

June 14, 2014

Mr. Richard Ruvo, Chief
Air Programs Branch
U.S. Environmental Protection Agency
Region 2 Office
290 Broadway, 25th Floor
New York, NY 10007-1866

Attn: Docket ID No. EPA-R02-OAR-2014-0251

Re: Rescission of Determination of Attainment and Call for Attainment Plans for New York, New Jersey and Connecticut for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the NY-NJ-CT 1997 Ozone Nonattainment Area (79 Fed. Reg. 27830, May 15, 2014)

Dear Mr. Ruvo:

The State of Connecticut has been subjected to unlawful levels of transported air pollution for far too long. Unfortunately, the Environmental Protection Agency's (EPA) proposal to rescind its determination of attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) for the NY-NJ-CT area and proposed call for revisions to the State Implementation Plan (SIP) to address ozone levels in this area, while well intended, does little to address this problem. The Department of Energy and Environmental Protection (DEEP) offers the following comments on the EPA's proposal because, despite our best efforts, illegal interstate air pollution transport continues to impose unacceptable public health and economic costs on the State of Connecticut.

Surface level ozone is a powerful respiratory irritant that also increases the risk of premature death from heart or lung disease. The best science tells us that exposure to ozone levels as low as 60 parts per billion over 8 hours represent a public health hazard. DEEP fully acknowledges, and is greatly disappointed by the fact that based on the most recent quality assured data for 2011-13, the 8-hour ozone design value at three of Connecticut's eleven ozone monitors exceed the effective 1997 8-hour ozone NAAQS of 84 parts per billion (ppb).

Nonetheless, Connecticut has gone to great lengths to reduce our "home grown" air pollution that contributes to the formation of ozone. It should also be noted that the three air quality monitors within Connecticut that violate the 1997 8-hour ozone NAAQS are all located along the coast and are predominantly influenced by interstate transport of air pollution that often exceeds the ozone NAAQS before reaching Connecticut. One of the

many examples of this phenomena occurred on July 19, 2013, when ozone laden air generated in areas to the west and south of Connecticut was carried on sea breezes over Long Island Sound resulting in 8-hour ozone readings of 99 ppb at Westport, 90 ppb at Stratford and 89 ppb at Madison.

While the Clean Air Act (CAA) may empower EPA to revoke the Clean Data Determination (CDD) and issue a SIP call, DEEP believes that EPA, through this proposed action, falls short of addressing the root cause of Connecticut's continued noncompliance. EPA must first and foremost address this root cause – unlawful levels of interstate air pollution. Connecticut's position on this issue remains clear, consistent, and unchanged: air pollution transport poses an overwhelming and unacceptable public health and economic threat to the residents of Connecticut. The health of Connecticut's citizens continues to be negatively impacted by unlawful levels of air pollution emanating from upwind states. This transported air pollution remains beyond our regulatory reach and continues to burden both our public health and our economy. Connecticut bears the additional costs of health impacts and additional localized emission control measures. It is simply not equitable, just, or legal to assign Connecticut the responsibility for addressing a problem that Connecticut cannot successfully address.

EPA has two avenues to address intransigent interstate air pollution transport relative to the 1997 8-hour ozone NAAQS. First, EPA must, and is in fact compelled by section 110(k)(5) of the CAA to,¹ expand the scope of this SIP call to include every state that significantly contributes greater than 1% of the 1997 8-hour ozone NAAQS to the three violating monitors. Second, in light of the recent U.S. Supreme Court decision in *EPA v. EME Homer City* (134 S. Ct. 1584 (2014)), DEEP believes the CAA now compels EPA to immediately issue federal implementation plans (FIPs) for upwind states that have failed to take all necessary steps to make it feasible for any nonattainment area significantly impacted by interstate air pollution to attain and maintain both the 1997 and 2008 8-hour ozone NAAQS. DEEP strongly supports the efforts of EPA to hold upwind states accountable to their responsibility under section 110(a)(2)(D)(ii) of the CAA. The primary responsibility to address interstate air pollution falls to the states; however, the breadth of this challenge cannot be met by the states without strong EPA leadership and decisive action. Placing the burden on Connecticut is illogical and forces Connecticut to assess all available CAA tools to secure necessary upwind reductions relative to both the 1997 and 2008 8-hour ozone NAAQS.

¹ CAA 110(k)(5) states: "Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies." The proposed SIP call should be broadened to address the role of upwind states, to fully address the requirements of 110(k)(5).

Richard Ruvo

Page 3

June 14, 2014

Docket ID No. EPA-R02-OAR-2014-0251

Additional comments on EPA's proposal are attached hereto as Attachment A and incorporated by reference in their entirety herein. If you have any questions regarding the issues raised in this letter or in Attachment A thereto, please contact Anne Gobin, Chief of the Air Management Bureau, at (860) 424-4152.

