

May 30, 2013

David Conroy, Chief, Air Programs Branch  
EPA New England Regional Office  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

***Re: Connecticut State Implementation Plan for Clean Air Act Section 110(a) Infrastructure Elements: 2010 Sulfur Dioxide National Ambient Air Quality Standard***

Dear Mr. Conroy:

Pursuant to Clean Air Act (CAA) section 110(a)(1) and (2), all states are required to submit plans to implement, maintain and enforce the 2010 sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS). These plans must identify the administrative structure by which states will meet such basic requirements as emissions inventories, monitoring and modeling to assure attainment and maintenance of the NAAQS.

As demonstrated in the enclosed package, this revision to the Connecticut's State Implementation Plan (SIP), as identified in 40 CFR 52, subpart H, will satisfy CAA section 110(a)(1) and (2) infrastructure requirements for the 2010 SO<sub>2</sub> NAAQS after promulgation of the identified regulatory updates. This submission also includes the necessary documentation to satisfy the public participation requirements of 40 CFR 51, Appendix V, Section 2.1. The structure of this submission is as follows:

- Enclosure A: Explanation of the Adequacy of Connecticut's SIP with Regard to the Infrastructure Elements for the 2010 SO<sub>2</sub> NAAQS
- Enclosure B: Connecticut General Statutes (CGS) to be Included in the SIP
  - CGS section 22a-171, satisfying the consultation requirements of CAA Section 121, as specified by CAA Section 110(a)(2)(J)
  - CGS section 16a-21a, partially satisfying the requirements of CAA section 110(a)(2)(A)
- Enclosure C: Public Participation Documentation
  - Attachment 1: Notice of public hearing and comment period
  - Attachment 2: Certification of public participation
  - Attachment 3: Hearing report, addressing all comments received

The Connecticut Department of Energy and Environmental Protection (DEEP) submitted a revised designation recommendation to the Environmental Protection Agency (EPA) on March 14, 2013, including a detailed technical report containing both monitoring and modeling analyses. These analyses demonstrate that a statewide designation of attainment with the 2010 SO<sub>2</sub> NAAQS is appropriate for Connecticut, based on DEEP's analysis of monitoring data and key SO<sub>2</sub>

sources in Connecticut. Connecticut's modeling analysis was conducted consistent with EPA's May 2013 draft technical guidance for SO<sub>2</sub> modeling<sup>1</sup>.

Given the potential public health and environmental impacts of SO<sub>2</sub>, DEEP continues to pursue a comprehensive suite of common sense actions to reduce SO<sub>2</sub> emissions, thereby reducing secondary fine particle formation, meeting regional haze commitments, reducing acid deposition and maintaining compliance with the 2010 SO<sub>2</sub> NAAQS. The fuels available in Connecticut have much lower sulfur contents than allowed by law and a number of efforts are underway that are anticipated to reduce the allowable sulfur content of fuels in Connecticut. Many facilities have voluntarily modified their issued permits and registrations to reduce the allowable sulfur content of their fuel. Additionally, CGS section 16a-21a restricts the sulfur content of home heating oil to 15 parts per million when the states of New York, Massachusetts and Rhode Island institute similar restrictions. New York and Massachusetts already have such requirements in place; Rhode Island is expected to take final action in 2013.

Connecticut requests EPA approval of the enclosed SIP revision as meeting the infrastructure requirements for the 2010 SO<sub>2</sub> NAAQS. We have provided electronic versions of this SIP revision to the EPA copy recipients listed below. I certify that those electronic copies are an exact duplicate of this hard copy.

We look forward to working with EPA as a critical partner in our continuing mission to conserve, improve and protect the environment and public health for the citizens of Connecticut. If you require additional information, please contact me at 860-424-3026.

Sincerely,



Anne R. Gobin  
Chief, Bureau of Air Management

Enclosures

Ida E. McDonnell, EPA Region 1 (via electronic mail)  
Donald Dahl, EPA Region 1 (via electronic mail)  
Paul Farrell, DEEP

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<sup>1</sup> ["SO<sub>2</sub> NAAQS Designations Modeling Technical Assistance Document"](#); EPA; May 2013 DRAFT.

## Enclosure A

### **Adequacy Determination of the Connecticut State Implementation Plan for Clean Air Act Section 110(a) Infrastructure Elements: 2010 National Ambient Air Quality Standard for Sulfur Dioxide**

#### **Background**

On March 14, 2013, the Connecticut Department of Energy and Environmental Protection (DEEP) submitted a revised designation recommendation<sup>1</sup> for the 2010 National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO<sub>2</sub>) to the Environmental Protection Agency (EPA). The submission included a detailed technical report containing both monitoring and modeling analyses developed consistent with EPA's most recent draft guidance<sup>2</sup>. The technical analyses demonstrate that a statewide designation of attainment with the 2010 SO<sub>2</sub> NAAQS is appropriate for Connecticut, based on DEEP's analysis of actual SO<sub>2</sub> emissions<sup>3</sup> from Connecticut's largest sources.

Given public health and environmental impacts of SO<sub>2</sub>, DEEP continues to pursue a comprehensive suite of common sense actions that will reduce SO<sub>2</sub> emissions and assist Connecticut in meeting its regional haze commitments, reducing acid deposition and secondary fine particle formation, and maintaining compliance with the 2010 SO<sub>2</sub> NAAQS. DEEP is actively engaged in reducing the allowable sulfur emission rates from permitted and registered sources. Our research indicates the fuels available in Connecticut have much lower sulfur contents than allowed by law and a number of efforts are underway that are anticipated to reduce the allowable sulfur content of fuels in Connecticut. This fact has lead many facilities to voluntarily modify their issued permits and registrations to reduce the allowable sulfur content of their fuel. Additionally, section [16a-21a](#) of the Connecticut General Statutes (CGS) restricts the sulfur content of home heating oil to 15 parts per million (ppm) when the states of New York, Massachusetts and Rhode Island institute similar restrictions. New York and Massachusetts already have such requirements in place. Rhode Island is expected to take final action in 2013. As of this writing, the Connecticut legislature is considering amendments to CGS section 16a-21a<sup>4</sup> to provide greater certainty to the date on which 15 ppm sulfur heating oil will be required for sale in Connecticut. This legislative proposal is intended to implement a portion of Connecticut's final Comprehensive Energy Strategy.<sup>5</sup>

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<sup>1</sup> See [http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav_GID=1619).

