

provided in sections 183(c)(10) and 182(f) of the CAA, by setting an offset ratio of 1.2 to 1 for major sources or major modifications of VOC or NO<sub>x</sub>.

5. Section 22a-174-3a(l)(4)(B)(x) establishes provisions in accordance with the severe nonattainment areas provided in sections 183(d)(2) and 182(f) of the CAA, by setting an offset ratio of 1.3 to 1 for major sources or major modifications of VOC or NO<sub>x</sub>.

6. Connecticut's regulations do not include provisions that apply EPA's special rules for modifications as defined in sections 182(c)(7) and (8) of the CAA. The special rules for modifications are optional, less stringent applicability/permitting requirements that apply to a small number of modifications in serious and severe nonattainment areas. By not including provisions for section 182(c)(7) and (8), DEP's rules are more stringent than the CAA. Since the DEP rules only allows the most stringent applicability/permitting option, its SIP meets the federal requirements.

#### *G. What Provisions of the 1990 CAAA Has Connecticut Not Properly Addressed?*

For serious and severe ozone nonattainment areas, State plans must implement section 182(c)(6) with regard to modifications of major sources. Commonly referred to as the *de minimis* rule, the provision requires state permitting authorities to submit rules that require sources to consider all contemporaneous emission changes occurring within the last five calendar years of a physical change when determining if the change is major modification.

As noted above, Connecticut contains serious and severe nonattainment areas and therefore must implement the *de minimis* rule. However, the DEP's SIP submittal is not clear regarding implementation of this rule. The rule only requires sources to keep records of *de minimis* emission increases but does not explain how these emissions will be used to define a major modification. As a result, the DEP's NSR rules do not completely satisfy the requirements of the CAA. Since this submittal includes the remaining NSR requirements of the CAA and substantially strengthens the DEP's SIP, EPA is proposing to approve as a SIP strengthening measure all portions of the submittal except for the provisions for the *de minimis* rule. EPA intends to work with DEP to develop an approvable *de minimis* provision in the future.

## **II. Revisions to the Major Modification Applicability Requirements for the PSD Program and Nonattainment NSR Rules**

### *A. How Does EPA Define a Major Modification Under Its Rules That Are in Effect?*

EPA defines a major modification as a physical change or a change in the method of operation of a major stationary source that results in a significant net emissions increase. EPA's definition for net emission increase consists of two additive components: (a) Any increase in actual emissions from a particular physical change or change in method of operation and; (b) any other increase or decrease in actual emissions at the source that are contemporaneous with the particular change and are creditable. If the resultant net emissions increase is greater than the significance level for any Title I regulated pollutant, the physical change is a major modification and subject to PSD/NSR requirements.

The first component of net emission increase narrowly includes only the emission increase associated with a particular change at the source. When calculating the emission increase, EPA's rules in effect generally employ what is commonly called the actual-to-potential test (special provisions in effect for electric utility steam generating units are discussed below). The maximum potential emissions from a modified emission unit after the modification is compared to the actual emissions from the emission unit before the modification. The difference between the unit's potential emissions and its current actual emissions is the actual emission increase from the modification.

The second component allows sources to broadly include changes in actual emissions that have occurred anywhere at the source within the contemporaneous period, typically defined by state rules as five years from the time of the modification under review. It provides sources the opportunity to avoid major PSD/NSR applicability by giving a source credit for reducing emissions at other emission units located anywhere at its facility. If the actual emission increase from the modification under review combined with emission decreases source-wide are below significance level for any given regulated pollutant, the modification is not major and not subject to PSD/NSR. When employing component two, federal rules also require sources to include any creditable emission increases occurring source-wide when calculating the net emission increase.

### *B. Why Is Connecticut Changing Its Rules?*

The DEP's existing SIP-approved rules use a different approach for calculating the emission increase from a modification. Instead of the actual-to-potential test, the DEP uses the potential-to-potential test. This method compares the emission units potential before the modification with its potential after the modification. The DEP also does not allow sources the option to take credit for emission changes occurring source-wide. Adopting provisions that reflect the EPA rules that are currently in effect significantly improves Connecticut's program.

### **C. How Does Connecticut's Submittal Meet the Federal Requirements?**

EPA's "actual to potential" applicability test and "net emissions increase" requirements for PSD/NSR applicability are established in the federal definitions for "Actual emissions," "Potential emissions," "Net emission increase," and "Significant emissions." In section 22a-174-1, the DEP is adopting with minor revisions the definitions for "Actual emissions," "Net emission increase," and "Significant emissions" located in 40 CFR 51.165 and 51.166. In addition, the DEP is adopting a definition of "Potential emissions" that requires sources to effectively limit PTE using either federally or practicably enforceable limits. With these definitions, the DEP's PSD/NSR applicability requirements are consistent with existing federal requirements.

EPA notes that federal applicability requirements also provide a separate applicability method for sources defined as electric steam utility generators. For this source category, EPA regulation applies an actual-to-representative actual emissions test. A sources current actual emissions are compared to the source's predicted future actual emissions to determine the emission increase from a modification.

The provisions for this applicability test, referred to as the WEPCO applicability test, were added to the federal NSR regulations following the Seventh Circuit Court of Appeals decision in 1990 (*Wisconsin Electric Power Company (WEPCO) v. Reilly*). These provisions include definitions for "electric steam utility generator" and "representative actual annual emissions." While these definitions are referred to in the DEP's new definition of actual emissions, the DEP did not explicitly define these two terms.