Connecticut Department of
ENERGY &
ENVIRONMENTAL
PROTECTION

79 Elm Street • Hartford, CT 06106-5127 www.ct.gov/deep Affirmative Action/Equal Opportunity Employer

November 16, 2022

Re: Reclassification of Southwest Connecticut to severe nonattainment for ozone; impacts to synthetic minor status under RCSA §§ 22a-174-33a and -33b

To owners and operators of synthetic minor sources in Southwest Connecticut:

On October 7, 2022, pursuant to federal Clean Air Act (CAA) § 181(b)(2), the U.S. Environmental Protection Agency (EPA) issued a final rule (87 FR 60926) to reclassify three Southwest Connecticut counties from "serious" to "severe" nonattainment for the 2008 National Ambient Air Quality Standard (NAAQS) for ground-level ozone.[1] This rule became effective on November 7, 2022. The redesignated nonattainment area (NAA) includes Middlesex, New Haven, and Fairfield Counties; however, the regulatory impacts of EPA's action will generally be limited to air pollution sources located in Middlesex and New Haven Counties and the town of Shelton in Fairfield County, excluding the remainder of Fairfield County.[2]

This letter addresses the impacts of the reclassification on the Connecticut Department of Energy and Environmental Protection's (DEEP) synthetic minor "permits by rule" at Regulations of Connecticut State Agencies (RCSA) §§ 22a-174-33a and -33b.

DEEP has identified your synthetic minor source as one that will be affected by EPA's recent action. You are encouraged to review EPA's final reclassification rule[3] and accompanying outreach material to assess the impacts specific to your source.

EPA's reclassification of the Southwest Connecticut NAA area from serious to severe nonattainment requires that the major source thresholds for ozone precursor pollutants nitrogen oxides (NOx) and volatile organic compounds (VOC) in the NAA decrease from 50 to 25 tons per year (tpy), on a premises-wide potential to emit basis. The new federal major source thresholds took effect with the final reclassification rule on November 7, 2022; however, the serious and severe NAA requirements of RCSA §§ 22a-174-33a and -33b incorporate by reference the serious and severe NAA definitions at RCSA §§ 22a-174-1(105) and -1(106), which do not yet reflect Middlesex and New Haven Counties' and the town of Shelton's severe designation. DEEP intends to initiate rulemaking in the immediate future to amend

[1] Since the initial passage of the CAA and the subsequent implementation of state and federal clean air regulations, Connecticut residents and businesses have made significant investments to reduce air pollution, resulting in greatly improved air quality. The reclassification at issue is triggered by operation of law because monitored ozone pollution levels did not improve as quickly as required, not because ozone levels are increasing. The CAA does not allow states to avoid reclassification due to contributions from sources outside DEEP's regulatory purview, including federal mobile sources and interstate transport, which are addressed under separate provisions of the CAA.

[2] With the exception of the town of Shelton, all municipalities in Fairfield County were previously classified as severe nonattainment for the now-revoked 1979 ozone NAAQS. For regulatory purposes, consistent with CAA anti-backsliding provisions, Connecticut has effectively retained the severe designation in these areas.

[3] See: Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Serious for the 2008 Ozone National Ambient Air Quality Standards

the serious and severe NAA definitions in RCSA § 22a-174-1 to reflect the results of the reclassification. Until such amendments are finalized, there will be a discrepancy between the state and federal major source thresholds and the ensuing synthetic minor requirements.

In light of this discrepancy, DEEP offers the following guidance[4] to the owners of sources operating under RCSA §§ 22a-174-33a and -33b in Middlesex and New Haven Counties and the town of Shelton. The owners of such sources should determine if the actual premises-wide emissions are below the severe NAA premises-wide limitations for NOx and VOC set forth in RCSA § 22a-174-33a (less than 12.5 tpy) or -33b (less than 20 tpy), as applicable.

- If currently operating under RCSA § 22a-174-33a and actual premises-wide NOx and/or VOC emissions are less than 12.5 tpy each, you may continue to operate under the current notification if you are able to operate in compliance with the severe NAA requirements of such regulation.

- If currently operating under RCSA § 22a-174-33a and actual premises-wide NOx and/or VOC emissions are greater than 12.5 tpy but less than 20 tpy, you may immediately submit a Notification of Cessation for RCSA § 22a-174-33a. Subsequently, you may submit a Notification of Operation for RCSA § 22a-174-33b if you are able to operate in compliance with the severe NAA requirements of such regulation.

- If currently operating under RCSA § 22a-174-33b and actual premises-wide NOx and VOC emissions are less than 20 tpy each, you may continue to operate under the current notification if you are able to operate in compliance with the severe NAA requirements of such regulation.

- If currently operating under RCSA § 22a-174-33a or -33b and actual premises-wide NOx and/or VOC emissions are greater than 20 tpy, you may submit a Notification of Cessation for RCSA § 22a-174-33a or a Notification of Cessation for RCSA § 22a-174-33b, as applicable, and apply for a Title V permit within 12 months of the effective date of the reclassification rule.

    - If you are currently operating under RCSA § 22a-174-33a or -33b and actual premises-wide NOx and/or VOC emissions fall between 20 and 25 tpy, other capping mechanisms may be available to you in lieu of a Title V permit.

The reclassification may also cause true minor (sometimes called natural minor) sources' potential emissions to exceed the NOx and/or VOC major source thresholds.[5] The owners of such sources would need to submit a complete application for a Title V permit within 12 months of the effective date of the reclassification rule unless able to limit premises-wide emissions under the severe NAA provisions of RCSA § 22a-174-33a or -33b, an NSR permit, or another capping mechanism within the same timeframe.

This letter pertains only to the impacts of the reclassification on sources operating under DEEP's synthetic minor permits by rule (RCSA §§ 22a-174-33a and -33b). The reclassification will affect the applicability and requirements of other regulatory programs, such as Nonattainment New Source Review (RCSA § 22a-174-3a and 40 CFR part 51, appendix S); Title V permitting (RCSA § 22a-174-33); reasonably available control technology/measures for NOx (RCSA § 22a-174-22e); limits for minor

[4] The guidance offered in this letter does not constitute legal advice and does not relieve affected sources of their obligations under applicable law.

[5] For example, such sources may be operating equipment under a New Source Review exemption established in DEEP's permits by rule.

sources of NOx (RCSA § 22a-174-22f); and reasonably available control technology/measures for VOC (RCSA §§ 22a-174-20 and -32).

Responses to frequently asked questions regarding the reclassification of Southwest Connecticut to severe ozone nonattainment are available on the DEEP air permitting webpage.

Should you have any questions about operating under RCSA § 22a-174-33a or -33b, you may contact the Bureau of Air Management, Compliance Analysis and Coordination Unit at (860) 424-4152 or deep.cacu@ct.gov.

Should you have any other questions pertaining to this letter, or should you wish to speak with DEEP staff regarding the impacts of EPA's regulatory action on your source, please contact Samantha Amaral at (860) 424-3683 or samantha.amaral@ct.gov.

Sincerely,

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