<sup>2</sup> “[SO<sub>2</sub> NAAQS Designations Modeling Technical Assistance Document](#)”; EPA; May 2013 DRAFT.

<sup>3</sup> DEEP modeled all sources with actual annual emissions of 100 tons per year SO<sub>2</sub>.

<sup>4</sup> See Section 18 of [Substitute House Bill 6360](#) (2013 Session of the Connecticut General Assembly).

<sup>5</sup> See [2013 Comprehensive Energy Strategy for Connecticut](#), Finalized February 19, 2013.

## **Introduction**

On June 2, 2010, the EPA revised the primary SO<sub>2</sub> NAAQS, establishing a new 1-hour standard at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations ([40 CFR 50.17](#)). EPA's action also provided for the automatic future revocation of the previous annual and 24-hour primary SO<sub>2</sub> NAAQS in most areas, to take effect one-year after the effective date of designation for each area under the new NAAQS ([40 CFR 50.4\(e\)](#)). EPA elected to provide for revocation of the previous NAAQS after concluding that the new 1-hour NAAQS will generally maintain 24-hour and annual SO<sub>2</sub> concentrations well below the levels of the current 24-hour and annual NAAQS.

EPA had initially planned to make final area designations by June 2, 2012, in accordance with the two-year timeline of Clean Air Act (CAA) section 107(d)(1)(B). On July 27, 2012, EPA issued a notice extending the deadline for area designations by up to one year due to insufficient information to establish designations, as allowed by section 107(d)(1)(B). In early February 2013, EPA notified several states of the agency's intention to establish nonattainment areas by early June 2013 based on available monitoring data showing 2011 design values violating the 2010 SO<sub>2</sub> NAAQS. For other areas without violating monitors, including Connecticut, EPA intends to address initial designations in separate future actions, using a comprehensive implementation strategy that focuses on identifying and addressing unhealthy levels of SO<sub>2</sub>.

Pursuant to CAA Section 110(a)(1) and (2), all states are required to submit any necessary revisions to their State Implementation Plans (SIP) to provide for the implementation, maintenance and enforcement of any revised or new NAAQS. States are required to maintain a comprehensive air quality management infrastructure, including enforceable emission limitations, an ambient monitoring program, an enforcement program, air quality modeling, and adequate personnel, resources, and legal authority. Section 110(a)(2)(D)(i) also requires each SIP to prohibit emissions from within the state that contribute significantly to nonattainment or maintenance areas in any other state, or which interfere with programs to prevent significant deterioration of air quality or to achieve reasonable progress toward the national visibility goal for Federal class I areas (national parks and wilderness areas). By operation of law, this infrastructure SIP revision is due to EPA by June 3, 2013, three years after promulgation of the revised SO<sub>2</sub> NAAQS.

## **Infrastructure SIP Requirements**

DEEP hereby reviews its program infrastructure in relation to the 2010 SO<sub>2</sub> NAAQS for each of the required CAA section 110(a)(2) infrastructure elements. Details of how Connecticut's SIP now satisfies or will, after revision, satisfy the infrastructure requirements are set out in Table 1 below.

Recognizing the need for a regulatory update with respect to several recent NAAQS revisions by EPA, DEEP is currently preparing revisions to section 22a-174-24 of the Regulations of Connecticut State Agencies (RCSA). The revisions will ensure consistency between state and Federal ambient air quality standards, including the 2010 SO<sub>2</sub> NAAQS. DEEP commits to

pursue adoption of such regulatory revisions and seeks to complete the adoption process by the end of calendar year 2013.

DEEP is submitting the current version of CGS section 16a-21a for inclusion in the SIP (see Enclosure B). As described above, this statute restricts the sulfur content of home heating oil to 15 parts per million (ppm), effective when the states of New York, Massachusetts and Rhode Island institute similar restrictions.

In response to a comment received from EPA Region 1, DEEP is also submitting CGS section 22a-171 for inclusion in the SIP (see Enclosure B). This statute directs the DEEP Commissioner to advise and consult with various government officials and other affected groups regarding air pollution control activities, meeting the CAA section 121 consultation requirements referenced by CAA section 110(a)(2)(J).

## TABLE 1

### Overview of How Connecticut’s State Implementation Plan Satisfies the CAA Section 110(a)(1) and (2) Program Infrastructure Elements for Sulfur Dioxide (SO<sub>2</sub>)<sup>1</sup>

<u>CAA Section</u>	<u>Required CAA Element</u>	<u>Corresponding Connecticut Program Element(s)</u>
<b>110(a)(2)(A) Emission limits and other control measures</b>	... "include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance..."	<p><b>CGS Section 22a-6(a)(1)</b> The commissioner is empowered to "[a]dopt, amend or repeal ... such environmental standards, criteria and regulations ... as are necessary and proper to carry out his functions, powers and duties." It is under this general grant of authority that the Commissioner has adopted emissions standards and control measures for a variety of sources and pollutants.</p> <p><b>CGS Section 22a-174</b> Establishes the Commissioner’s general authority to adopt regulations and issue permits to control air pollution.</p> <p><b><a href="#">CGS Section 16a-21a</a></b> Limits the sulfur content of home heating oil and off-road diesel fuel. The current version of this statute is included in this SIP revision.</p> <p>The sections of Connecticut’s air quality regulations that specify or are used to establish emissions limits related to the control of SO<sub>2</sub> include:</p> <p><b>RCSA 22a-174-3a(i)</b> Ambient air quality analysis<sup>2</sup>.</p> <p><b>RCSA 22a-174-3a(j)</b> BACT.</p> <p><b>RCSA 22a-174-3a(k)</b> PSD<sup>2</sup>.</p> <p><b>RCSA 22a-174-3a(l)</b> Non-attainment areas, LAER.</p> <p><b>RCSA 22a-174-19</b> Control of sulfur compound emissions<sup>3</sup>.</p> <p><b>RCSA 22a-174-19a</b> Control of sulfur dioxide emissions from power plants and other</p>

<sup>1</sup> CAA refers to the Clean Air Act.

CGS refers to the [Connecticut General Statutes](#).

RCSA refers to the [Regulations of Connecticut State Agencies](#).

CFR refers to the [Code of Federal Regulations](#).

DEEP refers to the Connecticut Department of Energy and Environmental Protection.

Commissioner refers to the Commissioner of the DEEP.