Sincerely,



Robert J. Klee
Commissioner

CC: David Conroy, EPA Region 1
Anne Gobin
Kimberly Massicotte, CT OAG

Attachment A

Connecticut Department of Energy and Environmental Protection Comments on EPA Docket ID No. EPA-R02-OAR-2014-0251

On May 15, 2014, EPA published a proposed rule (see, 79 FR 27830) that would require Connecticut, New York and New Jersey to revise their State Implementation Plans (SIPs) to provide for attainment of the 1997 ozone national ambient air quality standard (NAAQS) throughout the New York-New Jersey-Connecticut (NY-NJ-CT) nonattainment area (area). EPA's proposed rule would rescind a previously issued clean data determination (CDD) for the area, based on current monitoring data that shows the area is no longer measuring attainment of the 1997 8-hour ozone NAAQS. The proposal also includes a "SIP Call" that would require each of the states to submit revised attainment SIPs showing how the area will re-attain the 1997 8-hour ozone NAAQS as expeditiously as practicable.¹

The Connecticut Department of Energy and Environmental Protection (DEEP) previously submitted an [Attainment Demonstration SIP](#) for its portion of the area on February 1, 2008. This SIP demonstrated that the area would achieve the 1997 8-hour ozone NAAQS by the June 2010 attainment deadline for moderate ozone nonattainment areas. Although EPA initially proposed to disapprove this SIP, subsequent monitoring data for the 2007-2009 period showed the area did in fact comply with the NAAQS by the required attainment date. Furthermore, the area maintained compliance with this NAAQS through the 2011 ozone season. On June 18, 2012, EPA finally recognized the area's compliance status by issuing a clean data determination and ruling that the NY-NJ-CT area had met the required attainment date, while also rescinding the proposed SIP disapprovals. EPA subsequently proposed to approve the attainment SIPs for each state, finalizing the approvals for New York and New Jersey on February 11, 2013. However, EPA did not take final action to approve Connecticut's SIP prior to the recent measured violations in 2012 and 2013 that prompted EPA's current proposal to rescind the CDD and issue SIP Calls for each state.

The cover letter to this attachment provides an overview of DEEP's comments on this proposed SIP Call. This attachment expands upon those comments after briefly describing the important role interstate air pollution transport plays in Connecticut's long standing ozone problem and the progress Connecticut has made reducing in-state emissions of ozone precursor pollutants including both oxides of nitrogen (NO_x) and volatile organic compounds (VOCs).

Ozone Levels in Southwest Connecticut Are Dominated By Interstate Transport

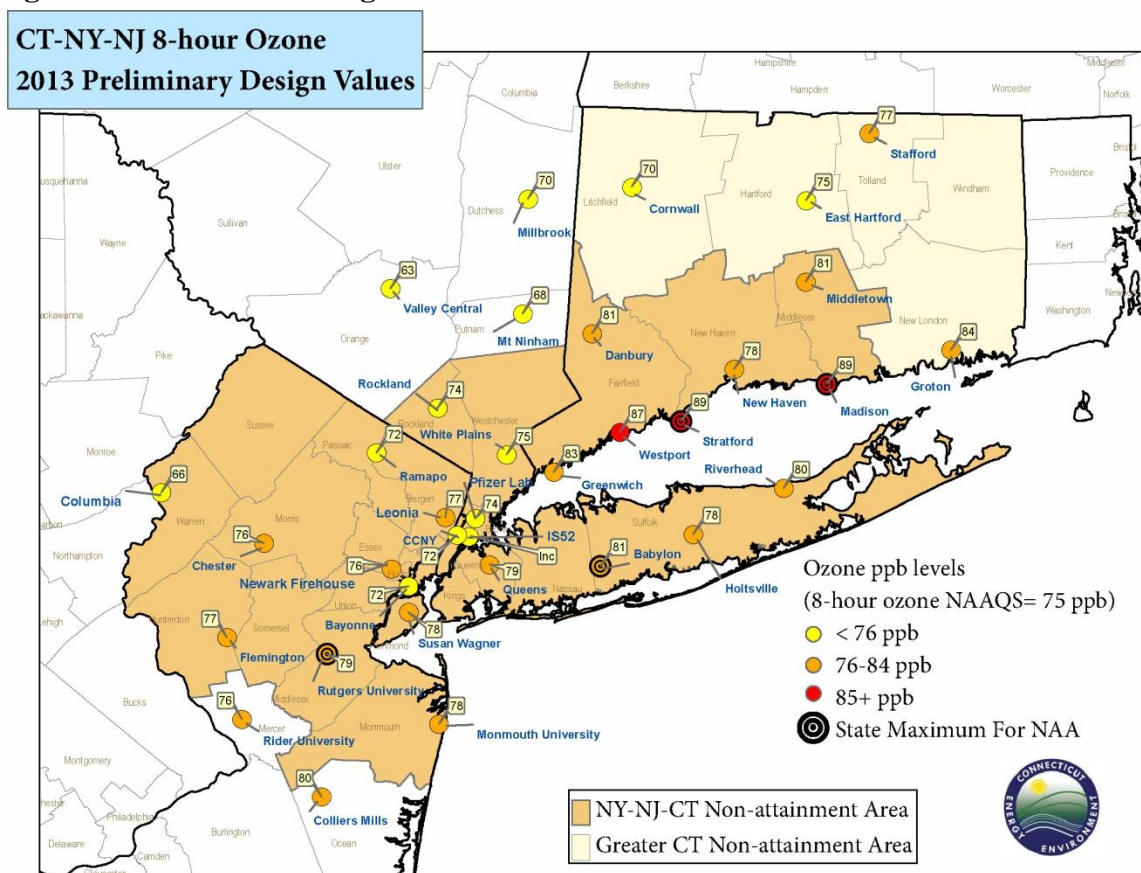
EPA issued this proposed SIP Call based on ozone values measured by DEEP in 2012 and 2013. These measurements produced design values (DV) from three coastal air quality monitors in Connecticut showing current violation of the 1997 8-hour ozone NAAQS of 84 ppb.² **Figure 1** below depicts the ozone monitor locations and 2013 ozone design values.

