Indirect Sources of Air Pollution

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

(a) Definition of an indirect source and applications for indirect source construction permits.

(a)(1) Notwithstanding the definition of indirect source in section 22a-174-1, for the purpose this section an indirect source of air pollution means:

(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 a mile in length and connecting either signalized intersections or expressway interchanges, added to the state highway system.

For the purposes of this regulation, the term "state highway system" shall have the same meaning as is provided in chapter 237 of the Connecticut General Statutes, as from time to time may be amended. 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 without applying for and obtaining an indirect source construction permit from the Commissioner. No applications for permits for new or modified indirect sources received by or pending before the Commissioner September 1, 1979 shall be affected by any amendments to this section.

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

(a)(3) The Commissioner may publish and from time to time revise guidelines which will assist owners or

operators of new or modified indirect sources in determining whether they are required to obtain an indirect source permit under subsection (a)(1), or whether they may be required to furnish information to the Commissioner under subsection (a)(2).

(a)(4) Application for an indirect source 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 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 such other information as the Commissioner" may require.

(a)(5) 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.

(a)(6) 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 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 and 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 permits.

(b)(1) A stage I indirect source permit review shall be a transportation system level review. Prior to July 1, 1980 no stage I indirect source permit shall be required. After July 1, 1980, no stage I indirect source permit shall be granted until the Commissioner finds, upon evidence submitted by the applicant or otherwise made part of the application record, that the new or modified source for which a permit is requested 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.

(b)(2) A stage II indirect source permit review shall be a transportation corridor level review. No stage II indirect source 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 impact of the new or modified source on the corridor in which the source is to be located will meet all applicable state and national ambient air quality standards not addressed in the Stage I permit review, for which there is an impact analysis methodology acceptable to the Commissioner, and

(ii) After July 1, 1980 a stage I indirect source permit has been granted for the new or modified source.

A stage II indirect source permit shall be valid for one year after issuance. However, upon adoption by the Commissioner of a methodology for assessing compliance with any state or national ambient air quality standards for particular matter and lead, a stage II indirect source shall be valid until such time as a stage III permit is issued.

(b)(3) A stage III indirect source permit review shall be a

project level review. No stage III indirect source permit shall be granted until the Commissioner finds, upon evidence submitted by the applicant or otherwise made part of the application record, that a stage II indirect source permit has been granted for the new or modified source and is valid at the time of application for the stage III permit, and that,

(i) for each intersection impacted by the new or modified source no violations of the applicable carbon monoxide standards will result where such violations do not presently exist, or

(ii) where violations of the applicable carbon monoxide standards do exist, the new or modified indirect source will not exacerbate (increase by more than 0.5 parts carbon monoxide per million parts of air, by volume) any existing violation of the carbon monoxide standard.

For purposes of this subdivision (b)(3), the determination as to whether or not violations of the applicable carbon monoxide standards will result where such violations do not presently exist, and the determination as to whether or not present violations of applicable carbon monoxide standards will be exacerbated, shall be based upon an assessment of the concentrations of carbon monoxide predicted to occur at all times beyond one year after the estimated date of completion.

(c) Actions on applications for indirect source permits.

(c)(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) working days. In cases which the Commissioner deems that not all information, papers, and documents required of the application have been submitted in proper form, the Commissioner shall so notify the applicant within ten (10) working days of the submission of such information, papers and documents.

(c)(2)(1) For a Stage I indirect source permit, the Commissioner shall render a decision within 5 working days of acknowledgment of receipt of a stage

I permit application.

(ii) For a stage II indirect source permit, and a stage III indirect source permit, the Commissioner shall complete the preliminary evaluation of the air quality data contained in the application for any permits within 30 working days of acknowledgment of receipt of the applications.

(c)(3) Notwithstanding the provisions of subsection (c)(4), the Commissioner shall not issue a decision approving or denying an application for either a stage II or stage III indirect source permit until the applicant:

(i) Shall have made available for thirty (30) calendar 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; and shall provide for receipt and consideration of public comment during the thirty (30) calendar day period.

