable unless EPA has deemed the SIP delinquent for this purpose;

(I) emission reductions for offset purposes will be allowed only on a pollutant for pollutant basis (i.e. VOC for VOC), and neither perchloroethylene nor the exempt VOCs listed in Table 1(a)-1 of section 22a-174-1 will be allowed to offset VOC emissions;

(J) emission reductions must be obtained from the same nonattainment area in which the new source is constructing, or, for VOC or NOx, from another nonattainment area of equal or higher nonattainment classification if emissions from such area contribute to a violation of an air quality standard in the nonattainment area in which the proposed new or modified source would construct;

(K) emission reductions must be in actual emissions of the applicable nonattainment pollutant and must also account for all <u>increases</u> in actual emissions, except for those increases that have been previously offset with emission reductions through a permit for a source subject to subdivision (1)(5); and

(L) emission reductions must be obtained at certain emission offset ratios, which are dependent on where the new source or modification is to be located (1.3:1 and 1.2:1 in severe and serious nonattainment areas, respectively).

III. RESPONSE TO COMMENTS

Public hearings on proposed revisions to the permitting regulations for new sources of air pollution were held in Norwich, Bridgeport and Hartford on January 5-7, 1993. Comments were received orally and in writing from representatives of the regulated community, environmental groups and the U.S. Environmental Protection Agency (EPA). The following is a listing of those who provided written comments:

United States Environmental Protection Agency, Region I

Arthur E. Slesinger, Boehringer Ingelheim Pharmaceuticals, Inc.

Richard A. Miller, Esquire, Connecticut Business & Industry Association

Lynn C. Blackwell, for Connecticut Natural Gas Corporation, Southern Connecticut Gas Company and Yankee Energy Services

Leslie Carothers, United Technologies Corporation

William D. Huhn, Pfizer, Inc.

Albert N. Henricksen, The United Illuminating Company

C.F. Sears, Northeast Utilities Service Company

Mark R. Sussman, Murtha, Cullina, Richter and Pinney

In this section, the comments have been grouped together by issue and summarized. DEP's response to each issue is then provided.

1. Summary of Comments - Netting

Several commenters requested that the Connecticut Department of Environmental Protection (DEP) regulations reflect as much as possible the language and intent of the United States Environmental Protection Agency (EPA) regulations, in particular with regard to the policy of netting and internal offsets. Since EPA's regulations allow netting, while DEP's regulations do not, some commenters feel that DEP's "no netting" policy is unduly burdensome to industry.

EPA noted that it was unclear if the regulations would allow netting, and under what circumstances and for what pollutants internal offsets would be allowed. EPA also requested that DEP's definition of "netting" include all of the Federal netting requirements found in 40 CFR section 51.165(a)(1)(vi), under the Federal definition of "net emission increase".

Response. The concepts of netting and internal offsets are similar in many respects. Netting allows a facility owner to construct a new

source of air pollution without obtaining a permit (therefore, without technology review or public notice), provided that air pollution emissions elsewhere at the facility are reduced so as to result in no net increase in emissions. Internal offsets also reduce emissions at the facility but must be made enforceable through a permit or order. Internal offsets can be used to avoid some of the more stringent Federal review requirements.

DEP is obligated to develop a program to bring areas of non-attainment into attainment with respect to air quality standards (and then keeping those areas in attainment). An integral part of DEP's program has always been to encourage new technologies for air pollution control through the concept of best available control technology. Therefore, DEP is retaining its "no netting" policy but at the same time, expanding its policy for internal offsets.

The circumstances under which internal offsets are to be allowed have been expanded to include all pollutants, in both attainment and non-attainment areas. In attainment areas, internal offsets will be allow a new source to avoid being subject to a Prevention of Significant Deterioration (PSD) review (see subparagraph 22a-174-3(k)(1)(B)). In non-attainment areas, internal offsets may be used (depending on the potential emissions from an existing premise) for a new source to avoid being subject to a non-attainment review as a new "major stationary source" or "major modification" (see subparagraph 22a-174-3(l)(2)(C)). Such a new source can also use internal offsets to avoid being subject to LAER but instead being subject to BACT (see subparagraph 22a-174-3(l)(4)(C)).

The definitions of "netting" and "internal offset" have not been revised to include the Federal netting requirements of 40 CFR section 51.165(a)(1)(vi), however, subdivision 22a-174-3(l)(5) of the State regulations, which lists requirements necessary for obtaining emission offsets, has been revised to incorporate the applicable portions of the Federal definition of "net emission increase". In addition, those portions of the proposed regulations which allow for the use of internal offsets (i.e. subparagraphs 22a-174-3(k)(1)(B), (l)(2)(C) and (l)(4)(C)) now require that certain subparagraphs under subdivision (l)(5) must be met in order for internal offsets to be creditable.

2. Summary of Comments - Sections 182(c)(7) and (c)(8) of the Clean Air Act regarding special rules for modifications

EPA and one other commenter suggested that DEP should not attempt to interpret the requirements of sections 182(c)(7) and (c)(8) of the Clean Air Act, which has to do with the use of internal offsets, but rather simply reference the two sections, or else incorporate the exact language of the two sections in the State regulations.

EPA noted that the requirements of sections 182(c)(7) and (c)(8) were added incorrectly to the definition of "major modification", and that the revised definition appeared to be less stringent than the requirements of sections 182(c)(7) and (c)(8). EPA also noted that

the new language added under subparagraph 22a-174-3(l)(4)(C) was inconsistent with the revised definition of "major modification", with respect to the requirements of sections 182(c)(7) and (c)(8).

Response. DEP feels that a simple reference to sections 182(c)(7) and (c)(8) of the Clean Air Act or the addition of the language verbatim of these sections into the State regulations would serve only to postpone the interpretation of somewhat ambiguous parts of these sections that would eventually have to be resolved at a later date. Therefore, DEP has decided to interpret and include the specific requirements of sections 182(c)(7) and (c)(8) of the Clean Air Act in the revised State regulations.

Upon closer review of the initial revised definition of "major modification", DEP agrees that under certain circumstances the definition would be less stringent than the requirements of sections 182 (c)(7) and (c)(8). The definition has again been revised and no longer includes language derived from sections 182(c)(7) and (c)(8). Instead, the use of internal offsets as allowed under sections 182(c)(7) and (c)(8) has been accounted for with the previously mentioned revisions made to subparagraphs 22a-174-3(k)(1)(B), (1)(2)(C) and (1)(4)(C).

3. Summary of Comments - Internal Offsets

EPA remarked on the ambiguity of subdivision 22a-174-3(k)(2) with respect to netting and internal offsets, and the apparent inconsistencies of this subdivision in relation to the definition of "major modification". Another commenter was concerned about the ratios at which internal offsets would be required or would be allowed, and requested that "full, rather than partial, credit for contemporaneous emission reductions at a 1 to 1 ratio" be allowed for netting and internal offsets. This commenter also suggested that internal offsets required for VOC and NOx in a non-attainment area for ozone should be at the same ratios as required for external offsets as stated in the Clean Air Act (i.e., 1.2 to 1 in a serious non-attainment area for ozone; 1.3 to 1 in a severe non-attainment area for ozone; etc.).

A third commenter suggested abandoning the idea of internal offsets altogether, and simply adopting the existing Federal policy of netting of emissions.

Response. Subdivision 22a-174-3(k)(2) has been re-evaluated and revised to more clearly state that in determining the applicability of subdivision (k)(1), the netting of emissions is not allowed, while internal offsets are allowed. With the latest revisions made to the definition of "major modification" (in response to comments addressed above), DEP feels that this definition is now consistent with the language of subdivision (k)(2).