¹ EPA's proposed SIP Call also provides the states with alternatives to submit attainment SIPs for the more stringent 2008 ozone NAAQS.

² Although the 1997 ozone NAAQS is 0.08 ppm, monitoring and rounding conventions result in an effective standard of 0.084 ppm, or 84 ppb. The current design value at each monitor is determined by first identifying the 4th-highest daily 8-hour average for each of the three most recent calendar years, then calculating the average of those three values. The highest design value monitored in an area is used to determine NAAQS compliance.

The three violating monitors are located in Stratford (DV = 89ppb), Westport (DV = 87ppb) and Madison (DV = 87ppb). Each of the violating monitors is located directly on Connecticut’s southern coastline, immediately adjacent to the waters of Long Island Sound. All other monitors in Connecticut currently comply with the 1997 NAAQS, with the next highest design values recorded at the Groton (DV = 84ppb) and Greenwich (DV = 83ppb) monitors, which are also located on the coast adjacent to Long Island Sound.³ No inland monitors in Connecticut have recorded a 4th-high⁴ 8-hour ozone value of 85 ppb or higher since 2008. This evidence, when considered with the discussion below, points to the dominating role that interstate transport plays in overwhelming DEEP’s ongoing efforts to achieve and maintain compliance with the 1997 ozone NAAQS, especially at Connecticut’s coastal monitors.

Figure 1. 2013 Ozone Design Values for the NY-NJ-CT Nonattainment Area



³ DEEP’s draft 2014 Air Monitoring Network Plan includes Google maps showing the coastal location of each of these monitors (starting at page 23 of the [network plan](#)).

⁴ This value is critical because the 4th-highest value measured at a monitor each year is used to calculate the design value which is then compared to the NAAQS to determine compliance.

The Northeast States for Coordinated Air Use Management (NESCAUM)⁵ and others have compiled conceptual descriptions⁶ of the regional nature of high ozone events and the importance of addressing interstate transport. Connecticut's location in relation to large upwind emission source regions and ozone-favorable meteorological regimes makes the state particularly vulnerable to receiving levels of transported air into the state that already exceed both the 2008 and 1997 8-hour ozone NAAQS, especially along the coastline, as described below.

