

Managing Environmental Compliance in Connecticut



July 2005

Gina McCarthy
Commissioner

<http://www.dep.state.ct.us>

Connecticut Department of Environmental Protection
Office of Enforcement Policy and Coordination

Issue 7

Connecticut Receives Prestigious Environmental Awards

On June 15, 2005, Robert W. Varney, Regional Administrator of EPA's New England regional office presented the State of Connecticut two prestigious environmental awards-- a Climate Protection Award and an Energy Star Label Award.

The first award was presented to the Connecticut Governor's Steering Committee on Climate Change ("Committee"). The Committee earned EPA's Climate Protection Award and has emerged as a model for other states attempting to address global climate change through intelligence, innovation, vision and collaboration.

DEP Commissioner, Gina McCarthy chairs the committee that consists of commissioners from the departments of Transportation, Administrative Services, the chairmen of the Department of Public Utilities Control and the Clean Energy Fund and an undersecretary of the Office of Policy and Management. The Committee developed an emissions inventory and selected 38 initial actions that are being implemented. These initial actions include: new laws and executive orders for greenhouse gas reporting, development of a greenhouse gas registry, new energy efficiency standards for certain products and appliances, tax exemptions on hybrid vehicles, state shared energy savings and procurement orders, California emissions standards for light duty vehicles, and climate change mitigation through local agriculture support and land preservation.



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Ohio Edison Settlement Will Result in Reduced Air Pollutants in Connecticut

On March 18, 2005, Ohio Edison entered a settlement that will greatly reduce the air pollutants that are blowing into Connecticut from operation of power plants located in Ohio. The settlement includes payment to the state of \$1.1 million to fund environmentally beneficial projects.

Under the agreement, Ohio Edison will make emission reductions that exceed air pollution produced by all sources in Connecticut. The company will phase in the reductions from 2006 to 2012. As a result, Connecticut will see decreases in smog, acid rain and respiratory illness. New York, New Jersey and the Environmental Protection Agency (EPA) also participated in the settlement.

The agreement settles a lawsuit that Connecticut, New York and New Jersey filed in the fall of 1999 against Ohio Edison for failing to comply with the federal Clean Air Act's New Source Review (NSR) provision. NSR requires power plants to add anti-pollution devices when they upgrade older fossil fuel-burning power plants.

The lawsuit specifically targeted Ohio Edison's huge coal-fired Sammis power plant in Steubenville, Ohio, which produces as much air pollution as all the sources in the entire state of Connecticut combined. These unlawful emissions

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Administrative Civil Penalty Regulations Under Development

In accordance with Connecticut General Statutes §22a-6b, the department is drafting regulations that set forth the methods for calculating and assessing administrative civil penalties for certain environmental violations. The current scope of the proposed regulations includes violations related to coastal structures and dredging, tidal wetlands, inland wetlands, stream channel encroachment lines, water diversion, dam safety and solid waste recycling. The department has determined that administrative penalty regulations will improve the overall efficiency and effectiveness of these programs by reducing the time needed to negotiate and settle enforcement actions.

Under the proposed regulations, a broad set of factors consistent with CGS §22a-6b and the department's civil penalty policy to assess the administrative civil penalty would be considered. These factors include: potential for harm of the violation to the environment and human health and welfare, economic benefit of noncompliance, extent to which the violation deviated from the legal requirement, good faith efforts to comply, history of noncompliance, and ability to pay.

Over the next several months, the department will be soliciting public participation on the draft regulations in an effort to develop a useful enforcement tool for correcting environmental problems and promoting future compliance.

Newly Passed Environmental Legislation

The Department proposed or supported a number of bills this legislative session. Below is a summary of a number of the bills that passed and will have an impact on public health and the environment. For more information, please contact Tom Tyler, Legislative Liaison, at (860) 424-3001.