Concerning the comment about allowing full, rather than partial, credit for emission reductions to be used for internal offset purposes, it appears that the commenter is referring to the initial

revision of the definition of "major modification", clause 22a-174-1(a)(46)(D)(ii), which stated, in part, that "the increases in subparagraph (i) above may be reduced by 0.77 times any actual emissions decrease, which have occurred at the premise". This clause has been deleted and, with the revisions made to subparagraphs 22a-174-3(k)(1)(B), (l)(2)(C) and (l)(4)(C) (in response to comments already addressed), it is now clear that internal offsets must be obtained at a ratio of at least 1.3 to 1 in order to be creditable (note that the revised subparagraphs do not make reference to or allow the netting of emissions). In response to the comment that the required internal offset ratio for VOC and NOx in a non-attainment area for ozone be the same as that required for external offsets, sections 182(c)(7) and (c)(8) of the Clean Air Act specifically state that where internal offsets are required they shall be at a ratio of at least 1.3 to 1 (this applies to both serious and severe non-attainment areas for ozone).

In response to the third commenter's remarks, because sections 182(c)(7) and (c)(8) of the Clean Air Act only allow for the use of internal offsets (as opposed to the less stringent netting of emissions), netting cannot be allowed for VOC and NOx in a serious or severe non-attainment area for ozone. As for allowing netting as opposed to internal offsets for pollutants other than VOC and NOx in a serious or severe non-attainment area for ozone, this issue has already been addressed in a previous response.

4. Summary of Comments - "Permit by rule" for internal offset purposes

Several commenters requested that emission decreases obtained for internal offset purposes should be creditable via a "permit by rule" process. Annual emission statements and/or Pre-Inspection Questionnaire (PIQ) forms would allow DEP the opportunity to determine whether or not a facility has obtained creditable emission decreases correctly. The commenters felt that this type of approach would greatly speed-up and streamline the permitting process.

Response. DEP has had very little experience in issuing permits for which offsets (internal or external) have been required. DEP has had no experience in implementing the new offset provisions of the Clean Air Act as amended in 1990. Until such time that DEP has gained sufficient experience in the actual implementation of internal offsets, DEP shall not consider emission decreases for internal offset purposes to be creditable via a "permit by rule" process. If and when DEP considers the implementation of a "permit by rule" process, EPA will be consulted prior to such implementation to ensure that such a process is consistent with all applicable Federal requirements. At the present time, however, it is quite uncertain if EPA would allow a "permit by rule" process for obtaining creditable emission decreases. This is particularly uncertain in light of the forthcoming state operating permit programs, which could be used to enforce any internal offsets that a source has committed to. Even if a "permit by rule" process were implemented, it is uncertain as to what extent this would speed-up the permitting process. A new source or modification for which internal offsets are to be obtained to avoid more stringent New

Source Review requirements would still be subject to all other applicable State permitting requirements, and construction and operation of the new source or modification would not be allowed until all appropriate permits were issued.

5. Summary of Comments - Applicability of NOx to both PSD and non-attainment review provisions

EPA requested that language be added to a number of parts of the State regulations explaining that a new major stationary source or major modification of nitrogen oxides may be subject to both the PSD review provisions of subsection 22a-174-3(k) and the non-attainment review provisions of subsection (l).

Response. Language has been added to subparagraphs 22a-174-3(k)(3)(B) and (l)(1)(C) stating when a new major stationary source or major modification of nitrogen oxides is subject to PSD and non-attainment review provisions. With this language added, DEP feels that EPA's comment has been adequately addressed.

6. Summary of Comments - Section 182(c)(6) of the Clean Air Act regarding the de minimis rule

EPA was concerned that the initial proposed language of the definition of "major modification", which deals with emissions aggregation at clause 22a-174-1(a)(46)(D)(i), was inconsistent with the requirements and intent of section 182(c)(6) of the Clean Air Act. EPA felt that DEP's regulations would exempt from emissions aggregation all previously permitted sources, whereas it would be more appropriate to exempt only those sources that had been previously permitted under subsection 22a-174-3(l) and had met all of the non-attainment review provisions (both State and Federal) pertaining to that subsection. EPA was also concerned that the five consecutive year period mentioned in the definition of "major modification" implied that the time period could extend into the future, and that the time period did not specifically state "calendar years", as does the language under section 182(c)(6).

Another commenter anticipated that there would be adverse comments, specifically from EPA, to DEP's exempting from emissions aggregation all previously permitted sources, and urged that DEP ignore such comments and keep the initial revised definition of "major modification" as is. This commenter feels that DEP is as competent as EPA in interpreting the requirements of the Clean Air Act and that the revised definition should not be revised further, at least not until EPA issues some type of interpretive rulemaking on section 182(c)(6).

Response. After reviewing the issues raised concerning the initial revised language of clause 22a-174-1(a)(46)(D)(i), DEP agrees with EPA's comments and the definition of "major modification" has been revised accordingly, under subparagraph (C) of this definition. Additional language has also been added to this subparagraph further explaining the requirements of section 182(c)(6) of the Clean Air Act.

In response to the request of the second commenter, since both DEP and EPA are in agreement that only those sources that have been previously permitted under subsection 22a-174-3(l) should be exempt from the five year aggregation requirement, the definition of "major modification" will be further revised, as stated in the previous paragraph.

7. Summary of Comments -- Aggregation for permit applicability purposes

One commenter expressed concern about the aggregation of sources for the purposes of permit applicability and the time required to obtain a permit in such a situation. The commenter noted that the addition of a new, very small source could trigger, when aggregated with existing sources, permitting requirements and a full (and lengthy) PSD or non-attainment review. The commenter suggested that under such a scenario DEP should allow the new source to operate during the permitting process, and if necessary the new source could temporarily offset emissions by temporarily discontinuing operation of existing sources.

A second commenter requested that some type of "de minimis" level be used for emissions aggregation purposes, such that if a new source in and by itself emits less than this "de minimis" level, then it would not be considered at all for purposes of emissions aggregation.

Response. The concept of aggregating sources and their emissions "into" a non-attainment review and permit is mentioned specifically in the proposed State regulations (see definition of "major modification") because of the requirements of section 182(c)(6) of the Clean Air Act. If EPA issues some type of guidance document allowing a new source, subject to a non-attainment review and permit through aggregation, to operate prior to issuance of its permit, then at that time DEP shall consider the adoption of such guidance and if necessary shall revise its regulations. The idea of offsetting the new source's emissions to avoid review or to hasten the permitting process would be allowed only to the extent that internal offsets are allowed.

In response to the second commenter's request, since neither EPA nor the Clean Air Act has addressed a "de minimis" level for the exemption of individual sources from aggregation, DEP does not intend to impose one on its own, and thus be less stringent than the Clean Air Act. Section 182(c)(6) (the "de minimis rule") of the Clean Air Act and the most recently revised definition of "major modification" do, however, include language that allows the aggregate of emissions from sources (not emissions of individual sources) that are below a certain threshold to be exempt from being used to determine if a new source is a major modification.

8. Summary of Comments - Aggregation: State vs. Federal

There appeared to be great concern and confusion concerning the new aggregation language added to the initial revised subdivisions 22a-174-3(b)(3) and (b)(4) (this language was not added due to any requirements of the Clean Air Act, but was added only in an attempt to clarify how small sources of emissions should be aggregated for

existing State, not Federal, permit applicability purposes). Those who commented on this issue felt that having both a State aggregation policy (see the initially revised subdivisions (b)(3) and (b)(4)) and a Federal aggregation policy (see the definition of "major modification" and section 182(c)(6) of the Clean Air Act) would be very confusing and very difficult to implement.

