R-39 Rev. 1/77

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT
REGULATION
OF

2109

NAME OF AGENCY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Concerning

SUBJECT MATTER OF REGULATION

INDIRECT SOURCES OF AIR POLLUTION

SECTION 19-508-100

SECTION 19-508-100 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES IS AMENDED AS FOLLOWS:

Sec. 19-508-100. Permits for construction and operation of indirect sources.

(a) DEFINITION OF AN INDIRECT SOURCE AND [A]applications for indirect source construction permits. (1) NOTWITHSTANDING THE PROVISIONS OF SECTION 19-508-1(h), FOR THE PURPOSE OF THIS SECTION AN INDIRECT SOURCE OF AIR POLLUTANTS MEANS ANY HIGHWAY WITH A DESIGN CAPACITY OF 1,000 VEHICLES PER HOUR IN ANY ONE DIRECTION, OR ANY AIRPORT DESIGNED TO ACCOMMODATE 50,000 COMMERCIAL FLIGHTS PER YEAR. Effective October 1, 1974, no person shall construct, modify, install or cause the construction, modification or installation of any indirect source of air pollutants or part thereof as specified in subsections (a)(2) or (a)(3) without applying for and obtaining an indirect source construction permit from the commissioner.

(2) A new or modified indirect source shall be required to obtain an indirect source construction permit if the operation of the indirect source will or may result directly or indirectly in aggregate total emissions of air pollutants in excess of fifty (50) tons annually. Notwithstanding the provisions of subsection (a)(5), the commissioner shall publish by September 1, 1974, guidelines to assist owners or operators of new or modified indirect sources in determining whether a source is subject to this section.

(3) Other indirect sources subject to permit review.

(i) Effective January 1, 1975, in addition to the requirements of subsection (a)(2), the commissioner may require an indirect source construction permit of any new or modified indirect source which will or may result in a substantial reduction in the quality of the air resource. Any increase in the ambient pollutant concentration in excess of fifty percent (50%) of the amount determined by subtracting the existing ambient pollutant concentration from the applicable ambient air quality standard shall be deemed to be a substantial reduction in the quality of the air resource. At his discretion, the commissioner may specify a percentage smaller than fifty (50%) to be used for the purposes of this subsection in any region or subregion of the state.

(ii) The commissioner shall give thirty (30) days prior notice of his intention to apply the provisions of subsection (a)(3)(i) in a region or subregion and shall specify the percentage that shall apply in that region or subregion. At his discretion, the commissioner may hold a public hearing in that region or subregion in order to allow interested parties to comment.

(4) Those new or modified indirect sources which are not required to obtain an indirect source construction permit under subsection (a)(1), (a)(2) or (a)(3) shall, upon request of the commissioner, furnish information to him which may be of a type and form similar to that required of applicants for indirect source construction permits.

(5) The commissioner may publish and from time to time revise guidelines for any region or subregion which will assist owners or operators of new or modified indirect sources in determining whether they are required to obtain an indirect complex source construction permit under subsections (a)(1), (a)(2) or (a)(3) or whether they may be required to furnish information to the commissioner under subsection (a)(4).

(6) Application for an indirect source construction permit shall be made by the owner or operator of the proposed indirect source on forms furnished by the commissioner. Each application shall include siting information; descriptions of the buildings, structures, facilities or installations involved; the nature, source and quantity of uncontrolled and controlled emissions, both direct and indirect; traffic flow information; the proximity of the indirect source to existing and projected transportation services; and such other information as the commissioner may require.

(7) No new or modified indirect source shall be exempt from the permit requirements of this subsection because of a division of ownership or because of the pattern or timing of development.

