



Connecticut Department of  
**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

February 27, 2012

Mr. H. Curtis Spalding, Regional Administrator  
USEPA Region 1 - New England  
5 Post Office Square  
**Mail Code: ORA01-4**  
Boston, MA 02109-3912

RE: 2008 8-Hour Ozone National Ambient Air Quality Standard: Connecticut's Response to EPA's 120-Day Letter

Dear Regional Administrator Spalding:

Thank you for your letter of December 9, 2011 in which the Environmental Protection Agency (EPA) responded to Governor Dannel P. Malloy's recommended boundary regions for the revised 2008 National Ambient Air Quality Standard (NAAQS) for ozone. The Connecticut Department of Energy and Environmental Protection (Department) strongly believes that the best science and sound public policy would have EPA reach a different conclusion. Such a conclusion would entail establishing a super-regional nonattainment area in order to address interstate ozone transport in an open, transparent and, most importantly for affected states and regulated sources, predictable manner. This approach would ultimately require effective and economical regional controls to reduce transported pollution.

EPA's decision to maintain Connecticut's current nonattainment boundaries, while procedurally practical, does nothing more than to safeguard the status quo. In responding to Connecticut's super-regional recommendation, EPA stated that it was "using a common sense approach that improves air quality and minimizes the burden on state and local governments." But the status quo maintained by EPA's current approach does not address the existing and potentially worsening public health risks and economic burdens from transported pollution on downwind states like Connecticut. Further, as support for its decision, EPA stated that "most of the states that Connecticut seeks to include as part of this large nonattainment area did not make a similar request." It should come as no surprise to EPA that states unburdened by the requirements necessary to achieve and maintain ozone NAAQS compliance are not themselves volunteering to be more stringently regulated. The CAA requirements with respect to the attainment of NAAQS are not predicated upon state consent. The science behind ozone transport speaks emphatically for the adoption of a regional approach, even when the states in Connecticut's proposed region are silent.

The current nonattainment boundary designation framework is untenable and patently unfair. That Connecticut must shoulder the consequences of emissions from other states that are subject to less strict air pollution standards clearly demonstrates how unworkable the approach is in practice. EPA should scrutinize its current boundary designation definition of "nearby" sources, which are required to be subject to the same requirements under section 107(d) of the CAA.<sup>1</sup> A more workable definition of "nearby" would be whether a source is "near enough to contribute" to nonattainment or interfere with maintenance. EPA's narrow reading of "nearby" is unsupported by the science of air pollution transport because much of the emissions that cause or contribute significantly to ozone nonattainment and maintenance problems in Connecticut are not required to be controlled at all. This is in stark contrast to the emissions controls that Connecticut has established and implemented, at great economic cost to its citizens and industry, following several rounds of regulation.

If EPA again establishes nonattainment areas of limited size and irrespective of proven ozone transport science, additional emissions reductions required of Connecticut's already well-controlled sources will come only at a staggering cost. Furthermore, states with no ozone nonattainment areas that significantly contribute to violations of the 2008 8-hour ozone standard in Connecticut will be provided yet another free pass at the expense of public health and economic equity of those living and working in Connecticut. This result is inconsistent with the goals of the CAA as well as several EPA analyses concluding uncontrolled upwind sources that significantly contribute to Connecticut's ozone problem can be controlled in a cost effective manner.

The Department requests EPA reconsider its summary denial of Connecticut's request for a super-regional nonattainment area designed to address interstate air pollution transport in a proactive, rather than reactive, manner. The technical, legal and policy support for the establishment of a super-regional nonattainment area are contained in Attachment A. Should you have any questions, please do not hesitate to contact me, or have your staff contact Anne Gobin of my staff at 860-424-3027.

Sincerely yours,



Macky McCleary  
Deputy Commissioner

CC: Daniel C. Esty, Commissioner, DEEP  
Anne Gobin, Air Bureau Chief, DEEP

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1. CAA section 107(d)(1) requires the Governor of each State to submit to the Administrator a list of all areas (or portions thereof) in the State, designating as nonattainment, any area that does not meet (or that contributes to ambient air quality in a *nearby* area that does not meet) the national primary or secondary ambient air quality standard for the pollutant [emphasis added].