EPA requested that DEP clarify how the provisions of these subdivisions would relate to the aggregation provisions of the definition of "major modification".

Another commenter requested that DEP adopt only the Federal aggregation policy.

Response. Upon further examination of this issue, DEP has decided not to change or revise the existing language pertaining to aggregation in subdivision 22a-174-3(b)(3) (the initial revised subdivision (b)(4) is again part of subdivision (b)(3)), with the exception of the addition of some minor clarifying language. If at a later date DEP feels it necessary to further address emissions aggregation for State permit applicability purposes then the language in subdivision (b)(3) will be revised at that time.

9. Summary of Comments - Ozone Transport Region

EPA requested that the major stationary source thresholds for VOC and NOx in the Ozone Transport Region (50 tons per year, as stated under section 184 of the Clean Air Act) be added to the definition of "major stationary source", and that the term "Ozone Transport Region" be defined under section 22a-174-1. EPA also requested that language be added to subdivision 22a-174-3(l)(1) explaining that, for attainment or unclassifiable areas within the Ozone Transport Region, a new source may be subject to both PSD and non-attainment requirements. Finally, EPA requested that the emission offset ratio of 1.15 to 1 required for applicable sources located in the Ozone Transport Region be added to subdivision (l)(5).

Response. All requirements to be met for a source located in an area classified as serious or severe non-attainment for ozone are as stringent or more stringent than the requirements for a source located in an attainment area or less-seriously classified non-attainment area in the Ozone Transport Region. With all of Connecticut classified as either serious and severe non-attainment for ozone, and with the whole State being located within the Ozone Transport Region, it follows that any source that meets the requirements for a source located in a serious or severe non-attainment area for ozone will also meet the requirements for a source located anywhere in the Ozone Transport Region. As such, the language requested to be added by EPA is considered unnecessary and has not been added.

10. Summary of Comments - Definition of "actual emissions"

EPA had several suggestions on the definition of "actual emissions":

a. Insert the word "actual" before "rate of emissions" in the first line of the definition.

b. Add the following language: "Where the implementation plan for an area is based on allowable emissions, or where actual emissions exceed allowable emissions, source-specific allowable emissions for the unit will be presumed to be equivalent to the actual emissions of the unit."

c. Add language stating that for a source which has not begun normal operations on a particulate date, actual emissions shall equal potential emissions on that date.

d. Change the language to "prior to the date of an application under subsection 22a-174-3(a)" to "prior to the particular date", because the present language may not be applicable in determining increment consumption, netting and emission offsets.

Response.

a. The insertion of the word "actual" would be redundant and confusing, therefore it was not added.

b. The language recommended by EPA is confusing, but it appears that the intent of the language is for the purposes of netting, internal offsets and non-attainment review. DEP does not allow netting, therefore the language suggested by the commenter is not necessary for the purposes of netting. The language under the definition of "internal offsets" and under subsection 22a-174-3(l) already correctly addresses the use of actual and allowable emissions under the scenarios described by the commenter (i.e. where the implementation plan for an area is based on allowable emissions, or where actual emissions exceed allowable emissions). In addition, it would seem more appropriate to state that the source-specific actual emissions for the unit will be presumed to be equivalent to the allowable emissions of the unit, and not the other way around. At any rate, DEP feels that it is unnecessary to add the suggested language, therefore it has not been added.

c. It is unclear what is meant by the suggested language. DEP feels that it is unnecessary to add the suggested language and that the present language is appropriate, therefore no changes have been made.

d. Again, the language recommended by EPA is confusing, because it does not clarify what "the particular date" is. DEP feels that the present language is appropriate therefore no changes have been made.

11. Summary of Comments - Definition of "allowable emissions"

Under the definition of "allowable emissions" EPA recommended that subparagraph (B) reference "the State Implementation Plan" and not "these regulations", and subparagraph (C) should be revised to include those permit conditions "with a future compliance date".

Response. Under the definition of "allowable emissions" subparagraph (B) has not been revised, but instead a new subparagraph (D) has been added. Subparagraph (C) has been revised as suggested.

12. Summary of Comments - Definition of "best available control technology"

To be more consistent with the Clean Air Act definition of "best available control technology", EPA suggested that the words "clean fuels" (as an example of a control technology technique) be added to the State's definition of "best available control technology".

Response. The recommended language has been added.

13. Summary of Comments - Definition of "Federally enforceable"

Under the definition of "Federally enforceable" EPA and one other commenter noted that the comma that was deleted after the words "State Implementation Plan" should be reinserted and the definition should read as follows: "... State Implementation Plan (SIP), requirements in...".

Response. The commenters are correct, however, a semicolon has been reinserted in place of the comma. Other minor changes have been made to the revised definition, but the intent of the definition remains the same.

14. Summary of Comments - Definition of "lowest achievable emission rate"

Under the definition of "lowest achievable emission rate" EPA suggested that the words "most stringent" be inserted before "rate of emissions" in the first line of the definition. EPA suggested that language also be added to clarify that for a modification of a premise, LAER would apply only to the new or modified emissions units within that premise.

Response. The insertion of the words "most stringent" would be redundant and confusing, therefore they were not added. However, the definition was clarified slightly by deleting the phrase "whichever is more stringent" at the end of subparagraph (B), and adding the words "the more stringent of" after "rate of emissions which reflects" in the first line of the definition. In response to the second comment, DEP feels that language presently under subdivision 22a-174-3(l)(4) sufficiently addresses the issue of the application of LAER. This language states, in part, that "The Commissioner shall only require

LAER for the portion of the premise for which the subject application has been made."

15. Summary of Comments - Definition of "modification"

Under the definition of "modification" EPA felt that the exemption which states that any change, "the sole purpose of which is to bring an existing source into compliance with regulations applicable to such source" is not considered a modification was too broad and might allow changes that should be subject to a PSD or non-attainment review to avoid such review.

A second commenter requested that DEP clarify that an increase in production for existing equipment is not to be considered a modification.

Response. DEP agrees that the existing exemption is too broad. The language under clause (B)(v) of the definition of "modification" has been retained, however, additional language has been added which states that if a change occurs that is a major modification or a major stationary source, then such change shall be considered a modification. Thus, changes that should be subject to a PSD or non-attainment review can not be constructed without review.

In response to the second commenter, clause (B)(iii) of the definition of "modification" already states under what circumstances an increase in production will and will not be considered a modification, therefore the requested revision has not been made.

16. Summary of Comments - Definition of "potential emissions"

EPA felt that the new language added to the definition of "potential emissions" that dealt with the Federal enforceability of permit limitations was not completely consistent with EPA's policy on Federally enforceable permit limitations, and EPA recommended that the new language be revised slightly. A second commenter recommended that the new language be deleted altogether. This commenter felt that the language was ambiguous and might imply that in some cases potential emissions should be calculated without regard to applicable permit limitations.