(8) For the purpose of determining whether construction or modification of an indirect source was commenced prior to October 1, 1974, construction or modification shall be deemed to have commenced for any portion of an indirect source when site preparation, including clearing and grading is complete and the following four steps have also been completed:

(i) Detailed plans of the proposed indirect source are available and have received all necessary approvals required by federal, state or local statutes, ordinances, regulations or procedures;

(ii) Environmental impact statements have been prepared and reviewed as required by federal or state statutes, regulations or procedures;

(iii) All necessary building permits for site preparation and foundation construction have been issued in accordance with state or local statutes, ordinances, regulations or procedures;

(iv) The installation of structural components or materials has started as part of a continuous program of construction.

(b) Standards for granting indirect source construction permits. (1) No indirect source construction permit shall be granted until the commissioner finds, upon evidence submitted by the applicant or otherwise made part of the application record, that;

(i) The new or modified indirect source for which a permit is requested will be constructed and will operate in accordance with all applicable statutes or regulations administered by the commissioner.

(ii) Such new or modified source will operate without preventing or interfering, directly or indirectly, with the attainment or maintenance of any applicable ambient air quality standard.

(iii) Such new or modified source will contain such instrumentation or facilities for monitoring, recording, sampling and testing air quality and related factors as the commissioner may reasonably require.

(iv) Such new or modified source will not result, either directly or indirectly, in deterioration of air quality in 1975 or later in any region or subregion of the state.

(2) Notwithstanding the provisions of subsection (b)(1)(i) obtaining an indirect source construction permit shall not be considered compliance with the requirements or standards of any statute or regulation administered by the commissioner other than the requirements of subsection (a)(1).

(c) Action on applications for indirect source construction permits. (1) An application will not be deemed to have been received by the commissioner until all information, papers and documents required in support of the application have been submitted in proper form. The commissioner shall acknowledge the receipt of an application within ten (10) days.

(2) Notwithstanding the provisions of subsection (c)(3), the commissioner shall not issue a decision approving or denying an application for an indirect source permit until the applicant:

(i) Shall have made available for thirty (30) days, in the region in which the proposed construction or modification will be located, a copy of the application and a copy of the commissioner's preliminary evaluation of the air quality data contained in the application,

(ii) Shall have published by prominent advertisement in the region affected a notice of the location of the application and evaluation specified in subsection (c)(2)(i), above, and

(iii) Shall have posted in a manner prescribed by the commissioner at the site of the proposed indirect source, a notice that a permit has been applied for, and

(iv) Shall have submitted to the commissioner an affidavit certifying that the conditions of subsections (c)(2)(i) to (c)(2)(iii) have been met.

(3) Except where a public hearing is held under subsection (j)(4), the commissioner shall inform an applicant for an indirect source construction permit of the decision of the commissioner approving or denying the application within sixty (60) days of the receipt of the application. The Commissioner may, on notice to the applicant, extend the time for acting on the application an additional thirty (30) days, a total time of ninety (90) days. Said ninety (90) days shall be exclusive of the time allowed in subsection (c)(2).

(4) When a public hearing is held under subsections (j)(4) on an application for an indirect source construction permit, the commissioner shall inform the applicant of the decision approving or denying the application within thirty (30) days following receipt of the record of the hearing.

(5) The commissioner shall briefly set forth in any notice of approval or denial of an application for an indirect source construction permit the basis for the determination.

(6) The commissioner may impose any reasonable requirements, standards, or conditions upon approval of any permit to construct or modify.

(d) Revocation or modification of indirect source construction permits. (1) The commissioner may revoke or modify an indirect source construction permit if:

(i) The construction or modification authorized by the permit is not begun within one year from the date of issuance or such other period as is allowed by the permit; or

(ii) During construction or modification, work is suspended for one year or more, or for such other period as specified in the permit.

(iii) He determines that any condition imposed under subsection (c)(6) has not been or is not being met.

(e) Indirect source operating permits. (e)(1) No person shall operate or cause the operation of a new or modified indirect source without first obtaining an indirect source operating permit from the Commissioner in accordance with the requirements of this section.

(e)(2) No indirect source operating permit shall be required under subsection (e)(1) unless the source was required to obtain an indirect source construction permit under subsection (a).

