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

NAME OF AGENCY

Environmental Protection

Concerning

SOS # 5516

Section 1 **Amendment of:**
Section 22a-174-5(f), Fees for visual tests; and
Section 22a-174-26, Fees (p. 2)

Section 1. Subsection (f) of section 22a-174-5 of the Regulations of Connecticut State Agencies is amended, as follows:

(f) Fees for visual tests.

[(f)](1) The owner or operator of a stationary source who is required to conduct an emission test under either [subdivision] subsection (e)(1) or (e)(2) of this section may be required to conduct a visual test through the use of a dust compound in lieu of the emission testing otherwise required. Such testing shall be conducted annually or at an interval determined by the [Commissioner] commissioner and in a manner satisfactory to [him] the commissioner.

[(f)](2) The owner or operator of a stationary source who, under the provisions of subdivision [(f)](1) of this [section] subsection, is required to conduct a visual test shall pay a fee of [three hundred and seventy-five dollars ($375.00)] Five hundred and sixty-two dollars and fifty cents ($562.50).

[(f)](3) The [Commissioner] commissioner may increase the fee specified in subdivision [(f)](2) of this [section] subsection to a maximum fee of [four hundred and thirty dollar ($430.00)] six hundred and forty-five dollars ($645.00) if the test conditions under subdivision [(f)](1) of this [section] subsection are deemed hazardous as determined by valid Connecticut State Employee Collective Bargaining Agreements.

[(f)](4) The [Commissioner] commissioner may reduce the fee specified in subdivision (2) of this subsection to no less than [two hundred and sixty-five dollars ($265.00)] three hundred and ninety-seven dollars and fifty cents ($397.50) or the fee specified in subdivision (3) of this subsection to no less than [two hundred and ninety dollars ($290.00)] four hundred and thirty-five dollars ($435.00) if the test condition under subdivision (1) of this subsection require that the Department use one staff person to monitor the visual test under this subsection.

[(f)](5) The owner or operator of a stationary source who is required to pay a fee under this subsection shall submit such fee to the [Department] commissioner accompanied by forms furnished by the [Commissioner] commissioner.

SEP 26 2004

Sec. 2. Subsections (b) to (e), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are amended, as follows:

(b) Application fees.

(1) [Except as otherwise provided in this section, after March 15, 2002 any] Any person who is required to file an application under section 22a-174-3a or section 22a-174-19 of the Regulations of Connecticut State Agencies shall submit with such application an application fee of [five hundred] seven hundred and fifty dollars [($500.00)] ($750.00).

(2) In addition to the application fee submitted under subdivision (1) of this subsection, each person for whom the commissioner reviews an application for a permit pursuant to section 22a-174-3a of the Regulations of Connecticut State Agencies, shall pay an additional application fee of one thousand five hundred dollars [($1,000)] ($1,500.00) for:

(A) Each best available control technology (BACT) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies for a stationary source or modification thereof, unless the stationary source or modification will have potential emissions of less than fifty (50) tons per year of each pollutant for which the permit is required or the impact on ambient air quality of each of these pollutant emissions is not significant as listed in Table 3a(i)-1 set forth in section 22a-174-3a(i)(1) of the Regulations of Connecticut State Agencies; and

(B) Each lowest achievable emission rate (LAER) review required under section 22a-174-3a of the Regulations of Connecticut State Agencies.

(3) Notwithstanding subdivision (1) of this subsection, the fees for an application to change the fuel used to natural gas or liquefied propane gas, or to implement a process that will allow the use of A cleaner fuel shall be [two hundred and fifty ($250.00)] three hundred and seventy-five dollars ($375.00).

(4) There is no fee to correct a clerical error in a permit made by the commissioner.

(5) The commissioner shall apply the application fee under subdivision (1) or (3) of this subsection to any permit fee required by subsection (c) of this section.

(6) Notwithstanding the prior payment of an application fee, an applicant shall pay another application fee in accordance with subdivisions (1), (2) and (3) of this subsection under either of the following circumstances:

(A) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect an anticipated increase in emissions; or

(B) After the commissioner has issued his tentative determination on the subject application but before he has taken final action thereon, the applicant revises the application so as to reflect a change in process.

(c) Permit fees.

(1) Each person to whom the commissioner issues a permit, or a modification or renewal thereto, under section 22a-174-3a, section 22a-174-2a and section 22a-174-19 of the Regulations of Connecticut State Agencies shall pay a permit fee as prescribed in the fee schedule in subdivision (2) of this subsection.

(2) The fee schedule is set forth in Table 26-1.