Response. After rethinking this issue, DEP has decided that it is not necessary to add to the definition of "potential emissions" the language initially added or the language suggested to be added by EPA. The issue raised by DEP's initial revision and EPA's suggested revision is that in order for a limitation or condition to be considered Federally enforceable, such limitation or condition must be enforceable as a practical matter, must ensure continuous compliance with the applicable restrictions, and must include adequate testing, monitoring and recordkeeping procedures sufficient to demonstrate compliance. However, DEP feels that the idea of requiring a limitation or condition to be enforceable as a practical matter is a concept too vague to be included in a regulation, but rather it is an idea better addressed when a permit which will include such Federally

enforceable limitation or condition is drafted. Language dealing with the demonstration of continuous compliance with restrictions (i.e. continuous emission monitoring equipment), and requirements for adequate testing, monitoring and recordkeeping procedures is already found in subsection 22a-174-3(c) of the State regulations. As such, only a very minor, clarifying revision has been made to the definition of "potential emissions".

17. Summary of Comments - Definition of "premise"

EPA requested that the definition of "premise" be revised to more closely resemble the definition of "building, structure, facility, or installation" found in 40 CFR section 51.165(a)(1). EPA's concern was that the present definition of "premise" would allow more netting and internal offsets than allowed under the Federal requirements.

Response. DEP feels that, with the revisions made to those portions of the regulations that deal with internal offsets, the present definition of "premise" is sufficient to allow a level of stringency equal to or greater than that allowed at the Federal level with regards to obtaining internal offsets. Since netting is not allowed at all under the State regulations, the definition of "premise" with regards to netting is irrelevant. As such, no revision has been made to the definition of "premise".

18. Summary of Comments - Definition of "serious non-attainment area for ozone" and "severe non-attainment area for ozone"

EPA suggested that the definitions of "serious non-attainment area for ozone" and "severe non-attainment area for ozone" be expanded to also include those non-attainment areas that are classified by the Administrator.

Response. DEP shall revise its regulations with respect to the classification of non-attainment areas for ozone at such time that the Administrator reclassifies such areas within the State of Connecticut. As such, the suggested revision has not been made.

19. Summary of Comments - Definition of "stationary source"

EPA requested that the definition of "stationary source" be revised to accommodate for the new requirements of section 302(z) of the Federal Clean Air Act. This section states that certain mobile internal combustion engines are exempt from being classified as "stationary sources".

Another commenter requested that the definition of "stationary source" be revised to exempt those sources whose normal operation is not expected to exceed 40 hours in any year.

Response. The definition of "stationary source" presently excludes mobile sources, i.e. sources that move from location to location during normal operation, and subdivision 22a-174-3(a)(5) of the most recently revised regulations states that mobile sources are not

subject to stationary source permit requirements. As such, EPA's suggested revision is unnecessary and has not been made. In a related revision, the words "or portable stripping facilities" in the definition of "stationary source" has been changed to "and portable stripping facilities", and the intent of these words has been explained further with the addition of clause (B)(vii) under the definition of "modification".

In response to the second commenter's request, such an exemption would be extremely difficult to enforce. Also, for larger stationary sources operating at 40 hours per year it would be quite possible to emit a considerable amount of pollutants that would truly warrant the issuance of a permit. Lastly, without Federally enforceable conditions in place such an exemption could allow a major modification or a major stationary source to go unregulated, thus violating both State and Federal permitting requirements. As such, the requested revision has not been made.

20. Summary of Comments - Definition of "volatile organic compound"

EPA pointed out that the State's revised definition of "volatile organic compound" is inconsistent with the Federal definition in that it exempts perchloroethylene from being considered as a VOC. EPA has proposed to exempt perchloroethylene, but at the present time it still considers perchloroethylene to be a VOC.

Response. DEP agrees with EPA and perchloroethylene has been deleted from the list of exempt volatile organic compounds. In a related revision, the list of exempt volatile organic compounds has been clarified by changing the exempt VOCs to their correct chemical names and by adding common synonyms for these compounds.

21. Summary of Comments - Incorrect reference of subdivision 22a-174-3(b)(4): applicability date

EPA noted that subdivisions 22a-174-3(a)(1), (b)(1), and (c)(1) incorrectly referenced subdivision (b)(4), and should have referenced subdivision (b)(5) instead.

Response. EPA was originally correct, but with additional changes made to subsection 22a-174-3(b), the original references to subdivision (b)(4) are now correct. With those additional changes, however, the references to subdivision (b)(5) under subdivision (a)(4) and subparagraph (b)(2)(A) became incorrect, and have been changed back to the original language which references subdivision (b)(4).

22. Summary of Comments - Subdivision 22a-174-3(a)(5): permit applicability

EPA recommended that subdivision 22a-174-3(a)(5) be revised to clarify for which pollutants the provision is applicable, and to make the language more consistent with the definition of "major modification".

Response. The initially revised subdivision 22a-174-3(a)(5) deals with the aggregation of emissions for "major modification" applicability purposes. With the newly revised definitions of "major modification" and "major stationary source" in place and with the revision made to subdivision (a)(3), which states that any new major modification or major stationary source must apply for a permit, the initially revised subdivision (a)(5) is no longer necessary and changes have been deleted. Similar language had also been added under the initially revised subparagraph (f)(1)(G), so changes to this subparagraph have also been deleted.

23. Summary of Comments - Subparagraph 22a-174-3(g)(2)(N): emissions reduction

The initially revised subparagraph 22a-174-3(g)(2)(N) stated that the Commissioner shall not issue a permit to operate unless he has determined that any emissions reduction committed to (i.e. for internal offset and offset purposes) is incorporated into the permit, enforceable and accomplished by the time the proposed modification is to commence operation. EPA suggested that this subparagraph be revised to apply not only to a proposed modification but to a proposed new source as well.

Response. Subparagraph 22a-174-3(l)(5)(D) already addresses the issues raised in the initially revised subparagraph (g)(2)(N), therefore this subparagraph has been deleted. EPA's suggested revision has been made to subparagraph (l)(5)(D).

24. Summary of Comments - Subsection 22a-174-3(j): public participation requirements

EPA was concerned that the public participation requirements under subsection 22a-174-3(j) are inconsistent with the Federal public participation requirements under 40 CFR section 51.161. EPA requested that subdivision (j)(4) be revised by deleting the requirement that a request by at least 25 people is needed for the Commissioner to hold a public hearing, and that a hearing should be held even if only one person requests it; that subparagraph (j)(5)(C) be revised to allow for a 30 day public comment period; and that language be added to subsection (j) to allow the public to comment on the agency's proposed approval or disapproval of the issuance of the permit. EPA also suggested that DEP clarify what is meant by the term "initial determination" found under subdivision (j)(3), and subparagraphs (j)(2)(B) and (k)(12)(A).

Response. The Federal requirements of 40 CFR section 51.161 are accounted for under the most recently proposed subdivision 22a-174-3(j)(5) (previously (j)(6)). In addition, this part of the regulation is being revised to incorporate new public notification requirements of CT Public Act 93-428.

Subdivision 3(j)(5) allows for a 30 day public comment period for a new major stationary source, a new major modification, or for any stationary source with a stack height in excess of good engineering

practice, except that any new major stationary source or major modification that has obtained internal offsets pursuant to subparagraphs (k)(1)(B) or (1)(2)(C) would not be subject to this subdivision (language has been added to subdivision (j)(5) to account for this). In addition, for sources subject to subdivision (j)(5) this subdivision requires that a public hearing be held upon receipt of any request for such a public hearing. Subdivision (j)(4) and subparagraph (j)(5)(C) of the initially revised regulations are applicable to sources that are subject to State permitting requirements only, therefore the requested revisions to these parts has not been made.

