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Dept. of Environmental Protection
Office of the Commissioner

January 2, 2002

DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR MANAGEMENT
OFFICE OF BUREAU CHIEF

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

Dear Commissioner Rocque:

This is to acknowledge receipt of two certified copies of the following regulation issued by your department concerning:

Abatement of Air Pollution.

Said regulation was received and filed in this office on December 27, 2001. The effective date of this regulation is December 27, 2001.

Very truly yours,

Peter J. Bartucca
Manager, Records and Legislative Services

PJB:lm
File

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(h) Permit Revocation

(1) The commissioner may revoke any permit on his own initiative or at the request of the permittee in accordance with sections 4-182(c) and 22a-174c of the Connecticut General Statutes, section 22a-3a-5(d) of the Regulations of Connecticut State Agencies, and any other applicable law. Any such request shall be in writing and contain facts and reasons supporting the request.

(2) A permittee requesting the revocation of the permittee's Title V permit shall also state the requested date of revocation and provide evidence satisfactory to the commissioner that the subject source is no longer a Title V source.

(3) The Administrator, pursuant to the Act, is authorized to revoke or revoke and reissue a Title V permit if the Administrator has determined that the commissioner failed to act in a timely manner on a permit renewal application.

(i) Permit Renewal

(1) In addition to the requirements of section 22a-3a-5(c) of the Regulations of Connecticut State Agencies, except as provided in subdivision (2) of this subsection, the permittee shall apply for a permit renewal, if the subject permit contains an expiration date, at least one hundred twenty (120) days prior to the permit expiration date. Such application shall be made on forms prescribed by the commissioner, and shall include a description of any proposed modifications, proposed permit language, any proposed monitoring procedures, any increases or decreases in potential emissions resulting from any proposed modifications, and an identification of all regulatory, statutory, or otherwise applicable requirements that would become applicable as a result of such proposed modifications.

(2) The owner or operator of a Title V source shall apply for a renewal of a Title V permit no later than twelve (12) months prior to the expiration date of such permit.

(3) Notwithstanding subdivision (1) of this subsection, permits to operate issued after June 1, 1972 and before April 2, 1986 need not be renewed even when there is a expiration date on the permit.

Sec. 3 The Regulations of Connecticut State Agencies are amended by adding a new section 22a-174-3a as follows:

(NEW)

Sec. 22a-174-3a. Permit to Construct and Operate Stationary Sources

(a) Applicability and Exemptions

(1) Applicability. Prior to beginning actual construction of any stationary source or modification not otherwise exempted in accordance with subdivision (2)(A) to (C) of this subsection, the owner or operator shall apply for and obtain a permit to construct and operate under this section for any:

(A) New major stationary source;

(B) Major modification;

(C) New or reconstructed major source of hazardous air pollutants subject to the provisions of subsection (m) of this section;

(D) New emission unit with potential emissions of fifteen (15) tons or more per year of any individual air pollutant;

(E) 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; or

(F) Stationary source or modification that becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant.

(2) Exemptions. Notwithstanding the provisions of subdivision (1) of this subsection, the owner or operator of a stationary source or modification may conduct activities listed in subdivision (2)(A), and may construct or operate the sources listed in subdivision (2)(B) and (2)(C) of this section, without a permit under this section:

(A) Any activity that:

(i) adds air pollution control equipment or implements process changes to control air pollution unless the addition or implementation results in an increase in actual emissions of any individual air pollutant of fifteen (15) tons or more per year, or ten (10) tons or more per year of a hazardous air pollutant subject to the provisions of subsection (m) of this section,

(ii) relocates a portable rock crusher which is subject to a permit or exemption letter issued by the commissioner pursuant to former section 22a-174-3 Regulations of Connecticut State Agencies, or which is registered under a general permit for such sources issued by the commissioner pursuant to section 22a-174(*l*) of the Connecticut General Statutes, provided the owner or operator is in compliance with any such permits and provides written notice to the commissioner prior to such relocation,

(iii) constitutes a conversion from fuel oil to natural gas, or in addition to fuel oil, provided such conversion does not increase actual emissions of any individual air pollutant by fifteen (15) tons or more per year, unless such conversion results in reconstruction; or

(iv) constitutes a conversion from residual fuel oil to distillate fuel oil, or in addition to residual fuel oil, provided such conversion does not increase actual emissions of any individual air pollutant by fifteen (15) tons or more per year, unless such conversion results in reconstruction.

(B) Any stationary source that is:

(i) registered under and is in compliance with any new source review general permit to construct and operate a new or existing stationary source issued pursuant to section 22a-174(*l*) of the Connecticut General Statutes,

(ii) a stripping facility used to remove VOC from contaminated groundwater or soil pursuant to an order issued by the commissioner, provided such facility has a control device with VOC removal efficiency of at least ninety-five percent (95%),

(iii) a portable engine or boiler temporarily replacing an existing engine or boiler, provided the replacement units have a combined emission rate equal to or less than the existing units and that the number of days total that any and all such portable engines or boilers may be used does not exceed ninety (90) days in any calendar year, or

(iv) in compliance with section 22a-174-3b or Section 22a-174-3c of the Regulations of Connecticut State Agencies, unless otherwise subject to this section pursuant to subdivision (7) of this subsection;

(C) Any:

(i) mobile source, or

(ii) non-road engine as defined in 40 CFR Part 89.

(3) In determining the applicability of subsections (k) or (*l*) of this section, the owner or operator may determine the net emissions increase. However, the net emissions increase shall not be used determining the applicability of:

(A) This section to any minor source or modification thereof; or

(B) Subsection (j) of this section.

(4) This section and section 22a-174-2a of the Regulations of Connecticut State Agencies shall apply to any stationary source or modification for which a permit application pursuant to former section 22a-174-3 of the Regulations of Connecticut State Agencies was filed prior to the effective date of this section, and for which a permit has yet to be issued or denied.

(5) Any permit modification or permit revision to a permit issued under this section shall be made as required in, and in accordance with, the provisions of this section and section 22a-174-2a of the Regulations of Connecticut State Agencies.

