



October 18, 2012

Elizabeth McAuliffe
Department of Energy and Environmental Protection
Bureau of Air Management
Engineering & Enforcement Division
79 Elm Street
Hartford, CT 06106-5127

RE: Proposed revisions to RCSA 22a-174-22 - Control of Nitrogen Oxides Emissions

Dear Ms. McAuliffe:

The Connecticut Business and Industry Association (CBIA) submits the attached comments on the proposed revisions referenced above. CBIA is comprised of approximately 10,000 large and small Connecticut businesses, the vast majority of which are small businesses with fewer than 50 employees. Our comments were prepared through CBIA's Environmental Policies Council.

CBIA appreciates the Department's consideration of these comments.

Sincerely,

Eric Brown
Associate Counsel

Attachment

**COMMENTS BY THE CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
REGARDING PROPOSED REVISIONS TO RCSA 22a-174-22**

I. General comments

A. Several provisions of the draft revisions (e.g., proposed revisions to subsection 22(b)(2) and 22(b)(3)) would resolve several longstanding glitches in the regulation that have unnecessarily consumed the resources of both regulated parties and DEEP. CBIA supports such provisions, as noted in below, and commends the Department on its leadership in addressing these issues. Beyond the glitches addressed by the proposed changes, there are others noted below that CBIA urges the Department to address as well, to provide for a more efficient and effective regulation.

B. The proposed revisions would not address the potentially confusing use in Section 22 of the terms “source,” as sometimes -- but apparently not always -- distinct from the term “stationary source.” Further, there are limited references in Section 22 to “premises,” which among “source,” “stationary source,” and “premises,” is the only term that is defined specifically for purposes of Section 22. It would be helpful for clarity and for promoting compliance for these terms to be harmonized and/or supplemented with more specific terms, such as “emission unit.”

For example, proposed subsection 22(m)(1)(C) refers both to a “source” that is subject to section 22 (apparently meaning the same or similar as “premises”), and to a “stationary source” that is subject to section 22 (apparently meaning an “emission unit” at such “premises”). The following subsection 22(m)(2), as revised, would provide that a compliance plan must include all “sources” subject to this section. By “sources,” proposed 22(m)(2) apparently refers to “emission units” at a “premises.” Are these understandings correct?

CBIA requests that the Department clarify this language.

C. CBIA supports the comments submitted by Pfizer Inc. Please consider them incorporated by reference in these comments.

II. Specific comments

- A. Subsection 22(b)(2): The proposed changes to this subsection (exempting “actual minors” from subsection 22(m) requirements for compliance plans) makes good policy sense, from the perspective of regulated parties and DEEP alike. However, the proposed revisions would perpetuate the confusing current language of this provision. This language, dating back to 1994, is internally redundant, unnecessarily asymmetrical, and self-contradicting. Aside from the continuing wasted time among both regulators and the Department in sorting through this complexity and uncertainty, this language promotes non-compliance. This language can be readily converted to a plain-English, compliance-promoting statement. E.g.,:

“Black-lined” version:

- (2) Subsections (d) [to (k), inclusive,] through (k) and (m) of this section shall not apply to the owner or operator of a source if

(A) [t/The actual emissions of NOx since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone].;
and

(B) [Notwithstanding this provision, subsection (d) to subsection (k), inclusive, subsections (d) through (k) and (m) of this section shall apply to such owner or operator if a]After May 31, 1995, the actual emissions of NOx from such premises on any day from May 1 to September 30, inclusive, of any year have not exceeded [exceed the following:

(A) In any calendar year: twenty-five (25) tons for premises located in a severe nonattainment area for ozone, or fifty (50) tons for premises located in a serious nonattainment area for ozone; or

(B) On any day from May 1 to September 30, inclusive, of any year:] one hundred thirty-seven (137) pounds [for] if such premises are located in a severe nonattainment area for ozone, or two hundred seventy-four (274) pounds [for] if such premises are located in a serious nonattainment area for ozone.

“Clean” version:

- (2) Subsections (d) through (k) and (m) of this section shall not apply to the owner or operator of a source if

(A) The actual emissions of NO_x since January 1, 1990 from the premises at which such source is located have not exceeded twenty-five (25) tons in any calendar year if such premises are located in a severe nonattainment area for ozone, or fifty (50) tons in any calendar year if such premises are located in a serious nonattainment area for ozone; and

(B) After May 31, 1995, the actual emissions of NO_x from such premises on any day from May 1 to September 30, inclusive, of any year have not exceeded one hundred thirty-seven (137) pounds if such premises are located in a severe nonattainment area for ozone, or two hundred seventy-four (274) pounds if such premises are located in a serious nonattainment area for ozone.

- B. Subsection 22(c)(2)(C): This exemption will accommodate a limited but occasionally recurring situation. The language clarifications provided in the comments by Public Service Enterprise Group (PSEG) would best avoid unintended confusion and target the exemption appropriately.
- C. Subsection 22(l): This would be a good opportunity to fix an administrative error in section 22(l)(3) that apparently occurred during a previous revision, and since then has imposed an unnecessary recordkeeping requirement on sources. Section 22(l)(3)(C) currently requires the owner or operator of “any source subject to this section” (emphasis supplied) to keep “monthly and annual records (e.g., fuel use, continuous emissions monitoring, operating hours)” in order to determine whether NO_x emissions from such premises exceed the 50/25 TPY thresholds, regardless of whether 50/25 TPY is a relevant threshold for the source under Section 22. This problem can be fixed by prefacing section 22(l)(3)(C) with “*For any premises for which subsections (b)(2) of this section applies,*”
- D. Subsection 22(m)(1)(A): There seems to be a text error in the proposed revised text. In “For sources subject to this section prior as of May 1, 1994,” is the word “prior” superfluous and should it be deleted? If not, CBIA requests that the Department explain what the phrase means.
- E. Subsection 22(m) (regarding compliance plans): The proposed revisions would require that a compliance plan submitted pursuant to subsection 22(m) “shall be submitted on forms provided by the Commissioner.” Proposed subsection 22(m)(2). Does the Department intend to post this form on its website upon adoption of this revision?

If not, CBIA urges the Department to do so as soon as possible, in order to streamline and facilitate compliance.

CBIA appreciates the Department’s consideration of these comments.