

### STATEMENT PURSUANT TO SECTION 22a-6(h) OF THE GENERAL STATUTES

Pursuant to section 22a-6(h) of the Connecticut General Statutes (CGS), the Commissioner of the Department of Energy and Environmental Protection (the Department) is authorized to adopt regulations pertaining to activities for which the federal government has adopted standards or procedures. At the time of public notice, the Commissioner must distinguish clearly all provisions of a regulatory proposal that differ from federal standards or procedures. In addition, the Commissioner must provide an explanation for all such provisions in the regulation-making record required under CGS Title 4, Chapter 54 and make such explanation publicly available at the time of the publication of the notice of intent required under CGS section 4-168.

This document addresses the requirements of CGS section 22a-6(h) with regard to the proposed adoption of section 22a-174-3d of the Regulations of Connecticut State Agencies (RCSA). RCSA section 22a-174-3d is a permit-by-rule for owners of certain new combined heat-and-power (CHP) systems. Since 2002, the Department has used a permit-by-rule, in lieu of the requirement to obtain an individual permit, to authorize the operation of categories of sources for which the Department may develop standardized permit conditions that limit actual pollutant emissions to levels protective of public health and air quality. The use of permits-by-rule has reduced workload, reduced permitting timeframes and provided a fair and consistent basis for source operations.

The Department has performed a comparison of proposed RCSA section 22a-174-3d with federal laws and regulations, namely the Clean Air Act (CAA) and standards and procedures in 40 Code of Federal Regulations (CFR), and has determined that there are no analogous permitting requirements, although the federal government has promulgated emissions standards that apply to some of the equipment that may be operated under the permit-by-rule. In matters pertaining to the permitting of stationary sources of air pollution, the federal government establishes standards and procedures that are applicable to the state, which then establishes administrative regulations to implement the federal program. The state, not the federal government, has the primary responsibility to issue permits to the owners or operators of stationary sources of air pollution under federally approved programs. This is true of Connecticut's new source review permitting program, to which the proposed permit-by-rule is an alternative. Federal permitting requirements would only apply to sources in states that lack federally approved permit programs.

With regard to emissions standards and procedures, some of the CHP systems that may qualify to operate under the permit-by-rule will be subject to emissions standards and other requirements in new source performance standards (NSPS) or national emission standards for hazardous air pollutants (NESHAP) set out in 40 CFR 60 or 63, namely 40 CFR 60 subparts JJJJ and KKKK and 40 CFR 63 subpart ZZZZ. The applicability of such standards depends on the type of equipment used in the CHP system (*i.e.*, engine or turbine), the date of construction and the design capacity. The emissions standards of the permit-by-rule are, for a particular piece of equipment, more stringent than the standards in the applicable NSPS or NESHAP.

19 October 2012  
Date

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/s/Merrily A. Gere  
Bureau of Air Management