(6) Pursuant to the de minimis rule under section 182(c)(6) and (f) of the Act, the owner or operator of a major stationary source shall make and keep records of actual VOC and NOx emission increases and decreases at such source, resulting from any physical change in, or change in the method of operation of a stationary source. Such increases shall include emission increases below fifteen (15) tons per year of any individual air pollutant.

(7) To determine if the net emission increase of a modification exceeds the major source threshold levels and is subject to subsection (k) of this section, the owner or operator shall make and keep records of actual emissions increases and decreases including those below fifteen (15) tons per year, over the five (5) consecutive calendar years preceding the completion of construction.

(8) Any permit issued pursuant to former section 22a-174-3 of the Regulations of Connecticut State Agencies shall remain in full force and effect, in accordance with Section 22a-174-2a(i) of the Regulations of Connecticut Agencies, unless otherwise determined by the commissioner.

(b) Authorized activities prior to permit issuance

(1) The owner or operator of a stationary source or modification who is required to obtain a permit or non-minor permit modification under the provisions of this section may, prior to obtaining such permit:

(A) Enter into binding agreements or contractual obligations to undertake construction of the proposed stationary source or modification for which a permit is required; and

(B) Begin site clearing activities.

(2) The owner or operator of a stationary source or modification who must obtain a permit or non-minor permit modification under the provisions of this section, shall not begin actual construction before permit issuance. Such construction activities include, but are not limited to, the following activities which are specifically required for construction of the proposed stationary source or modification:

(A) Excavating, blasting, removing rock and soil; or

(B) Installing footings, foundations, retaining walls, or permanent storage structures.

(c) Applications

(1) The owner or operator of a stationary source or modification subject to the provisions of this section shall apply for a permit on forms prescribed by the commissioner. All permit applications shall include:

(A) An executive summary and all other information required by section 22a-3a-5 of the Regulations of Connecticut State Agencies. The executive summary shall summarize the information contained in the application;

(B) Background information, including, but not limited to, the address of the premises, the legal name and business address of the applicant and of the applicant's agent for service of process and, if the applicant is not the owner of the subject source, the legal name and business address of such owner and of the owner's agent for service of process, the names and telephone numbers of the plant or site manager and any other individual, such as an engineer or consultant, designated by the owner or operator to answer questions pertaining to such application, including but not limited to, the siting of the subject stationary source or modification;

(C) The premises' site plan, including: a linear scale and north arrow, the plot plans depicting existing and proposed building locations, the legal boundaries of the property, stack locations, location of the subject stationary source or modification on the premises, and a United States Geological Survey topographic quadrangle map identifying the latitude and longitude of the subject stationary source or modification; and to the extent the commissioner deems it necessary, building dimensions and final grade elevations for all structures located on the premises;

(D) Technical information, including, but not limited to:

(i) descriptions of equipment, processes, air pollution control equipment, stack, fuels, process materials to be used, and process flow diagrams,

(ii) a completed pre-inspection questionnaire, if requested by the commissioner, which describes the equipment, processes and materials used,

(iii) the type, size, and efficiency of control equipment, and

(iv) the date, or proposed date, for commencement of construction of the subject stationary source or modification;

(E) The rate of emissions for individual air pollutants from the subject stationary source or modification. To calculate the rate of emissions, the owner or operator shall use data from one or more of the following, unless the commissioner determines otherwise:

(i) a continuous monitoring system which has been certified by the commissioner, provided that such data may be taken from a source similar to that for which a permit is sought,

(ii) stack testing data, provided such testing was conducted in accordance with protocols preapproved by the commissioner in writing and such test was observed by department staff; and further provided that such data may be taken from a source similar to that for which a permit is sought,

(iii) material balances conducted by an individual with knowledge of the subject process,

(iv) data from the "Compilation of Air Pollutant Emission Factors (AP-42)" as published by the Environmental Protection Agency,

(v) a calculation submitted to the commissioner, or

(vi) manufacturer's data submitted to the commissioner;

(F) Pursuant to subsection (j) of this section, proposed best available control technology (BACT) determination, including, but not limited to, an analysis, as required by subsection (j) of this section, of the amount of emission reduction achievable through the use of BACT;

(G) For any stationary source or modification subject to subsection (l) of this section, the proposed lowest achievable emission rate (LAER) determination, including an analysis of the proposed LAER for each air pollutant, as required by subsection (l) of this section. Such analysis shall include the amount of emission reduction achievable through the use of LAER;

(H) For any stationary source or reconstruction subject to subsection (m) of this section, the proposed maximum achievable control technology (MACT) determination, as required by subsection (m) of this section;

(I) If the premises is a major stationary source, for the purposes of determining compliance with subdivisions (a)(6) and (7) of this section, a summary of the potential emissions from the new subject stationary source or modification and actual emissions from existing stationary sources located at the premises over the preceding five (5) consecutive calendar years;

(J) Compliance information pursuant to and required by section 22a-6m of the Connecticut General Statutes;

(K) Certification in accordance with section 22a-174-2a of the Regulations of Connecticut State Agencies; and

(L) All application fees required by law.

(2) The commissioner may require the owner or operator of the subject

stationary source or modification to provide such additional information as the commissioner deems necessary.

(d) Standards for Granting and Renewing a Permit

(1) The commissioner may impose conditions on any permit or renewal thereof to ensure compliance with the regulations adopted pursuant to section 22a-174 of the Connecticut General Statutes and the Act.

(2) A permit or permit renewal shall not be issued unless the commissioner determines, upon evidence submitted by the owner or operator or otherwise made part of the record, that the owner or operator of the subject stationary source or modification shall comply with the applicable provisions of subdivision (3) of this subsection.