- Public Act(PA)-05-227**-to reduce air pollutants and visible emissions from outdoor wood-burning furnace units.
 - Special Act(SA)-05-7**-to require the development of a Connecticut clean diesel plan to reduce the health risks from diesel pollution and to help the state meet federal air quality standards for fine particulate matter.
 - SA-05-6**-to develop a plan for the implementation of incentives for consumers to purchase and use clean cars through a decrease of the sales tax by not more than three percent for new motor vehicles that have low emissions of greenhouse gases and an increase of the sales tax by not more than three percent for new vehicles that have high emissions of greenhouse gases.
 - PA-05-174**-to amend the flood management statutes to clarify the types of state action subject to the provisions of such statutes, to specify procedural hearing requirements pursuant to such statutes, to amend the stream channel encroachment line statutes to streamline the permitting requirements for activities with stream channel encroachment areas and to specify exemptions for low impact activities.
 - PA-05-142**-to establish stream flow regulations which will provide for a sufficient flow of water to preserve and protect natural aquatic life, as well as natural wildlife and public recreation.
 - PA-05-137**-to establish a Connecticut-New York Bi-State Long Island Sound Committee to make specific recommendations concerning the maintenance, protection and restoration of Long Island Sound.
 - PA-05-205**-to promote consistency in state, regional and municipal plans of conservation and development and to provide for priority funding areas and for corridor management areas along limited access highways and rail lines.
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Connecticut Receives Prestigious Environmental Awards *(continued from page 1)*

Since the program began in 1998, EPA has presented 110 awards to individuals and organizations from 16 countries. This year, 17 individuals and organizations earned the award by crafting international, national, state, and local policies; by reducing energy consumption; and by inventing technologies that protect the climate.

The second award was an Energy Star Label presented to the State in recognition of the superior energy efficiency at the DEP headquarters building, located at 79 Elm Street in Hartford. The Energy Star Program uses the National Energy Performance Rating Scale to assess energy performance of buildings. Buildings scoring 75 or higher are eligible for the Energy Star Label. The DEP building scored 90 out of 100.

Compared to the average office building, the DEP building uses one third less energy. This translates into avoiding more than 2 million pounds of carbon dioxide emissions per year—the equivalent of taking more than 240 cars off the road or cutting energy consumption by more than 2600 barrels of oil. It also saves taxpayers more than \$300,000 each year. The building, built about 75 years ago and renovated 10 years ago, shows how efficient technologies and good management can combine to help older buildings perform at a high level.

Guidance Available On Renovation and Demolition Requirements

The Department, along with several other state and federal agencies, non-profit organizations, and private-sector professionals, has developed a flyer that summarizes the various environmental, health, and safety requirements that apply to renovation and demolition sites. The flyer briefly describes each requirement, provides telephone numbers of the agencies involved with each requirement, and lists web site addresses where you may get additional information. The name of the flyer is "Renovation and Demolition: Environmental, Health, and Safety Requirements You Should Know About," and copies are available by calling the Department at the toll-free hazardous waste compliance assistance line (1-888-424-4193).

Requirements described in the flyer include those relating to asbestos, lead-based paint, fugitive dust and air emissions, wastewaters, sandblasting and power-washing, worker safety, construction and demolition waste, treated wood, land-clearing debris, chemical products, mercury, PCBs, used electronics and batteries, contaminated equipment, structures, and soil, air conditioning equipment and Freon®, underground storage tanks, site cleanup, spills, and drinking water supplies.



The Department has also developed a companion to the above flyer called the "Red Flag List." The Red Flag List was specifically designed for local officials who may be out at renovation and demolition sites. It lists several significant violations of environmental, health, and safety requirements that local officials may observe in the field, and indicates the state or federal agencies to which they should report these violations. The Red Flag List is also available from the Department by calling the above toll-free telephone number.

Restoration Work at Hammonasset Beach State Park

An improvement project aimed at restoring and protecting West Beach at Hammonasset Beach State Park in Madison has been completed. The work launched a \$2 million initiative announced by Governor Rell in March to reclaim and control erosion at the state park's West Beach. Severe storms this past winter washed away nearly all of the sand at West Beach. The sand there was completely gone and the surf washed up all the way under the new boardwalk constructed in 2001.



Beach Boardwalk at Hammonasset

Commissioner Gina McCarthy said, "The erosion repair project is a 'win' for both the park visitors and the environment. The project gives us a beach that will be enjoyed throughout the summer and a salt marsh habitat for shoreline birds and other species."

The improvement project resulted in the relocation of up to 15,000 cubic yards of sand from a former salt marsh area that was previously filled. The removal of the fill will restore the salt marsh, providing additional habitat to species that once thrived along the shore and the sand will be used for the restoration of West Beach.

As part of the project, the Department's State Parks Division will be working with the Office of Long Island Sound Programs, the Army Corps of Engineers, the University of Connecticut Marine Science Center at Avery Point, and others to design and implement a long-term solution to the shoreline erosion at Hammonasset Beach State Park.