(e)(3) No separate application shall be required under subsection (e) for those sources which have been granted an indirect source construction permit.

(e)(4) Prior to issuance of an indirect source operating permit, the Commissioner may require the owner or operator of a new or modified indirect source to provide such additional information as the Commissioner shall have requested either before or at the time of the issuance of the construction permit and has not already been included in the application for a construction permit.

(e)(5) In circumstances where he deems it appropriate, the Commissioner may issue a temporary permit to commence operations for a period not to exceed sixty (60) days. For good cause shown, the period may be extended by the Commissioner for any additional period required. Prior to the expiration of the period covered by the temporary permit, the Commissioner shall notify the owner or operator in writing of his approval or denial of the indirect source operating permit and the reasons therefor.

(e)(6) Indirect source operating permits required by subsection (e)(1), shall be issued or renewed for the expected life of the indirect source[, but not to exceed ten (10) years,] unless the Commissioner shall determine that a shorter period is appropriate under the circumstances of operation of any particular indirect source.

(e)(7) Application for the renewal of an indirect source operating permit shall be made at least 120 days prior to the expiration of the existing operating permit.

(e)(8) The Commissioner may impose as conditions on any indirect source operating permit only those conditions which were explicitly stated as conditions at the time the indirect source construction permit was issued.

(f) Standards for granting, renewing and reissuing indirect source operating permits. (f)(1) The commissioner shall grant an indirect source operating permit if he determines that:

(i) The indirect source has been granted an indirect source construction permit;

(ii) The indirect source has been constructed in accordance with the requirements, standards, and conditions set forth in the construction permit.

(f)(2) The Commissioner shall renew an indirect source operating permit if he determines that the indirect source has been operated in accordance with the requirements, standards, and conditions set forth in the operating permit.

(f)(3) In the event of a revocation or modification of an indirect source operating permit pursuant to subsection (h), the indirect source operating permit shall be reinstated upon a satisfactory showing to the Commissioner by the owner or operator that the failure or failures specified in the revocation or modification have been corrected.

(g) Transfer of indirect source operating permits. The holder of an indirect source operating permit may not transfer it without prior written notification to the Commissioner. Each new owner or operator or holder of the indirect source permit shall be responsible for complying with all applicable regulations and with the conditions of the permit.

(h) Revocation or modification of indirect source operating permits. The Commissioner may revoke or modify an existing indirect source operating permit for failure to comply with any conditions imposed in the operating permit.

(i) Notice of approval, denial, revocation or modification of indirect source construction permits and operating permits. (i)(1) Notice of denial, revocation or modification of any indirect source construction permit or of any indirect source operating permit shall set forth the reasons for the action taken and such denial, revocation or modification shall take final effect thirty (30) days after the date of service of the notice, unless a hearing is requested prior to the expiration of the thirty (30) day period.

(i)(2) Any party aggrieved by the approval, denial, revocation or modification of a construction or operating permit may obtain an adjudicative hearing thereon by filing a written answer and request for a hearing in accordance with Section 22a-8-2 of the Rules of Practice of the Department within thirty (30) days of the date of service of the notice. Filing of the answer and request for the hearing shall postpone the effective date of the approval, denial, revocation or modification until the conclusion of the hearing and issuance of the final decision of the Commissioner.

(i)(3) The revocation or modification of an indirect source operating permit pursuant to subsection (h) shall not be effective if the failure so to comply is remedied to the satisfaction of the Commissioner within thirty (30) days after service of the notice of revocation or modification.

(j) Public information and hearing procedures. (1) In all cases where there is a requirement of legal notice the commissioner shall cause the applicant for an indirect source permit to publish at his own expense all notices of hearings and other notices required by law.

(2) The commissioner shall inform the public of: (i) All indirect source permit applications received; (ii) all pending operating permits for indirect sources subject to the requirements of subsection (e)(1); (iii) all decisions approving, denying, revoking, or modifying any indirect source permit.