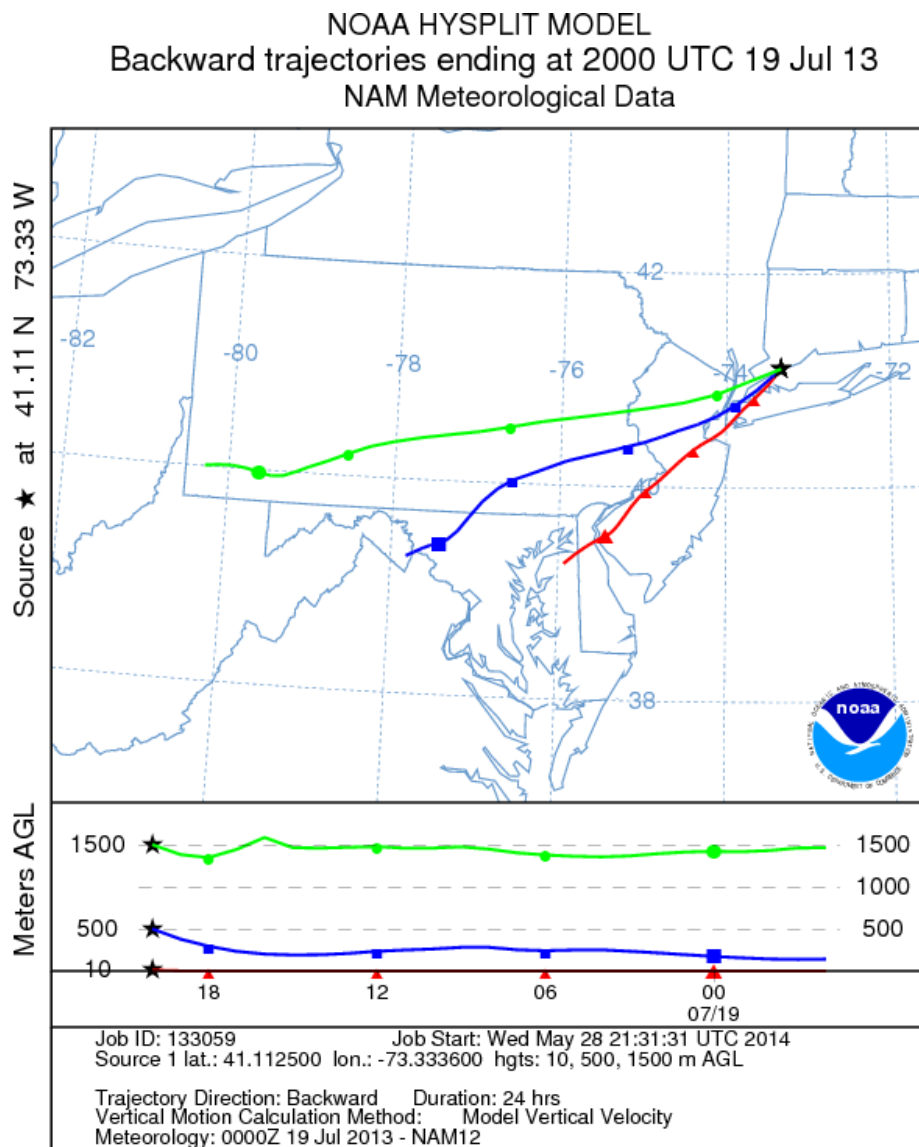
Wind analyses indicate that high ozone events impacting Connecticut's shoreline are most often associated with synoptic-scale winds that transport ozone and ozone precursor emissions from regions to the west and south of Connecticut into Long Island Sound. The relatively cool waters of Long Island Sound confine the pollutants in the shallow and stable marine boundary layer. Afternoon summertime heating over coastal land areas creates a sea breeze with a southerly component that brings high ozone levels from the air over Long Island Sound into Connecticut's coastal areas. Meanwhile, inland winds from the west can inhibit further penetration of the sea breeze, sometimes contributing to the formation of a convergence zone that further concentrates ozone levels along the coast. These factors result in measured exceedances of the 8-hour ozone NAAQS at Connecticut's coastal monitors.

Figure 2, below, depicts wind trajectories during a representative high ozone event that occurred on July 19, 2013. Peak 8-hour ozone levels in Connecticut were measured at the coastal Westport monitor (99ppb), with exceedances of both the 1997 and 2008 NAAQS also recorded at coastal monitors in Stratford (90ppb), Madison (89ppb) and Groton (91pb). The pathway of the wind reaching Westport in the afternoon of that day is shown at three different levels: 10 meters, 500 meters and 1500 meters above ground-level. Winds from the lower levels travel into Westport on the sea breeze from Long Island Sound after passing over emission rich areas to the southwest of Connecticut, while winds aloft have a more westerly component and cover a longer distance over the day. The trajectories also reveal that emissions from Connecticut are likely minimally involved in events like these.

⁵ NESCAUM is a 501(c)(3) nonprofit association of air quality agencies in the Northeast. The Board of Directors consists of the air directors of the six New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), New Jersey, and New York. NESCAUM's purpose is to provide scientific, technical, analytical, and policy support to the air quality and climate programs of the eight Northeast states.

⁶ For example, see "[The Nature of the Ozone Air Quality Problem in the Ozone Transport Region: A Conceptual Description](#)", NESCAUM, August 2010.

Figure 2. Wind trajectories to Westport, CT on July 19, 2013.