TABLE 26-1
PERMIT FEE SCHEDULE

	REGULATION UNDER WHICH PERMIT IS ISSUED	MAJOR SOURCE (PTE)	LESS THAN MAJOR SOURCE (PTE)
New major stationary source	22a-174-3a(a)(1)(A)	[$4,000] $6,000	NA
Major modification	22a-174-3a(a)(1)(B)	[$4,000] $6,000	NA
New or reconstructed major source of hazardous air pollutants	22a-174-3a(a)(1)(C) and (m)	[$4,000] $6,000	NA
New emission unit with potential emissions of fifteen (15) tons or more per year of any individual air pollutant	22a-174-3a(a)(1)(D)	NA	[$2,000] $3,000
Modification to an existing emission unit which increases potential emissions of any individual air pollutant from such unit by fifteen (15) tons or more per year	22a-174-3a(a)(1)(E)	NA	[$2,000] $3,000
Stationary source modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable	22a-174-3a(a)(1)(F)	[$4,000] $6,000	NA

TABLE 26-1 PERMIT FEE SCHEDULE			
limitation which was established after August 7, 1980 on the capacity of the source or modification otherwise to emit a pollutant			
New source review non-minor permit modification	22a-174-2a(d)	[$2,000] $3,000	[$1,000] $1,500
New source review minor permit modification	22a-174-2a(e)	[$2,000] $3,000	[$1,000] $1,500
Permit revision	22a-174-2a(f)(2)(B) to (G), inclusive	[$1,000] $1,500	[$1,000] $1,500
Permit renewal	22a-174-2a[(j)](i)	[$2,000] $3,000	[$2,000] $3,000
Permit for use of solid fuel	22a-174-(19)(a)(2)[(I)](i)	[$4,000] $6,000	[$2,000] $3,000
Permit for air pollution control energy trade	22a-174-(19)(a)(3)	[$10,000] $15,000	[$5,000] $7,500

(3) There is no fee for any permit issued to a municipality or to an agency of the state or political or administrative subdivision thereof under section 22a-174-100 of the Regulations of Connecticut State Agencies.

(4) There is no fee for any [permit] certificate required under section 22a-174-17 of the Regulations of Connecticut State Agencies.

(5) There is no fee, other than the fees under subsections (d) and (e) of this section, payable to the commissioner by the owner or operator of a Title V source to apply for, revise, modify or renew a Title V permit issued under section 22a-174-33 of the Regulations of Connecticut State Agencies.

(6) Each person who pays to the commissioner a license transfer fee pursuant to subsection (e) of this section shall not be subject to a permit revision fee pursuant to this subsection provided that the transfer of ownership and related administrative information are the only changes being proposed to the subject permit.

(d) Emission fees.

[(d)](1) For the purposes of this subsection, the following definitions shall apply:

"Title V source" means:

(A) Any stationary source, or any group of stationary sources, where such source is located on one or more contiguous or adjacent properties, that is under common control of the same person, or persons under common control, and such source or sources have potential emissions, including fugitive emissions to the extent quantifiable, of, In the aggregate, ten (10) tons or more per year of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the Clean Air Act, or twenty-five (25) tons or more per year of any combination of such hazardous air pollutants; or

(B) [any] Any stationary source, or any group of stationary sources, where such source is located on one or more contiguous or adjacent properties, that is under common control of the same person, or persons under common control, and such source or sources belong to the same two digit Standard Industrial Classification code, as published by the United States Office of Management and Budget (OMB) in the Standard Industrial Classification Manual of 1987, and such source or sources have potential emissions, including fugitive emissions to the extent quantifiable, of:

[(A) In the aggregate, ten (10) tons or more per year of any hazardous air pollutant which has been listed pursuant to section 112 (b) of the Clean Air Act, or twenty-five (25) tons or more per year of any combination of such hazardous air pollutants;]

[(B)]
(i) One hundred (100) tons or more per year of any air pollutant;

[(C)]
(ii) Fifty (50) tons or more per year of any volatile organic compounds or nitrogen oxides in a serious ozone nonattainment area; or

[(D)]
(iii) Twenty-five (25) tons or more per year of volatile organic compounds or nitrogen oxides in a severe ozone nonattainment area.

"1990 inventory" means the inventory submitted by the Department to the U.S. Environmental Protection Agency on January 13, 1994 which for stationary source is emissions of 133,665 tons per year for 1990.

[(d)](2) The owner or operator of a Title V source shall pay an emission fee each year to the Department. [in accordance with the

fee schedule in subdivision [(d)](4) of this subsection.] The emission fee paid shall be the amount calculated under subdivision (4) of this subsection, unless the provisions of subdivision (6) of this subsection apply, in which case the emission fee paid shall be the amount specified in subdivision (6) of this subsection. Commencing July 1, 1995, payment to the Department shall be due by July 1 each year, based on the emissions during the previous calendar year. [Notwithstanding such requirement, the owner or operator of a Title V source shall pay an emission fee by January 1, 1995 for emissions during the period between July 1, 1993 and December 31, 1993. For the purposes of this subdivision, the determination of the emissions fee due by January 1, 1995, shall be based upon fifty percent (50%) of the Total Actual Premise Emissions during the period from January 1, 1993, to December 31, 1993.]

[(d)](3) The emission fee shall be based on emissions of the following:

(A) Nitrogen oxides;

(B) Any volatile organic compound;

(C) Any pollutant for which an ambient air quality standard has been listed in [subsection] subsections (d) [through] to (l), inclusive, of [Section] section 22a-174-24 of the Regulations of Connecticut State Agencies;

(D) Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

(E) Any Class I or II substance, listed in 42 U.S.C. [section] 7671a, subject to a standard promulgated under or established by Title VI of the Clean Air Act; and

(F) Any hazardous air pollutant subject to a standard promulgated or other requirement established under section 112 of the Clean Air Act (42 U.S.C. [section] 7412).