On July 1, 1993 the Connecticut General Assembly enacted Public Act 93-428, parts of which deal with public notification requirements with regard to permits issued by DEP (a copy of the applicable portions of the Public Act is attached). In order to be consistent with the requirements of the Public Act, subsection (j) has been revised to include the applicable public notice requirements of the Public Act. Subdivision (j)(1) has been replaced with new public notice requirements for permit applications submitted to DEP; subdivision (j)(2) has been replaced with new public notice requirements for permit applications processed by DEP. With these revisions in place, in addition to all of the other revisions made to subsection (j), DEP feels that it is fully understood that the comment periods specified under subsection (j) are for the purposes of allowing the public to comment on DEP's proposed approval or disapproval of the issuance of the permit, as well as all other aspects of the permit application and permitting process. As such, EPA's suggested revision has not been made.

The terms "initial determination" (found in the initially revised regulations) and "proposed final decision" (found in the existing regulations) have been deleted from the State regulations and a similar term, "tentative determination", is now used instead. DEP feels that, with the most recent revisions made to subsection (j), the meaning of the term "tentative determination" is clear; that is, the term means a determination made by DEP prior to its final decision on a permit application, which tentatively approves, denies, modifies or conditionally approves the issuance of a permit for a stationary source or modification. Subdivision (j)(3) and subparagraph (j)(k)(12)(A) have been revised by simply making reference to the language in subparagraph (j)(2)(A), which deals with the tentative determination public notice requirements. The public notice requirements under subdivision (1)(7) have also been revised in a similar manner.

In a related revision to subsection (j), language under the initially revised subdivision (j)(5), which states mainly that the public may inspect the permit application and all information that the Commissioner uses in his analysis of the permit application, has been deleted. All information submitted to and used by DEP for permit application processing purposes is, as allowed by Freedom of Information laws, public information and subject to public inspection. As such, DEP feels that subdivision (j)(5) is

unnecessary, with the exception of subparagraph (j)(5)(A) which states that all public notices required to be published must be published in a newspaper of general circulation in the region affected of the permit application; language to this effect has been added to subdivisions (j)(4) and (j)(5).

25. Summary of Comments -- Subsection 22a-174-3(k): Table 3(k)-1 de minimis emission levels

Under Table 3(k)-1 of subsection 22a-174-3(k), EPA suggested that the major modification de minimis emission level for "Any other air pollutant Federally regulated under the Clean Air Act" should not be deleted in order to be consistent with the Federal regulations. EPA suggested that, to be consistent with the pollutants listed under section 602 of the Clean Air Act, CFC 112 should be deleted and replaced with CFC 113. EPA also suggested that the de minimis emission level for VOC should be footnoted to make reference to subsection (k), as was done for NOx.

Response. The de minimis emission level of zero (0.0) for "Any other air pollutant Federally regulated under the Clean Air Act" has remained deleted. DEP feels that the intent of this table is to allow modifications with insignificant (de minimis) pollutant increases at a facility to occur without new source review (see Federal definition of "significant", 40 CFR 51.165 and 51.166). With numerous additional pollutants now regulated under the Clean Air Act as amended in 1990, specifically the hazardous air pollutants under section 112 and the ozone depleting substances under section 602, DEP feels that it would be impractical and unduly burdensome to subject a source that increases its emissions by even one molecule of one of these pollutants to a PSD or non-attainment review. Sources emitting the hazardous air pollutants under section 112 will be subject to MACT standards and section 112b(6) specifically exempts these hazardous air pollutants from PSD review; and the ozone depleting substances under section 602 are scheduled to be phased out.

The proposed revision to Table 3(k)-1 includes all of the pollutants presently regulated under the Federal definition of "significant" (i.e. the pollutants vinyl chloride, mercury, asbestos and beryllium will not be deleted), and if this definition is revised to include additional pollutants DEP will revise its regulations accordingly. In addition, all CFCs (including CFC 112) and halons that were added to the initially revised Table 3(k)-1 (because they are ozone depleting substances regulated under section 602 of the Clean Air Act) have since been deleted, for the same reasons as stated above. In a related revision, language under the definition of "modification" and under subdivision (a)(3), which makes reference to any other air pollutant regulated under the Clean Air Act, has been deleted.

Instead of footnoting VOC as was done for NOx, the footnote and the 40 ton per year emission level have been deleted for NOx, and the emission level under Table 3(k)-1 for NOx and VOC each is now 25 tons per year. Therefore, any potential emissions increase of 25 tons per year or greater of either NOx or VOC that occurs at a major stationary

source will be considered a major modification for that pollutant. If for NOx the potential emissions increase is between 25 and 40 tons per year and the increase occurs at a major stationary source then the increase will still be considered a major modification, but under the newly revised subparagraph (k)(3)(B) such major modification shall be exempt from PSD requirements.

26. Summary of Comments - Subsection 22a-174-3(k): Table 3(k)-1 exemptions

Several commenters requested that exemptions be added for certain CFCs and halons listed in Table 3(k)-1 of subsection 22a-174-3(k). The commenters felt that those CFCs and halons that would be exempt from the phase-out requirements of section 604 of the Clean Air Act should also be exempt from New Source Review and PSD requirements.

Response. The exemptions allowed under section 604 of the Clean Air Act are applicable to the production of certain CFCs and halons, and not their use. The exemptions do not make reference to exemption from New Source Review and PSD requirements. As such, the commenters' requested revisions have not been made. However, with the revisions made to Table 3(k)-1 in response to the previous comment addressed, many of the concerns of these commenters may very well have been resolved.

27. Summary of Comments - Subdivision 22a-174-3(l)(1): non-attainment area applicability enforcement provision

EPA suggested that language be added to subdivision 22a-174-3(l)(1) stating that sources subject to subdivision (l)(1) shall not begin actual construction until they receive a permit.

Response. With language to this effect already under the existing subdivision 22a-174-3(b)(1), DEP feels that it is unnecessary to add similar language to subdivision (l)(1).

28. Summary of Comments - Subdivision 22a-174-3(l)(1): non-attainment area applicability and the definition of "major modification"

EPA recommended that the applicability language of subdivision 22a-174-3(l)(1) should be revised to be more consistent with the definition of "major modification".

Response. With the revisions made to the definition of "major modification" and to subparagraph 22a-174-3(l)(2)(C) (in response to comments already discussed), the paragraph that was added to the initially revised subdivision (l)(1) is no longer necessary and has been deleted.

29. Summary of Comments - Subdivision 22a-174-3(l)(1): non-attainment area applicability exemption for NOx as a precursor to ozone

EPA suggested that language be added to subdivision 22a-174-3(l)(1) clarifying that if the Administrator determines that the statutory

requirements of section 182(f) of the Clean Air Act do not apply, then a new major stationary source or major modification for NOx would not be considered a new major stationary source or major modification for ozone and would not be subject to the requirements of subsection (l).

Response. If and when the Administrator makes such a determination, DEP shall consider the revision of its regulations to allow for NOx being exempt from major stationary source and major modification classification for ozone. For now, the suggested revision has not been made.

30. Summary of Comments - Subparagraph 22a-174-3(l)(1): applicability of new non-attainment area provisions

EPA suggested that DEP adopt an applicability provision which clarifies when the non-attainment area New Source Review provisions of the amended Clean Air Act take effect. EPA suggested that the provision be at least as stringent as EPA's September 3, 1992 memorandum from John Seitz, Director of the Office of Air Quality Planning and Standards, and entitled "New Source Review (NSR) Program Supplemental Transitional Guidance on Applicability of New Part D NSR Permit Requirements".

