Section 22a-174-100. Permits for construction of indirect sources.

(a) Definitions. As used in this section:

(1) "Indirect source of air pollution" means, notwithstanding the definition of "indirect source" in section 22a-174-1 of the Regulations of Connecticut State Agencies:

(A) Any new highway on a new location in the state highway system, except projects for bridge replacement or elimination of railroad crossing hazards,

(B) Any new expressway interchange service added to the state highway system, or

(C) Any new lane, greater than one mile in length and connecting either signalized intersections or expressway interchanges, added to the state highway system; and

(2) "State highway system" means "state highway system" as that term is described in sections 13a-14 and 13a-15 of the Connecticut General Statutes.

(b) Applicability and applications for indirect construction permits.

(1) No person shall construct, modify, install or cause the construction, modification or installation of any indirect source of air pollutants or part thereof unless such person has either applied for and obtained an indirect source permit from the commissioner pursuant to this section or proceeded in compliance with subsection (i) of this section. Any indirect source permit application pending before the commissioner on the effective date of this section may be withdrawn and the owner or operator may either re-submit such application or proceed in accordance with subsection (i) of this section.

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

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

(4) 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 three steps have been completed:

(A) Detailed plans of the proposed indirect source are available and have received all necessary federal, state or local approvals;

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

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

(c) Standards for granting indirect source permits.

(1) The commissioner shall not grant an indirect source permit unless the applicant has submitted an application consisting of:

(A) A transportation system level review to determine the proposed indirect source is:

(i) a part of a regional or statewide plan deemed to be in conformance with the most current federally approved state implementation plan, or

(ii) a part of a plan deemed to be in non-conformance with the state implementation plan, but determined to be exempt for the non-conformance restrictions placed on that plan; and

(B) A project level review to determine that:

(i) for each intersection impacted by the proposed indirect source no violation of the applicable carbon monoxide standard as set forth in section 22a-174-24(i) of the Regulations of Connecticut State Agencies will occur where such violation does not exist at the time of permit application, or

(ii) where a violation of the applicable carbon monoxide standard as set forth in section 22a-174-24(i) of the Regulations of Connecticut State Agencies does occur at the time of permit application, the proposed indirect source will not increase ambient concentrations of carbon monoxide by more than 0.25 parts per million.

(2) An indirect source permit application shall be made in a format specified by the commissioner and shall contain any other information required by the commissioner.

(d) Actions on applications for indirect source permits.

(1) The commissioner shall not approve or deny an application for an indirect source permit until:

(A) The commissioner has determined that the applicant has submitted a complete application;

(B) The applicant causes to be published a notice of application of the indirect source permit in the region in which the proposed indirect source will be located;

(C) The applicant has made available for at least thirty (30) calendar days, in the region in which the proposed indirect source will be located, a copy of the indirect source permit application for public inspection and comment; and

(D) The applicant submits to the commissioner an affidavit certifying that the conditions of subparagraphs (A) through (C) of this subdivision have been met.

(2) The commissioner shall notify an applicant for an indirect source permit of the commissioner's decision to approve or deny the permit within thirty (30) calendar days of the close of the public comment period specified in subdivision (1)(C) of this subsection unless a public informational meeting is held under subsection (g) (4) of this section. The commissioner may, on notice to the applicant, extend the time for acting on the application an additional thirty (30) calendar days, to a total time of sixty (60) calendar days.

(e) Revocation, modification and expiration of indirect source permits.

(1) The commissioner may revoke or modify an indirect source permit if:

(A) Prior to the commencement of construction or modification authorized by the permit, the commissioner determines the new or modified indirect source is in non-compliance with the conditions of the permit; or

(B) The construction or modification authorized by the permit is not begun within five years from the date of issuance of the indirect source construction permit, or such other period as is specified in the permit; or

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

(2) For the purposes of subdivision (1)(B) and (C) of this subsection, if by order of a court of competent jurisdiction the construction or modification authorized by the permit is not begun or is suspended, then the period of such court-ordered delay shall not be included in the time period specified in the permit.

(3) For the purposes of subdivision (1)(B) of this subsection, if construction of the new or modified indirect source will not commence within the time period specified in the indirect source permit, the holder of such permit shall apply for renewal of the permit prior to commencing_construction.

(4) The commissioner may place an expiration date within any permit issued pursuant to this section. Such expiration date may not exceed five (5) years from the date of permit issuance.