The Department will evaluate other methods that would curb erosion and protect the beach such as constructing a series of gabions. A gabion is a structure, usually a cage or basket, filled with rocks and placed at the water's edge to absorb wave energy. The Department will also be conducting a comprehensive study of the natural forces at play along the shore at Hammonasset. During the winter of 2003, a series of storms pounded the shoreline at Hammonasset. In 2003, summer tides and currents helped to partially restore the beach. Severe winter weather, however, including a number of coastal storms, in November and December of 2004 washed away nearly 150 feet of beach.

Hammonasset Beach State Park is 919 acres with 2.5 miles of beach. Each year approximately 1 million people visit the park or stay at one of the 550 campsites.

Ohio Edison Settlement *(continued from page 1)*

of nitrogen oxide and sulfur dioxide, which are carried by prevailing winds to Connecticut, cause acid rain and smog. In August 2003, Federal Judge Edmund Sargus Jr. ruled in favor of Connecticut, other states and the EPA, finding that the company had violated the Clean Air Act by making major upgrades to the Sammis plant without first obtaining federal permits that required improved pollution controls.

In order to achieve the required pollution reductions, Ohio Edison has now agreed to install anti-pollution equipment at its power plants in Shadyside and Eastlake, Ohio and Mansfield, Pennsylvania, as well as its Sammis facility. Under the settlement, Ohio Edison must slash sulfur dioxide emissions by about 171,500 tons by 2011 and nitrogen oxide by approximately 40,900 tons by 2012. The company, which will begin the reductions in 2006, may not achieve them by trading emission credits.

DEP will use the \$1.1 million from the settlement for environmental projects, such as increasing energy efficiency at state buildings and installing solar powered electricity sources at truck stops so trucks can plug in while parked instead of idling their engines.

Stage II Compliance Assurance Strategy

Continuing in 2005, the Air Bureau's Compliance and Field Operations Division is implementing a compliance assurance strategy it initiated in July 2002 for gasoline dispensing operations that failed to comply with Stage II testing requirements. Since 1993, state regulations have required the over 1,600 gasoline-dispensing facilities in Connecticut to install, operate, and test control equipment designed to reduce gasoline vapors that are generated when drivers refuel their vehicles. This control equipment, called a Stage II Vapor Recovery System, is certified to reduce the volatile organic compounds (VOCs) found in gasoline vapors by 95%. These VOCs contribute to ozone (smog) and are hazardous to human health.

The compliance strategy includes: (1) mailing advance notification letters of when tests are due, (2) issuing Notices of Violation if test dates are missed, and (3) issuing Consent Orders with penalties to those sources that continue to fail to demonstrate compliance with the testing requirements. The orders require approved Stage II tests to be conducted and include a civil penalty for non-compliance. To date, the Department has issued over 75 consent orders to non-compliant sources. Sources that fail to enter into a consent order, or fail to comply with the testing requirement of the Order, may be referred to the Department of Consumer Protection ("DCP"). DCP has the authority to issue a Stop Use Order to close a gasoline-dispensing facility's pumps. This procedure involves physically sealing and rendering the gasoline pumps temporarily inoperable. Once the source conducts an approved Stage II test certifying it is fully functional, the seals may be removed and a facility may commence dispensing gasoline.

Because Stage II system maintenance and testing is essential to achieving emission control benefits, the Department recently amended the regulatory requirement (Section 22a-174-30 of the Regulations of Connecticut State Agencies) pertaining to the testing of Stage II Vapor Recovery Systems by increasing the frequency of the required tests to once every three years, or upon major system modification. Prior to this regulatory change, facilities were required to conduct an approved test once every five years.

Control of the VOC vapors contributes significantly to the state's efforts to control ozone, which along with Particulate Matter 2.5 (PM 2.5) are the EPA Criteria Pollutants for which Connecticut is not in compliance. In 2005 the Stage II vapor controls will account for eliminating the release of approximately 1,500 Tons of gasoline to the environment, thus reducing a significant contribution to ozone creation in addition to substantial reduction in exposure of citizens to toxic components in the fuel.

While cars themselves have been getting cleaner, with some getting better over all mileage as well, both the total number of cars on the road and the total Vehicle Miles Traveled (VMT) have increased substantially. Additionally, the most popular vehicles, SUVs and light trucks, have substantially worse mileage than cars. Drivers in Connecticut total an estimated 90 plus million VMT on an average day in 2005, which is an increase from approximately 68 million miles per day in 1990. This VMT increase has caused a continuing upsurge in fuel demand. The most miles traveled per day are driven in the summer, during hot weather, which is the ozone season.

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