<sup>2</sup> DEEP recognizes that EPA may, at some point in the future, establish a short-term Prevention of Significant Deterioration (PSD) increment, significant impact level, significant emission rate, and/or significant monitoring level for the 2010 1-hour SO<sub>2</sub> NAAQS. If that occurs, DEEP commits to pursue adoption of appropriate regulatory revisions within a reasonable period following EPA’s final adoption of required PSD program parameters.

<sup>3</sup> DEEP is currently preparing proposed regulatory revisions that would reduce the sulfur content of distillate oil, residual oil and other non-transportation fuels sold or used in Connecticut to provide for continued maintenance of the 2010 SO<sub>2</sub> NAAQS.

<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
		<p>large stationary sources of air pollution.  <b>RCSA 22a-174-24(d)</b> Primary ambient air quality standards for SO<sub>2</sub><sup>4</sup>.  <b>RCSA 22a-174-24(e)</b> Secondary ambient air quality standards for SO<sub>2</sub><sup>4</sup>.  <b>RCSA 22a-174-38</b> Municipal Waste Combustors.</p>
<b>110(a)(2)(B) Ambient air quality monitoring/data system</b>	<p>... “provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.”</p>	<p><b>CGS Section 22a-174(d)</b> Provides the commissioner with all incidental powers necessary to control air pollution.</p> <p><b>40 CFR 53; 40 CFR 58</b> Establish ambient air monitoring reference and equivalent methods and ambient air quality surveillance requirements. States are required to submit a comprehensive air quality monitoring plan to EPA each year. DEEP’s <a href="#">2012 Annual Air Monitoring Network Plan</a> was submitted on July 12, 2012.<sup>5</sup> DEEP previously submitted the required <a href="#">Ambient Air Monitoring 5-Year Network Assessment</a> on August 9, 2010.</p>
<b>110(a)(2)(C) Program for enforcement of control measures</b>	<p>... “include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;”</p>	<p><b>CGS Section 22a-6(a)(5).</b> "The commissioner may ... in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by him and the owner, managing agent or occupant of any such property shall permit such entry . . ."</p> <p><b>CGS Section 22a-6b</b> Imposition of civil penalties by the commissioner.</p> <p><b>CGS Section 22a-7(d)</b> Civil actions.</p> <p><b>CGS Section 22a-171</b> “The commissioner shall . . . (4) adopt, amend, repeal and enforce regulations . . . and do any other act necessary to enforce the provisions of this chapter” (which encompasses CGS Sections 22a-170 through 22a-206).</p> <p><b>CGS Section 22a-175</b> Penalties for violations.</p> <p><b>CGS Section 22a-176</b> Consideration in making regulations and issuing orders.</p> <p><b>CGS Section 22a-177</b> Enforcement of Regulations. Complaints.</p> <p><b>CGS Section 22a-178</b> Orders to correct violations.</p> <p><b>CGS Section 22a-180</b> Penalty for violations of orders. Injunctions.</p>

<sup>4</sup> DEEP is currently preparing revisions to RCSA 22a-174-24 to ensure consistency with the 2010 1-hour SO<sub>2</sub> NAAQS, as well as other NAAQS recently revised by EPA. In the interim, pursuant to 40 CFR 52.14, DEEP will continue to apply the 2010 SO<sub>2</sub> NAAQS.

<sup>5</sup> DEEP is currently preparing the 2013 Annual Air Monitoring Network Plan.

CAA Section	Required CAA Element	Corresponding Connecticut Program Element(s)
		<p><b>RCSA section 22a-174-2a</b> Specifies administrative requirements for the new source review (NSR) program, including notification concerning major sources permits and modifications.</p> <p><b>RCSA section 22a-3a-6(c)</b> Orders, rulings and decisions - procedures in contested cases.</p> <p><b>RCSA section 22a-174-3a</b> Permit to construct and operate stationary sources. This section sets out DEEP's NSR permit program requirements.</p> <p><b>RCSA section 22a-174-12</b> Violations and Enforcement of the Regulations of Connecticut State Agencies. This section provides that "The Commissioner shall designate employees of DEEP to be known as enforcement personnel, who shall, acting with or without complaints, conduct investigations and ascertain whether the Commissioner's regulations are being complied with."</p>
<p><b>110(a)(2)(D)</b> <b>Interstate transport</b></p>	<p>... "contain adequate provisions - (i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will - (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation</p>	<p>Connecticut sources do not significantly contribute to any monitored sulfur dioxide violations in other states, as evidenced in the "120-day letters" issued in February 2013<sup>6</sup> by EPA addressing proposed nonattainment designations for the 1-hour SO<sub>2</sub> NAAQS. Available modeling<sup>7</sup> also supports the conclusion that SO<sub>2</sub> emissions from Connecticut sources do not contribute to nonattainment or maintenance issues of the SO<sub>2</sub> NAAQS in any other state. In addition, EPA's CSAPR modeling analysis<sup>8</sup> concluded that SO<sub>2</sub> emissions from Connecticut do not contribute significantly to PM<sub>2.5</sub> NAAQS concerns in other states. Connecticut's SO<sub>2</sub> emissions are projected to continue to decline through at least the year 2025<sup>9</sup>, further reducing any impacts from Connecticut on other states.</p>

<sup>6</sup> See <http://www.epa.gov/so2designations/regs.html>. EPA has not identified any violating SO<sub>2</sub> monitors in any state bordering Connecticut.

<sup>7</sup> On March 14, 2013, DEEP submitted a modeling analysis to EPA in support of a statewide designation of attainment for the 1-hour SO<sub>2</sub> NAAQS. The analysis examined impacts from Connecticut's largest sources, demonstrating that existing Connecticut sources do not cause violations of the SO<sub>2</sub> NAAQS within or outside the state's borders. In addition, Connecticut's NSR procedures (**RCSA 22a-174-3a**) require proposed new and modified sources to demonstrate they do not significantly contribute to NAAQS or PSD increment violations in Connecticut or nearby states.

<sup>8</sup> See <http://www.epa.gov/airtransport/CSAPR/pdfs/AQModeling.pdf>.

<sup>9</sup> On June 22, 2012, DEEP submitted a [PM<sub>2.5</sub> Redesignation/Maintenance SIP](#) to EPA that includes SO<sub>2</sub> emissions projections for Fairfield and New Haven Counties. SO<sub>2</sub> emissions in those two counties are projected to decrease by more than 40% between 2007 and 2025. Similar reductions are expected throughout the rest of the state.