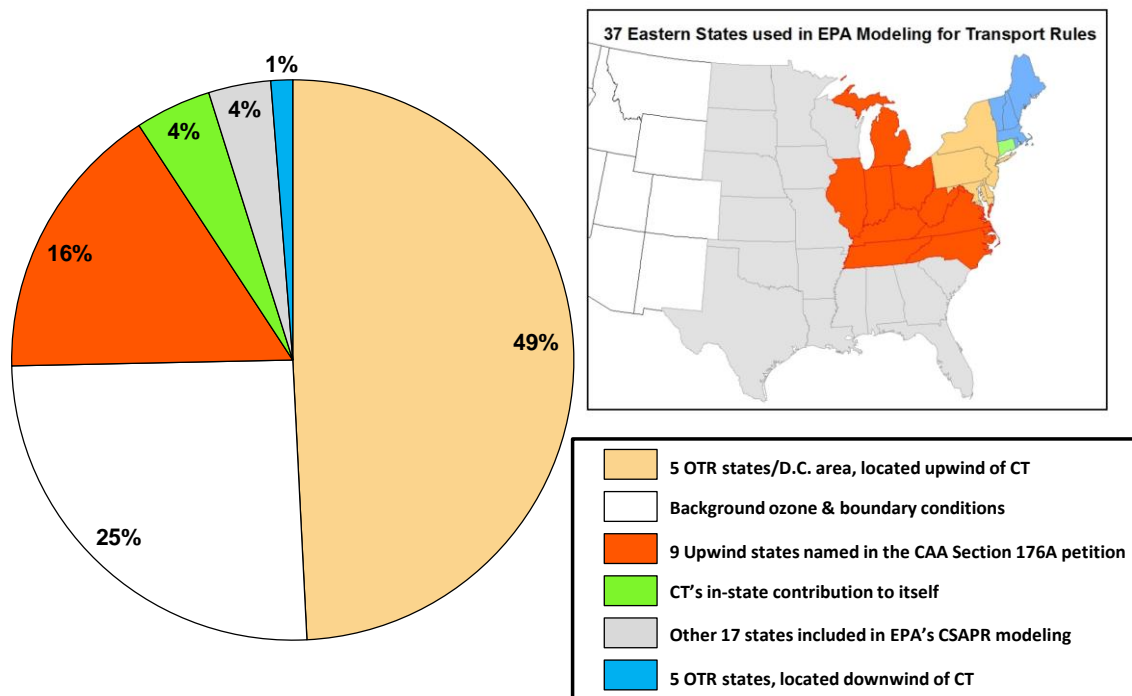


EPA’s CSAPR modeling⁷ confirms the overwhelming role that interstate transport plays in causing Connecticut’s high levels of ozone, especially at the coastal sites in the NY-NJ-CT

⁷ EPA’s CSAPR modeling results are summarized in the spreadsheet entitled: “[Contributions of 8-hour ozone, annual PM2.5, and 24-hour PM2.5 from each state to each monitoring site](#)”. EPA’s modeling results show CT emissions contribute no more than 5% of 2012 modeled ozone DVs at the Stratford, Westport & Madison sites.

area where violations of the 1997 ozone NAAQS persist. EPA’s modeling indicates that emissions outside of Connecticut’s regulatory control contributed at least 95% of modeled 2012 ozone levels at each of the three coastal monitors with measured 2013 DVs that violate the 1997 NAAQS (see **Figure 3**). DEEP recognizes that EPA is conducting a new round of modeling with updated data to support a new transport rule for the 2008 NAAQS and future NAAQS revisions. Nonetheless, the fundamental demonstration of this modeling is being borne out by real world observations in Connecticut.

Figure 3. Percent Contributions to Peak Ozone Levels at CT’s Violating Monitors



Data source: http://www.epa.gov/crossstaterule/pdfs/CSAPR_Ozone%20and%20PM2.5_Contributions.xls
 Percentages calculated using EPA modeled 2012 DVs & state contributions averaged for the 3 three violating CT monitors.

Connecticut's Adopted Control Strategies Ensure Continued Emission Reductions

As described in Connecticut's [Attainment Demonstration SIP](#),⁸ Connecticut already has in place many state and federal stationary and mobile source control strategies designed to reduce ozone precursor emissions, achieve compliance with the 1997 ozone NAAQS and address Connecticut's contributions to downwind ozone levels. Many of the strategies continue to accumulate additional reductions as, for example, older on-road and non-road vehicles/equipment are replaced by newer, lower emitting, vehicles and equipment.

Table 1 summarizes control programs implemented in Connecticut since 2002 for sources of NO_x (and other pollutants). **Figure 4** shows projected NO_x emission reductions between 2007 and 2025 in southwest Connecticut due to most of the programs being implemented in Connecticut.⁹ Overall, NO_x emissions in Connecticut are expected to decline by more than 40% by 2017 and 50% by 2025, compared to emission levels in 2007. Additional emission reductions, beyond those shown in Figure 3, can be expected from Connecticut's Low Emission Vehicle III program and EPA's recently finalized Tier 3 program, as well as from stationary source regulation revisions DEEP will consider as part of its effort to meet reasonably available control technology (RACT) requirements for the 2008 ozone NAAQS. These sizable emission reductions will significantly reduce Connecticut's contribution to ozone levels both within the state and in downwind areas.