(3) Before issuance of a permit or permit modification, the owner or operator shall demonstrate, to the satisfaction of the commissioner, that, with respect to the construction and operation of the subject stationary source or modification, the owner or operator shall:

(A) Construct and operate such stationary source or modification in accordance with the permit, and operate such stationary source or modification in accordance with all applicable and relevant emission limitations, statutes, regulations, schedules for stack tests, and other order of the commissioner. In the event a conflict exists between the permit and another state or federally enforceable statute, regulation or order of the commissioner, the most stringent provision shall apply;

(B) Operate such stationary source or modification without preventing or interfering with the attainment or maintenance of any applicable ambient air quality standards or any Prevention of Significant Deterioration increments under subsection (k) of this section;

(C) Operate such stationary source or modification without preventing or interfering with the attainment or maintenance of any National Ambient Air Quality Standard in any other state and without interfering with the application of the requirements in any other state's implementation plan, adopted pursuant to section 110 of the Act;

(D) Operate such stationary source or modification in accordance with all applicable emission standards and standards of performance pursuant to 40 CFR Parts 60, 61, and 63, as may be amended from time to time;

(E) Install:

(i) sampling ports of a size, number and location as the commissioner may reasonably require,

(ii) instrumentation to monitor and record emission and other parameter data as the commissioner may require, and

(iii) such other sampling and testing facilities as the commissioner may require;

(F) As the commissioner may require, conduct stack tests at the expense of such owner or operator, in accordance with subsection (e) of this section, and in accordance with permit conditions and methods prescribed by the commissioner. Such stack tests shall demonstrate, to the commissioner's satisfaction, that the requirements of each and every applicable permit or order of the commissioner for such stationary source or modification are being met and that such stationary source or modification complies with

the Regulations of Connecticut State Agencies and federal requirements;

(G) Pay all fees required by the Department within forty-five (45) days of receipt of a tentative determination of the commissioner;

(H) Incorporate Best Available Control Technology (BACT), as directed by the commissioner, for each individual air pollutant subject to, and in accordance with, subsection (j) of this section;

(I) Incorporate the lowest achievable emission rate (LAER), as directed by the commissioner, for each individual air pollutant subject to, and in accordance with, subsection (l) of this section;

(J) Incorporate the maximum available control technology (MACT), as directed by the commissioner, for each individual air pollutant subject to, and in accordance with, subsection (m) of this section;

(K) As required by the commissioner, install monitoring equipment and perform monitoring to demonstrate compliance with any permit provision. Such monitoring may include, but not be limited to, continuous emission monitoring (CEM);

(L) Provide the commissioner with current information regarding air pollutant emissions from such stationary source or modification, and in accordance with the commissioner's request, submit updated and current information regarding air pollutant emissions from any other stationary sources located on the applicable premises;

(M) Comply with any applicable maximum allowable stack concentration or other emission limitation of section 22a-174-29 of the Regulations of Connecticut State Agencies, as may be amended;

(N) Demonstrate that the emission limitation required of such stationary source or modification for the control of any air pollutant shall not be affected by that portion of the stack height of such stationary source or modification that exceeds good engineering practice stack height or by any other dispersion technique;

(O) Comply with an approved operation and maintenance plan submitted pursuant to subsection (c)(2) of this section;

(P) Have completed and submitted, on forms prescribed by the commissioner, a pre-inspection questionnaire, if requested to do so by the commissioner, which describes the equipment, processes and materials used;

(Q) Make the permit available at the subject premises throughout the period that such permit is in effect; and

(R) Comply with the applicable provisions of this section and any other applicable regulations, permits or orders of the commissioner for such stationary source or modification.

(4) An expiration date may be placed within any permit issued pursuant to this section. Any permit issued pursuant to this section or former section 22a-174-3 of the Regulations of Connecticut State Agencies containing an expiration date shall be renewed in accordance with the provisions of section 22a-174-2a(i) of the Regulations of Connecticut State Agencies.

(e) Emission Testing

(1) The permit may require that the owner or operator conduct emission (stack) testing to assure compliance with the permit terms and conditions in accordance with this subsection and section 22a-174-5 of the Regulations of Connecticut State Agencies.

(2) Emission tests shall be conducted in a manner acceptable to and approved by the commissioner. The owner or operator shall provide the results of any emission test in a form satisfactory to the commissioner. The commissioner shall have the opportunity to observe all emission tests or the results of any such tests may be disapproved by the commissioner.

(3) Based upon emission test results, the commissioner may modify, revise, or revoke a permit in accordance with subsection (f) of this section.

(f) Modification, revision, or revocation of a permit

(1) The commissioner may modify, revise, or revoke a permit in accordance with this section, section 22a-174-2a of the Regulations of Connecticut State Agencies, and sections 4-182 and 22a-174c of the Connecticut General Statutes.

(2) The commissioner shall review and may modify, revise or revoke any permit if the owner or operator:

(A) Has not commenced construction authorized by the permit within eighteen (18) months from the date of issuance, or such other period, as the permit provides, whichever is later;

(B) Has discontinued construction for eighteen (18) months or more after actual construction authorized by the permit has begun; or

(C) Has not commenced operation authorized by the permit within twenty-four (24) months from the completion of construction, or such other period as the permit provides, whichever is later.

(g) Non-Minor Permit Modifications, Minor Permit Modifications and Permit Revisions

(1) Any non-minor permit modification to a permit issued pursuant to this section shall be made in accordance with subsections (d)(1), (2), (3), (5) and (6) or subsection (d)(8) of section 22a-174-2a of the Regulations of Connecticut State Agencies, respectively.

(2) Any minor permit modification to a permit issued pursuant to this section shall be made in accordance with subsections (e)(1), (3) and (4) of section 22a-174-2a of the Regulations of Connecticut State Agencies, respectively.

(3) Any revision to a permit issued pursuant to this section shall be made in accordance with section 22a-174-2a(f) of the Regulations of Connecticut State Agencies.

(h) Duty to Comply

An owner or operator shall comply with the permit or modification thereto issued by the commissioner under this section.

(i) Ambient Air Quality Analysis

(1) An application for a permit subject to this subsection, if requested to be provided pursuant to subsection (c)(2) of this

section, shall contain an analysis of the effect of the pollutants listed in Table 3a(i)-(1) below. For the purposes of this subsection, the allowable emissions of an air pollutant will be deemed to have a significant impact on air quality if such impact is greater than or equal to the amount listed for any individual air pollutant in Table 3a(i)-1 below.