<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
	<p>plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, (ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);”</p>	<p><b>RCSA section 22a-174-3a:</b> Prevention of significant deterioration and nonattainment new source review requirements. Connecticut’s PSD program is SIP approved.</p> <p>DEEP submitted Connecticut’s <a href="#">Regional Haze SIP</a> to EPA on November 18, 2009. The EPA Administrator signed final approval of the SIP on April 26, 2013.</p> <p><b>RCSA section 22a-174-2a</b> addresses administrative requirements for the new source review (NSR) program, including notifications concerning major sources permits and modifications.<sup>10</sup></p> <p>No source or sources within Connecticut are the subject of an active finding under section 126 of the CAA with respect to any air pollutant.</p>
<p><b>110(a)(2)(E) Adequate resources</b></p>	<p>... “provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof),</p>	<p><b>CGS Section 22a-171</b> Duties of the Commissioner of Energy and Environmental Protection “shall (1) initiate and supervise programs for the purposes of determining the causes, effect and hazards of air pollution; (2) initiate and supervise state-wide programs of air pollution control education; (3) cooperate with and receive money from the federal government and, with the approval of the Governor, from any other public or private source; (4) adopt, amend, repeal and enforce regulations as provided in section 22a-174 and do any other act necessary to enforce the provisions of this chapter and section 14-164c; (5) advise and consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in furtherance of the purposes of this chapter.”</p> <p><b>Performance Partnership Agreement Process</b> In an annually updated agreement, EPA Region 1 and DEEP identify a joint agenda for environmental progress and expectations for the state/federal partnership. The agreement specifies resource commitments for each year and represents an evolving, collaborative approach that establishes priorities among competing demands for limited resources.</p>

<sup>10</sup> On September 27, 2012, DEEP submitted a SIP revision to EPA amending RCSA 22a-174-2a to make explicit the requirement for DEEP to provide notice to nearby states, consistent with CAA section 126 and 40 CFR 51.166(q).

CAA Section	Required CAA Element	Corresponding Connecticut Program Element(s)
	<p>(ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;”</p>	<p><b>CGS section 1-85</b> CAA section 128(a)(2) requires SIPs to contain adequate provisions requiring the DEEP commissioner to disclose any potential conflicts of interest. Connecticut has in place conflict of interest provisions that are broader than EPA’s minimum requirements and apply to all state employees and public officials. These requirements, which are set out in section 1-85 of the Connecticut General Statutes (CGS), prevent DEEP’s commissioner from acting on a matter when a substantial conflict of interest exists. CGS section 1-85 was submitted for EPA approval on December 28, 2012 along with the <a href="#">Ozone Infrastructure SIP</a>.</p> <p>The State of Connecticut is the sole authority implementing the SIP and does not rely on local or regional governments or agencies to carry out this responsibility.</p>
<p><b>110(a)(2)(F) Stationary source monitoring system</b></p>	<p>... “require, as may be prescribed by the Administrator - (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;”</p>	<p><b>CGS Section 22a-6(a)(5)</b> “The commissioner may, in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by him and the owner, managing agent or occupant of any such property shall permit such entry ...”</p> <p><b>CGS Section 22a-174(c)</b> Various powers of the commissioner related to permitting, inspections, and recordkeeping.</p> <p><b>RCSA section 22a-174-4</b> Source monitoring, record keeping and reporting. Paragraph (d)(1) states: “The commissioner may, by written notice, require the owner or operator of any source to create, maintain and submit data, records or reports of monitoring data and other information deemed necessary by the commissioner to evaluate compliance with chapter 446c of the Connecticut General Statutes and regulations promulgated thereunder. Such information shall be recorded, compiled and submitted on forms furnished or prescribed by the commissioner. The written notice shall provide the date by which such data, records or reports shall be submitted to the commissioner.”</p> <p><b>RCSA section 22a-174-5</b> Methods for sampling, emission testing, sample analysis, and reporting.</p> <p><b>Subsection (e)(1)</b> states: “The owner or operator of a stationary source of air pollution with maximum uncontrolled emissions of any particular air pollutant greater than one hundred (100) tons per year shall be required to carry out emission</p>

<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
		<p>tests as prescribed by the Commissioner. Such test or tests shall be conducted at such intervals as the Commissioner may specify for an individual stationary source.”</p> <p><b>Subsection (e)(2)</b> states: “In addition to the emission tests required in subdivision 22a-174-5(e)(1), the commissioner may require the owner or operator of any stationary source to conduct emission tests of emissions.”</p> <p><b>RCSA section 22a-174-10</b> Public availability of information. Paragraph (a) states: “Any records, reports or other information obtained by the Commissioner or on file with the department shall, pursuant to the provisions of sections 1-7 through 20 of the General Statutes, as amended, be made available to the public.”</p>
<b>110(a)(2)(G) Emergency power</b>	... “provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;”	<p><b>CGS Section 22a-181</b> Emergency action to protect public health or safety.</p> <p><b>RCSA section 22a-174-6</b> Air pollution emergency episode procedures. This section describes the existing emergency episode procedures in place, which are consistent with the significant harm levels as indicated in 40 CFR Part 51.151.</p>
<b>110(a)(2)(H) Future SIP revisions</b>	... “provide for revision of such plan - (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;”	<p><b>CGS section 22a-174(d)</b> The Commissioner is authorized with all incidental powers necessary to control and prohibit air pollution.</p> <p><b>Air Quality Implementation Plan, Chapter 13, (March 3, 1972)</b> “This implementation plan is intended to be dynamic, not static. To this end, it will be revised when necessary.”</p> <p>DEEP has made numerous SIP revisions addressing the NAAQS. Most recently, DEEP submitted Infrastructure SIP revisions for the 2008 ozone NAAQS and 2010 NO<sub>2</sub> NAAQS on December 28, 2012 and January 2, 2013, respectively.</p>