Response. The September 3, 1992 memorandum cited by EPA contains numerous conditions that must be met in order for a new source or modification to be considered exempt from the new non-attainment provisions of the amended Part D of the Clean Air Act. One of these conditions states that the permit application for the new source or modification must be deemed complete, in writing, prior to November 15, 1992. Since DEP has no active permit applications (for new major stationary sources or major modifications) received prior to November 15, 1992 and not yet deemed complete, no new source or modification could conceivably take advantage of this exemption from the new non-attainment provisions. As such, the revision suggested by EPA is unnecessary and has not been made. For all permit applications not deemed complete on or after November 15, 1992, DEP fully intends to apply all of the applicable new Part D non-attainment provisions to such permit applications.

31. Summary of Comments - Subparagraph 22a-174-3(l)(2)(B) and the deleted subparagraph 22a-174-3(l)(5)(G): emission offset exemptions

EPA thought that the emission offset exemption originally moved to clause 22a-174-3(l)(2)(B)(ii) from clause 22a-174-3(l)(5)(G)(i), might be inconsistent with the new requirements of the Clean Air Act and might not be necessary. This clause "grandfathered" a source from offsets if they were not required under 40CFR51.18 as specified in the August 7, 1980 Federal Register. Two other commenters felt that the two other emission offset exemptions that were deleted from subparagraph (l)(5)(G) should be reinserted. These two clauses allowed an exemption from offsets when LAER reduced emission increases to below the applicability levels for new major stationary source or major modification, respectively.

Response. DEP agrees with EPA that the emission offset exemption originally moved to clause 22a-174-3(l)(2)(B)(ii), is inconsistent with DEP's present regulations and the Clean Air Act as amended in 1990. As such, clause (l)(2)(B)(ii) has been deleted and clause (l)(5)(G)(i) remains deleted.

The language in clauses (l)(5)(G)(ii) and (l)(5)(G)(iii) originally allowed an emission offset exemption for a new major stationary source or major modification that, after the application of LAER, had decreased its emissions below the major stationary source and major modification thresholds. With the deletion of the first paragraph under subdivision (l)(1), however, these types of exemptions would still be allowed; in fact one would be able to avoid being subject to subsection (l) altogether. As such, all of subparagraph (l)(5)(G) remains deleted.

32. Summary of Comments - Subdivision 22a-174-3(l)(3): alternative analysis language clarification

EPA suggested that language be added to the "Analysis of alternatives" requirements of subdivision 22a-174-3(l)(3) clarifying that such analysis shall demonstrate "to the satisfaction of the Commissioner" that certain requirements have been met.

Response. DEP feels that the addition of such language is unnecessary and that it is understood that DEP may disapprove of any information submitted pursuant to section 22a-174-3(l)(3). As such, the language suggested by EPA has not been added.

33. Summary of Comments - Subdivision 22a-174-3(l)(5): emission offset language clarification

EPA requested that the first paragraph of subdivision 22a-174-3(l)(5) be revised to read as follows: "Prior to the issuance of a permit under this section, the owner or operator shall obtain Federally enforceable reductions of..." EPA also suggested that language be added to explain that emission reductions need not be in effect until the date on which the new source or modification commences operation.

Response. The introductory paragraph of subdivision 22a-174-3(l)(5) now states that DEP shall not issue a permit for a source subject to subdivision (l)(5) unless all of the provisions of subparagraphs (l)(5)(A) through (l)(5)(L) are met. The newly revised subparagraph (l)(5)(D) states that emission reductions must be Federally enforceable and must be accomplished by the time the proposed stationary source is to commence operation. As such, the concepts suggested by EPA have been incorporated into subdivision (l)(5).

34. Summary of Comments - Subparagraph 22a-174-3(l)(5)(B): emission offset language clarification

EPA requested that under subparagraph 22a-174-3(l)(5)(C) (now (l)(5)(B)) the words "in the attainment demonstration" be added after the words "the State Implementation Plan".

Response. The language under the most recently revised subparagraph 22a-174-3(l)(5)(B) lists certain circumstances where emission reductions will not be allowed for offset purposes (in EPA's terms, the reductions must be "surplus"). DEP agrees with EPA's suggestion that emission reductions not be allowed for offset purposes if such reductions are otherwise required in the attainment demonstration. However, the attainment demonstration is expected to indicate non-specific emission reductions which will be specified as an accompanying revision to the SIP. Therefore this language was not added. Other changes have been made to the new subparagraph (l)(5)(B). Emission reductions will not be allowed for offset purposes if they are otherwise required by a Federally enforceable order, or by any State statute in effect at the time the subject permit application is deemed complete (or sufficient).

35. Summary of Comments - Subparagraph 22a-174-3(l)(5)(E): emission offset language clarification, and interference with other states' programs

EPA suggested that in the first sentence of subparagraph 22a-174-3(l)(5)(H) (now (l)(5)(E)) the words ", in conjunction with the proposed emissions increase," be added after the words "Emission offsets". In the second sentence, EPA suggested that the words "or sulfur dioxide" be added after the words "particulate matter". EPA also suggested that language be added to this subparagraph indicating that the emissions from the proposed new source shall not contribute to the violation of or interfere with the maintenance of the non-attainment, PSD, or protection of visibility provisions of any other state.

Response. Subparagraph 22a-174-3(l)(5)(E) has been revised to include EPA's recommended language and now reads "The emission reductions, in conjunction with the proposed emissions increase,..." Since Connecticut is attainment for sulfur dioxide, this pollutant has not been added to the list of those pollutants for which subparagraph (l)(5)(E) requires modeling. EPA's suggested language regarding emission violations in other states has not been added because this issue is already addressed under subparagraph (c)(l)(E). Lastly, clarifying language has been added to subparagraph (l)(5)(E) which states that in making a determination of net air quality benefit, emissions may be considered on an hourly, daily, seasonal or annual basis.

36. Summary of Comments - Subparagraph 22a-174-3(l)(5)(H): use of preapplication shutdowns for emission offset purposes

With reference to a June 28, 1989 EPA decision (Federal Register, Volume 54, page 27286), EPA proposed language to be added to subparagraph 22a-174-3(l)(5)(J) (now (l)(5)(H)) that would allow greater flexibility in the use of preapplication shutdowns for offset purposes.

Response. EPA's policy on the use of preapplication shutdowns for offset purposes has been reviewed and the language under 22a-174-3(l)(5)(H) has been greatly simplified. This language now states that emission reductions accomplished by shutting down or curtailing production or operating hours may only be used for offset purposes if such reductions occur after November 15, 1990 and the Administrator has not issued the State any notice restricting the use of such emission reductions. DEP feels that this language, in addition to all of the other requirements that must be met under subdivision (l)(5), is consistent with EPA's policy on the use of preapplication shutdowns for offset purposes.

37. Summary of Comments - Subparagraph 22a-174-3(l)(5)(I): emission offsets for volatile organic compounds

EPA requested that additional language be added to subdivision 22a-174-3(l)(5) explaining that, with respect to offsets for a proposed increase in VOC emissions, no emissions credit shall be allowed for reductions of any compound specifically excluded from the definition of "volatile organic compound".

Response. DEP agrees with EPA and appropriate language has been added under subparagraph 22a-174-3(l)(5)(I). In addition, language has been added under this same subparagraph which states that reductions of perchloroethylene shall not be used to offset emissions of volatile organic compounds.

38. Summary of Comments - Subparagraph 22a-174-3(l)(5)(L): emission offset ratios

EPA suggested that the language under subparagraph 22a-174-3(l)(5)(N) (now (l)(5)(L)) should be revised to more definitively explain how emission offsets and emission offset ratios are to be applied. Specifically, EPA suggested that it be made more clear that an allowable emissions increase of VOC or NOx should be offset by a reduction in actual emissions of the applicable pollutant.