Table 3a(i)-1 Ambient Impact

AIR POLLUTANT	AMBIENT IMPACT (MICROGRAMS PER CUBIC METER)
PM_{10} Annual average 24-hour average	 1 5
Sulfur Dioxide Annual average 24-hour average 3-hour average	 1 5 25
Carbon Monoxide 8-hour average 1-hour average	 500 2000
Nitrogen Dioxide Annual average	 1
Dioxin Annual average (as calculated according to Section 22a-174-1(29) of the Regulations of Connecticut State Agencies) (Polychlorodibenzodioxins (PCDDs)) (Polychlorodibenzofurans (PCDFs))	(Notwithstanding above units) 0.1 picograms/m^3
Lead (Pb) Three (3) month average	 0.3

(2) Any person who makes estimates of ambient air quality impacts shall use applicable air quality models, databases or other techniques approved by the commissioner. The commissioner may request any owner or operator to submit an ambient air quality impact analysis using applicable air quality models and modeling protocols approved by the commissioner.

(j) **Best Available Control Technology (BACT)**

(1) An owner or operator shall incorporate BACT for:

(A) Potential emissions of each regulated air pollutant above the significant emission rate thresholds in Table 3a(k) -1 of subsection (k) of this section, from each major stationary source;

(B) Potential emissions of each regulated air pollutant above the significant emission rate thresholds in Table 3a(k) -1 of subsection (k) of this section, from each major modification. This requirement applies to each individual emission unit that is being modified as part of such major modification;

(C) Potential emissions of fifteen (15) tons or more per year of any individual air pollutant, from each new emission unit and

(D) Potential emissions of fifteen (15) tons or more per year of any individual air pollutant, from a modification to each existing emission unit.

(2) The owner or operator:

(A) Shall make and submit to the commissioner for written approval a BACT analysis for each air pollutant subject to subdivision (1) of this subsection, including but not limited to, secondary and cumulative impacts and cost estimates of all control options, or the use of innovative technology; and

(B) Shall install BACT as approved by the commissioner.

(3) The commissioner's review and written approval regarding BACT or the use of innovative technology shall be conducted prior to the issuance of the permit and prior to beginning actual construction.

(4) Notwithstanding any permit for a new source or modification under this subsection the commissioner may require for construction projects, including phased construction projects, that the permittee resubmit for review and approval a BACT analysis if such construction or phase of construction has not commenced within the eighteen (18) months following the commissioner's approval of the current BACT determination for such construction or phase of construction.

(5) Prior to commencing construction, including each phase of phased construction, the owner or operator may be required by the commissioner to demonstrate the adequacy of the technology used pursuant to any previous BACT determination, if such construction or phase of construction has not commenced within the eighteen (18) months following the commissioner's approval of the current BACT determination for such construction or phase of construction.

(6) In determining whether to approve BACT, the commissioner shall:

(A) Take into account any emission limitation, including any visible emission standard, which is achievable under any permit limitation or any stack test demonstration acceptable to the commissioner;

(B) Consider a previous BACT approval for a similar or a representative type of source;

(C) If the commissioner determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, the commissioner may prescribe a design, equipment, work practice or operational standard, or combination thereof, to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results: and

(D) Not preclude the establishment of an output based emission limitation as BACT provided such application of BACT improves the overall thermal efficiency of the subject source or modification.

(7) In determining whether to approve BACT, the commissioner shall take into account energy, economic and environmental impacts, including secondary and cumulative impacts, and other costs.

(8) In no event shall the application of BACT result in:

(A) Emissions of any pollutant which would exceed the emission allowed by an applicable standard pursuant to 40 CFR Parts 60 and 61, and any State Implementation Plan limitation;

(B) The use of offsetting emission reductions to meet the commissioner's approval of BACT; or

(C) The use of a net emissions increase to meet the commissioner's approval of BACT.

(9) The commissioner may allow the use of innovative technology as BACT, in accordance with 40 CFR 52.21(v), provided that "Administrator" means commissioner for the purposes of this provision. The owner or operator shall demonstrate that the proposed innovative technology will comply with 40 CFR 52.21(v), provide a net air quality benefit, and meet at least two (2) of the following criteria:

(A) Improves the process or operation of existing equipment;

(B) Requires the use of new equipment or air pollution control technology;

(C) Reduces localized impacts of any individual air pollutant; or

(D) Implements principles of pollution prevention or environmental management systems.

(k) Permit Requirements for Attainment Areas: Prevention of Significant Deterioration of Air Quality (PSD) Program

(1) The provisions of this subsection shall apply to the owner or operator of any new major stationary source for each criteria air pollutant that is significant from such new major stationary source located in an attainment area or unclassified area for such pollutant.

(2) The provisions of this subsection shall apply to the owner or operator of any major modification for each criteria air pollutant from such major modification located in an attainment area or unclassified area for such pollutant, that has:

(A) Actual emissions that are equal to or greater than the significant emission rate thresholds in Table 3a(k)-1 of this subsection; and

(B) A net emissions increase that is equal to or greater than the significant emission rate thresholds in Table 3a(k)-1 of this subsection.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, the provisions of this subsection do not apply to a major stationary source or major modification with potential emissions of nitrogen oxides of more than twenty-five (25) tons but less than forty (40) tons per year.

(4) The owner or operator of a new major stationary source or major modification subject to this subsection shall install BACT as approved by the commissioner in accordance with subsection (j) of this section.