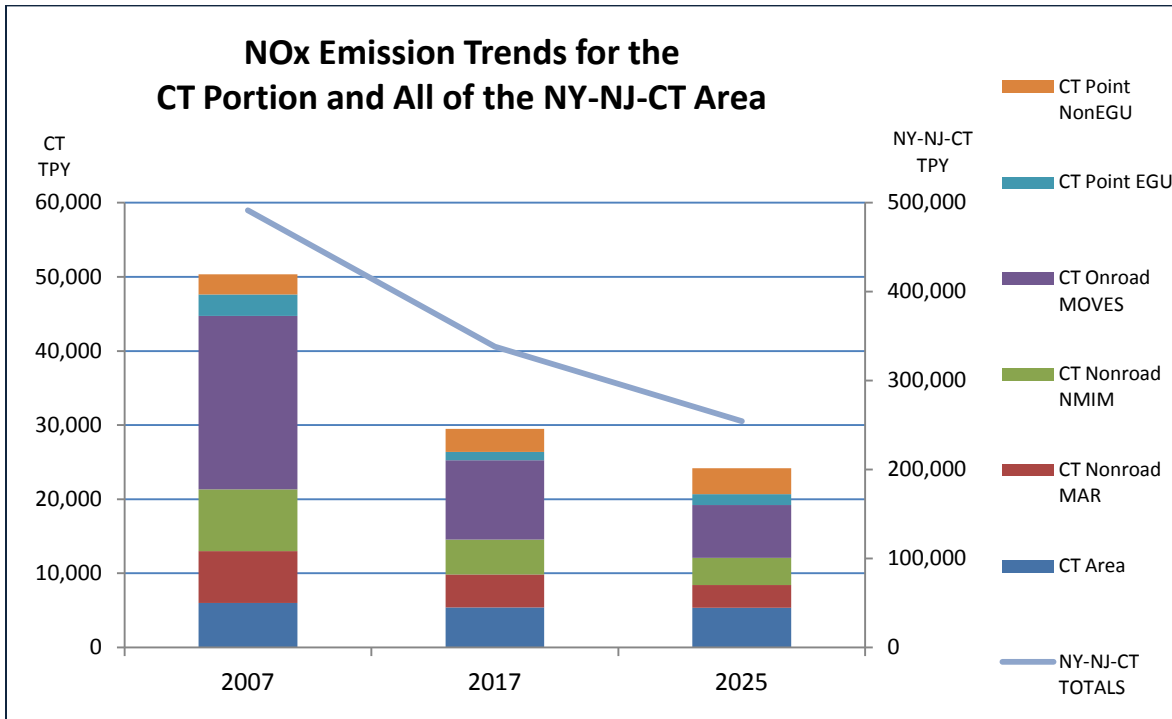
⁸ CT submitted an [ozone attainment demonstration SIP](#) for the 1997 ozone NAAQS on February 1, 2008. EPA [approved](#) the SIP for the Greater Connecticut nonattainment area on December 26, 2013 and [proposed approval](#) of the SIP for the CT portion of the NY-NJ-CT area on May 9, 2013, but has not taken final action.

⁹ Both Table 1 and Figure 3 are from CT's [PM_{2.5} Redesignation SIP](#). Figure 3 depicts estimated annual NO_x emissions for 2007, 2017 and 2025 for Fairfield and New Haven Counties. The CT portion of the NY-NJ-CT ozone nonattainment area also includes Middlesex County. On a percentage basis, emission reductions in Middlesex County (and the rest of CT) are expected to be comparable. Note that these emissions estimates do not include reductions from CT current LEV program or EPA's recently finalized Tier 3 program.

Table 1. Connecticut's Adopted Post-2002 Control Programs

Control Measure	PM	NO_x	SO₂
<u>Federal Programs</u>			
Tier 2 Vehicle Standards and Gasoline Sulfur Standards	X	X	X
Heavy-Duty Diesel and Gasoline Highway Vehicle Standards	X	X	X
Motorcycle Exhaust Standards		X	
Large Non-road Diesel Engine Standards	X	X	X
Non-road Spark-Ignition Engines and Recreational Engine Standards	X	X	X
NO _x SIP Call		X	
CAIR		X	X
<u>State Programs</u>			
Control of Sulfur Dioxide and Nitrogen Oxide Emissions from Power Plants and Other Large Stationary Sources RCSA Sections 22a-174-19a and 22a-174-22(e)(3)		X	X
The Post-2002 Nitrogen Oxides (NO _x) Budget Program RCSA Section 22a-174-22b		X	
CAIR NO _x Ozone Season Trading Program RCSA Section 22a-174-22c		X	
Outdoor Wood Burning Furnace Restrictions Section 22a-174k of the Connecticut General Statutes	X		
Improvements in the Control of Particulate Matter and Visible Emissions RCSA Section 22a-174-18	X	X	
Connecticut Enhanced Inspection and Maintenance Program (ASM 2525 final standards and OBD II program) RCSA Section 22a-174-27		X	
CT's California Low Emission Vehicle Phase 2 (CALEV2) RCSA Section 22a-174-36b	X	X	
Reductions in NO _x emissions from Municipal Waste Combustors (Phase 2) RCSA Section 22a-174-38		X	
NSR Permit to Construct and Operate Stationary Sources RCSA Section 22a-174-3a	X	X	X

Figure 4.