<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
<b>110(a)(2)(I) Nonattainment area plans</b>	...” in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to non attainment areas).”	EPA has yet to propose designations for Connecticut for the 2010 SO <sub>2</sub> NAAQS. On March 14, 2013, DEEP submitted ample evidence to EPA supporting a designation of statewide attainment. EPA has previously determined <sup>11</sup> that nonattainment-related provisions of CAA section 110(a)(2) do not need to be addressed as part of infrastructure SIP submittals because other sections of the CAA specify later due dates for those provisions.
<b>110(a)(2)(J) Consultation with government officials</b>	... “meet the applicable requirements of section 121 (relating to consultation)	<p><b>CGS Section 22a-171.</b> Duties of Commissioner of Energy and Environmental Protection. “... (5) advise and consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in furtherance of the purposes of this chapter.” DEEP is submitting CGS Section 22a-171 for inclusion in the SIP.</p> <p><b>CGS Section 22a-174(d).</b> “The commissioner shall have all incidental powers to carry out the purposes of [Chapter 446c, entitled “Air Pollution Control,” which encompasses CGS Sections 22a-170 through 22a-206] . . .</p> <p><b>CGS Chapter 54.</b> Uniform Administrative Procedures Act.</p> <p><b>State Implementation Plan Revision Advisory Committee (SIPRAC).</b> Established in 1972 and generally meets each month.</p> <p><b>RCSA Section 22a-174-2a.</b> Specifies administrative requirements for the new source review (NSR) program, including notification to government entities concerning major source permits and modifications.</p>
<b>110(a)(2)(J) Public notification</b>	... “meet the applicable requirements of section 127 (relating to public notification),”	<p><b>CGS Section 4-168</b> Notice prior to action on regulations.</p> <p><b>CGS Section 22a-171</b> Duties of Commissioner of Energy and Environmental Protection...“(2) Initiate and supervise state-wide programs of air pollution control education;”</p> <p><b>CGS Section 22a-174(d)</b> “The commissioner shall have all incidental powers to carry out the purposes of [Chapter 446c, entitled “Air Pollution Control,” which encompasses CGS Sections 22a-170 through 22a-206] . . .</p>

<sup>11</sup> For further explanation, see EPA’s July 23, 2012 proposed Federal Register approval of Connecticut’s PM<sub>2.5</sub> Infrastructure SIP (at page 43026), finalized on October 16, 2012.

<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
		<p><b>RCSA section 22a-174-2a(b)</b> Procedural requirements for new source review and Title V permitting. Public notice.</p> <p><b>RCSA section 22a-174-2a(c)</b> Procedural requirements for new source review and Title V permitting. Public Comment and Hearings.</p> <p><b>AQI Forecasting and Reporting</b> Pursuant to 40 CFR 58.50, DEEP provides daily air quality forecasts to the public via EPA’s AirNow and Enviroflash programs, as well as via DEEP’s website and air quality information telephone line.</p>
<b>110(a)(2)(J) PSD and visibility protection</b>	... “meet the applicable requirements of part C (relating to prevention of significant deterioration of air quality and visibility protection);” (See Footnote <sup>12</sup> )	<p><b>RCSA section 22a-174-2a</b> includes administrative requirements for the new source review (NSR) program, including notification concerning major sources permits and modifications<sup>13</sup>.</p> <p><b>RCSA section 22a-174-3a(k)</b> Permit Requirements for Attainment Areas: Prevention of Significant Deterioration of Air Quality (PSD) Program.</p>
<b>110(a)(2)(K) Air quality modeling/data</b>	... “provide for - (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator;”	<p><b>CGS section 22a-5. Duties and powers of the commissioner</b> “The commissioner shall carry out the environmental policies of the state and shall have all powers necessary and convenient to faithfully discharge this duty. In addition to, and consistent with the environment policy of the state, the commissioner shall (a) promote and coordinate management of water, land and air resources to assure their protection, enhancement and proper allocation and utilization; ... (e) provide for the prevention and abatement of all water, land and air pollution including, but not limited to, that related to particulates, gases, dust, vapors, noise, radiation, odors, nutrients and cooled or heated liquids, gases and solids; ...”</p> <p><b>RCSA section 22a-174-3a(i)</b> Ambient Air Quality Analysis: “The commissioner may request any owner or operator to submit an ambient air quality impact analysis using applicable air quality models and modeling protocols approved by the commissioner.”</p>

<sup>12</sup> EPA has interpreted the CAA Section 110(a)(2)(J) provision on visibility as not being ‘triggered’ because the visibility requirements in Part C are not changed by a new NAAQS. For example, see EPA’s July 23, 2012 proposed Federal Register approval of Connecticut’s PM2.5 Infrastructure SIP, finalized on October 16, 2012.

<sup>13</sup> On September 27, 2012, DEEP submitted a SIP revision to EPA amending RCSA 22a-174-2a to make explicit the requirement for DEEP to provide notice to nearby states, consistent with CAA section 126 and 40 CFR 51.166(q).

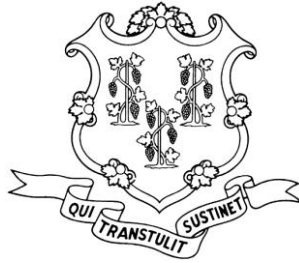
<b>CAA Section</b>	<b>Required CAA Element</b>	<b>Corresponding Connecticut Program Element(s)</b>
<b>110(a)(2)(L)</b> <b>Permitting fees</b>	<p>... “require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover - (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V;”</p>	<p><b>CGS Section 22a-6(a)(10)</b> The commissioner may . . . by regulations adopted in accordance with the provisions of chapter 54 require the payment of a fee sufficient to cover . . . the reasonable cost of reviewing and acting upon an application for and monitoring compliance with the terms and conditions of any state or federal permit, license, registration, order, certificate or approval required . . .</p> <p><b>CGS Section 22a-6f. Fees</b></p> <p><b>CGS Section 22a-174(g)</b> “The commissioner shall require, by regulations adopted in accordance with the provisions of chapter 54, the payment of a permit application fee sufficient to cover the reasonable costs of reviewing and acting upon an application for, and monitoring compliance with the terms and conditions of, any state or federal permit, license, order, certificate or approval required pursuant to this section. . . .”</p> <p><b>RCSA section 22a-174-26(c)(1)</b> “Each person to whom the commissioner issues a permit, or a modification or renewal thereto, under section 22a-174-3a, section 22a-174-2a and section 22a-174-19 of the Regulations of Connecticut State Agencies shall pay a permit fee as prescribed in the fee schedule in subdivision (2) of this subsection.” The fee schedule is set forth in Table 26-1 of subsection 2.</p> <p><b>RCSA section 22a-174-33(j)(1)(Z)</b> Requires Title V source to pay all fees due under RCSA section 22a-174-26. (Approved as satisfying 40 CFR 70.6(a)(7). See 67 FR 31966 (May 13, 2002)).</p>
<b>110(a)(2)(M)</b> <b>Consultation/ participation by affected local entities</b>	<p>... “provide for consultation and participation by local political subdivisions affected by the plan.”</p>	<p><b>CGS Section 4-168</b> Notice prior to action on regulations.</p> <p><b>Connecticut Air Quality Implementation Plan, Chapter 12 “Intergovernmental Relations” (March 3, 1972)</b> “The State will take immediate action in coordinating and delegating new responsibilities to local agencies that are prepared to accept the responsibility.”</p> <p><b>State Implementation Plan Revision Advisory Committee (SIPRAC)</b>  Established in 1972 and generally meets each month.</p>