(5) Ambient Monitoring

(A) The permit application shall contain an analysis of the effect on ambient air quality in the area of the subject source or modification, of the following pollutants:

(i) those that have allowable emissions in excess of the amount listed in Table 3a(k)-1 of this subsection, or

(ii) those listed in section 22a-174-24 of the Regulations of Connecticut State Agencies,

(B) For any pollutant for which a National Ambient Air Quality Standard does not exist, the analysis shall contain such air quality monitoring data as the commissioner determines is necessary to assess ambient air quality for that pollutant in any area that such pollutant may affect;

(C) For any pollutant (other than nonmethane hydrocarbons) for which a National Ambient Air Quality Standard exists, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of such standard or a Prevention of Significant Deterioration increment listed in Table 3a(k)-2 of this subsection;

(D) The continuous air quality monitoring data that is required by subparagraphs (B) and (C) of this subdivision shall have been gathered over a period of one (1) year and shall represent the year preceding receipt of the application, unless the commissioner determines in writing that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not to be less than four (4) months;

(E) The owner or operator shall, after construction of the subject source or modification, conduct such ambient monitoring as the commissioner determines is necessary to determine the effect which the emissions from such source or modification may have, or are having, on air quality in any area. In addition, the owner or operator shall submit the results of such ambient monitoring to the commissioner within thirty (30) days of data collection; and

(F) The owner or operator shall meet the requirements of 40 CFR 58, Appendix B during the operation of monitoring.

(6) Source Impact Analysis.

(A) The owner or operator of the subject source or modification which will have an impact on air quality equal to or greater than any amount listed in Table 3a(i)-1 of subsection (i) of this section shall not cause or contribute to air pollution in violation of the National Ambient Air Quality Standards or any applicable maximum allowable increase above baseline concentration established in Table 3a(k)-2 of this subsection;

(B) Compliance with the requirements of this subsection shall be determined using the Department's air emissions inventory and the Prevention of Significant Deterioration increments listed in Table 3a(k)-2 of this subsection;

(C) A permit application for the subject source or modification shall include a calculation of the increase, above the baseline concentration, in ambient concentrations of pollutants to be expected from the new major stationary source or major modification. Such calculation shall be based on:

(i) the allowable emissions from the subject source or modification,

(ii) the actual emissions from all major stationary sources which were required to obtain a permit after the major source baseline date,

(iii) the increased actual emissions from all modifications to the major stationary source which were required to be permitted after the major source baseline date and

before the minor source baseline date. The owner or operator shall use allowable emissions instead of actual emissions if such modifications are located on the owner's or operator's premises,

(iv) the actual emissions from all stationary sources, other than major stationary sources, which were required to obtain a permit after the minor source baseline date,

(v) the allowable emissions for any stationary source for which a permit is pending and for which the commissioner has made a determination of application sufficiency, and

(vi) the reductions, occurring on or after the minor source baseline date, in actual emissions and federally enforceable allowable emissions from stationary sources located in the baseline area;

(D) When determining the increase over the baseline concentration of criteria air pollutant emissions from the subject major stationary source or major modification, the commissioner may consider any proposed reductions in actual emissions and allowable emissions which will occur prior to the commencement of operation of the subject major stationary source or major modification, provided such reductions become enforceable.

(7) A permit application for the subject source or modification shall contain an analysis, in accordance with subsection (i) of this section, of the effect of the pollutants listed in Table 3a(k)-1.

Table 3a(k)-1 Significant Emission Rate Thresholds

AIR POLLUTANT	EMISSION LEVELS (TONS PER YEAR)
Carbon Monoxide	100
Nitrogen Oxides (as an ozone precursor)	25
Nitrogen Oxides (NOx National Ambient Air Quality Standard)	40
Sulfur Dioxide	40
Particulate Matter	25
PM_{10}	15
Volatile Organic Compounds	25
Hydrogen Sulfide (H~S)	10
Total Reduced Sulfur (including H_2S)	10
Reduced Sulfur Compounds (including H_2S)	10
Sulfuric Acid Mist	7
Fluorides	3
Lead	0.6
Mercury	0.1
Municipal Waste Combustor Organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins	3.5×10^{-6}

and dibenzofurans)	
Municipal Waste Combustor Metals (Measured as particulate matter)	15
Municipal Waste Combustor Acid Gases (Measured as sulfur dioxide and hydrogen chloride)	40

Table 3a(k)-2 Maximum Allowable Increase above Baseline Concentration

AIR POLLUTANT	PSD INCREMENT (ug/m^3)
Particulate Matter, as PM_{10}	
Annual Arithmetic Mean	17
24-Hour Average	30
Sulfur Dioxide	
Annual Arithmetic Mean	20
24-Hour Average	91
3-Hour Average	512
Nitrogen Dioxide	
Annual Arithmetic Mean	25

(8) Additional Source Information.

(A) The owner or operator of the subject source or modification shall include in the application:

(i) an analysis of the impairment to visibility, soils, and vegetation that would result from construction and operation of the subject source or modification, and an analysis of the general commercial, residential, industrial and other associated growth. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or residential value,

(ii) an analysis, based upon methods approved by the commissioner in writing, of the ambient air quality impact projected for the area as a result of the general commercial, residential, industrial, and other growth associated with the subject source or modification,

(iii) a description of the nature, location, design capacity and typical operating schedule of the subject source or modification, including specifications and drawings showing its design and plant layout,

(iv) a schedule for construction of the subject source or modification,

(v) a detailed description as to what system of continuous emission reduction is planned for the subject source or modification, emission estimates, or any other information necessary to demonstrate to the commissioner that BACT will be applied, and

(vi) any other information deemed necessary by the commissioner to perform any analysis or make any determination under this subsection;

(B) Upon the commissioner's request, the owner or operator of the subject source or modification shall submit:

(i) the ambient air quality impact of the subject source or modification, including meteorological and topographical data necessary to estimate such impact, and

(ii) the ambient air quality impacts and the nature and extent of the general commercial, residential, industrial and other growth which have or has occurred since August 7, 1977 in the area the subject source or modification will affect.