Specific Comments on this proposed rule

- I. **Section 110(k)(5) of the CAA provides EPA with the authority necessary to expand the scope of this proposed SIP Call. As such, EPA should withdraw the present proposal and issue a new proposal that includes within the next SIP Call any state that is shown to contribute to the 3 violating monitors because these states have failed to meet their obligations under CAA section 110(a)(2)(D)(ii).**

EPA proposes to arbitrarily/narrowly use its authority under CAA section 110(k)(5) to issue a SIP Call to only Connecticut, New York and New Jersey to address 1997 8-hour ozone NAAQS violations. EPA should more broadly apply the full power of CAA section 110(k)(5) and issue SIP Calls to all upwind states significantly impacting Connecticut given the overwhelming degree of interstate air pollution transport. According to EPA’s own modeling, at least 95% of the ozone that impacts the violating Connecticut monitors is outside of Connecticut’s regulatory control and almost 60% is outside the control of any of the three states comprising the NY-NJ-CT area. Section 110(k)(5) allows EPA to find upwind state SIPs inadequate if they fail to “mitigate adequately the interstate

pollutant transport described in section 176A or section 184” (which applies to offending OTR states) or if they otherwise fail to “comply with any requirement of this Act” (which applies to all significantly contributing states not meeting their section 110 (a)(2)(D) good neighbor requirements). Despite the recent U.S. Supreme Court ruling, CSAPR modeling shows that Connecticut receives no more than a 0.2 ppb total benefit from the CSAPR remedy, which is entirely inadequate given the overwhelming scope of transport. As such, EPA should withdraw the proposed rule and re-issue a proposal that includes SIP Calls on all offending upwind states under CAA section 110(k)(5) to make it feasible for Connecticut to achieve and maintain the 1997 8-hour ozone NAAQS as expeditiously as practicable.

II. EPA lacks authority under the CAA to use monitored noncompliance with the 1997 8-hour ozone NAAQS to require the preparation and submission of an attainment demonstration for the 2008 8-hour ozone NAAQS because Connecticut is classified as a marginal nonattainment area.

On April 30, 2012, EPA finalized initial designations for the NY-NJ-CT as marginal nonattainment of the 2008 8-hour ozone NAAQS. According to EPA’s proposed implementation rule, the area has until December 31, 2015 to attain this standard. In addition to pursuing additional local controls through a “RACT” analysis, Connecticut must rely on upwind states meeting their obligations under CAA section 110(a)(2)(D)(ii) in order to timely attain and maintain the 2008 ozone NAAQS. Connecticut can find no authority in the CAA that would compel the submittal of an attainment demonstration SIP for the 2008 ozone NAAQS by the deadline of 18 months after promulgation of the proposed SIP Call as suggested by EPA in this proposed rule.

III. EPA lacks authority under the CAA to use monitored noncompliance with the 1997 8-hour ozone NAAQS to require Connecticut to voluntarily reclassify the Connecticut portion of the NY-NJ-CT marginal nonattainment area to moderate under the 2008 8 hour ozone NAAQS.

On April 30, 2012, EPA finalized initial designations for the NY-NJ-CT as marginal nonattainment of the 2008 8-hour ozone NAAQS. According to EPA’s proposed implementation rule, the area has until December 31, 2015 to attain this standard. In addition to pursuing local controls through a “RACT” analysis, Connecticut must rely on upwind states meeting their obligations under CAA section 110(a)(2)(D)(ii) in order to timely attain and maintain the 2008 ozone NAAQS. Connecticut can find no authority in the CAA that authorizes EPA to compel Connecticut to reclassify its nonattainment status prior to the marginal nonattainment area attainment date of December 31, 2015 as suggested by EPA in the proposed SIP Call.

IV. EPA is acting arbitrarily and capriciously by not pursuing similar actions against other nonattainment areas that are similarly situated to the NY-NJ-CT area with respect to noncompliance with the 1997 8-hour ozone NAAQS.

Other areas of the country have monitors with 2012 or preliminary 2013 DVs that violate the 1997 ozone NAAQS (e.g., Cheboygan, Wisconsin recorded a 2012 DV of 87ppb and preliminary 2013 DV of 85ppb). In its response to comments, EPA must explain its reasoning for why it is not imposing similar requirements on these other areas and is instead choosing to treat the NY-NJ-CT nonattainment area differently.