## **Enclosure B**

### **Connecticut General Statutes to be Included in the State Implementation Plan**

- **CGS section 22a-171**
- **CGS 16a-21a**

**GENERAL STATUTES**  
**OF**  
**CONNECTICUT**  
*Revised to January 1, 2013*



(Prepared under the direction of the Legislative Commissioners' Office)

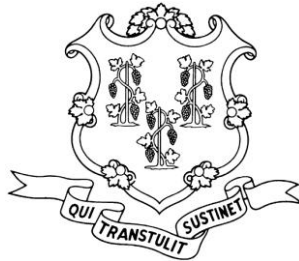
**Sec. 22a-171. (Formerly Sec. 19-507). Duties of Commissioner of Energy and Environmental Protection.** The commissioner shall (1) initiate and supervise programs for the purposes of determining the causes, effect and hazards of air pollution; (2) initiate and supervise state-wide programs of air pollution control education; (3) cooperate with and receive money from the federal government and, with the approval of the Governor, from any other public or private source; (4) adopt, amend, repeal and enforce regulations as provided in section 22a-174 and do any other act necessary to enforce the provisions of this chapter and section 14-164c; (5) advise and consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in furtherance of the purposes of this chapter.

(1967, P.A. 754, S. 3; 1969, P.A. 758, S. 3; 1971, P.A. 872, S. 12; P.A. 84-546, S. 132, 173.)

History: 1969 act made minor language changes; 1971 act replaced Subdiv. (d), substituting "adopt, amend and enforce regulations" for "enforce regulations adopted by the commission"; Sec. 19-507 transferred to Sec. 22a-171 in 1983 and alphabetic Subdiv. indicators replaced editorially by the Revisors with numeric indicators; P.A. 84-546 made technical changes to section, replacing reference to Sec. 14-100c with reference to Sec. 14-164c.



**GENERAL STATUTES**  
**OF**  
**CONNECTICUT**  
*Revised to January 1, 2013*



(Prepared under the direction of the Legislative Commissioners' Office)

**Sec. 16a-21a. Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency.** (a)(1) The amount of sulfur content of the following fuels sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For number two heating oil, three-tenths of one per cent, and (B) for number two off-road diesel fuel, three-tenths of one per cent.

(2) Notwithstanding subdivision (1) of this subsection, the amount of sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For the period beginning July 1, 2011, and ending June 30, 2014, fifty parts per million, and (B) on and after July 1, 2014, fifteen parts per million.

(3) The provisions of subdivision (2) of this subsection shall not take effect until the states of New York, Massachusetts and Rhode Island each have adopted requirements that are substantially similar to the provisions of said subdivision.

(b) As of the date on which the last of the states of New York, Massachusetts and Rhode Island limits the sulfur content of number two heating oil to one thousand five hundred parts per million, the sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed one thousand five hundred parts per million.

(c) As of the date on which the last of the states of New York, Massachusetts and Rhode Island limits the sulfur content of number two heating oil to one thousand two hundred fifty parts per million, the sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed one thousand two hundred fifty parts per million.

(d) As of the date on which the last of the states of New York, Massachusetts and Rhode Island limits the sulfur content of number two heating oil to five hundred parts per million, the sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed five hundred parts per million.

(e) As of the date on which the last of the states of New York, Massachusetts and Rhode Island limits the sulfur content of number two off-road diesel fuel to five hundred parts per million, the sulfur content of number two off-road diesel fuel offered for sale, distributed or used in this state shall not exceed five hundred parts per million.

(f) The Commissioner of Energy and Environmental Protection may suspend the requirements of subsections (a) to (e), inclusive, of this section if the commissioner finds that the physical availability of fuel which complies with such requirements is inadequate to meet the needs of residential, commercial or industrial users in this state and that such inadequate physical availability constitutes an emergency provided the commissioner shall specify in writing the period of time such suspension shall be in effect.

(P.A. 95-68, S. 1, 2; P.A. 06-143, S. 1; P.A. 08-124, S. 6; P.A. 10-74, S. 1; P.A. 11-80, S. 1.)

History: P.A. 95-68 effective January 1, 1996; P.A. 06-143 added new Subsecs. (b), (c) and (d) re graduated permissible sulfur contents for number two heating oil, added new Subsec. (e) re permissible sulfur content for number two off-road diesel fuel, redesignated existing Subsec. (b) as Subsec. (f), allowed suspension of requirements of Subsecs. (a) to (e) if commissioner finds inadequate physical fuel availability constitutes an emergency and made technical changes, effective June 6, 2006; P.A. 08-124 made technical changes in Subsecs. (b) to (e), effective June 2, 2008; P.A. 10-74 amended Subsec. (a) by designating existing provisions as Subdiv. (1), making technical changes therein and adding Subdiv. (2) re weight percentage sulfur content limit of number two heating oil and Subdiv. (3) re when provisions of Subdiv. (2) shall take effect, effective July 1, 2011; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (f), effective July 1, 2011.

# **Enclosure C**

## **Public Participation Documentation**

- Attachment 1: Notice of public hearing and comment period
- Attachment 2: Certification of public participation
- Attachment 3: Hearing report

## **Notice of Intent to Revise the State Implementation Plan for Air Quality**

The Commissioner of the Department of Energy and Environmental Protection (DEEP) hereby gives notice of intent to amend the State Implementation Plan (SIP) to address section 110(a)(1) and (2) of the Clean Air Act (CAA) with respect to the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS). DEEP is also proposing to incorporate the current version of section 16a-21a of the Connecticut General Statutes into the SIP to help maintain continued compliance with the 1-hour SO<sub>2</sub> NAAQS.

