

October 18, 2012

Elizabeth McAuliffe
Connecticut Department of Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, CT 06106-5127

Dear Ms. McAuliffe:

Subject: Notice of Intent to Amend the Regulations of Connecticut State Agencies and to Revise the State Implementation Plan for Air Quality, August 28, 2012
RCSA 22a-174-22 – Control of Nitrogen Oxides Emissions

In response to the subject notice's invitation to submit comments, I offer the following comments for your consideration.

Applicability Provisions

At the outset, it would appear necessary to clarify the applicability provisions of Subdivision (b)(1) as they affect the proposed section revisions.

Subdivision (b)(1)(A) states that the section applies to the following sources at a major source of nitrogen oxides (NO_x):

- (i) A reciprocating engine with a maximum rated capacity of three (3) MMBTU/hr or more;
- (ii) Fuel-burning equipment, other than a reciprocating engine, with a maximum rated capacity of five (5) MMBTU/hr or more;
- (iii) Equipment that combusts fuel for heating materials and that has a maximum rated capacity of five (5) MMBTU/hr or more;
- (iv) A waste combustor with a design capacity of two thousand (2000) pounds or more of waste per hour.

Subdivision (b)(1)(B) states that the section applies to fuel-burning equipment, a waste combustor, or a process source that has potential emissions of NO_x in excess of:

- (i) One hundred thirty-seven (137) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or

- (ii) Two hundred seventy-four (274) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone.

Whereas (b)(1)(A) is specific to a major source, (b)(1)(B) is not related to either the major or minor source category. Because (b)(1)(B) isn't associated with source major/minor status, it has been applied to equipment at both major and minor sources. For example, (b)(1)(B) has been interpreted to establish applicability for a reciprocating engine at a major source of NO_x in a severe nonattainment area with a maximum rated capacity of less than 3 MMBtu/hr but potential NO_x emissions greater than 137 lb/day.

This interpretation appears to be inconsistent with guidance provided by the Department in 1994 when the section underwent its major revision. From the DEP "QUESTIONS AND ANSWERS ON THE NEW NO_x REGULATION" (copy attached):

"2. How large does a facility have to be to be subject to the rule? To be subject to these regulations, a source must be located at a facility (or "premises") that is a "major stationary source of NO_x." ...There is one exception to the "major stationary source" qualification: a piece of equipment that is located at a premise that is not a major stationary source of NO_x is still subject to the emission limits in the regulation if it has the potential to emit 137 pounds per day (#/day) in the severe nonattainment area or 274 #/day in the serious nonattainment area, during the ozone season (May 1 through September 30)."

Therefore, (b)(1)(B) would appear to be applicable to minor sources. If this interpretation is correct, I recommend the following revision to (b)(1)(B):

(1) This section applies to the owner or operator of:

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(B) Fuel-burning equipment, a waste combustor, or a process source located at a minor stationary source of NO_x that has potential emissions of NO_x in excess of the following:

- (i) One hundred thirty-seven (137) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a severe nonattainment area for ozone; or
- (ii) Two hundred seventy-four (274) pounds during any day from May 1 to September 30, inclusive, of any year, if such source is located in a serious nonattainment area for ozone.

22a-174-22(c) Exemptions

I endorse the comments being submitted by Pfizer, Inc. The exemption as proposed by Pfizer addresses a long standing issue that has affected the ability of facilities to perform critical maintenance and at the same time sustain essential administrative and manufacturing operations.

22a-174-22(m) Compliance Plan

The NO_x compliance plan requirement for any source that becomes subject to this section after May 31, 1994 seemingly contradicts LEAN initiatives. This requirement creates more work for both DEEP and the regulated community. Further, there is no explanation as to what purpose the compliance plan serves for sources constructed after the May 31, 1995 compliance date.

New sources that have undergone new source review (NSR) permitting should be exempted because the source has been required to demonstrate best available control technology (BACT), which can be no less stringent than the limits established by the reasonably available control technology (RACT) based Section 22. Isn't it correct that NO_x emitting equipment installed after May 31, 1995 cannot exceed the Section 22 limits? That being the case, what is the necessity for a compliance plan for a piece of equipment that when constructed is in compliance?

From the Hearing Officer's Report, February 9, 1994:

"The primary functions of the compliance plan are twofold: to initiate a timely planning process by affected sources; and to let DEP know what measures sources intend to take. We want an opportunity to advise a source if its program appears deficient, or not in compliance with the requirements of the rule."

This functional description fit the situation at the time because sources had to comply with the limits established by the May 1994 regulation by May 31, 1995. A compliance plan was appropriate.

Also from the Hearing Officer's Report, I believe the following response explains the instance where a compliance plan would be required for a source that becomes subject to the regulation after May 1, 1994. The response was to a comment to subsection (m) posed by USEPA. USEPA's comment was directed to a source not subject to the regulation until after May 31, 1995.

“Certain sources would not become subject to the rule until after May 15, 1995. For example, a hypothetical turbine has a maximum rated capacity of 6 million BTU/hr and is located in the severe nonattainment area. The premise has potential to emit 24 TPY of NO_x. Because the turbine is not located at a major stationary source, it is not now subject to the NO_x rule. However, later on, the factory expands and adds a boiler and brings the total emissions from the premise up to 31 TPY. Now the turbine is located at a major stationary source of NO_x and must comply with emission limits.”

Note that there is no mention of a requirement for the boiler to have a compliance plan. I believe at the time the boiler would have required a permit under the former 22a-174-3(a)(1)(K) based upon the Connecticut defined potential to emit exceeding 5 tons per year.

A compliance plan or amendment of an existing plan should not be required for a stationary internal combustion engine. Post-1996 nonroad and stationary engines have had to meet Federal emission standards. The Federal NO_x standards are less than the limits established by Section 22. Therefore, such engines will be in compliance by design and submission of a compliance plan would not appear to serve any purpose. The primary compliance requirement is the responsibility of the manufacturer who must certify the engines, but the operator is not relieved of all responsibility. Any engines that did not meet standards without controls would justify a compliance plan but these situations have been precluded by Federal standards.

At a minimum, I recommend that DEEP reconsider (m)(1)(C) to eliminate the requirement to amend a plan when the source added has been issued an NSR permit incorporating NO_x limits, is subject to a NSPS NO_x limit, or is a nonroad or stationary engines conforming to Federal standards.

I appreciate the opportunity to provide comments on the proposed regulations. Should you have any questions or comments, please don't hesitate to contact me at (860) 257-1053 or by email at ebrackbill@sci-techinc.com.

Very truly yours,

SCI-TECH, INC.



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