Response. With slight modifications to the language suggested by EPA, the requested revision has been made to subparagraph 22a-174-3(l)(5)(L).

39. Summary of Comments - Subdivision 22a-174-3(l)(5): reasonable further progress

EPA proposed that a new subparagraph be added to subdivision 22a-174-3(l)(5) that would ensure that, when emission offsets are in effect for a new source or modification, reasonable further progress is made pursuant to section 172 of the Clean Air Act.

Response. DEP feels that enforcement of the reasonable further progress requirements of section 172 of the Clean Air Act is more appropriately carried out through enforcement of the specific reasonable further progress plan provisions required to be developed under section 172 of the Clean Air Act, and not by revising the

State's New Source Review regulations. As such, EPA's requested revision has not been made. In addition, the definition of "reasonable further progress" found under the initially revised section 22a-174-1 has also been deleted.

40. Summary of Comments - Subdivision 22a-174-3(l)(5) and its effect on the emissions trading and banking program

Two commenter's requested that the language of subdivision 22a-174-3(l)(5) for emission offsets be worded such that it does not conflict with the as yet to be developed emissions trading and banking program.

Response. Without an emissions trading and banking program in place it is difficult to anticipate all of the requirements of such a program. As such, subdivision 22a-174-3(l)(5) does not address to any great extent how emission reductions may be used in a trading and banking program. In fact, language under the initially proposed subparagraph (l)(5)(G), restricted to some extent the use of emission reductions for trading and banking purposes, has been deemed unnecessary and has since been deleted. Presently there is no language under subdivision (l)(5) that specifically prohibits trading and banking. Certainly the requirements of subdivision (l)(5) will be taken into account prior to the finalization of any emissions trading and banking program.

In a related revision, with the above-referenced deletion made to subparagraph (l)(5)(G) the term "emission reduction credit" is no longer used in section 22a-174-3. As such, this term has been deleted from the definitions in section 22a-174-1.

41. Summary of Comments - Subparagraph 22a-174-3(l)(6)(A): source obligation language clarification

EPA requested that language be added to the requirements of subdivision 22a-174-3(l)(7)(A) (now (l)(6)(A)) clarifying that the owner or operator of a new major stationary source or major modification subject to subsection (l) must demonstrate that all sources owned, operated or controlled by him in Connecticut that "are subject to emission limitations" are in compliance with all applicable emission limitations and standards "under the Clean Air Act".

Response. DEP feels that the language suggested by EPA would limit DEP's enforcement authority, in that the owner or operator of a new source subject to subparagraph 22a-174-3(l)(6)(A) would only have to demonstrate compliance with emission limitations and standards under the Clean Air Act, and not for any limitations or standards under the State Implementation Plan, the State regulations, or any State statute. As such, EPA's suggested revision has not been made.

42. Summary of Comments - Subdivision 22a-174-3(l)(6): action taken if the applicable implementation plan is not being adequately implemented

EPA requested that language be added to subdivision 22a-174-3(l)(6) stating that, for a source subject to subsection (l), the construction

permit would not be issued if the Administrator determined that the applicable implementation plan was not being adequately implemented for the non-attainment area in which the proposed new source or modification is to be constructed in accordance with the requirements of Part D of the Clean Air Act.

Response. DEP feels that it is inappropriate to add self-regulating language such as is being recommended by EPA. If would seem to be more the job of EPA to take whatever action they deem appropriate, and as is allowed under the Clean Air Act, if and when the Administrator determines that the applicable implementation plan is not being adequately implemented for the non-attainment area in which the proposed new source or modification is to be constructed. As such, the suggested language has not been added.

43. Summary of Comments - Subdivision 22a-174-3(n)(1): enforcement action on permit applications

One commenter felt that the language under subdivision 22a-174-3(n)(1) that would have required a source to comply with the terms of its permit application was inappropriate. The commenter agreed that it was appropriate to require a source to comply with the terms of its permit, but felt that the reference to compliance with the terms of a permit application should be deleted.

Response. DEP agrees with the commenter. In addition, after rethinking the enforcement issues raised under subsection 22a-174-3(n), DEP feels that it presently has sufficient enforcement authority under its State regulations and statutes to take appropriate enforcement action when necessary. As such, subsection (n) has been deleted.

44. Summary of Comments - PM-10 precursors

EPA suggested that DEP adopt provisions for PM-10 precursors, as referenced under section 189(e) of the Clean Air Act. EPA suggested that DEP add a definition of "PM-10 precursors" under section 22a-174-1, that the definitions of "major modification" and "major stationary source" be revised to state that for the purposes of subdivision 22a-174-3(l)(1) a significant net emissions increase of a PM-10 precursor is considered significant for PM-10, that Table 3(k)-1 of subsection (k) be revised to include the new de minimis emission levels for PM-10 precursors in moderate and serious PM-10 non-attainment areas, and that language be added to subdivision (l)(1) stating that the PM-10 precursor requirements shall not apply where the Administrator determines that such sources of PM-10 precursors do not significantly contribute to PM-10 levels which exceed the PM-10 ambient air quality standards in the area (language to this effect is found under section 189(e) of the Clean Air Act).

Response. Presently the State of Connecticut has one small area within the City of New Haven that is considered non-attainment for PM-10. DEP feels confident that the non-attainment status of this area is due almost solely, if not completely, to fugitive dust emissions in the

area and not to any PM-10 precursor pollutants (sulfur dioxide, nitrogen oxides and volatile organic compounds). As such, the suggested revisions have not been made, however, DEP has addressed the PM-10 precursor issue more formally in its PM-10 SIP submittal to EPA which is being processed independently from this SIP revision.

45. Summary of Comments - Pollution control projects at electric utility generating units

EPA suggested that DEP may want to add certain provisions promulgated in 40 CFR section 51.165 on July 21, 1992 (Federal Register, Volume 57, page 32314) for pollution control projects at electric utility generating units.

Response. DEP has briefly reviewed the above referenced 26-page decision and has decided not to revise its regulations to accommodate for the provisions of this decision at this time. DEP may address this issue in the future when time allows for a more in-depth review of this decision.

46. Summary of Comments - Federal enforceability of State permits to operate

Several commenters requested that DEP make its permits to operate Federally enforceable by including public participation requirements for all permits to operate issued. Reference was made to a June 28, 1989 EPA decision published in the Federal Register (Volume 54, page 27274) which lists requirements that must be met in order for State permits to operate to be considered Federally enforceable, one of which is that EPA and the public have the opportunity to comment on permit applications and proposed permits to operate prior to issuance of the permits to operate. The commenters expressed the following concerns in regards to permits to operate that are not Federally enforceable:

a) If a permit to operate is not Federally enforceable then EPA would be forced to look at potential emissions from the source without control equipment in place and without regard to any restrictions on production rates or hours of operation. Under such a scenario the Federal potential emissions from a number of these permits to operate could be aggregated into a major modification or a major stationary source, even though the aggregated State potential emissions may be well below any major modification or major stationary source thresholds.

b) It is uncertain if an emission decrease obtained from a source that is regulated under a permit to operate that is not Federally enforceable would be creditable for internal offset and emission offset purposes, whereas it is quite certain that such a decrease would be creditable if it were obtained from a source that is regulated under a Federally enforceable permit (assuming all other offset requirements are met).

Response. DEP is aware of the commenters' concerns but feels that the revisions that would be needed to accommodate for these concerns are beyond the scope of the revisions intended to be made to the State regulations at this time. DEP does intend to address this issue more fully in developing the CAA Title V operating permit program.