The SIP revisions will be submitted to the U.S. Environmental Protection Agency (EPA) for review and approval. The CAA section 110(a)(1) and (2) requirements, which are referred to as infrastructure requirements, provide that a state must demonstrate its ability to implement, maintain and enforce a revised NAAQS. The authority to adopt these SIP revisions is granted by sections 22a-5 and 22a-174 of the Connecticut General Statutes. This notice is required pursuant to 40 Code of Federal Regulations 51.102.

All interested persons are invited to comment on the proposal. Comments should be submitted no later than 4:30 PM on May 1, 2013 to Michael Geigert, DEEP, Bureau of Air Management, 79 Elm Street, Hartford, Connecticut 06106-5127. Comments may be submitted by post, facsimile to (860) 706-5339 or by electronic mail to [michael.geigert@ct.gov](mailto:michael.geigert@ct.gov).

In addition to accepting written comments, DEEP will also hold the public hearing at the time and location described below if a request for such a hearing is made on or before April 26, 2013. Any person giving oral comments at the hearing will be asked to submit a written copy of such comments.

### **PUBLIC HEARING**

May 1, 2013

1:00 p.m.

DEEP, 5th Floor, Holcombe Room  
79 Elm Street, Hartford, CT 06106

A request for hearing may be made by any individual by telephone (860-424-3026) or electronic mail ([michael.geigert@ct.gov](mailto:michael.geigert@ct.gov)). Such a request must be made by 4:30 PM on April 26, 2013. If no request for a hearing is received by April 26, 2013, the hearing will be cancelled. Information on the status of the hearing will be posted on the Department's website at [http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav_GID=1619) as of noon on April 29, 2013. Questions concerning the cancellation of the public hearing may be directed to Michael Geigert at 860-424-3026 or [michael.geigert@ct.gov](mailto:michael.geigert@ct.gov).

Copies of the SIP revisions are available for public inspection during normal business hours at the Bureau of Air Management, 5th Floor, 79 Elm Street, Hartford, CT. The same documents are posted on DEEP's website at:

[http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav\\_GID=1619](http://www.ct.gov/deep/cwp/view.asp?a=2684&Q=481006&deepNav_GID=1619)

For further information, contact Michael Geigert of the Bureau of Air Management at (860) 424-3026 or by electronic mail at [michael.geigert@ct.gov](mailto:michael.geigert@ct.gov).

Individuals interested in receiving notification of DEEP public notices automatically via electronic mail may make such a request through the DEEP's website as follows:  
<http://www.ct.gov/deep/eAlerts/subscribe.asp>

DEEP is an affirmative action/equal opportunity employer and service provider. In conformance with the Americans with Disabilities Act, DEEP makes every effort to provide equally effective services for persons with disabilities. Individuals with disabilities who need this information in an alternative format, to allow them to benefit and/or participate in the agency's programs and services, should call 860-424-3194 or e-mail the ADA Coordinator, at [deep.hrmed@ct.gov](mailto:deep.hrmed@ct.gov). Persons who are hearing impaired should call the State of Connecticut relay number 711. Requests for accommodations must be made at least two weeks prior to the program date.

03/25/2013  
Date

  
\_\_\_\_\_  
Macky McCleary  
Deputy Commissioner

## **Attachment 2**

### **CERTIFICATION OF PUBLIC PARTICIPATION PROCESS**

This certifies in accordance with the provisions of Title 40 Code of Federal Regulations Part 51.102 that the following actions were taken by the Connecticut Department of Energy and Environmental Protection (DEEP) regarding revisions to the Connecticut State Implementation Plan (SIP) for air quality to address the section 110(a)(1) and (2) requirements of the federal Clean Air Act (CAA) with respect to the 2010 1-hour sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS).

- 1) DEEP published the public notice for this SIP revision on March 25, 2013. The public notice scheduled a public hearing for May 1, 2013, to be held only if a request for hearing was received. No request for hearing was made, so none was held.
- 2) The record remained open for receipt of written comments through May 1, 2013.
- 3) In accordance with the notice, materials were available for review on DEEP's website and at DEEP's headquarters in Hartford, CT from March 25, 2013 to May 1, 2013.
- 4) On March 26, 2013, copies of the notice were e-mailed to the directors of the air pollution control agencies in New York, New Jersey, Rhode Island and Massachusetts, as well as to Region I of the U.S. Environmental Protection Agency.
- 5) The public notice was published on the DEEP website on March 25, 2013, at [http://www.ct.gov/deep/cwp/browse.asp?a=2586&deepNav\\_GID=1511](http://www.ct.gov/deep/cwp/browse.asp?a=2586&deepNav_GID=1511), and remained on the website through May 1, 2013.

May 28, 2013  
Date



Michael A. Geigert  
Bureau of Air Management

## **Attachment 3**

### **HEARING REPORT**

#### **Prepared Pursuant to Code of Federal Regulations Title 40, Part 52 Regarding Revisions to the State Implementation Plan for Air Quality**

**Hearing Officer: Michael Geigert**

On March 25, 2013, the Deputy Commissioner of the Connecticut Department of Energy and Environmental Protection (DEEP) signed a notice of intent to amend the State Implementation Plan (SIP) for air quality to address the infrastructure requirements of section 110(a)(1) and (a)(2) of the federal Clean Air Act (CAA) with respect to the 2010 sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS). Pursuant to such notice, DEEP provided an opportunity for the public to provide written comments and to request that DEEP hold a public hearing. Written comments were accepted through the end of the public comment period on May 1, 2013. No request for a public hearing was received, thus none was held.

#### **I. Overview**

This report describes the revisions to the SIP as proposed for public review, the comments received through the comment period and DEEP's responses.

#### **II. Summary of the Revisions as Proposed**

The CAA requires states to submit SIP revisions to address the requirements of CAA section 110(a)(1) and (2) within three years of promulgation of a revised NAAQS. The federal Environmental Protection Agency (EPA) promulgated the 1-hour SO<sub>2</sub> NAAQS on June 2, 2011, prompting the preparation and proposal of the subject SIP revision. The CAA section 110(a)(1) and (2) requirements, which are referred to as infrastructure requirements, provide that a state must demonstrate its ability to implement, maintain and enforce revised NAAQS.