(9) Additional Public Participation Requirements. In addition to the public participation requirements of section 22a-174-2a of the Regulations of Connecticut State Agencies:

(A) The commissioner shall include in the notice of tentative determination published pursuant to section 22a-174-2a of the Regulations of Connecticut State Agencies and section 22a-6h of the Connecticut General Statutes, notice of opportunity for public comment at a public hearing, if one is requested, the opportunity to submit written comment, the degree of Prevention of Significant Deterioration increment consumption that is expected if the proposed activity is permitted, and any other information the commissioner deems appropriate; and

(B) The owner or operator of the subject source or modification shall send a copy of the notice required pursuant to subparagraph (A) of this subdivision to those individuals or entities listed under subsection (b)(5), as specified in subsection (b)(6), of section 22a-174-2a of the Regulations of Connecticut State Agencies.

(1) Permit Requirements For Non-attainment Areas

(1) Applicability. In accordance with subsection (a) of this section, the provisions of this subsection shall apply to the owner or operator of any new major stationary source or major modification which:

(A) Is or will be a major stationary source or major modification for any non-attainment air pollutant if such source is located in a non-attainment area for such air pollutant; or

(B) Is located in an attainment area or unclassifiable area, but the allowable emissions of any air pollutant would cause or exacerbate a violation of a National Ambient Air Quality Standard in an adjacent non-attainment area. Allowable emissions of any such air pollutant will be deemed not to cause or contribute to a violation of a National Ambient Air Quality Standard provided that such emissions result in impacts that are less than levels set forth in Table 3a(i)-1 in subsection (i) of this section.

(2) Analysis of alternatives.

(A) An owner or operator of the subject source or modification shall include an analysis of alternative sites for the proposed activity, alternative sizes for the subject source or modification, alternative production processes, and all environmental control techniques and technologies which are available for such major stationary source or major modification;

(B) Such analysis shall demonstrate whether the benefits of the subject source or modification would significantly outweigh its adverse environmental impacts, including secondary impacts and cumulative impacts, and social costs imposed as a result of the location, construction or modification;

(C) The owner or operator of the subject source or modification shall submit such analysis prior to the issuance of any tentative determination on a permit application under this section.

(3) Control Technology Review and Approval.

(A) An owner or operator of the subject source or modification shall submit, for approval in writing:

(i) a LAER determination for each non-attainment air pollutant for which the subject source is a new major modification or new major stationary source, and

(ii) a LAER determination for each air pollutant which would cause or contribute to a violation of a National Ambient Air Quality Standard in an adjacent non-attainment area.

(B) In determining whether to approve LAER, the commissioner may take into account any emission limitation, including a visible emission limit. The commissioner may disregard any emissions test on a pilot plant or prototype equipment which does not have reasonable operating experience or which may not be generally available for industry use;

(C) In determining whether to approve LAER, the commissioner may take into account an output based emission limitation as LAER provided such application of LAER improves the overall thermal efficiency of the subject source or modification;

(D) The owner or operator of the subject source or modification shall not be granted a permit under this section unless and until the commissioner determines that such owner or operator will install air pollution control technology which complies with the commissioner's approval of LAER for each non-attainment air pollutant;

(E) If the owner or operator of the subject source or modification has made modifications to the subject source or modification and any of these modifications are subject to but have not previously been evaluated under this subsection, the commissioner shall conduct a LAER review under this subsection and require implementation of LAER for such modifications;

(F) In no event shall the application of LAER result in an emission limit or rate of emissions that is less stringent or environmentally protective than an emission limitation approved by the commissioner as BACT, an emission limitation demonstrated or established in any State Implementation Plan or any applicable limitation or standard pursuant to 40 CFR Parts 60, 61, 62 or 63; and

(G) An owner or operator of the subject source or modification shall submit, for approval in writing an evaluation of secondary impacts or cumulative impacts for each non-attainment air pollutant with potential emissions in excess of the amount listed in Table 3a(k)-1of subsection (k).

(4) Offsetting emission reductions or Emission Reduction Credits.

(A) Except as provided in subdivision (8)(B) of this subsection, prior to commencing operation pursuant to a permit issued under this section, the owner or operator of the subject source or modification shall:

(i) reduce actual emissions from other stationary sources on such premises, sufficient to offset the allowable emissions increase for each individual non-attainment air pollutant which is the subject of the application, or

(ii) obtain certified emission reduction credits in accordance with subdivision (5) of this subsection, which credits are sufficient to offset the allowable emissions increase for each individual non-attainment air pollutant; and

(B) The commissioner shall not grant a permit to an owner or operator of the subject source or modification unless the owner or operator demonstrates that internal offset or certified emission reduction credits pursuant to subparagraph (A) of this subdivision:

(i) have occurred preceding the submission of such application and prior to the date that the subject source or modification becomes operational and begins to emit any air pollutant. The commissioner may consider a time period beginning no earlier than November 15, 1990,

(ii) are not otherwise required by any of the following: the Act; a federally enforceable permit or order; the State Implementation Plan; or the regulations or statutes in effect when such application is filed,

(iii) will be incorporated into a permit or order of the commissioner and would be federally enforceable,

(iv) will create a net air quality benefit in conjunction with the proposed emissions increase. In determining whether such a net air quality benefit would be created, the commissioner may consider emissions on an hourly, daily, seasonal or annual basis. For carbon monoxide or particulate matter (total suspended particulate and PM_{10}), the net air quality benefits shall be determined by the use of atmospheric modeling procedures approved by the commissioner and the Administrator in writing. Upon the request of the commissioner, the owner or operator shall make and submit to the commissioner, a net air quality benefit determination for each air pollutant. Such determination shall include, but not be limited to, all increases and decreases of emissions from stationary sources at any premises providing the offsetting emission reductions,

(v) shall be based on the pounds per hour of potential emissions increase from the subject source or modification. The commissioner may consider other more representative periods, including, but not limited to, tons per year or pounds per day,

(vi) are identified in an emissions inventory maintained by the commissioner or otherwise approved in writing by the commissioner,

(vii) are of the same non-attainment air pollutant of which the owner or operator proposes to increase. Reductions of any exempt volatile organic compound

listed in Table 1-3 of section 22a-174-1 of the Regulations of Connecticut State Agencies or those listed in 40 CFR 51.100 shall not be used to offset proposed increases emissions of non-exempt volatile organic compounds,

(viii) occurred at either: one or more stationary sources in the same non-attainment area or stationary sources in another non-attainment area if, pursuant to the Act, such area has an equal or higher non-attainment classification than the area in which the proposed activity would take place, and if emissions from such other non-attainment area contribute to a violation of a National Ambient Air Quality Standard in the non-attainment area in which the proposed activity would take place,

(ix) for the applicable non-attainment air pollutant, shall be from reductions in actual emissions, and

(x) offset actual emissions at a ratio greater than one to one, as determined by the commissioner. In addition, the owner or operator shall offset emission increases of allowable emissions at a ratio, for volatile organic compounds or nitrogen oxides, of at least: 1.3 to 1 in any severe non-attainment area for ozone, and 1.2 to 1 in any serious non-attainment area for ozone.