V. It is unclear whether EPA is authorized to issue this proposed SIP Call without first taking final action on pending Connecticut SIP revisions related to the 1997 8-hour ozone NAAQS.

Connecticut's attainment demonstration and RACM SIPs submitted for the southwest Connecticut portion of the multi-state nonattainment area were proposed for approval by EPA on May 9, 2013 (78 FR 27161). The current SIP Call proposal does not withdraw EPA's proposed approval of Connecticut's attainment demonstration, nor does it propose to disapprove that SIP revision. It is unclear to Connecticut whether EPA can find the Connecticut Attainment Demonstration SIP to be inadequate under CAA section 110(k)(5) unless EPA has explicitly completed final rulemaking on the pending SIP approval.

VI. It is unclear how EPA proposes to address many technical uncertainties inherent in a multi-state SIP Call.

In the proposed SIP call, EPA finds Connecticut, New York and New Jersey's SIPs to be "substantially inadequate with respect to attainment of the 1997 8-hour ozone NAAQS." EPA proposes to require the states "to develop SIP revisions demonstrating how the NY-NJ-CT area will re-attain the 1997 8-hour ozone standard." Based on this wording, it appears that EPA is restricting the required SIP revisions to the attainment demonstration, and that no revisions are necessary to the south western Connecticut Reasonable Further Progress (RFP), Reasonably Available Control Technology (RACT) and contingency measure SIPs, which are all EPA approved, or to the Reasonably Available Control Measures (RACM) SIP, which is proposed for approval by EPA. Connecticut requests EPA's concurrence with this interpretation in any final rulemaking. Furthermore, DEEP requests clarification and/or guidance on the following issues:

- How is DEEP to determine the date for "expeditious" attainment?
- Will updated photochemical modeling be required to demonstrate attainment with the 1997 ozone NAAQS? If so, can recent existing modeling (e.g., OTC screening modeling) or upcoming modeling (e.g., OTC

or EPA new transport rule) be used in the revised attainment demonstration?

- What emissions inventories are acceptable to EPA for use in a revised attainment demonstration? (e.g., MARAMA 2007 base/future; upcoming EPA or MARAMA 2011 base/future)
- If a revised RFP SIP is required, what years must DEEP use?
- If DEEP must update conformity budgets, should DEEP use the current version of the MOVES model or the upcoming revised version?
- What other technical analyses, not already mentioned, will be required? (e.g., WOE, contingencies, etc)
- If the area's measured design values for 2014 or 2015 comply with the 1997 NAAQS, will EPA issue a new Clean Data Determination, thus negating the need to submit a revised 1997 NAAQS attainment demonstration SIP, which would likely be due to EPA in 2016? EPA should clarify how DEEP is to proceed under this potential scenario.

VII. General Comments

- a. DEEP believes EPA is acting in error wherein it claims, that by acting under section 110(k) of the CAA that this proposed action is not a "significant regulatory action." Since the violating coastal monitors in Connecticut are heavily influenced by illegal interstate air pollutant transport, EPA must also revoke each 110(a)(2)(D)(ii) SIP submitted by every upwind state that significantly contributes and *interferes with* Connecticut's ability to maintain compliance with the 1997 8 hour ozone NAAQS.
- b. If EPA had acknowledged the culpability of upwind states to Connecticut's air quality problems and correctly named such states within this proposed SIP Call, DEEP believes this action would have triggered EPA to provide the analysis required by EO 12866. As such, DEEP believes EPA is acting in contravention to both the letter and spirit of EO 12866.
- c. DEEP believes that, if EPA had taken the impact of interstate air pollution transport into account, the agency it would have been constrained to acknowledge this is a significant regulatory action under EO 13211 and acted accordingly.
- d. If EPA's upcoming Implementation Rule for the 2008 NAAQS is finalized as proposed and immediately revokes the 1997 NAAQS, how would the timing of that revocation relative to the timing of finalization of the SIP Call impact the requirements of the SIP Call? Could the fact that EPA approved New York and New Jersey's 1997 NAAQS attainment demonstration SIPs while EPA took four years to simply propose approval for Connecticut's attainment demonstration possibly impact Connecticut differently than the other states?

VIII. Conclusion

Surface level ozone significantly and negatively impacts human health regardless of the source of precursor emissions that contribute to the ozone formation. However, health care costs and costs associated with regulating precursor emissions disproportionately fall on states most impacted by interstate transport. Connecticut has borne this burden, which has impacted our energy costs and our economy, for far too long.

EPA and culpable upwind states need to fully address interstate ozone transport to make it feasible for Connecticut to overcome the effects of transported air pollution and to provide clean air for our citizens. EPA must use its full, broad, authority under section 110(k)(5) of the CAA to issue SIP Calls that require all upwind states to address transport, as described in CAA sections 176A and 184, and as required by CAA section 110(a)(2)(D).