(3) While a decision is pending on an indirect source permit application of an operating permit for sources subject to the provisions of section (e)(1) any person may file a written comment or may file a written objection setting forthe the basis of the objection in detail and opposing the approval of the permit in its entirety or requesting that specific conditions be attached to it. Objection may be accompanied by a request for hearing.

(4) A public hearing on any permit application may be held by the commissioner: (i) Pursuant to a request for a hearing according to subsection (j)(3);

(ii) Whenever it is required by these regulations or by any applicable state or federal law;

(iii) At the discretion of the commissioner; or

(iv) Upon the request of any municipality. Following the close of the hearing, the commissioner shall make a decision based on all available evidence, including the record of the hearing and the recommendation of the hearing examiner, as to whether to approve or deny the indirect source permit. Notice of such decision shall be published according to subsection (j)(2).

(k) Signature. No indirect source permit issued under this section shall be effective until the applicant or his duly authorized representative shall have signed the permit, which signature shall constitute an agreement to abide by any terms and conditions therein.

(L) Local and regional participation in indirect source review. (1) Upon the request of the governing body of any municipality or other political subdivision, the commissioner may designate the municipal planning and zoning agency, the regional planning agency, or any other responsible municipal or regional agency or official as the designee of the municipality for the purpose of making comments and recommendations on applications for indirect source construction permits.

(2) The commissioner may publish and revise, from time to time, guidelines which shall assist the designated agencies in assessing the impact of any proposed indirect source on the development or resource allocation goals of the municipality or region.

(3) In addition to the other evaluations made pursuant to this section, the commissioner may evaluate the effect of the proposed construction or modification upon any plan for development or plan for resource allocation proposed by the municipality or region.

(4) The commissioner shall submit a copy of the application for an indirect source construction permit along with his evaluation and analysis, to the designated agency of any affected municipality for its review. Any designated agency wishing to make comments or recommendations with regard to a pending application must respond within thirty (30) days following its receipt of the application from the commissioner.

(5) Upon request of any municipality which has a designated agency under the provisions of subsection (L)(1), the commissioner may assist the municipality in formulating a plan for development or a plan for air resource allocation for the purpose of allowing the municipality and region to maximize the benefits of its utilization of the air resource within the limits imposed by air quality considerations.

(6) The commissioner may establish an indirect source advisory committee composed of municipal and regional officials to advise the commissioner on procedures concerning the evaluation of indirect source construction permits and indirect source permits to operate and to assist the commissioner in fostering increased municipal and regional cooperation in attaining and maintaining applicable ambient air quality standards.

...IFICATION

Be it known that the foregoing:

[X] Regulations [ ] Emergency Regulations

A[illegible]

[ ] Adopted [X] Amended as hereinabove stated [ ] Repealed

By the aforesaid agency pursuant to:

[X] Section 19-508 of the General Statutes

[ ] Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

[ ] Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on February 8 19 77, of the notice of the proposal to:

[ ] Adopt [X] Amend [ ] Repeal such regulations

(If applicable): [X] And the holding of an advertised public hearing on 14th day of March 19 77

WHEREFORE, the foregoing regulations are hereby:

[ ] Adopted [X] Amended as hereinabove stated [ ] Repealed

Effective:

[X] When filed with the Secretary of the State.

(OR)

[ ] The _____ day of _____ 19 ____.

[illegible]ness Whereof:	DATE 6-25-77	[illegible]	[illegible]	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with sec. 4-169, as amended, of the G.S.	[illegible]			OFFICIAL TITLE, DULY AUTHORIZED Deputy Attorney General

[X] Approved JUN 3 19[illegible]

[ ] Disapproved

[ ] Disapproved in part, *(Indicate Section Numbers disapproved only)*

[ ] Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General statutes.	6/23/77	[illegible] Legislative Regulation Review Committee

Two certified copies received, sealed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-[illegible], as amended, of the General Statutes.

DATE June 30, 1977	[illegible] of the State	[illegible]

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.

2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.

3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.

4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.