[(d)](4) Emission fee determination. The emission fee shall be based upon the actual emissions of all regulated air pollutants as identified in subdivision (3) of this subsection, from any emission units at the source according to the following equation:

emission fee [EQUALS] = (A) [MULTIPLIED BY] * (B) [MULTIPLIED BY] * (C)

Where:

(A) Is the Total Actual Premise Emissions, which is the

premise's actual emissions of the pollutants specified in subdivision [(d)](3) of this [section] subsection from all emitting units located at the premise as reported in the emissions inventory for the previous calendar year which is on file with the Department. The sum of the Total Actual Premise Emissions shall be raised to the next whole ton;

(B) Is the per ton fee, which is equal to twenty-five dollars ($25.00) per ton in 1989 dollars multiplied by the ratio of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989; and

(C) Is the [inventory] Inventory Stabilization Factor, which is a value equal to the total actual emissions of 133,665 tons per year from stationary sources in the 1990 Inventory divided by the total statewide stationary source actual emissions from the previous calendar year. The quotient shall be rounded to the second decimal place. If the Inventory Stabilization Factor is less than one (1.00), [use] one (1.00) shall be used as the Inventory Stabilization Factor. The [Commissioner] commissioner shall, thirty days prior to application of the Inventory Stabilization Factor, file with the Secretary of the Office of Policy and Management a report describing the calculation of the [inventory stabilization factor] Inventory Stabilization Factor with relevant supporting documentation. Such report shall also describe expenditures of the previous year's emission based fees collected pursuant to this subsection.

[(d)](5) [Notwithstanding subdivision (d)(4) of this section, when any calculation results in an emission fee in excess of two hundred thirty-seven thousand five hundred dollars ($237,500.00) for any premise for the bill due on January 1, 1995, the Commissioner shall adjust the per ton fee contained in subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of two hundred thirty-seven thousand five hundred dollars ($237,500.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again. In addition, when any calculation performed in subdivision (d)(4) above results in an emission fee in excess of four hundred seventy-five thousand dollars ($475,000.00) for any premise for the bills due on July 1, 1995, and July 1, 1996, the Commissioner shall adjust the per ton fee contained subparagraph (d)(4)(B) of this subdivision by multiplying such per ton fee by a ratio of four hundred seventy-five thousand dollars ($475,000.00) divided by such emission fee and using such adjusted per ton fee, perform such calculation again.] The commissioner may reduce the Inventory Stabilization Factor set forth in subdivision (4)(C) of this subsection applicable to the prior calendar year emissions, if the commissioner finds that the Air Emissions Permit Operating Fee account balance, by itself, will be sufficient on or about July 1st to cover two years of Title V program expenses. The Inventory Stabilization Factor shall not be reduced to less than one (1.00). The commissioner shall not adjust the Inventory Stabilization Factor in such a manner as to collect fees that will result in the balance in the Air Emissions Permit Operating Fee account being insufficient to cover two years of Title V

program expenses. The determination of what constitutes a Title V program expense under this subdivision shall be in the sole discretion of the commissioner and in accordance with section 502(b)(3) of the Clean Air Act.

[(d)](6) [Method of payment. All fees required by this subsection shall be paid by check or money order payable to the Department of Environmental Protection and shall state on the face of the check or money order, "Air Management emission fee."] Notwithstanding subdivision (4) of this subsection, the emission fee shall be:

(A) Effective July 1, 2004, one thousand dollars ($1,000.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than one thousand dollars ($1,000.00). Effective July 1, 2005, two thousand five hundred dollars ($2,500.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than two thousand five hundred dollars ($2,500.00). Effective July 1, 2006, five thousand dollars ($5,000.00) for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was less than five thousand dollars($5,000.00); and

(B) Five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989, for each Title V source for which the emission fee calculated under subdivision (4) of this subsection was more than five hundred thousand dollars($500,000.00), adjusted for inflation from August 31, 1989. "Adjusted for inflation" for the purposes of this subdivision means, an increase to the emission fee by multiplying such fee by the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year, to the Consumer Price Index for August 1989.

[(d)](7) Late fee. A late fee of ten percent (10%) of the emission fee or fifty dollars ($50), whichever is greater, shall be charged, in addition to any other fee required by this subsection, if [a] an owner or operator of a Title V source fails to submit the required emission fee when due. The owner or operator of such Title V source shall pay an additional one and one quarter percent (1.25%) per month of the amount of all emission fees required by this subsection which remain unpaid after the first day of each month. This subdivision shall not prevent the [Commissioner] commissioner from pursuing other remedies available by statute or regulation.

[(d)](8) Municipal emission fees. Any emission fee charged to a municipality pursuant to this subsection shall be fifty percent (50%) of the emission fee owed pursuant to subdivisions (4) or (6) of this subsection, whichever subdivision is applicable. [that would be charged to other Title V sources. Provided however that any municipality which fails to submit the required emission fee when due shall be charged a late fee pursuant to subdivision (d)(6) of this section.]

(9) An emission fee required under this subsection shall be paid in an amount rounded to the nearest whole dollar.

(e) Transfer fee. Each person registering a proposed transfer of a license with the commissioner under section 22a-6o of the Connecticut General Statutes shall submit with such registration a [permit] transfer fee of [five] seven hundred and fifty dollars [($500.00)] ($750.00) [dollars].