The proposed SIP revision includes a table summarizing existing Connecticut regulations and statutes that satisfy the CAA 110(a)(2) infrastructure requirements for the SO<sub>2</sub> NAAQS. DEEP concludes that the provisions of current regulations and statutes, when supplemented with the following actions, will meet all of the required elements of CAA section 110(a)(2):

- 1) The proposed SIP revision notes that DEEP is currently drafting revisions to section 22a-174-24 of the Regulations of Connecticut State Agencies (RCSA) concerning the adoption of air quality standards to ensure consistency with the 2010 SO<sub>2</sub> NAAQS, as well as other NAAQS recently revised by EPA. The proposal includes a commitment to pursue adoption of such regulatory revisions, seeking to complete the process by the end of calendar year 2013. In the interim, pursuant to 40 CFR 52.14, DEEP indicates it will continue to apply the 2010 SO<sub>2</sub> NAAQS.

- 2) The proposed SIP revision proposes to incorporate the current version of [Conn. Gen. Stat. §16a-21a](#) into the SIP. The statute includes a provision restricting the sulfur content of home heating oil to 15 parts per million when the states of New York, Massachusetts and Rhode Island institute similar restrictions.
- 3) The proposed SIP revision recognizes that EPA may, at some point in the future, establish a short-term Prevention of Significant Deterioration (PSD) increment, significant impact level, significant emission rate, and/or significant monitoring level for the 2010 1-hour SO<sub>2</sub> NAAQS. When EPA takes such final action, DEEP commits to pursue adoption of appropriate regulatory revisions within a reasonable period following adoption of required PSD program parameters.

### **III. Comments and Responses**

DEEP received two sets of comments. The first was from Ida E. McDonnell, Manager, Air Permits, Toxics and Indoor Programs Unit, EPA Region 1, Boston, Massachusetts, dated April 30, 2013. The second was a more general inquiry requesting clarification received via e-mail from Louis A. Baer, a regulatory consultant with Enhesa in Washington, D.C.

All comments are summarized below, with DEEP responses.

**EPA Comment #1:** EPA recognizes that DEEP plans to complete revisions to RSCA 22a-174-24 to include the 2010 SO<sub>2</sub> standard. EPA notes that the revisions must be completed in order to receive full approval of the infrastructure SIP.

**DEEP Response:** DEEP is in the process of updating RSCA section 22a-174-24 to incorporate the 2010 SO<sub>2</sub> NAAQS, as well as other EPA NAAQS revisions. DEEP expects to complete the process before the end of 2013.

**EPA Comment #2:** EPA points out that EPA's current draft guidance<sup>1</sup> does not address either prong 1 or prong 2 of the CAA section 110(a)(2)(D)(i)(I) requirements, which deal with impacts on other states. As a result, EPA suggests that DEEP address those elements at a later time.

**DEEP Response:** DEEP understands that EPA is in the process of developing policy and guidance to address states' responsibilities under CAA section 110(a)(2)(D)(i)(I). Regardless, DEEP is confident that the information cited in the SIP revision provides a compelling case that SO<sub>2</sub> emissions from Connecticut sources do not significantly contribute to nonattainment in, or interfere with maintenance by, any other state with respect to either the SO<sub>2</sub> or PM<sub>2.5</sub> NAAQS. Therefore, DEEP requests that EPA act to approve this element of the SIP revision.

**EPA Comment #3:** EPA recommends that DEEP include a reference in the SIP revision to Connecticut's SIP-approved PSD program in RSCA Section 22a-174-3(a) to help meet the "interference with PSD" prong 3 element of 110(a)(2)(D)(i)(II).

**DEEP Response:** DEEP agrees and will include the suggested regulatory reference to satisfy the PSD prong of CAA section 110(a)(2)(D)(i)(II). As a point of clarification, the proper citation is to RSCA Section 22a-174-3a, not RSCA Section 22a-174-3(a).

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<sup>1</sup> "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)"; EPA draft for state/local review; Received by DEEP from EPA Region 1 on February 22, 2013.



**EPA Comment #4:** EPA recommends that DEEP include the following statement partially fulfilling the requirements of CAA section 110(a)(2)(D)(ii):

"No source or sources within the state are the subject of an active finding under section 126 of the CAA with respect to any air pollutant."

**DEEP Response:** DEEP agrees and will add the statement to satisfy the requirements of CAA section 110(a)(2)(D)(ii).

**EPA Comment #5:** Noting that the proposed SIP revision includes references to a number of state statutes, EPA recommends that, when statute(s) are the only program element(s) relied upon to meet a specified CAA element, DEEP should include the statute(s) with the submittal for incorporation into the SIP. EPA cites as an example the element addressing the consultation requirements of CAA section 110(a)(2)(J), stating that DEEP will need to submit CGS Section 22a-171 as a revision to the SIP.

**DEEP Response:** DEEP will include CGS section 22a-171 in this SIP revision to satisfy EPA's request. Based on a review of the proposed SIP revision, all other CAA elements are addressed by at least one regulation and/or previous SIP submissions; therefore, no additional statutes need to be included.

**EPA Comment #6:** DEEP should include a reference to RCSA Section 22a-174-2a to completely meet the requirement of section 110(a)(2)(J) regarding consultation with government officials. Section 121 of the CAA requires consultation for preconstruction review, commonly known as new source review permitting.

**DEEP Response:** DEEP will include the reference to RCSA Section 22a-174-2a to more completely meet the consultation requirement of CAA section 110(a)(2)(J).

**Enhesa Inquiry:** A consultant sent an e-mail requesting general clarification of what provisions of the SIP were being proposed for revision.

**DEEP Response:** DEEP provided a response by e-mail. This response provided an overview of the proposed SIP revision, which included the commitment to pursue revisions to Connecticut's ambient air quality standards set forth in RCSA section 22a-174-24 and the addition of the statute limiting the fuel sulfur content of heating oil (i.e., Conn. Gen. Stat. §16a-21a ). DEEP noted that a separate public review process will be held to consider the revisions to RCSA section 22a-174-24.

#### **IV. Errata**

Table 1 of the draft SIP revision contains an outdated reference to Connecticut's March 1972 SIP regarding the CAA section 110(a)(2)(E) requirement to demonstrate adequate resource commitments to carry out the SIP. A more current and relevant delineation of priorities and resource commitments is provided through the Performance Partnership Agreement (PPA), which is updated annually through a collaborative process between DEEP and EPA Region 1. I recommend that Table 1 of the SIP revision document be revised to include a description of the PPA process and to remove the reference to the 1972 SIP.

**V. Conclusion**

I recommend that the SIP revision as proposed, together with the above revisions made in response to comments, be submitted to the EPA for approval.



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Michael Geigert  
Hearing Officer

May 30, 2013

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Date