(ii) Shall have published by prominent advertisement in the region affected a notice of the location of the application, the availability of the Commissioner's preliminary evaluation specified in subsection (c)(2)(ii), above, and the procedure available to the public to file comments, and

(iii) Shall have submitted to the Commissioner an affidavit certifying that the conditions of subsections (c)(3)(i) and (c)(3)(ii) have been met.

(c)(4) Except where the public hearing is held under subdivision (a)(4), the Commissioner shall inform an applicant for either a stage II or a stage III indirect source permit of the decision of the Commissioner approving or denying the permit within ten (10) working days of the close of the public comment period specified in subdivision (c)(3)(i). The Commissioner may, on notice to the applicant extend the time for acting on the application an additional thirty (30) working days, to a total time of forty (40) working days.

(c)(5) When a public hearing is held under subdivisions (h)(4) on an application for an indirect source permit, the Commissioner shall inform the applicant of the decision approving or denying the application within (30) working days following receipt of the record of the hearing.

(c)(6) The Commissioner shall briefly set forth in any notice of approval or denial of an application for an indirect source permit the basis for the determination.

(c)(7) The Commissioner may impose any reasonable requirements, standards, or conditions upon approval of any permit.

(d) Revocation or modification of indirect source permits.

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

(i) Prior to the commencement of construction or modification authorized by the permit it is determined by the Commissioner that the new or modified indirect source is in non-compliance with the conditions of the permits; or

(ii) The construction or modification authorized by the permit is not begun within five years from the date of issuance of the stage III "indirect source construction permit," or such other period as is allowed by the permit; or

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

(d)(2) For the purposes of subdivision (d)(1), 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 allowed by the permit.

(d)(3) If construction of the new or modified source will not be undertaken within the time period specified in the stage III indirect source permit, the holder of such permit shall apply for renewal of the permit

at least forty-five (45) calendar days prior to the expiration date of said permit.

(e) Transfer of indirect source permits.

The holder of an indirect source 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.

(f) Notice of approval, denial, revocation or modification of indirect source permits.

(f)(1) Notice of denial, revocation, or modification of any indirect source 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.

(f)(2) Any party aggrieved by approval, denial, revocation, or modification of a permit may obtain an adjudicative hearing thereon by filing a written answer and request for 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.

(f)(3) The revocation or modification of an indirect source permit pursuant to subsection (d) shall not be effective if the failure to comply with the requirements is remedied to the satisfaction of the Commissioner within thirty (30) calendar days after service of the notice of revocation or modification.

(g) Public information and hearing procedures.

(g)(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.

(g)(2) The Commissioner shall inform the public of:

(i) All indirect source permit applications received;

(ii) all decisions approving, denying, revoking, or modifying any indirect source permit.

(g)(3) While a decision is pending on an indirect source permit application any person may file a written comment or may file a written objection setting forth 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.

(g)(4) A public hearing on either a stage II or a stage III permit application may be held by the Commissioner:

(i) Pursuant to a request for a hearing according to subsection (g)(3);

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

(iii) At the discretion of the Commissioner; or

(iv) Upon the request of any municipality.

Any public hearing required by this regulation may be held as part of a public hearing required by other state or federal laws or regulations. 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, if any, as to whether to approve or deny the indirect source permit. Notice of such decision shall be published according to subsection (g)(2).

(h) 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.

(i) Local and regional participation in indirect source review.

(i)(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 designee of the municipality for the purpose of making comments and recommendations on applications for indirect source permits.

(i)(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.

(i)(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.

(i)(4) The Commissioner shall submit a copy of the application for an indirect source 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) working days following its receipt of the application from the Commissioner.

(i)(5) Upon request of any municipality which has a designated agency under the provisions of subsection (i)(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.

(i)(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 permits and to assist the Commissioner in fostering increased municipal and regional cooperation in attaining and maintaining applicable ambient air quality standards.