Sec. 3. Subsections (h) to (i), inclusive, of section 22a-174-26 of the Regulations of Connecticut State Agencies are amended, as follows:

(h) Emission test fees. In addition to any other fee required by this section, the owner or operator of a stationary source who is required by any statute, regulation, permit or order administered or issued by the commissioner to conduct an emission test or to install or operate a continuous emission monitor shall pay [two-hundred and fifty ($250.00)] three-hundred and seventy-five dollars ($375.00) [dollars] to the commissioner per day or part thereof for each Department employee who conducts or observes such test or the installation of such continuous emission monitor; provided that if such owner or operator is subject to section 22a-232 of the Connecticut General Statutes, he shall not be required to pay the fee established by this subsection.

(i) Payment of fees.

(1) Any fee required under this section shall be paid by check or money order [made] payable to the Department of Environmental Protection, which shall state on its face, for an application fee, "Air Management Application Fee", for an emission fee, "Air Management Emission Fee", and for any other fee, [except as provided in subsection (d)(6) of this section,] "Air Management Fee."

(2) [(A) Notwithstanding subsection (d)(4) of this section, for any premises, when any calculation performed under subsection (d)(4) of this section results in an emission fee in excess of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989, the commissioner shall adjust the per ton fee contained in subsection (d)(4)(B) of this section by multiplying such per ton fee by a ratio of the product of one hundred and ninety-eight thousand dollars ($198,000.00) multiplied by the Inventory Stabilization Factor pursuant to subsection (d)(4)(C) of this section and the ratio of the Consumer Price Index for all urban consumers published by the United States Department of Labor as of August 31 of the previous calendar year to the Consumer Price Index for August 1989 divided by such emission fee, and, using such adjusted per ton fee, perform such calculation again.

REGULATION

OF

NAME OF AGENCY

Environmental Protection

Section 3

(B) Notwithstanding subparagraph (A) of this subdivision, on or before May 15 in any odd-numbered calendar year beginning in the year 2001, the commissioner may discontinue adjusting the per ton fee in the manner prescribed in subparagraph (A) of this subdivision for payment due on July 1 of such odd-numbered calendar year and the next succeeding even-numbered calendar year, provided that on or before January 1 of such year he gives notice to the owners and operators of all sources then covered under subparagraph (A) of this subdivision and affords them an opportunity to comment.] RESERVED

(3) [An emission fee required under subsection (d) of this section shall be paid in an amount rounded to the nearest whole dollar.] RESERVED

(4) Except as otherwise provided by this section, any fee required by this section shall be submitted within the time specified by the commissioner. If neither this section nor the commissioner specifies a time for submitting payment, payment shall be due within 30 days of written notice by the commissioner that such fee is required.

STATEMENT OF PURPOSE:

To correct fees authorized under Section 22a-6(f) of the General Statutes as amended by Public Act 03-6. To provide the commissioner with flexibility to correct an imbalance between fee collection and expenditure and more equitably distribute the costs of the Title V program. To reconcile section 22a-174-26(c) with section 22a-174-26(b) and clarify that permit fees are due on and after the same day that a permit application fees under section 22a-174-3a are due. To clarify that there is no fee to apply for, revise, modify or renew a Title V permit because of the annual fee paid by all Title V sources. To clarify the transfer fee applies to all licenses issued by the commissioner under chapter 446c of the General Statutes. To eliminate an unnecessary language relating to fee adjustment addressed in section 22a-174-26 of the Regulations of Connecticut State Agencies. To revise the format of certain internal references to match current Department usage.

CERTIFICATION

Be it known that the foregoing:

Are: [x] Regulations ☐ Emergency Regulations

☐ Adopted [x] Amended as hereinabove stated ☐ Repealed

By the aforesaid agency pursuant to:

[x] Sections 22a-6(a) and 22a-174 of the General Statutes.

[x] Section 22a-6(f) of the General Statutes, as amended by Public Act No. 03 of the 6 Public Acts.

☐ Public Act No._____of the Public Acts.

After publication in the Connecticut Law Journal on January 27th, 2004 of the notice of the proposal to:

☐ Adopt [x] Amend ☐ Repeal such regulations

(If applicable): [x] And the holding of a public hearing on the 27th day of February 2004

WHEREFORE, the foregoing regulations are hereby:

☐ Adopted [x] Amended as herein above stated ☐ Repealed

Effective:

[x] When filed with the Secretary of State.

(OR)

☐ The _____day of _____.

DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED
In Witness Whereof: March 26, 2004	Anne K Stich	Deputy Comm

	SIGNED	DATE	OFFICIAL TITLE, DULY AUTHORIZED
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	[signature]	4/2/04	Assoc. Atty. General

☐ Approved

☐ Disapproved

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

☐ Rejected without prejudice.

	DATE	SIGNED
By the Legislative Regulation Review Committee in accordance with Sec. 4-170 amended, of the General Statutes.		*(Clerk of the Legislative Regulation Review Committee)*

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED *(Secretary of the State.)*	BY

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 standing 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.

Office of Secretary of the State
State of Connecticut
30 Trinity Street, P.O. Box 150470, Hartford, CT 06115-0470

Susan Bysiewicz
Secretary of the State

Maria M Greenslade
Deputy Secretary of the State

June 4, 2004

RECEIVED
JUN 9 2004

RECEIVED
JUN 09 2004
Dept. of Environmental Protection
Office of the Commissioner
Deputy Commissioner E.C.

