FG 2.1.15

# STATE OF CONNECTICUT
## DEPARTMENT OF ENVIRONMENTAL PROTECTION

November 14, 1994

FILE COPY

Ms. Linda Murphy, Director
Air, Pesticides and Toxics Management Division
U.S. Environmental Protection Agency, Region I
J.F. Kennedy Federal Building
Boston, MA 02203-2211

RE: Approval of NSR revisions

Dear Ms. ~~Murphy~~ Linda:

The purpose of this letter concerns EPA's review of CTDEP's revised new source review (NSR) regulations submitted to EPA on May 23, 1994 pursuant to Title I of the 1990 Clean Air Act amendments (the Act). According to my staff, EPA staff have indicated that fairly minor differences in language between CTDEP's regulation and EPA's interpretation of the Act could preclude your ability to approve our SIP revision in full. Before the Regional Office makes such a decision, I urge you to review the stringency of our program as a whole rather than to focus on one or two truly deminimus differences.

The most significant differences appear to be CTDEP's interpretation of the provisions for five year aggregation for excluding deminimus, or insignificant, emission increases and special rules for modifications (Secs. 182(c)(6), (7) and (8) of the Act). CTDEP's regulation for these provisions was developed to complement our preexisting prohibition on netting. Connecticut's new source review program not only contains all of the required nonattainment provisions of the Act but continues to require much more stringent provisions, including no-netting and permit requirements for smaller new sources down to five tons per year.

Under the Connecticut regulation, <u>total</u> tons of increased potential emissions (not tons per year) from previously installed new equipment that had not been required to obtain offsets (because of their small size) are aggregated over the previous five year period prior to the time of permit application for a proposed modification. This calculation is performed to determine if such emissions increases are significant enough to be included with the proposed modification at a facility before determining if such modification should be processed as a major modification.

The aggregation of previously installed equipment even includes equipment which had undergone Connecticut's minor new source review and permitting. If the aggregated emissions are greater than 25 tons, the 5 year average rate of these emissions is included with the proposed change to determine major modification applicability. It should be noted that Connecticut's regulation also requires any modification of 5 tons per year or more to undergo new source review prior to construction.

EPA has not officially interpreted the deminimus clause of the Act or adopted regulations pursuant to it. However, EPA staff members indicate that a draft interpretation could be more stringent under limited circumstances than CTDEP's regulation. We don't feel EPA's draft interpretation can be easily implemented or enforced as a practical matter. Furthermore, CTDEP's interpretation is in most cases more stringent than EPA's, because we do not allow sources to "net out" of new source review and aggregated emission increases are required to be offset with emission reductions.

I look forward to an early resolution of the issues. Please give me a call at 203-424-3026 if you have any questions or would like to discuss this further. As always, CTDEP staff are willing to work with EPA to resolve any inconsistencies in language regarding enforceability and intent of the regulation.

Sincerely,

Carmine DiBattista

Carmine DiBattista, Chief
Bureau of Air Management