(f) Transfer and renewal of indirect source permits.

(1) Any permit issued under this section shall be transferred in accordance with the provisions of section 22a-6o of the Connecticut General Statutes.

(2) Any permit issued pursuant to this section and containing an expiration date may be renewed by filing a request for renewal in a manner prescribed by the commissioner at least ninety (90) calendar days prior to the expiration date of such permit.

(3) Notwithstanding subdivision (2) of this subsection, the commissioner may not require the renewal of an indirect source permit issued under this section unless such indirect source no longer conforms with plans, specifications or other information

submitted to the commissioner under subsection (c) of this section.

(4) In lieu of renewal in accordance with subdivision (2) of this subsection, the permittee may proceed in accordance with the provision of subsection (i) of this section, provided that the permittee notifies the commissioner at least ninety (90) calendar days prior to the expiration date of such permit.

(g) Public notices and informational meetings.

(1) The commissioner shall cause to be published, at the applicant's expense, any public notice required to be published pursuant to subsection (d)(1)(B) of this section.

(2) The commissioner shall inform the public of:

(A) All indirect source permit applications received; and

(B) Any decision to approve, deny, revoke or modify an indirect source permit.

(3) Any person may file written comment on any indirect source permit application during the public comment period or at a public informational meeting if one is held.

(4) The commissioner may hold a public informational meeting on an indirect source permit application or a proposed alternative to such permit application under subsection (i) of this section either at the discretion of the commissioner or following receipt of a request for a public informational meeting by twenty-five (25) or more people or an association representing twenty-five (25) or more people.

(5) Following the close of the public informational meeting, the commissioner shall make a decision as to whether to approve or deny the indirect source permit application.

(h) Signature.

Notwithstanding the provisions of section 22a-174-2a of the Regulations of Connecticut State Agencies, no indirect source permit issued under this section shall be effective until the applicant or a duly authorized representative of the applicant signs the permit. Such signature shall constitute an agreement to abide by the terms and conditions set forth in such permit.

(i) Alternative means of compliance.

(1) In lieu of the requirements set forth in subsections (a) through (h) of this section, the owner or operator of a proposed indirect source may comply with the provisions of this subsection.

(2) The owner or operator of the proposed indirect source shall prevent any idling of diesel engines during the construction or modification of such indirect source in accordance with the provisions of section 22a-174-18 of the Regulations of Connecticut State Agencies.

(3) In order to qualify for the alternative compliance provisions set forth in this subsection, the owner or operator of the proposed indirect source shall:

(A) Conduct all required conformity determinations for transportation plans, transportation improvement plans and Federal Highway Administration and Federal Transit Administration projects according to the requirements of 40 CFR Part 93, as may be amended;

(B) Determine consistency of transportation plans and transportation improvement programs with any applicable motor vehicle emissions budgets in the state implementation plan for air quality by performing regional emissions analyses for all non-attainment and maintenance areas for ozone, carbon monoxide and particulate matter; and

(C) Conduct local scale carbon monoxide and particulate matter emissions and ambient impact analyses on intersections within the project area identified by the commissioner for the following project types:

(i) Projects requiring National Environmental Policy Act or Connecticut Environmental Policy Act documentation;

(ii) Projects involving:

(I) any new highway on a new location in the state highway system, except projects for bridge replacement or elimination of railroad crossing hazards,

(II) any new expressway interchange service added to the state highway system, or

(III) any new lane, greater than one mile in length and connecting either signalized intersections or expressway interchanges, added to the state highway system; and

(iii) Any project location identified in the applicable state implementation plan for air quality as sites of violation or possible violation of a national or state ambient air quality standard.

(4) The commissioner shall approve, in writing, an owner or operator of an indirect source to proceed under this subsection only after such owner or operator has demonstrated to the commissioner's satisfaction that the construction or modification of such indirect source will proceed in accordance with the provisions of this subsection and in accordance with the provisions of the Connecticut Department of Transportation's Procurement related document contained in the Bid Specification/ Request for Proposal "*Notice to Contractor - Diesel Vehicle Emission Controls*", or addendum notice. The commissioner may verify compliance with this subsection through periodic inspection or other required documentation. If the commissioner determines the owner or operator of the indirect source is in noncompliance with this subsection, such owner or operator shall be in violation of this section and deemed to have been constructing or operating an indirect source without an indirect source permit.