Hon. Arthur Rocque, Jr., Commissioner
Dept. of Environmental Protection
79 Elm Street
Hartford, CT 06105

Re: Agency Regulation Concerning:

Amendment of Section 22a-174-5(f), fees for visual tests; and Section 22a-174-26, fees

Regulation Review Committee Docket Number: 2004-033
Secretary of the State File Number: 5516

Dear Commissioner Rocque:

This is to acknowledge receipt of two certified copies of the above referenced regulation issued by your department.

Said regulation was received and filed in this office on May 26, 2004. The effective date of this regulation is May 26, 2004.

One of the two copies has been forwarded to the Commission on Official Legal Publications as required by law.

Sincerely,

Michael T. Kozik, Esq.
Managing Attorney
Legislation and Elections Administration Division

RECEIVED
JUN 10 2004
DEPT. OF ENVIRONMENTAL PROTECTION
OFFICE OF DEPUTY COMMISSIONER

CC: Commission on Official Legal Publications (Letter and Copy of Regulation)

File

Legislative Regulation Review Committee

Senator George Gunther
Co-Chair

Representative Gail Hamm
Co-Chair

May 26, 2004

Subject: Proposed Regulation

Arthur Rocque, Commissioner
Department of Environmental Protection
79 Elm Street
Hartford, CT, 06106

Dear Commissioner Rocque:

Proposed Regulation
2004-033 Department of Environmental Protection **"AIR QUALITY"** The Regulations of Connecticut State Agencies are amended Section 22a-174-5 & 22a-174-26. (CLJ 1/27/2004) (A.G. Approval 4/2/2004) - Bearing a Deadline Date of 7/7/2004

The above captioned regulation was **Approved with Technical Corrections & Deletion** by the Legislative Regulation Review Committee on 5/25/2004. The corrections are outlined in the attached report from the Legislative Commissioners' Office.

After the necessary changes have been made, the enclosed "original" regulation must be filed with the Office of the Secretary of the State within fourteen days of its approval by the Legislative Regulation Review Committee. If for any reason the agency fails to file the regulation in the prescribed time it must notify the Legislative Regulation Review Committee within five days of the missed filing deadline.

Sincerely:

Pamela B. Booth

Pamela B. Booth, Administrator
Legislative Regulation Review Committee
Enclosure

Room 011 * State Capitol Building * Hartford, CT 06106-1591 * (860) 240-0580 * fax (860) 240-8689 * lrrc@po.state.ct.us

The Connecticut General Assembly

Legislative Commissioners' Office

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Commissioner
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Commissioner
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Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: May 25, 2004

Regulation No:	2004-33
Agency:	Department of Environmental Protection
Subject Matter	Air Quality Regulation Fees
Statutory Authority (copy attached)	22a-6f, as amended by public act 03-6 of the June 30 special session, and 22a-174

	Yes or No
Mandatory	Y, as to the fee increases
Federal Requirement	N
Permissive	Y, as to the remaining provisions
Federal Funds	N
Correct Numbering	Y

For the Committee's Information:

Substantive Concerns:

Technical Corrections:

1. On p. 5, in subdivision (2), the new period after "Department" should be underlined.

2. On p. 8, in subdivision (6)(B), "for the purposes of this subdivision" should changed to "for the purposes of this subparagraph" for accuracy.

3. On p. 8, in subdivision (8), the new period after "applicable" should be underlined.

4. On pp. 9-10, in subsection (i), the words "RESERVED" should be deleted and subdivision (4) should be renumbered as subdivision (2).

Recommendation:

X	**Approval in whole**
X	**with technical corrections**
X	**with deletions**
	Disapproval in whole or in part
	Rejection without prejudice

Reviewed by: Kristin G. Cianflone / Jeffrey R. Beckham

Date: May 12, 2004

Sec. 22a-6f. Fees. Due dates. Late payments. Application. Waiver. (a) Each annual fee charged by the Commissioner of Environmental Protection pursuant to the general statutes shall be due on or before July first of each year, unless otherwise specified in the general statutes or in regulations adopted pursuant thereto. The fee for late payment of an annual fee charged by said commissioner pursuant to the general statutes shall be ten per cent of the annual fee due, plus one and one-quarter per cent per month or part thereof that the annual fee remains unpaid. Each permit fee and permit application fee charged by the commissioner pursuant to the general statutes is due upon the submission of the permit application, unless otherwise specified in the general statutes or in regulations adopted pursuant thereto. Each permit fee and permit application fee payable to the commissioner shall apply equally to the issuance, renewal, modification and transfer of a permit unless otherwise specified in the general statutes or in regulations adopted pursuant thereto. The commissioner may waive any fee payable to him as it applies to the activities of an agency, board, commission, council or department of the state, provided such agency, board, commission, council or department compensates the Department of Environmental Protection in an amount equal to such fee pursuant to a written agreement.

(b) Notwithstanding any provision of the general statutes or any regulation adopted under this title, on and after August 20, 2003, each fee in effect pursuant to regulations adopted pursuant to any section of this title that is greater than one hundred dollars shall be increased by fifty per cent and all such fees of one hundred dollars or less shall be doubled, provided no such fee shall be less than one hundred dollars.