(5) The owner or operator of the subject source or modification shall secure certified emission reduction credits before using them. Continuous emission reduction credits shall be secured and retired prior to their use. Emission reduction credits shall be:

(A) Created and used in accordance with 40 CFR 51;

(B) Real, that is, resulting in a reduction of actual emissions, net of any consequential increase in actual emissions resulting from shifting demand. The emission reductions shall be measured, recorded and reported to the commissioner;

(C) Quantifiable, based on either stack testing approved by the commissioner in writing, conducted pursuant to an appropriate, reliable, and replicable protocol approved by the commissioner, or continuous emissions monitoring certified by the commissioner. Such quantification shall be in terms of the rate and total mass amount of non-attainment pollutant emission reduction;

(D) Surplus, not required by any Connecticut General Statute or regulation adopted thereunder, or mandated by the State Implementation Plan, and not currently relied upon for any attainment plan, any Reasonable Further Progress plan or milestone demonstration;

(E) Permanent, in that at the source of the emission reduction, the emission reduction system shall be in place and operating, and an appropriate record keeping system is maintained to collect and record the data required to verify and quantify such emissions reductions; and

(F) Enforceable and approved by the commissioner in writing after the submission to the commissioner of documents satisfactory to the commissioner or incorporated into a permit as a restriction on emissions.

(6) Compliance Requirements.

(A) The owner or operator of the subject source or modification shall demonstrate that all stationary sources owned, operated or controlled by the owner, operator, applicant, permittee and any parent company or subsidiary thereof are in compliance with all environmental protection laws or are on a federally enforceable schedule for achieving such compliance; and

(B) The owner or operator of the subject source or modification shall demonstrate that compliance with any enforcement orders for stationary sources in Connecticut owned, operated or controlled by the owner, operator, applicant, or permittee are on the most expeditious compliance schedule practicable.

(7) Public Notice. The notice of tentative determination pursuant to section 22a-6h of the Connecticut General Statutes shall include any information concerning the proposal by the owner or operator to offset the potential emissions increase from the subject source or modification and the commissioner's approval of LAER.

(8) Notwithstanding any provision of this section:

(A) No permit shall be granted under this subsection if the Administrator has made a final determination that the applicable implementation plan is not being implemented for the nonattainment area in which the subject source or modification is to be located; and

(B) Pursuant to section 173(a)(1)(B) of the Act, the owner or operator of any new major stationary source or major modification which is located in a zone within the non-attainment area, which zone has been identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, shall not be required to obtain offsetting emission reductions pursuant to this subsection unless the proposed emissions would cause or contribute to emissions levels which exceed the emissions levels allowed by the State Implementation Plan.

(m) Permit Requirements for Hazardous Air Pollutants subject to the provisions of section 112(g) of the Act, as may be amended from time to time

(1) For the purposes of this subsection:

(A) "Major source of hazardous air pollutants" means any stationary source that emits or has the potential to emit, ten (10) tons per year or more of any particular hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants;

(B) "Hazardous air pollutant" or "HAP" means, notwithstanding the definition in section 22a-174-1 of the Regulations of Connecticut State Agencies, any air pollutant listed in section 112(b) of the Act, excluding hydrogen sulfide and caprolactam;

(C) "Construct a major source of hazardous air pollutants" means to fabricate, erect or install a major source of hazardous air pollutants or group of major sources of hazardous air pollutants within a contiguous area and under common control; and

(D) "Reconstruct a major source of hazardous air pollutants" means to replace one or more components at a major source of hazardous air pollutants, provided that:

(i) the fixed capital cost of the new component(s) exceeds fifty (50%) percent of the fixed capital cost of constructing a comparable source, and

(ii) it is technically and economically feasible for the source as determined by the commissioner, if reconstructed as proposed, to meet the applicable MACT emission limitation under this subsection.

(2) The owner or operator of the following sources are exempt from the requirements of this subsection:

(A) A major source of hazardous air pollutants subject to the MACT standards of 40 CFR 63, provided that such owner or operator has met all requirements for preconstruction review and any other applicable requirements of 40 CFR 63, Subpart A;

(B) A major source of hazardous air pollutants de-listed by the Administrator pursuant to section 112(c)(9) of the Act; or

(C) A major source of hazardous air pollutants excluded for research and development activities pursuant to 40 CFR 63.40(f).

(3) An application for a permit to construct, reconstruct, or operate a major source of hazardous air pollutants shall include:

(A) The names of the hazardous air pollutant(s) to be emitted, and the estimated emission rate of each such pollutant;

(B) A proposed determination of MACT, including, but not necessarily limited to, specific design, equipment, work practice, or operational standard, or a combination thereof, that will meet the MACT, technical information on the design, operation, size, and estimated control efficiency of any proposed emission control equipment. The commissioner may require the owner or operator to submit the manufacturer's name, address, telephone number, and design specifications of such equipment for:

(i) each single hazardous air pollutant with potential emissions of ten (10) tons per year or more, and

(ii) any combination of hazardous air pollutants with potential emissions of twenty-five (25) tons per year or more;

(C) A description of the subject source including identification of any listed source category or categories such source is included within pursuant to the Act;

(D) The owner's or operator's proposed dates for:

(i) commencement of construction or reconstruction of such source,

(ii) completion of construction or reconstruction of such source, and

(iii) start-up of such source;

(E) Any federally enforceable emission limitations applicable to such source;

(F) The proposed maximum utilization capacity of such source, and the associated:

(i) uncontrolled emission rates per year, and

(ii) controlled emission rates per year;

(G) A proposed emission limitation for each hazardous air pollutant from such source;

(H) Supporting documentation for the proposed determination of MACT, such as an identification of alternative control technologies and an analysis of the cost, health and environmental impacts and energy requirements; and

(I) Any other relevant information required pursuant to 40 CFR 63, Subpart A, or as the commissioner may require.

