



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
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Boston, MA 02109-3912

December 16, 2011

Merrily A. Gere
Supervising Environmental Analyst
Connecticut Department of Energy and Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, CT 06106-5127

Dear Ms. Gere:

The Connecticut Department of Energy and Environmental Protection (DEEP) is proposing to adopt RCSA Section 22a-174-22d "Post-2011 Connecticut Ozone Season Nitrogen Oxides (NO_x) Budget Program." This proposed intrastate-only NO_x ozone-season trading program would replace Connecticut's Clean Air Interstate Rule (CAIR) program which will sunset by action of EPA on December 31, 2011. Starting with the 2012 ozone season, the proposed program would allow Connecticut to maintain emissions reductions achieved through the CAIR program.

CT DEEP will hold a public hearing in Hartford on this proposal on December 15, 2011. We have reviewed the proposed regulations and have included our comments in the Enclosure. We stress the importance of adopting this rule as soon as possible in order to retain NO_x emissions reductions achieved through the CAIR program and relied upon for attainment and maintenance of the federal ozone and fine particulate standards and for meeting regional haze program requirements.

Please incorporate these comments into the public hearing record. If you or your staff has questions on the enclosed comments, please contact Alison Simcox of my staff at 617-918-1684.

Sincerely,

David B. Conroy, Chief
Air Programs Branch

Enclosure

cc: Anne Gobin, CT DEEP
Gary Rose, CT DEEP
Wendy Jacobs, CT DEEP

Enclosure

EPA's Comments on Connecticut's Proposed Regulation RCSA Section 22a-174-22d "Post-2011 Connecticut Ozone Season Nitrogen Oxides (NO_x) Budget Program"

1. **NO_x Allowances.** Because this program will be an intrastate trading program within Connecticut only, it is important to distinguish the currency used in the program from NO_x allowances associated with the Cross State Air Pollution Rule (CSAPR) or other state trading programs. Therefore, we would recommend that the terms "NO_x allowance" and "NO_x allowances" be replaced with the terms "Connecticut NO_x allowance" and "Connecticut NO_x allowances" throughout Section 22a-174-22d. These changes would eliminate the need for the prohibitions in subsection (g)(6) and this subsection should be deleted from the rule:

~~(6) NO_x allowances allocated pursuant to this section may not be transferred to persons in other states participating in a NO_x allowance trading program administered by the Administrator. The owner or operator of a Budget Unit may not acquire NO_x allowances from persons in other states participating in a NO_x allowance trading program administered by the Administrator.~~

2. **Subsection (c) Permanent cessation of operations exemption.** We support the provisions of this subsection which apply after permanent cessation of NO_x emitting operations at a Budget Unit. We also would recommend that provisions pertaining to shutdown units be added to subsection (f) of the regulation regarding the annual allocation of allowances. Once a unit has permanently shutdown, there is no reason in our view for the allocation of future allowances to such a unit.
3. **Subsection (d) Connecticut emission budget.** As written, subsection (d)(4) would allow the Connecticut emission budget of 2,691 tons of NO_x to increase by a specified amount in the case of an emergency situation defined by a shutdown of a Connecticut nuclear electric generating unit or disruption in the supply of natural gas for more than 30 days. We support including a provision in the rule to address these potential emergency situations, especially in the early years of implementation of the program. However, we do not believe the provision needs to continue indefinitely and we do not believe that the supplemental allocation should be divided among all Budget Units. As written, some facilities will be allocated additional allowances even though they may not need them, even in an emergency situation. For example, existing gas units generally will not need additional allowances even with significant increases in capacity utilization.

Therefore, to address these concerns, we recommend that Connecticut delete subsections (d)(4), (5) and (6) and add a new section (e), called "Connecticut Emergency Supplement Allocation" (with subsequent sections renumbered accordingly) to read as follows:

“(e) Connecticut Emergency Supplement Allocation

- (1) The commissioner will provide for an Emergency Supplement Allocation of Connecticut NO_x allowances for the 2012, 2013 and 2014 control periods that are in addition to the Connecticut emission budget in subsection (d)(1) of this section and that are available to be distributed to Budget Units in Connecticut under certain emergency conditions as described in subsection (e)(5) of this section.
- (2) For the 2012 control period, the Emergency Supplement Allocation will not exceed 1,775 Connecticut NO_x allowances.
- (3) For the 2013 control period, the Emergency Supplement Allocation will not exceed 1,775 Connecticut NO_x Allowances minus the amount of banked 2012 Connecticut NO_x allowances in all accounts after annual reconciliation pursuant to subsection (q) of this section.
- (4) For the 2014 control period, the Emergency Supplement Allocation will not exceed 1,775 Connecticut NO_x Allowances minus the amount of banked 2012 and 2013 Connecticut NO_x allowances in all accounts after annual reconciliation pursuant to subsection (q) of this section.
- (5) Pursuant to the provisions of subsection (e)(6) of this section, the commissioner may allocate some or all of the Emergency Supplement Allocation to the Owner or Operator of Budget Units that incurred an increase in electricity generation during the control period compared to the previous control period only under the following two scenarios:
 - (A) A nuclear electric generating unit in the state incurred an unexpected shutdown that lasted more than 30 days; or
 - (B) One or more electric generating units in the state were unavailable to produce electricity due to the inability of a local distribution company to provide natural gas for a period of at least 30 days. The local distribution company’s failure must result from a loss of supply or a loss of pipeline capacity caused by conditions beyond the control of the local distribution company and occurring without its fault or negligence.
- (6) By no later than October 15 following a control period during which an emergency condition under subsection (e)(5) of this section occurred, the Owner or Operator of a Budget Unit requesting additional allocations shall submit:
 - (A) A request for allocation of additional Connecticut NO_x allowances from the Emergency Supplement Allocation not exceeding 0.46 pounds of NO_x for each MWh of electricity generated above and beyond the total amount generated during the previous control period; and

(B) A demonstration that the increase in electricity generation during the control period compared to the previous control period was a direct result of the emergency condition identified in subsection (e)(5) of this section.

(7) By November 10 following the control period during which an emergency condition under subsection (e)(5) of this section occurred, the commissioner will review each demonstration submitted under subsection (e)(6) of this section make a determination as to whether the Budget Unit qualifies for additional allowances from the Emergency Supplement Allocation, and allocate the additional Connecticut NOx allowances from the Emergency Supplement Allocation.”

4. **Distribution of unused portion of New Unit allocation.** Connecticut should add a definition for EO_{TOTAL} under subdivision (f)(5)(C) to describe that it includes the total average net electricity output from both Phase I and Phase II units. Connecticut may also consider deleting this provision entirely since it seems unnecessary to be distributing the unused portion of the New Unit allocation to existing units in light of recent ozone season emission trends.