47. Summary of Comments - "Hidden emissions" from new electric end use equipment

Several commenters expressed concern over "hidden emissions" from new electric end use equipment installations that use electricity from electric utility plants, which in turn are subject to older, less stringent emission standards. The commenters felt that it was unfair to allow someone to go unregulated who purchases electricity from a utility plant that burns a "dirty" fuel (e.g. coal or oil), while greatly regulating and requiring offsets to be obtained from someone who installs their own new electricity generating unit that burns a "cleaner" fuel (e.g. natural gas). The commenters made the following suggestions in an attempt to create "a more level playing field":

a) For new fossil fuel burning equipment that would be subject to the NOx major stationary source or major modification thresholds, clearly define BACT in advance of implementing the revised regulations.

b) New electric end use equipment should be evaluated for its potential to emit at the electric utility plant. If such emissions are greater than major stationary source or major modification thresholds then the new end use equipment should be subject to all New Source Review permitting requirements, including emission offsets.

Response. In regard to the first comment, a BACT determination is made for new sources on a case-by-case basis and allows for the implementation of newer, more efficient control technologies as such technologies become available. Defining a fixed BACT determination, whether before or after the revision of the regulations, would violate both the State and Federal definition of "best available control technology." A fixed BACT determination would obviate the need for the installation of a newer, more stringent control technology if such technology were to become available. As such, the requested revision has not been made.

In regard to the second comment, the suggested revision would represent a radical change in the way that air pollutant emissions are presently regulated both at the State and Federal level. First, electric end use equipment does not fit under the existing or revised State definition of "stationary source". In addition, existing air emission regulations are geared towards regulating the primary source of air emissions; i.e. the equipment, process or operation that actually emits a given air pollutant. What the commenters are suggesting is that not only should the source of the air emissions

itself be regulated (and in this case electric utility plants are presently regulated under existing regulations, the NOx RACT and acid rain provisions of the Clean Air Act will require further regulation of such utility plants, and of course new electric utility plants are subject to complete New Source Review permitting requirements), but anyone who purchases a product (in this case electricity) produced from that source should also be subject to regulation. It would seem unfair to require this "double regulation" for emissions that have occurred once and only once at one source. In addition, if the requested revision were made it would seem only fair to apply this type of thinking to other similar situations as well. For example, if one were to purchase paper products from a paper manufacturer then one would have to calculate the amount of pollutants that were emitted in the manufacturing of that paper and then evaluate the emissions from this "new source" for New Source Review purposes.

In summary, it appears to DEP that the implementation of the suggested new method of evaluating and regulating source emissions would result in a dramatic change in the way that air emissions are presently regulated, would require a major change in the regulations themselves, and is beyond the scope of the revisions intended to be made to the State regulations at this time. DEP is willing to discuss further the new ideas presented by the commenters once the commenters have examined further these ideas and their implications, but because these ideas are so radically different than the way in which both the State and Federal permitting programs presently operate, DEP is not willing to make any commitment as to the implementation of these new ideas at this time.

NOTE: The following revisions have been made by DEP to more clearly and succinctly carry out the intent of the State's New Source Review program, and not in response to any particular comments received by EPA or any other commenters.

48. Revision - Deletion of quotation marks

Under the existing regulations all terms that are defined in section 22a-174-1, and which are then used throughout the remainder of the regulations, are enclosed in quotation marks. Since it can be somewhat cumbersome to read sentences where every other word is in quotation marks, the quotation marks around all defined terms in sections 22a-174-1 and 22a-174-3 have been deleted, except for where the terms are initially defined in section 22a-174-1.

49. Revision - Deletion of subdivision numbers in section 22a-174-1

Since all of the defined terms in section 22a-174-1 are in alphabetical order it seems unnecessary to number these terms as well. As such, the subdivision numbers preceding each of the defined terms in section 22a-174-1 have been deleted.

50. Revision - Definitions added: "CFR" and "non-attainment air pollutant"

The term "CFR" has been added to section 22a-174-1 to mean the Code of Federal Regulations. The term "non-attainment air pollutant" has been added to clarify that VOC and NOx are each non-attainment air pollutants for ozone.

51. Revision - Definition of "complete" replaced with definition of "sufficient"

In order to be consistent with terms defined in CT Statutes and used throughout DEP's air, waste and water programs, the term "complete" has been deleted and replaced with the term "sufficient"; the new definition for "sufficient" is the same as that used for "complete" in the existing regulations. In addition, the words "incomplete" and "completeness determination" used throughout section 22a-174-3 have been replaced with the words "insufficient" and "determination of sufficiency", respectively.

52. Revision - Definition of "dioxin emissions": EPA publication reference deleted

The initially proposed definition of "dioxin emissions" included a reference to an EPA publication for estimating risks associated with exposure to dioxin emissions. DEP feels that this reference is unnecessary and it has been deleted. If a source of dioxin emissions is to be permitted then prior to the issuance of such permit the appropriate method for estimating risks associated with exposure to dioxin emissions will be determined.

53. Revision - Definition of "heat input", "internal offset", "netting" and "non-attainment area": minor editorial revisions

For purposes of clarification, minor editorial revisions have been made to the above-referenced definitions as they appeared in the initially proposed regulations. No substantive changes have been made.

54. Revision - Definition of "nitrogen oxides"

The initially proposed definition of "nitrogen oxides" was defined as the sum of all oxides of nitrogen except nitrous oxide expressed as nitrogen dioxide, and as measured by test methods set forth in 40 CFR Part 60. DEP feels that it is not in its best interest to exclude nitrous oxide from the definition of "nitrogen oxides" or to state specifically the test methods to be used to measure nitrogen oxides, therefore the most recently proposed definition of "nitrogen oxides" does not exclude nitrous oxide nor does it make reference to any test methods.

55. Revision - Deletion of subsection 22a-174-1(b)

Upon further review of the definitions of "actual emissions" and "potential emissions", DEP feels that subsection 22a-174-1(b) is unnecessary, therefore, this subsection has been deleted.

56. Revision - Subdivisions 22a-174-3(c)(1) and (g)(8): typographical errors

The existing introductory paragraph of subdivision 22a-174-3(c)(1) makes reference to subparagraphs (A) through (K) of subdivision (c)(1). The initially proposed subdivision (c)(1) was changed to make reference to subparagraphs (A) through (L), however a new subparagraph (L) was not added. The most recently proposed subdivision (c)(1) now correctly makes reference to subparagraphs (A) through (K) of subdivision (c)(1).

The intent of subdivision (g)(8) is to exempt a source requiring a permit to operate from being subject to BACT (under subparagraph (g)(2)(H)) if it had already been reviewed for BACT under a permit to construct. However, the existing subdivision (g)(8) incorrectly makes reference to subparagraph (g)(2)(G) and not (g)(2)(H). The most recently proposed subdivision (g)(8) now correctly makes reference to subparagraph (g)(2)(H).

57. Revision - Subdivisions 22a-174-3(k)(5) and (k)(6); Table 3(k)-2; and subparagraph (l)(2)(B): minor editorial revisions

For purposes of clarification, minor editorial revisions have been made to the above-referenced parts of section 22a-174-3 as they appeared in the initially proposed regulations. No substantive changes have been made.

IV. FINAL RECOMMENDATION

Based upon the considerations in this Hearing Report, I recommend that the final amended regulations be adopted by the Commissioner of Environmental Protection and submitted for approval by the Attorney General and the Legislative Regulations Review Committee.

1/11/94
Date

Carmine DiBattista