(c) Notwithstanding the provisions of subsection (b) of this section: (1) The fees and annual adjustment for Title V emissions shall be assessed pursuant to the regulations adopted under section 22a-174, as amended; (2) each fee imposed pursuant to a general permit, in effect on or before August 20, 2003, shall be double the amount specified in such permit; and (3) each fee imposed pursuant to a certificate of permission, issued in accordance with section 22a-363b, shall be double the amount in effect on or before August 20, 2003.

(d) Unless otherwise specified in a general permit, the registration fee for a general permit shall be as follows: (1) If the person intending to engage in the regulated activity is required to register with the Department of Environmental Protection and obtain approval of the registration before the activity is authorized, one thousand dollars; or (2) if the person intending to engage in the regulated activity is only required to register with the Department of Environmental Protection before the activity is authorized, five hundred dollars. No fee for a general permit shall exceed five thousand dollars.

(e) Unless otherwise established by regulations adopted pursuant to section 22a-354i, the fee for a permit of a regulated activity, as described in section 22a-354i, shall be one thousand dollars and the fee to register such regulated activity with the Department of Environmental Protection, pursuant to section 22a-354i, shall be five hundred dollars.

(f) The fee for a consolidated general permit issued in accordance with more than one section of this title shall be specified in such general permit and shall not exceed the total sum for individual general permits, as authorized pursuant to subdivision (2) of subsection (c) of this section.

Sec. 22a-174. (Formerly Sec. 19-508). Powers of the commissioner. Regulations. Fees. Exemptions. General permits. Appeal of commissioner's action re permit applications. (a) The commissioner, in the manner provided in subdivision (1) of section 22a-6, as amended, shall have the power to formulate, adopt, amend and repeal regulations to control and prohibit air pollution throughout the state or in such areas of the state as are affected thereby, which regulations shall be consistent with the federal Air Pollution Control Act and which qualify the state and its municipalities for available federal grants. Any person heard at the public hearing on any such regulation shall be given written notice of the determination of the commissioner.

(b) The commissioner shall have the power to employ technical consultants for special studies, advice and assistance; to consult with and advise and exchange information with other departments or agencies of the state.

(c) The commissioner shall have the power, in accordance with regulations adopted by him, (1) to require that a person, before undertaking the construction, installation, enlargement or establishment of a new air contaminant source specified in the regulations adopted under subsection (a), submit to him plans, specifications and such information as he deems reasonably necessary relating to the construction, installation, enlargement, or establishment of such new air contaminant source; (2) to issue a permit approving such plans and specifications and permitting the construction, installation, enlargement or establishment of the new air contaminant source in accordance with such plans, or to issue an order requiring that such plans and specifications be modified as a condition to his approving them and issuing a permit allowing such construction, installation, enlargement or establishment in accordance therewith, or to issue an order rejecting such plans and specifications and prohibiting construction, installation, enlargement or establishment of a new air contaminant source in accordance with the plans and specifications submitted; (3) to require periodic inspection and maintenance of combustion equipment and other sources of air pollution; (4) to require any person to maintain such records relating to

air pollution or to the operation of facilities designed to abate air pollution as he deems necessary to carry out the provisions of this chapter and section 14-164c, as amended; (5) to require that a person in control of an air contaminant source specified in the regulations adopted under subsection (a), obtain a permit to operate such source if the source (A) is subject to any regulations adopted by the commissioner concerning high risk hazardous air pollutants, (B) burns waste oil, (C) is allowed by the commissioner, pursuant to regulations adopted under subsection (a), to exceed emission limits for sulfur compounds, (D) is issued an order pursuant to section 22a-178 or (E) violates any provision of this chapter, or any regulation, order or permit adopted or issued thereunder; (6) to require that a person in control of an air contaminant source who is not required to obtain a permit pursuant to this subsection register with him and provide such information as he deems necessary to maintain his inventory of air pollution sources and the commissioner may require renewal of such registration at intervals he deems necessary to maintain such inventory; (7) to require a permit for any source regulated under the federal Clean Air Act Amendments of 1990, P.L. 101-549; (8) to refuse to issue a permit if the Environmental Protection Agency objects to its issuance in a timely manner under Title V of the federal Clean Air Act Amendments of 1990; and (9) notwithstanding any regulation adopted under this chapter, to require that any source permitted under Title V of the federal Clean Air Act Amendments of 1990 shall comply with all applicable standards set forth in the Code of Federal Regulations, Title 40, Parts 51, 52, 59, 60, 61, 63, 68, 70, 72 to 78, inclusive, and 82, as amended from time to time.

(d) The commissioner shall have all incidental powers necessary to carry out the purposes of this chapter and section 14-164c, as amended.