(4) No permit will be granted unless the commissioner approves the proposed MACT determinations and determines that the owner or operator shall:

(A) Comply with any applicable emission standards or work practice standards adopted by the Administrator pursuant to sections 112(d) or 112(h) of the Act, respectively; and

(B) Comply with any applicable determination of the commissioner pursuant to section 112(j) of the Act.

(5) In establishing MACT for any major source of hazardous air pollutants, the commissioner shall:

(A) Consider any relevant emission standard or work practice standard proposed by the Administrator pursuant to sections 112(d) or 112(h) of the Act;

(B) Consider any presumptive MACT determination adopted by the Administrator for the applicable source category which includes the source under consideration;

(C) Require the limitation or requirements to be no less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the commissioner; and

(D) Require the maximum degree of reduction in emissions of hazardous air pollutants which can be achieved by utilizing those control technologies, taking into consideration the costs of achieving such emission reduction and any health and environmental impacts and energy requirements associated with the emission reduction.

(6) The owner or operator of a source subject to this subsection and the commissioner shall comply with the provisions of 40 CFR Part 63.44 as amended from time to time.

(7) Any permit issued pursuant to this subsection will require the permittee to comply with the applicable emission standard promulgated by the Administrator pursuant to section 112(d) or 112(h) of the Act no later than eight (8) years after such standard is promulgated or eight (8) years after the date by which the permittee was first required to comply with the emission limitation established by such permit, whichever is earlier.

(8) Notwithstanding subdivisions (5), (6) and (7) of this subsection the permittee will not be required to comply with any less stringent provisions of an applicable emission standard promulgated by the Administrator pursuant to section 112(d) or 112(h) of the Act if the level of control required by the emission limitation established by

the permit issued pursuant to this subsection is at least as stringent as that required by the applicable emission standard promulgated by the Administrator pursuant to section 112(d) or 112(h) of the Act as determined by the commissioner.

Sec. 4 The Regulations of Connecticut State Agencies are amended by adding section 22a-174-3b as follows:

(NEW)

Section 22a-174-3b. Exemptions from permitting for construction and operation of external combustion units, automotive refinishing operations, emergency engines, nonmetallic mineral processing equipment and surface coating operations.

(a) **Definitions.** For the purposes of this section:

(1) "As applied" means a coating prepared according to a manufacturer's mixing instructions, including all components such as dilution solvents and reactive constituents, and prepared at the time of application to a substrate;

(2) "Automobile" means a passenger car, van, motorcycle, truck or any other motorized vehicle for transportation;

(3) "Automotive refinishing operation" means the processes performed to apply a new surface to the pre-existing coat or paint on an automobile or automotive component, including but not limited to surface preparation, primer application, topcoat application and applicator cleaning;

(4) "Electrostatic application" means the application of charged atomized paint droplets by electrostatic attraction;

(5) "Emergency" means "emergency" as defined in section 22a-174-22 of the Regulations of Connecticut State Agencies;

(6) "Emergency engine" means "emergency engine" as defined in section 22a-174-22 of the Regulations of Connecticut State Agencies;

(7) "Existing stationary source" means a stationary source for which a permit to control emissions to the air has been issued by the Department;

(8) "External combustion unit" means a device that combusts only natural gas, propane or fuel oil, which is not a stationary internal combustion engine or turbine, and includes, but is not limited to, a boiler, heater, drying oven, curing oven or furnace;

(9) "Hazardous air pollutant" means, notwithstanding the definition in section 22a-174-1 of the Regulations of Connecticut State Agencies, any air pollutant listed in Section 112(b) of the Act, excluding hydrogen sulfide and caprolactum;

(10) "Nonmetallic mineral" means "nonmetallic mineral" as defined in 40 CFR 60.671;

(11) "Nonmetallic mineral processing equipment" means any crusher, grinding mill, screening operation, bucket elevator, belt conveyer, bagging operation, storage bin or other equipment used to crush or grind any nonmetallic mineral at a nonmetallic mineral processing plant;

(12) "Nonmetallic mineral processing plant" means "nonmetallic mineral processing plant" as defined in 40 CFR 60.671;

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

☒ Regulations ☐ Emergency Regulations

Are:

☒ Adopted ☒ Amended as hereinabove stated ☒ Repealed

By the aforesaid agency pursuant to:

☒ Section 22a-6 and 22a-174 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 July 17 20 01, of the notice of the proposal to:

☒ Adopt ☒ Amend ☒ Repeal such regulations

(If applicable): ☒ And the holding of a public hearing on 5th day of September 20 01

WHEREFORE, the foregoing regulations are hereby:

☒ Adopted ☒ Amended as hereinabove stated ☒ Repealed

Effective:

☐ When filed with the Secretary of State.
(OR)

☒ The 15th day of March 20 02.

In Witness Whereof:	DATE 11-21-01	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:		SIGNED	OFFICIAL TITLE, DULY AUTHORIZED Assoc. Atty Gen 11/30/01

☒ Approved ✓

☐ 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.	DATE 12/18/01	SIGNED *(Clerk of the Legislative Regulation Review Committe*

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 December 27, 2001	SIGNED *(Secretary of the State.)* Susan Bysiewicz	BY Peter J. Bontime

INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for 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.

RECEIVED

DEC 27 2001

RECORDS & LEGISLATIVE SERVICES
SECRETARY OF THE STATE