(e) As used in this subsection, "contiguous" means abutting or adjoining without consideration of the actual or projected existence of roadways, walkways, plazas, parks or other minor intervening features; "indirect source" means any building, structure, facility, installation or combination thereof, that has or leads to associated activity as a result of which any air pollutant is or may be emitted. The

commissioner shall not require the submission of plans and specifications under indirect source regulations adopted pursuant to subdivisions (1) and (2) of subsection (c) of this section for proposed construction to be undertaken within a redevelopment area or urban renewal project, as defined in chapter 130, provided (1) the proposed construction is pursuant to a plan for such redevelopment area or urban renewal project adopted pursuant to section 8-127 prior to October 1, 1974, or to a modification of such plan, (2) the proposed construction is part of a contiguous, single purpose or multipurpose development or developments and (3) site clearance or construction had commenced on a portion of the site of such development or developments prior to October 1, 1974, nor shall the commissioner issue any order pursuant to subdivision (1) of subsection (c) of this section pertaining to the enforcement of indirect source regulations with respect to such proposed construction within such redevelopment areas and urban renewal projects. In the event that the modification of any such plan after October 1, 1974, would result in the proposed construction generating substantially more motor vehicle traffic than would have been generated prior to such modification, the submission of plans and specifications shall be required for such proposed modification. The commissioner shall not require the renewal of an indirect source operating permit issued in accordance with subsection (c) of this section unless such indirect source no longer conforms with plans, specifications or other information submitted to said commissioner in accordance with said subsection (c).

(f) The commissioner shall allow the open burning of brush on residential property, provided the burning is conducted by the resident of the property or the agent of the resident and a permit for such burning is obtained from the local open burning official of the municipality in which the property is located, and the open burning of brush in municipal landfills, transfer stations and municipal recycling centers, provided a permit for such burning is obtained from the fire marshal of the municipality where the facility is located, except that no open burning of brush shall occur (1) when national or state ambient air quality standards may be exceeded; (2) where a hazardous health

condition might be created; (3) when the forest fire danger in the area is identified by the commissioner as extreme and where woodland or grass land is within one hundred feet of the proposed burn; (4) where there is an advisory from the commissioner of any air pollution episode; (5) where prohibited by an ordinance of the municipality; and (6) in the case of a municipal landfill, when such landfill is within an area designated as a hot spot on the open burning map prepared by the commissioner. A permit for the burning of brush at any municipal landfill, municipal transfer station or municipal recycling center shall be issued no more than six times in any calendar year. The proposed permit to burn brush at any municipal landfill, municipal transfer station or municipal recycling center shall be submitted to the commissioner by the fire marshal, with the approval of the chief elected official of the municipality in which the municipal landfill, municipal transfer station or municipal recycling center is located. The commissioner shall approve or disapprove the fire marshal's proposed permitting of burning of brush at a municipal landfill, municipal transfer station or municipal recycling center within a reasonable time of the filing of such application. The burning of leaves, demolition waste or other solid waste deposited in such landfill shall be prohibited. The burning of nonprocessed wood for campfires and bonfires is not prohibited if the burning is conducted so as not to create a nuisance and in accordance with any restrictions imposed on such burning. Nothing in this subsection or in any regulation adopted pursuant to this subsection shall affect the power of any municipality to regulate or ban the open burning of brush within its boundaries for any purpose. Notwithstanding any other provision of this section, fire breaks for the purpose of controlling forest fires and controlled fires in salt water marshes to forestall uncontrolled fires are not prohibited. Open burning may be engaged in for any of the following purposes if the open burning official with jurisdiction over the area where the burning will occur issues an open burning permit: Fire-training exercises; eradication or control of insect infestations or disease; agricultural purposes; clearing vegetative debris following a natural disaster; and vegetative management or enhancement of wildlife habitat or ecological sustainability on municipal property or on any

privately owned property permanently dedicated as open space. Open burning for such purposes on state property may be engaged in with the written approval of the commissioner. Local burning officials nominated for the purposes of this subsection shall be nominated only by the chief executive officer of the municipality in which the official will serve and shall be certified by the commissioner. The chief executive officer may revoke the nomination. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, governing open burning and may authorize or prohibit open burning consistent with this section. The regulations may require the payment of an application fee and inspection fee and may establish a certification procedure for local burning officials.

(g) The commissioner shall require, by regulations adopted in accordance with the provisions of chapter 54, the payment of a permit application fee sufficient to cover the reasonable costs of reviewing and acting upon an application for, and monitoring compliance with the terms and conditions of, any state or federal permit, license, order, certificate or approval required pursuant to this section. Any person obtaining a permit, pursuant to said regulations, for the construction or operation of a source of air pollution or for modification to an existing source of air pollution shall submit a permit fee of twice the amount of the fee established by regulations in effect on July 1, 1990. The commissioner shall require the payment of a permit application fee of two hundred dollars.

(h) The commissioner may require, by regulations adopted in accordance with the provisions of chapter 54, payment of a fee by the owner or operator of a source of air pollution, sufficient to cover the reasonable cost of a visual test of an air pollution control device through the use of a dust compound in the detection of leaks in such device, or the monitoring of such test, provided such fee may not exceed the average cost to the department for the conduct or monitoring of such tests plus ten per cent of such average cost. Except as specified in section 22a-27g, all payments received by the commissioner pursuant to this subsection shall be deposited in the General Fund and credited to the appropriations of the Department of

Environmental Protection in accordance with the provisions of section 4-86.

(i) Notwithstanding the provisions of subsections (g) and (h) of this section, no municipality shall be required to pay more than fifty per cent of any fee established by the commissioner pursuant to said subsections.

(j) Each source of air pollution shall register with the commissioner biennially. Such registration shall be accompanied by a fee of one hundred fifty dollars, provided no premise shall pay a registration fee exceeding seven thousand five hundred dollars.

(k) Fees or increased fees prescribed by this section shall not be applicable to residential property.

(l) (1) The commissioner may issue a general permit with respect to a category of new or existing stationary air pollution sources, except with respect to a source which is already covered by an individual permit, provided the general permit is not inconsistent with the federal Clean Air Act, as amended in 1990, 42 USC, Sections 7401 et seq., and as it may be further amended from time to time. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under this section, except as provided in subdivision (5) of this subsection. The general permit may regulate a category of sources which, whether or not requiring a permit under the federal Clean Air Act, (A) involve the same or substantially similar types of operations or substances, (B) require the same types of pollution control equipment or other operating conditions, standards or limitations and (C) require the same or similar monitoring, and which, in the opinion of the commissioner, are more appropriately controlled under a general permit than under an individual permit. The general permit may require that any person proposing to conduct any activity under the general permit register such activity, including obtaining approval from the commissioner, before the general permit becomes effective as to such activity, and may include such other conditions as the commissioner deems

appropriate, including, but not limited to, management practices and verification and reporting requirements. Any such reports shall be made available to the public by the commissioner. The commissioner shall grant an application for approval under a general permit without repeating the notice and comment procedures provided under subdivision (2) of this subsection, and such a grant shall not be subject to judicial review under subdivision (4) of this subsection. Registrations and applications for approval under the general permit shall be submitted on forms prescribed by the commissioner; application forms concerning activities regulated under the federal Clean Air Act shall require that the applicant provide such information as may be required by that act. The commissioner shall prepare, and annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(2) Notwithstanding any other procedures in this chapter, any regulations adopted thereunder, and chapter 54, the commissioner may issue a general permit in accordance with the following procedures: (A) The commissioner shall publish in a newspaper, having a substantial circulation in the affected area or areas, notice of (i) intent to issue a general permit, (ii) the right to inspect the proposed general permit, (iii) the opportunity to submit written comments thereon, and (iv) the right to a public hearing if, within the comment period, the commissioner receives a petition signed by at least twenty-five persons provided the notice shall state that the right to a public hearing may be exercised upon request of any person if the permit regulates an activity which is subject to provisions of the federal Clean Air Act; (B) the administrator of the United States Environmental Protection Agency and any states affected by the general permit shall be given notice as may be required by the federal Clean Air Act; (C) the commissioner shall allow a comment period of thirty days following publication of notice under subparagraph (A) of this subdivision during which interested persons may submit written comments concerning the permit to the commissioner; (D) the commissioner shall not issue the general permit until after the comment period and the public hearing, if one is held; (E) the

commissioner shall publish notice of any general permit issued in a newspaper having a substantial circulation in the affected area or areas; and (F) summary suspension may be ordered in accordance with subsection (c) of section 4-182. Any person may request that the commissioner issue, modify, revoke or suspend a general permit in accordance with this subsection.

(3) Any general permit under this subsection shall be issued for a fixed term. A general permit covering an activity regulated under the federal Clean Air Act shall be issued for a term of no more than five years. A general permit covering an activity regulated under the federal Clean Air Act shall contain such additional conditions as may be required by that act.

(4) Notwithstanding any other provision of this chapter and chapter 54, with respect to a general permit concerning activities regulated under the federal Clean Air Act, any person who submitted timely comments thereon may appeal the issuance of such permit to the superior court in accordance with the provisions of section 4-183. Such appeal shall have precedence in the order of trial as provided in section 52-192.

(5) Subsequent to the issuance of a general permit, the commissioner may require a person whose activity is or may be covered by the general permit to apply for and obtain an individual permit pursuant to this chapter if he determines that an individual permit would better protect the land, air and waters of the state from pollution. The commissioner may require an individual permit under this subdivision in cases including, but not limited to, the following: (A) The permittee is not in compliance with the conditions of the general permit; (B) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollution applicable to the permitted activity; (C) circumstances have changed since the time the general permit was issued so that the permitted activity is no longer appropriately controlled under the general permit, or a temporary or permanent reduction or elimination of the permitted activity is necessary; or (D) a relevant change has occurred in the applicability of

the federal Clean Air Act. In making the determination to require an individual permit, the commissioner may consider the location, character and size of the source and any other relevant factors. The commissioner may require an individual permit under this subdivision only if the person whose activity is covered by the general permit has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for requiring an individual permit, an application form, a statement setting a time for the person to file the application and a statement that the general permit as it applies to such person shall automatically terminate on the effective date of the individual permit. Such person shall forthwith apply for, and use best efforts to obtain, the individual permit. Any person may petition the commissioner to take action under this subdivision.

(6) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this subsection.

(m) In any proceeding on an application for a permit which is required under 42 USC 7661a, the applicant, and any other person entitled under said section to obtain judicial review of the commissioner's final action on such application may appeal such action in accordance with the provisions of section 4-183.

(n) The commissioner shall not issue a permit for an asphalt batch plant or continuous mix facility under the provisions of this section until July 1, 2004, unless the commissioner determines that the issuance of the permit will result in an improvement of environmental performance of an existing asphalt batch plant or continuous mix plant. The provisions of this section shall apply to any application pending on May 5, 1998. Nothing in this section shall apply to applications for upgrading, replacing, consolidating or otherwise altering the physical plant of an existing facility provided such upgrade, replacement, consolidation or alteration results in an improvement of environmental performance or in reduced total emissions of air pollutants.